

***Innovations in
Training***

Enhancing Tribal and State, Collaborations to Build Sustainable Tribal Partnerships

Participant Guide
BJA-2012-3278

July, 2014

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The author of this curriculum is the Western Community Policing Institute (WCPI).

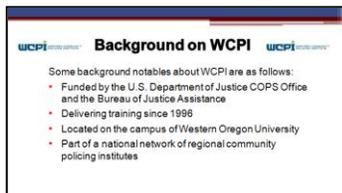
Prologue: Course Logistics and Introduction



Schedule

Lesson Plan Schedule	
Day One*	
Module 1: Introduction to Tribal Justice Systems	3.00 hours
Module 2: Working with Tribal Stakeholders and Tribal Partners	4.00 hours
Day Two*	
Module 3: Understanding Tribal Law & Applications for State and Tribal Partnerships	2.00 hours
Module 4: Creating Collaborative Tribal Initiatives "The Tribal Gap Analysis Process"	3.00 hours
Module 5: Best Practices and Lessons Learned: Partnership and Stakeholder Resource Development	1.00 hours

Welcome to ***Enhancing Tribal and State Collaborations to Build and Sustain Tribal Partnerships***, designed to create, expand, and sustain tribal initiatives across the country. This course, developed by the Western Community Policing Institute (WCPI), is designed to provide initial awareness-level training. Participants in this training serve as representatives for their community/region, by providing useful feedback regarding the tribal justice issues, problems, resources, and existing tribal justice initiatives within their jurisdiction.



Background on WCPI

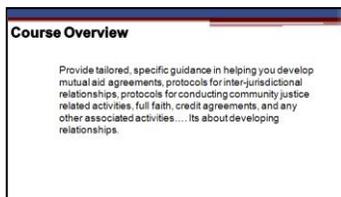
Some background notables about WCPI are as follows:

- Funded by the U.S. Department of Justice Office Community Oriented Police Services (COPS Office) and the Bureau of Justice Assistance
- Delivering training since 1996
- Located on the campus of Western Oregon University
- Part of a national network of community policing institutes



Housekeeping

Course Overview and Cognitive Goal



Course Overview

This course, *Enhancing Tribal and State Collaborations to Build and Sustain Tribal Partnerships* will provide tailored, specific guidance in developing mutual aid agreements, protocols for inter-jurisdictional relationships, protocols for conducting community corrections-related activities, full faith and credit agreements, and any other associated activities. On-line resources will be available containing both tribal and non-tribal “snapshots” of the issues, challenges, resources, and existing initiatives within Indian Country to serve as examples of collaborative efforts (www.tribaltraining.com). These materials can be adopted, revised if necessary and used by tribal communities across the nation and will enable more relevant, timely participation in the establishment and expansion of tribal jurisdictional initiatives within each area.

This course is comprised of five modules. During the subsequent modules, participants examine and discuss the need for tribal, state, federal, and local governments in building collaborative partnerships, understanding legal challenges, developing mutual aid agreements, protocols for inter-jurisdictional relationships, and start-up (first steps) procedures and policies.

As this is an introductory course, it is inevitable that you might find some of the information in this course to be duplicative and information which you already know. For instance, there is a section of this course that examines and discusses tribal culture. If you are a tribal member, then you may find that section to be duplicative of information of which you already know. However, we ask that you be tolerant of the information being taught in that section, as there are most likely non-tribal members (such as your State representatives) who are attending the class with you and who may

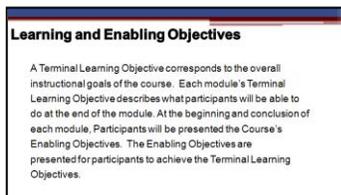
find the information to be particularly insightful. After all, it is only through our attainment of insight about each other, that we can better enable ourselves to collaborate and partner together. Along those same lines, we ask that if you find that you have information more specific than that which is set forth in this course, then please share that information to the extent practicable during the discussion questions, polls and hypothetical's set forth in this course, as your information will undoubtedly be most insightful to the other participants.

Lastly, you will find that this course will primarily be interactive and use a discussion format. This is largely attributable to the introductory nature of the course and the expectation that participants will share their knowledge and experience.



Cognitive Course Goal

This course is designed to provide participants with the foundational knowledge required to create, expand, and/or sustain tribal Justice Collaborative Partnerships and Initiatives.



Terminal Learning and Enabling Objectives

A Terminal Learning Objective corresponds to the overall instructional goals of the course. Each module's Terminal Learning Objective describes what participants will be able to do at the end of the module. At the beginning and conclusion of each module, Participants will be presented the Course's Enabling Objectives. The Enabling Objectives are presented for participants to achieve the Terminal Learning Objectives.

Learning Objectives

This objective will explore the infrastructures and protocols associated with the administration of tribal justice systems, and processes for developing regional collaborative partnerships as it applies to tribal public safety, corrections, and tribal and non-tribal governmental agencies.

Terminal Learning Objectives (TLO)

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Enabling Objectives

- 1.1 Incorporate tribal specific protocols, processes, and policies in the administration of tribal justice efforts
- 1.2 Identify and understand historical events, era's, cultural issues, and the impacts they have on fostering collaborative partnerships in tribal communities
- 1.3 Build or enhance capacities and capabilities within a jurisdictions tribal justice system

Enabling Learning Objectives (ELO)

At the conclusion of this module, participants will be able to:

- 1.1 Incorporate tribal specific protocols, processes, and policies in the administration of tribal justice efforts
- 1.2 Identify and understand historical events, era's, cultural and traditional issues, and the impacts they have on fostering collaborative partnerships in tribal communities
- 1.3 Build or enhance capacities and capabilities within a jurisdictions tribal justice system



Pre-Post Test System Overview

Qwizdom Components

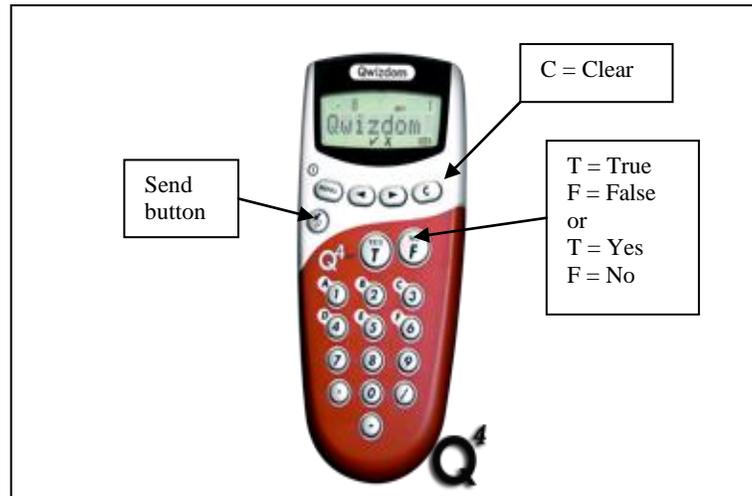


Qwizdom's **Response System** includes a host, which plugs into the instructor's laptop or desktop USB drive, teacher remote, and student remotes. The host transmits a radio frequency which allows communication with the instructor's computer, the teacher remote, and student remote. This RF IEEE standard system helps insure robust, conflict-free operation and supports up to 1,000 remotes at one time.

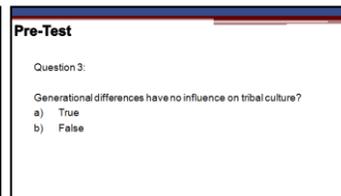
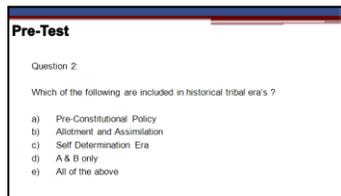
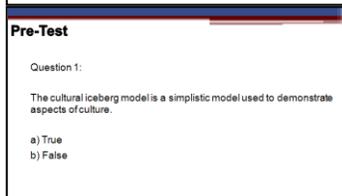
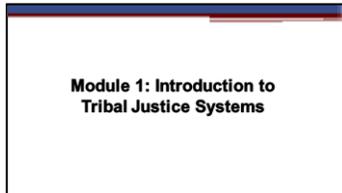
The Qwizdom Participant Remote provides instant feedback to participants.

The Qwizdom Instructor Remote allows the instructor to present slides, pause and play media, and pose a new question. Instructors can instantly view a graph on their remote's LCD screen or project the results for the entire classroom.

Participant Remote:



Module 1: Introduction to Tribal Justice Systems



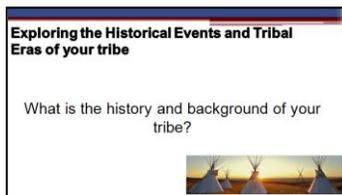
Module 1 Pre-Test

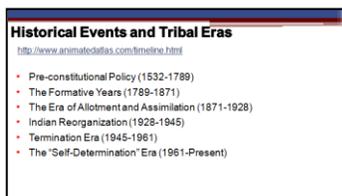
1. The cultural iceberg model is a simplistic model used to demonstrate aspects of culture.
 - a) True
 - b) False
2. Which of the following are included in historical tribal eras?
 - a) Pre-Constitutional Policy
 - b) Allotment and Assimilation
 - c) Self Determination Era
 - d) A & B only
 - e) All of the above
3. Generational differences have no influence on tribal culture?
 - a) True
 - b) False



Participant Introductions Activity

- Name
- Organization
- Community
- Tribal Affiliation
- Your passion





Historical Events and Tribal Eras

“One faces the future with one’s past” (Pearl S. Buck) applies to this training, in that; historical events shape core competencies and the future. To understand the aspects of culture it is important to understand the history. By understanding tribal history an individual can gain insight into tribal culture, traditions, values, beliefs and norms.

Here is a comprehensive Timeline. Each tribe has specific events that are important to acknowledge. These events influence tribal Culture.

<http://www.animatedatlas.com/timeline.html>

The exact form of the traditions practiced by any tribal community is the result of a long historical process that began many thousands of years ago. This history is clearly shown in the archaeological record and in the millions of government documents and other accounts that have been written since American Indians first came into contact with European cultures over 500 years ago.

Contact with Europeans did have a powerful effect both on the development of tribal cultures and also had a strong effect on European cultures as well. However to understand traditional Indian life, it is important to understand that there was already a great diversity of Indian cultures in North America long before contact with Europeans. *For example, Kroeber (1939) looked at the diversity of Indian cultures and stated that he believed that there were seventeen different culture areas and eighty-four sub-areas across the North American Continent. Each of these areas and sub-areas contained groups of tribes who shared cultural similarities such as language, kinship and economy, yet maintained their own unique identities.*

Therefore, it is clear that each tribal culture must be viewed as a dynamic entity that has its own history that has been shaped by internal processes of invention, interaction with other tribes, natural events and contact with the world beyond North America. Working with a tribe requires that one understand that the tribe has a complex set of traditions that arose in a unique historical context. To be successful in working with people of other cultures both the traditions and history of that culture have to be understood and respected.

Throughout American Indian and Alaskan Native's history the U.S. Congress has fluctuated between two conflicting themes in tribal affairs: self-government/self-determination for tribes vs. assimilation and/or termination of native peoples and their tribes into the American mainstream. This fluctuation can be seen in the main eras of American Indian and Alaskan Native History.

- **Pre-constitutional Policy (1532-1789):** During the 17th centuries British and Spanish colonies began negotiating treaties with Indian Nations. During the 18th century administrative power in dealing with tribes was turned over to the British crown. The practice of negotiating with the Indians through treaty had been well established by this time. The Articles of Confederation became effective in 1781. These Articles gave the federal government "sole and exclusive" authority over tribal affairs.

- **The Formative Years (1789-1871):** This era defined the Federal Power over Indians. Congress implemented its power by establishing a comprehensive program regulating Indian affairs such as the Indian Trade and Intercourse Act of 1790. Until 1871 (when Congress put an end to making treaties with Indian nations) tribes were dealt with through treaties.

During this period, the Supreme Court defined the relationship between the Federal Government and tribes as a “trust” relationship. Indian nations were defined as domestic dependent nations within the Federal government. It is a relationship similar to that of a “ward to his guardian”.

Removal: During this period many tribes were removed from their historical aboriginal lands to other lands, including the Indian Territory.

Reservation System: The reservation system was established during the treaty-making era.

- **The Era of Allotment and Assimilation (1871-1928):** In 1877 the General Allotment Act or Dawes Act was passed. This Act delegated authority to the Bureau of Indian Affairs to allot parcels of tribal land to individual Indians. Before this time most tribal lands were communally owned. Under the Dawes Act, large amounts of tribal land not allotted to individual Indians were opened for homesteading by non-Indian. This created a “checkerboard pattern of ownership by tribes, tribal members and non-Indian homesteaders.

Many Indian Children were sent to Boarding Schools operated by the BIA and religious organizations where they were taught English and where the practice of traditional Indian religions were often strongly discouraged in the effort to rapidly assimilate them into mainstream society.

Major Crimes Act: Federal government took jurisdiction from the tribes for dealing with certain criminal acts. This is an example of the erosion of tribal sovereignty. (1855)

Indian Citizen Act: All Indians were made citizens of the United States by Congress. (1924) (Alaskan Natives 1958 with Statehood Granted)

- **Indian Reorganization (1928-1945):** Meriam Report of 1928: Set the tone for reform in Indian affairs. This report publicized poor living conditions on reservations and recommended that health and education funding be increased.

It also recommended that the allotment policy be ended and that tribal self-government be encouraged.

Indian Reorganization Act of 1934 (IRA): This Act sought to promote tribal self-government and encourage tribes to adopt constitutions and to form chartered corporations. Indian preference hiring for the BIA was established and the trust period for existing allotments was extended.

181 tribes adopted the IRA

77 tribes rejected the IRA

- **Termination Era (1945-1961)**: House Concurrent Resolution 108 (HCR 108) adopted in 1953. This document defined the relationship between Congress and tribes. The document called for terminating the relationship as rapidly as possible. Through this policy these tribes were terminated. (Asterisked tribes have since been restored to Federal status):
 - Alabama and Coushatta tribes of Texas*
 - Catawba Indian tribe of South Carolina
 - Klamath, Modoc, and Yahooskin Band of Snake Indians-Oregon*
 - Ponca tribe of Nebraska
 - Mixed Blood Ute Indians of Uintah and Ouray-Utah
 - 40 California Indian Rancherias
 - Western Oregon Indians, Including Confederated tribes of Siletz Indian, Confederated tribes of the Grand Ronde Community, and Cow Creek Band of Umpqua*
 - Menominee tribe of Wisconsin*
 - Ottawa tribe of Oklahoma*
 - Peoria tribe of Oklahoma*
 - Wyandotte tribe of Oklahoma*
 - Paiute Indian tribe of Utah*

Public Law 280: Extended State jurisdiction on specified reservations.

- **The “Self-Determination” Era (1961-Present)**: Indian Civil Rights Act of 1968 (IRCA): This Act extended most of the protections of the Bill of Rights to tribal members in dealings with their tribal governments.



Has tribal justice changed with your tribe? Has tribal justice entered a new era?

Tribal Justice: The New Era



Traditional justice organizations are heavily entrenched in routine type environments that require them adhere to strict policies and procedures, and follow strict laws, rules, and regulations. Working in these types of environments often restricts or limits the opportunities and/or abilities to learn new skills or develop new initiatives. tribal police for example follow laws established by their tribal Government. Tribal Police with a (638) contract with the BIA for example must adhere to certain standards but these standards are negotiated with BIA allowing the tribal Government to establish their police departments based on their own unique needs.

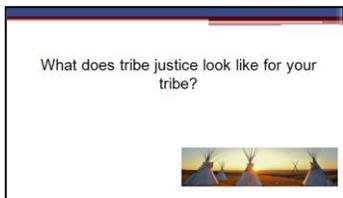
Tribal organizations continue to develop their capacity to better and more effectively utilize changing tribal justice models. They continually seek out and create opportunities while encouraging people in their organizations to learn new skills and develop new initiatives. Focusing on institutional changes can create an environment that is committed to learning, growth and change. Traditional operational models that have been entrenched solely in past practices sometimes inhibit changes that may move an organization in that direction. While change may be difficult and require new ways of transcending traditional challenges such as politics, culture, tradition, and historical

approaches, creating an environment that fosters openness and transparency in operations provides a means for expanded learning to occur.

The development of a shared vision is important in motivating all members of the organization to learn by creating common identities that provides focus and energy for learning. The most successful organizations that have shared visions build on each member's vision of organization. Researchers note that the creation of a shared vision can be hampered by traditional structures (in the case of police organizations paramilitary structures) where the organization's vision is imposed from above. Therefore, learning organizations, to be successful, must embrace a more decentralized organizational structure.

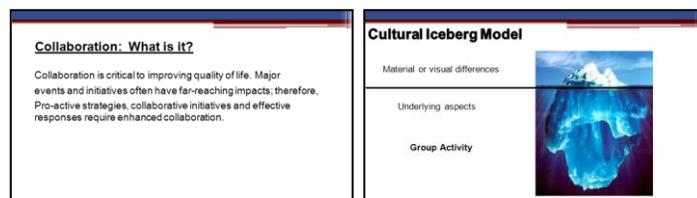
As noted above many of today's tribal justice organizations are facing perpetual changes and multifaceted challenges. This includes:

- Expanding and continual expectations for community engagement and involvement
- Expanding tribal justice responsibilities
- Technological innovation and advancements
- Economic pressures and resources limitations
- Increased generational and cultural differences





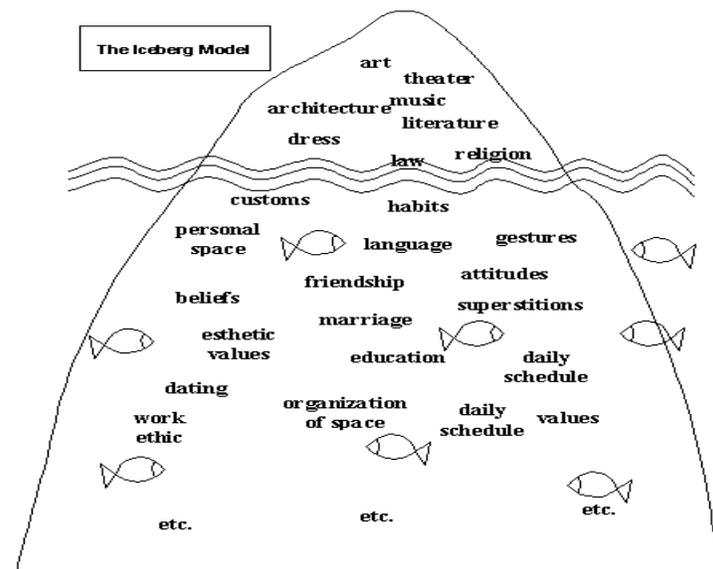
Cultural issues: Exploring Collaboration and Cultural Issues in Tribal Justice Systems



Introduction to the Cultural Iceberg Model

When we think of culture we normally think of the material or visual differences found within a group. In a very general sense culture provides you with ways to make meaning. There are multiple factors that have shaped American Indian and Alaska Native culture. Some of these factors include; culture, family, land and language, and community dynamics, tribal values, identity, traditions, spiritual beliefs, historical events, relationships, and governments/leadership.

The iceberg is a simplistic model used to demonstrate aspects of culture. The majority of an iceberg is not seen from the surface. Only a small portion of the iceberg can be seen above water. Culture can be understood the same way. Most cultural aspects cannot be detected at a first glance or even through a single interaction. Culture has many underlying aspects.



Family and Community Dynamics

Family and community dynamics are an important element of tribal culture. These elements have influenced tribal culture and yet the culture influences how families and communities are organized, developed, and interact.

Family and Community Dynamics

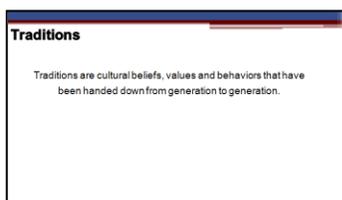
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The American Indian Family is the central unit in most tribal communities and Indian villages. Most American Indian families are based on a social structure and may appear fluid to non Indians to ensure that everyone receives the support they need (Light, 1996).

There are four basic family structures that exemplify the fluid characteristics of American Indian families found in today's society. These four family structures are: Small Reservation Communities, Interstate Structure, Communities in Urban Areas, and Communities in Metropolitan Areas (Redhorse, 1980).

1. **Small Reservation Communities:** Geographic and tribal circumstances influence the structural patterns of the family. Family structures in most small reservation communities assume a village-type configuration with several households in close geographical proximity.
2. **Interstate Structure:** Many Family systems cover a large geographic area. Historical tribal mobility has influenced this system.
3. **Communities in Urban Areas:** As a result of the Indian Relocation Act of 1956 (Public Law 959) thousands of American Indian families were relocated and spread out among several communities or cities. This can be described as a community within a community. American Indian families that have voluntarily left the reservation usually find themselves living in close proximity to other American Indian or Alaska Native, tribal relations, or other family members. American Indian and Alaska Native families in large metropolitan areas are influenced through informal incorporation of non-kin relations. These non-kin relations may not be blood related but they fulfill family roles within the community. Urban Indian Community Centers were also developed as a result of the relocation program.

American Indian and Alaska Native families are not static. They adapt to their surroundings. This style of living can be traced back through many generations. American Indians and Alaska Natives are survivors. They adapt, transform and create communities of support. These communities are designed to protect, secure, support and give strength to those within the community.



Traditions

Traditions are cultural beliefs, values, and behaviors that have been handed down from generation to generation. Tribal values can be expressed through symbols, stories, clothing, signs, language, and rituals.

- What are some of your values?

- What are some of the key values of the community you are embracing?

- How are these values expressed?

- Which of my values will influence community justice?

- What values, of the community I am embracing, will influence community justice?

- What are some key tribal values?

The people who represent the more than 566 federally-recognized American Indian tribes and Alaska Native Villages are descended from a broad variety of tribal cultures. The net result was a great deal of cultural diversity throughout North America.

At the time of European contact, there were approximately 2,000 different American Indian and Alaska Native tribes and bands occupying what later became the United States and these tribes, spoke at least 250 distinct languages. Approximately 175 of these are currently spoken by tribal members and others who had close relations. Varying estimates indicate the American Indian population pre-European arrival to be about ten million (10,000,000).

However, there are a number of common traditional American Indian and Alaska Native beliefs and practices which are present in many Indian Peoples' life today. These values include:

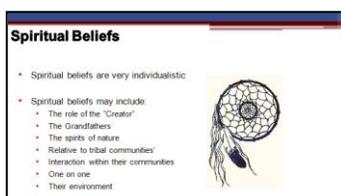
- The practice of making decisions (i.e. consensus). Note there are many different ways Indian People's make their decisions

- Tribal decision-making often involved significant input from the older and more traditional elements of tribal societies
- The high value placed on land preservation
- Tribal belief systems, language is believed to have a powerful influence on the balance of nature, and therefore, on future events.

Among American Indians today, one sees many aspects of their traditional cultures. For example, in many tribal communities' and Indian villages today native languages spoken, traditional systems of governance, kinship and clan membership are maintained, traditional economic and subsistence activities take place and traditional ceremonies continue to be held.

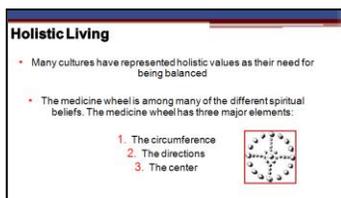
These traditions are often central to daily life and decision-making. For example, many Navajo still make at least part of their living by herding sheep, practicing traditional crafts like weaving and silver-smithing, and use family-based peacemaking. NOTE that peacemaking is also an option for Navajo people in the current tribal justice systems. Clearly, when community decisions are made, anything that might impact the practice of these traditions would be a significant concern to individual families and the community at large. Therefore, it is important to work with tribal communities and Indian Villages in a way that is compatible with the traditional activities the community practices.

American Indian and Alaska Native traditions also include the role of chiefs and council, elders, children, and the importance of tribal ceremonies. Teaching the young how to survive in difficult circumstances and how to live according to tribal custom was not left up to chance in American Indian communities. Well-defined customs, values, and practices, were handed down from generation to generation by parents and elders. In this way, they guided, nurtured, and protected children. They taught them to have self-identity, self-control and relating to others, both family and others. Each tribe had their own way of accomplishing this goal, but they all understood its importance (Positive Indian Parenting Manual). Traditionally nature or environment was used to understand basic concepts of life. Nature was the traditional classroom. The study of plants, animals, and environmental dynamics produced lessons that community lived by.



Spiritual Beliefs

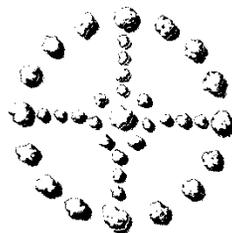
Spiritual beliefs are very individualistic and relationship based. Spiritual beliefs include tribal values and beliefs, the role of the “Creator”, the Grandfathers or Grandmothers, and the spirits of nature, relative to tribal communities’ interaction within their communities, one on one, and with their environment.



Balance/Holistic Way of Living

Symbolism is an important aspect in most American Indian and Alaska Native cultures. Symbols create relationships, identity, and meaning. For example, the Plains tribes use the medicine wheel, a sacred symbol, to help them remember and understand these concepts. Each tribe, and individuals within the tribe, may understand and use the medicine wheel differently depending on their own cultural experiences. Our American Indian and Alaska Native forefathers and foremothers saw things in fours, for example, the four directions: east, south, west and north. There were and are four seasons: spring, summer fall and winter. There are four stages in life: infancy, youth, adult, and elder (Howard Rainier). The medicine wheel is a symbol used to explain, and solidify these teachings.

As a symbolic pattern most American Indian and Alaska Native’s recognize the medicine wheel as a symbol of guidance through this life. It is a symbol of rebirth and origin. The medicine wheel is never beginning and never ending and all things flow from it. The medicine wheel has three major elements 1) the circumference 2) the directions and 3) the center (Jones 1995).



The circumference is the sacred hoop, which reminds us of life's journey; it gives us the separation needed to understand life cycles. We experience life cycles from the day we are born. Life is circular. We live in circles: There are circles below us there are circles above us. The earth, moon, sun, who gives us our life and substance and watch over us, are also circular. The sacred hoop is a "Parental Guardian for all of us" (Jones, 1995 pg72).

"The four directions represent the balance we need in order to live fully" (Jones 1995, pg 80). To understand ourselves, we must understand the direction given to us by the east, south, west, and north. If we follow the guidance given to us through the directions we will better understand the purposes of life and obtain balance or harmony (Jones 1995). The four directions help us understand cycles. They keep us organized and renewed. The four directions bring predictability and order. They also remind us to look for different ideas or glance in different directions to understand a concern or question (Jones 1995). The four directions also help us understand that in the cycles of life change and growth occur. This is a natural element of life. Through the four directions, the medicine wheel teaches us the four symbolic races are all part of the same human family. This means we are all brothers and sisters living and experiencing on the same mother earth (Bopp 1984).

Physical

We start in the East because this is where each day begins as the sun rises. Symbolically, the East represents everything that is physical. This is where we begin life as an infant in a physical body. As an infant we learn to trust, hope and the uncritical acceptance of others (Jones 1995; Bopp 1984). As the sun rises in the East, it gives us guidance to see obstacles. Thus, symbolically it also represents guidance and leadership (Bopp 1984).

Emotional

The South represents the summer and adolescence. The self expands at this stage; hormones are exploding; experimentation, and invigorating growth spurts are also occurring. We begin to grow outward as peer conformity begins to replace parental dominance within the social process. This is a time to test our physical bodies and learn the lessons of self-control (Bopp 1984). Many people behave as if their bodies control them. Just as the body can be trained and developed, we can train and exercise our self-control and discipline our emotions. One must learn to distinguish what their body wants from what is good and true. This is the time to collect one's identity (Jones 1995). Values and beliefs begin to develop during this stage. The south represents the summer in the earthly cycle. The summer is a time to prepare for hard times ahead. The most valuable gift to be sought in the South of the medicine wheel is the capacity to express feelings openly and freely (Bopp 1984). The value of this gift is the ability to set aside feelings of anger, hurt, or grief in order to seek

counsel or methods to assist people. The establishment of this gift will allow us to think clearly without allowing our feelings to interfere (Bopp 1984).

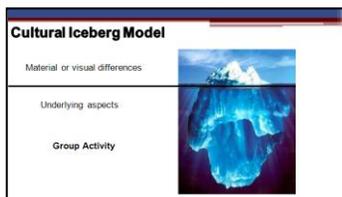
Mental

The sun leaves in the West and subjects us to darkness. This is the autumn of our life, the adult years. This is the time to gain knowledge and sense of what we have learned from our experiences this far (Jones 1995). The West represents learning and the desire to gain understanding through many means such as meditation, prayer, dreams, personal power, fasting, reflection, and perseverance (Bopp 1984). As we are in the east we gain a clear self-knowledge. At this stage we act on our values, beliefs and attitudes.

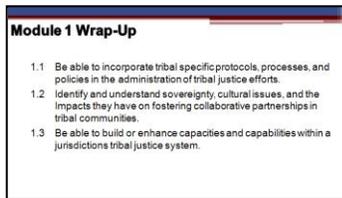
Spiritual

This is the winter of life. It is the time of enlightenment, a time to become purified and refined into great wisdom. The gift of understanding and calculation is found in the North (Jones 1995). Organizing, categorizing and problem solving help with understanding who we are and how we fit into the circle. This understanding leads to a spiritual feeling of connectedness (Bopp 1984).

The journey around the medicine wheel can become long and awkward. As we come to more of an understanding of the journey and the cycle and progress with the gifts of the medicine wheel, we are becoming more balanced or harmonious. The closer we find us centered in the medicine wheel the shorter and less awkward is the journey. The goal is to find yourself at the center where you can have all four elements continuously and simultaneously. When we extend ourselves from the center, “We become vulnerable like brother Snake” (Jones 1995).

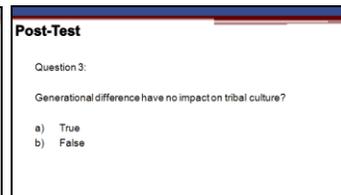
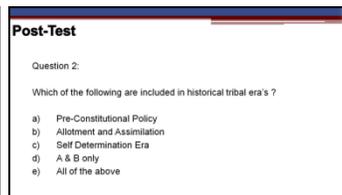
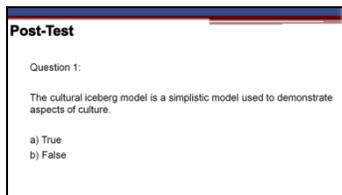


Cultural Iceberg Model Group Activity



Module 1 Wrap-Up

Module 1 Post-Test



1. The cultural iceberg model is a simplistic model used to demonstrate aspects of culture.
 - a) True
 - b) False
2. Which of the following are included in historical tribal Era's?
 - a) Pre-Constitutional Policy
 - b) Allotment and Assimilation
 - c) Self Determination Era
 - d) A & B only
 - e) All of the above
3. Generational difference have no impact on tribal culture?
 - a) True
 - b) False

Module 2: Working with Stakeholders and Tribal Partners

Module 2: Working with Stakeholders and Tribal Partners

Pre-Test

Question 1:
Collaboration initiatives spread cost and resources for tribal agencies only.

a) True
b) False

Pre-Test

Question 2:
The service cultural model consists of four levels?

a) True
b) False

Pre-Test

Question 3:
Consensus building is a democratic form of decision making?

a) True
b) False

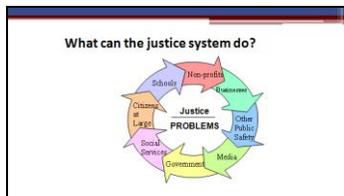
Module 2 Pre-Test

1. Collaboration initiatives spread cost and resources for tribal agencies only.
 - a) True
 - b) False
2. The service cultural model consists of four levels?
 - a) True
 - b) False
3. Consensus building is a democratic form of decision making?
 - a) True
 - b) False

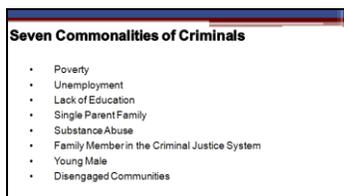
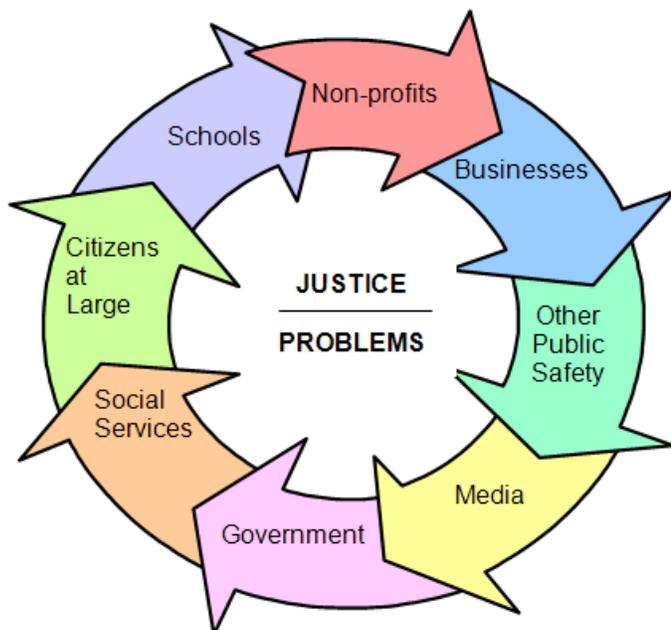
Learning Objectives

This objective will explore the need for regional collaboration as it relates to building capacity and sharing resources and information within tribal justice systems.

Activity: Step 1 - Problems



What can the tribal justice partners do: *Introduction to Problem Solving*



Seven Commonalities of Criminals

- Poverty
- Unemployment
- Lack of Education
- Single Parent Family
- Substance Abuse

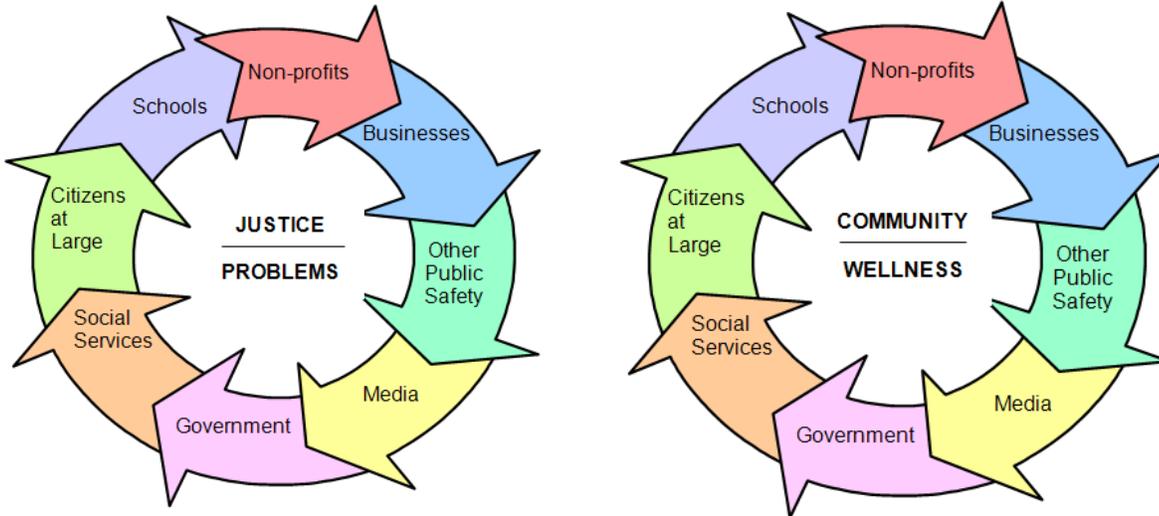
- Family Member in the Criminal Justice System
- Young Male
- Disengaged Communities



How can we build healthy communities?



Which one works best?



Challenging your Capabilities: Trigger Events

- Community crisis
 - Injury or death
 - Natural Disaster
 - Community Victimization
- A problem is identified
 - "last straw"
 - Personal victimization

Trigger Events

It is in these times we really see people pull together with a common interest and a common goal. More often than not, these events are driven by urgency. They come quickly and call for quick resolution. However, not all trigger events meets that criteria. Sometimes, they can sneak up on people until they simply cannot put up with the situation any more, or until it becomes personal.

The Harvey Story

- Harvey, a 15 year-old boy, has been on probation one year for being caught breaking into a house. It was his first referral to the court, although he had been "talked to" by the police on several occasions for kicking dogs and breaking car windows in the past three months. His father abandoned his mother and two younger children when Harvey was eight years old. His mother has not been effective at disciplining Harvey and he has run wild for several years, skipping school, doing drugs, and stealing. He has again been caught breaking into another house.
- At the hearing, it is learned that Harvey has seen his probation officer only once in 11 months. The judge, having little confidence in the probation department, commits Harvey to a training school. Harvey does not like the training school. One house parent in particular treats him badly, pushing him around and humiliating him in front of the other young people. Bill, another boy in Harvey's cottage, is planning an escape. Harvey does not want to run away, but Bill coerces Harvey into doing it. They escape one night, and Bill steals a truck. They speed through a red light, hit another car, and Harvey is killed.

The Harvey Story

Players (in order of appearance):

- Harvey
- Father
- Mother
- Police Officer
- Judge
- Probation Officer
- House Parent
- Bill

In what order do you hold the characters in the story responsible for the tragedy?

Harvey Story

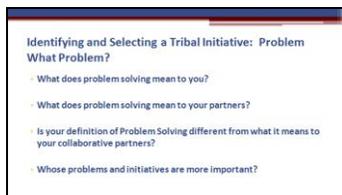
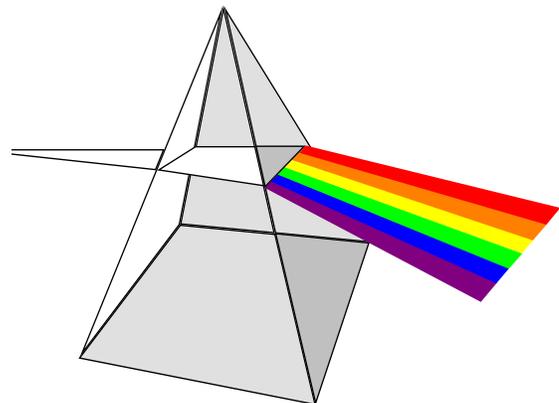
Harvey, a 15 year-old boy, has been on probation one year for being caught breaking into a house. It was his first referral to the court, although he had been "talked to" by the police on several occasions for kicking dogs and breaking car windows in the past three months. When Harvey was eight years old his father abandoned his mother and two younger children. His mother has not been effective at disciplining Harvey, and he

has run wild for several years, skipping school, doing drugs, and stealing. He has again been caught breaking into another house.

At the hearing, it is learned that Harvey has seen his probation officer only once in 11 months. The Judge, having little confidence in the probation department, commits Harvey to a juvenile detention facility. Harvey does not like the detention facility. One facility cottage parent in particular treats him badly, pushing him around and humiliating him in front of the other young people. Bill, another boy in Harvey’s cottage, is planning an escape. Harvey does not want to run away, but Bill coerces Harvey into doing it. They escape one night, and Bill steals a truck. They speed through a red light, hit another car, and Harvey is killed.

In what order do you hold the characters in the story responsible for the tragedy?

Players (in order of appearance):	Participant	Group
Harvey		
Father		
Mother		
Police Officer		
Judge		
Probation Officer		
House Parent		
Bill		



Identifying and Selecting a Tribal Initiative: *Problem, What Problem?* Problem Solving

[Problem Solving: What is it?](#)

WORKSHEETS

Problem Name:	Start Date:
Problem Location:	
Officer Name:	
Contact (Complainant):	

SCANNING – Problem Identification

Problem Classification:	Validate Problem Solving Criteria:
<p><i>Check all boxes that apply</i></p> <input type="checkbox"/> Communication / Logistical <input type="checkbox"/> MOU / MOA Procedural <input type="checkbox"/> Legal <input type="checkbox"/> Staffing / Resource <input type="checkbox"/> Jurisdictional <input type="checkbox"/> Other	<input type="checkbox"/> Reoccurring incidents/events with similar or related characteristics* <input type="checkbox"/> Requires a strategic and organized process <input type="checkbox"/> Concern to tribal Community <input type="checkbox"/> Public expectation that something be done <input type="checkbox"/> Must be completed in partnership with others <p><i>(must be able to check all above)</i> <input type="checkbox"/> YES <input type="checkbox"/> NO</p>

*What are the Similar or Related Characteristics: (describe)	
<input type="checkbox"/> Communication / Logistical	
<input type="checkbox"/> MOU / MOA Procedural	
<input type="checkbox"/> Legal	
<input type="checkbox"/> Staffing / Resource	
<input type="checkbox"/> Jurisdictional	
<input type="checkbox"/> Other	

Description of tribal justice problem:

The problem must be something you can manage, take ownership in, and be responsible for completing in partnership with others.

Project Approval:

Submit to Supervisor

Date:	Approved by:
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“Thinking Collaboratively”

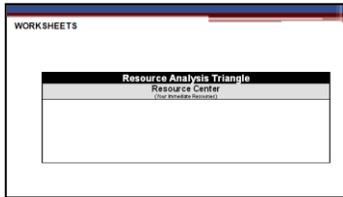
<p>Service Center</p> <p>Organizations ability and capacity to provide a specific service</p> 	<p>Activity: List your immediate resources.</p> <p>What are your immediate resources that your organization has, and are currently available to help solve or address your justice problem?</p> 
--	--

Activity: List your immediate resources:



Diagram 2.1.1

In the first step of this exercise, you need to take a few moments and reflect upon and briefly list the immediate resources (i.e. tribe, city, or county) that your organization has, and are currently available to help solve or address your justice system problem within the jurisdiction . For purposes of this example, this tribal justice layer will be called your “Resource Center.” Diagram 2.1.1 depicts a “Resource center.”



Resource Analysis Triangle	
Resource Center (Your Immediate Resources)	

In the second step of this exercise, you need to take a few moments and expand your “resource center” to include any justice partners (including states when applicable), counties and tribes that are closely located around your “resource center” – we will call this your “justice partners.” For purposes of this exercise, your “justice partners” should include your “resource center” plus other tribes, the jurisdictions (including States when applicable), cities, and counties that geographically adjoin your “resource center.” Diagram 2.1.2 depicts “justice partners.”

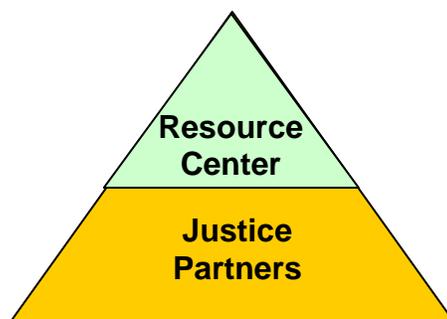
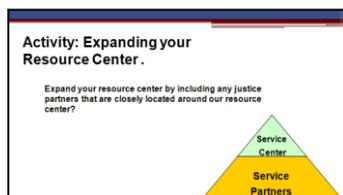
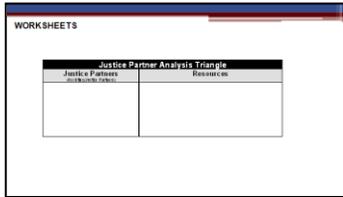


Diagram 2.1.2





Justice Partner Analysis Triangle	
Justice Partners (Assisting Justice Partners)	Resources

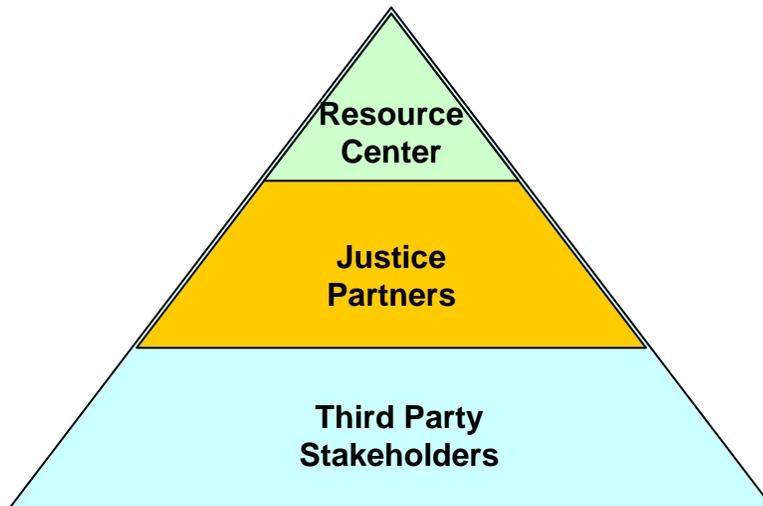
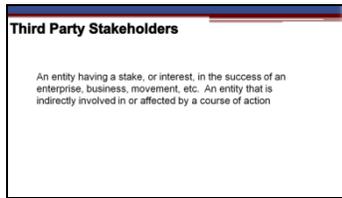


Diagram 2.1.3



Third-Party Stakeholder

Third-Party Stakeholder: An entity having a stake, or interest, in the success of an enterprise, business, movement, etc. An entity that is **indirectly** involved in or affected by a course of action

Third-Party Stakeholder Identification

The following are the three primary elements for bringing together third-party stakeholders for a tribal Initiative:

- The **identification of the jurisdiction** within which partnerships between third-party stakeholders need to be built
- The **identification of the third-party stakeholders** supporting that jurisdiction
- The **garnering of participation from the third-party stakeholders identified** and having them build partnerships with each other. We will discuss each of these elements in turn

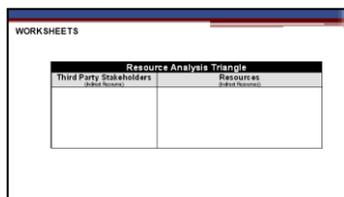
Once you have identified the target area for your tribal justice initiative, the next step is to identify the third-party stakeholders that may have an indirect interest in your initiative. When identifying third-party stakeholders, it is important to include at the outset and for the duration of the tribal Initiative all tribal and non-tribal (federal, state, local, and private) third-party stakeholders.



Activity: Identifying your Third-Party Stakeholders:

In this step of this exercise you need to take a few moments and expand your “resource center”, and “justice partners” to include any tribes, regions (including states when applicable), Federal, and counties that may have a in-direct vested interest in helping you with your problem. These potential partners are tribal, states, and counties that could indirectly support your “resource center”, and “justice partners” – we will call this layer “third party stakeholders.” For purposes of this exercise, your “third party stakeholders” should include your “resource center” and “justice partners” plus the tribes, federal, state, local, and private partners that have a in-direct vested interest in supporting your “resource center”. Diagram 2.1.3 depicts the final layer, “third party stakeholder.”

Activity: Stakeholders



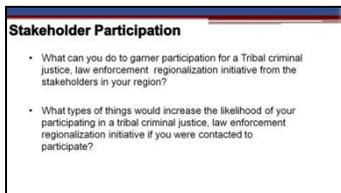
Resource Analysis Triangle	
Third Party Stakeholders (Indirect Resource)	Resources (Indirect Resources)



Third-Party Stakeholder Participation

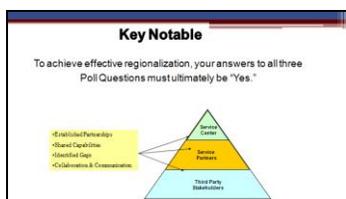
- Consider using a private or non-governmental organization with expertise in developing tribal justice initiatives such as a liaison for contacting stakeholders with whom you do not have any prior contact
- Share information concerning the contemplated initiative and its importance to the current or needed capabilities of your jurisdiction
- Recognize the sovereignty of the tribal stakeholders and do not attempt to infringe upon that sovereignty with your contemplated tribal justice initiative
- Schedule meetings and round-tables to discuss the contemplated tribal justice initiative in more detail, and be cognizant of scheduling logistics such as notice and host sites
- Consider having your contemplated tribal justice initiative placed on the agendas of pre-existing stakeholder meetings
- Resist letting rivalries, historical and demographic differences, and cultural barriers prevent you from reaching out to the stakeholders needed for a comprehensive tribal Initiative

It is worth mentioning that if you are not the stakeholder initiating the contact to rally stakeholder participation and collaboration for a contemplated tribal justice initiative, and are instead a stakeholder that has been contacted by another stakeholder concerning that initiative; then you should be receptive to that contact and prepared to build that partnership opportunity. This will require you to approach that contact with an open mind, and a willingness to share and collaborate for the good of the initiative as a whole.



QTC: What can you do to garner participation for thier tribal Justice initiative from third-party stakeholders in your jurisdiction?

QTC: If contacted, what types of things would increase the likelihood of your participation in a tribal Initiative?



Key Points: In order to achieve tribal justice partnerships, you must:

- Have all of the tribal, federal, state, local and private stakeholders within the “resource center”, “justice partners”, and “third party stakeholders” been identified and do partnerships with each other currently exist?
- Have all of the tribal, federal, state, local, and private stakeholders within the “resource center”, “justice partners”, and “third party stakeholders” shared their capabilities with each other?
- Have all of the tribal, federal, state, local, and private stakeholders within my “resource center”, “justice partners”, and “third party stakeholders” collaborated and communicated with each other on a continual basis?

Most likely, you have found during this exercise that as you slide along the continuum from “resource center”, “justice partners”, and “third party stakeholders”, there is a drop-off in the number of partnerships, the extent of information sharing and analyses, and the frameworks for collaboration and communication among the tribal, federal, state, local, and private stakeholders. You should note that this drop-off poses a vulnerability to tribal services because continued demands on available time and resources will most likely impact your “resource center”, “justice partners”, and “third party stakeholders”. Effective collaborative partnerships can help eliminate this drop-off, and therefore, help eliminate any vulnerability in achieving your tribal justice initiatives.

BJA Third Party Stakeholders (Examples)

BJA TRIBAL-STATE-LOCAL INTERGOVERNMENTAL COLLABORATION PARTNER MEETING
THURSDAY, FEBRUARY 27, 2014 • OFFICE OF JUSTICE PROGRAMS, U.S. DEPARTMENT OF JUSTICE
Executive Conference Room, 3rd Floor, 810 7th Street, NW • Washington, D.C.

PARTICIPANT LIST				
NAME	TITLE & ORGANIZATION	TRAINING & TECHNICAL ASSISTANCE PROVIDERS	ADDRESS	EMAIL & TELEPHONE
1. Mark Carter	Wirta-Manabizer Legal Fellow, National Congress of American Indians		1814 P Street, NW Washington, DC 20005	mcarter@ncja.org Tel: 202.464.7767 ext. 242
2. Kim Cobb (Dist. In)	Research Associate, American Probation and Parole Association		P.O. Box 11910 Lexington, KY 40576-1910	kcobb@apaa.org Tel: 859.244.8018
3. Cabell Cropper	Executive Director, National Criminal Justice Association		720 7th Street, NW, 3rd Floor, Washington, DC 20001	ccropper@ncja.org Tel: 202.448.1721
4. Debra Flute	National Tribal Judicial College, UND School of Law		215 Centennial Drive, Stop 9003 O'Kelly Room 316, Grand Forks, ND 58202	
5. Rahmney Flowers	NITAC Specialist, National Training and Technical Assistance Center		701 13th Street, NW Washington, DC	Flowers_Rahmney@bah.com Tel: 202.714.7324
6. Chalene Folsom-Krith	Director, The National Tribal Judicial College of the National Judicial College		Judicial College Building/KS 358 Reno, NV 89527	cfolsom@njc.org Tel: 775.327.8202
7. Adelle Fontana	Program Assistant, Tribal Justice Exchange Program, Center for Court Innovation, & Policy Institute		820 Eighth Avenue, 18th Floor New York, NY 10018	fontana@ccic.state.ny.us Tel: 646.304.5912
8. Jerry Gardner	Executive Director, Tribal Law & Policy Institute		6235 Santa Monica Blvd., Ste. 211 West Hollywood, CA 90046	chris@tlpi.org Tel: 323.650.5467
9. Chis Halpern Beato	Tribal Court Specialist, Tribal Law & Policy Institute		6235 Santa Monica Blvd., Ste. 211 West Hollywood, CA 90046	chis@tlpi.org Tel: 323.650.5467
10. Brian Kaufman	Director, Western Community Policing Institute, Western Oregon University		34817 Main Street, Astoria, OR 97103	bkaufman@wou.edu Tel: 503.751.4005
11. Allison W. Leof, PhD	Senior Policy Analyst, Center for Evidence-Based Policy, Oregon Health and Science University		3485 SW US Veterans Hospital Road, SH-4H, Portland, OR 97239-2941	leof@ohsu.edu Tel: 503.494.3805
12. Suzanne McLeod	Deputy Program Director, National Training and Technical Assistance Center, Booz Allen Hamilton		810 7th Street, NW Washington, DC 20531	Suzanne.McLeod@ojp.undoj.gov Tel: 202.305.9027
13. David Marlman	National Criminal Justice Association		720 7th Street, NW, 3rd Floor, Washington, DC 20001	dmarlman@ncja.org
14. Heather Singleton-Yalder	Program Director, Tribal Law & Policy Institute		6235 Santa Monica Blvd., Ste. 211 West Hollywood, CA 90046	heather@tlpi.org Tel: 323.650.5467
15. Michelle Rivard-Parks	Associate Director, National Tribal Judicial College, UND School of Law		215 Centennial Drive, Stop 9003 O'Kelly Room 316, Grand Forks, ND 58202	richelle_rivard@email.und.edu Tel: 701.777.6192

Promoting Tribal Justice: Branding your Tribal Justice Initiative



Each and every organization has a history and many traditions that employees and volunteers can take pride in. Consider the reputation of your organization or department within the tribal justice system and jurisdiction that you serve.



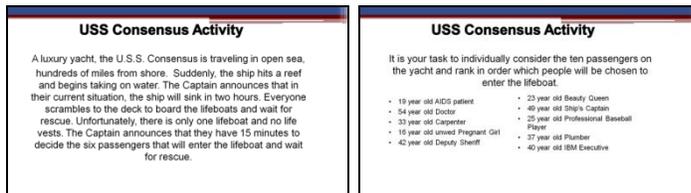
Branding Tribal Justice in Organizational Transformation: The Branding Process

- How to define your tribal justice Brand
- Determining the Brand's objectives
- Discovering and crushing the barriers
- Brand, packaging and identity

Consensus Building

Consensus decision-making means that everyone understands the decision and is willing to support the decision. Decisions by consensus means:

- all members are heard;
- all members are honest;
- everyone’s input is considered equally;
- all relevant information has been shared;
- all members are genuinely searching for new solutions;
- everyone is willing to make personal sacrifice for the sake of the team; and
- everyone is willing to support the action as if the decision was your own.



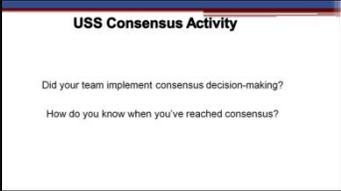
USS Consensus Activity

A luxury yacht, the U.S.S. Consensus is traveling in open sea, hundreds of miles from shore. Suddenly, the ship hits a reef and begins taking on water. The Captain announces that in their current situation, the ship will sink in two hours. Everyone scrambles to the deck to board the lifeboats and wait for rescue. Unfortunately, there is only one lifeboat and no life vests. The Captain announces that they have 15 minutes to decide the six passengers that will enter the lifeboat and wait for rescue. It is your task to individually consider the ten passengers on the yacht and rank in order which people will be chosen to enter the lifeboat.

Passengers on the U.S.S. Consensus:

- 19 year old AIDS patient
- 54 year old Doctor
- 33 year old Carpenter
- 16 year old unwed Pregnant Girl
- 42 year old Deputy Sheriff
- 23 year old Beauty Queen
- 49 year old Ship’s Captain
- 25 year old Professional Baseball Player

- 37 year old Plumber
- 40 year old IBM Executive



Rank, in order, which people you would choose to be saved on the lifeboat.

QTC: How did your team implement consensus decision-making?

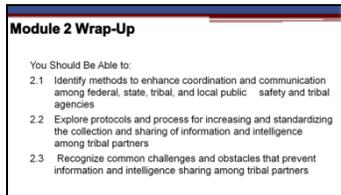
QTC: How do you know when you've reached consensus?

You've reached consensus when each member can say:

- "My personal views and ideas have been really listened to and considered."
- "I have openly listened to and considered the ideas and views of every other group member."
- "I can support this decision and work toward its implementation, even if it was not my choice."

Tips for reaching consensus

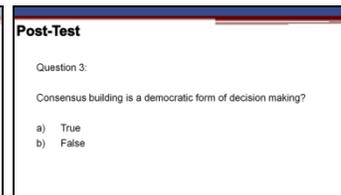
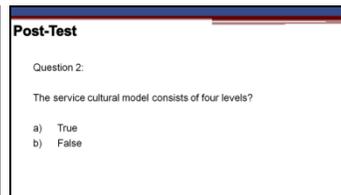
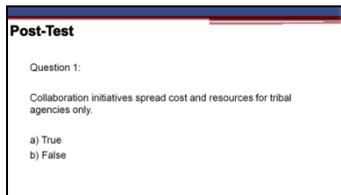
- Don't employ win/lose techniques, such as voting or negotiating favors back and forth.
- Look for alternatives that are next most acceptable as ways to break a stalemate.
- Don't encourage members to give in to keep harmony.



Module 2 Wrap-Up

You Should Be Able to:

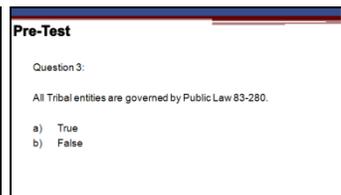
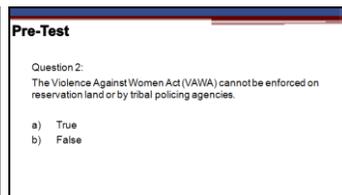
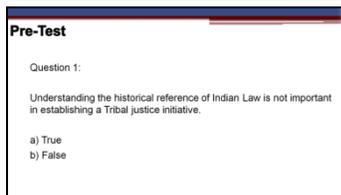
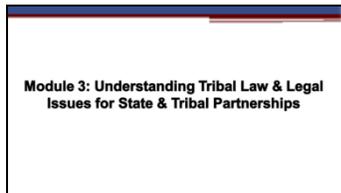
- 2.1 Identify methods to enhance coordination and communication among federal, state, tribal, and local public safety and tribal agencies
- 2.2 Explore protocols and process for increasing and standardizing the collection and sharing of information and intelligence among tribal partners
- 2.3 Recognize common challenges and obstacles that prevent information and intelligence sharing among tribal partners



Module 2 Post-Test

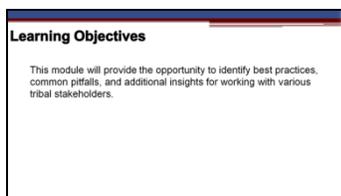
1. Collaboration initiatives spread cost and resources for tribal agencies only.
 - a) True
 - b) False
2. The service cultural model consists of four levels?
 - a) True
 - b) False
3. Consensus building is a democratic form of decision making?
 - a) True
 - b) False

Module 3: Understanding Tribal Law & Legal Issues for State & Tribal Partnerships



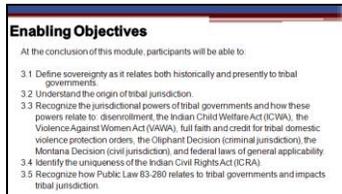
Module 3 Pre-Test

1. Understanding the historical reference of Federal Indian Law is not important in establishing a tribal justice initiative.
 - a) True
 - b) False
2. The Violence Against Women Act (VAWA) cannot be enforced on reservation land or by tribal policing agencies.
 - a) True
 - b) False
3. All tribal entities are governed by Public Law 83-280.
 - a) True
 - b) False



Terminal Learning Objectives (TLO)

This module will provide the opportunity to identify best practices, common pitfalls, and additional insights for working on their selected tribal justice problem with various tribal stakeholders.



Enabling Learning Objectives (ELO)

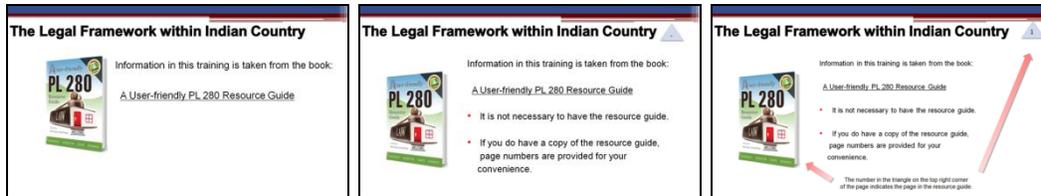
At the conclusion of this module, participants will be able to:

- 3.1 Define sovereignty as it relates both historically and presently to tribal governments
- 3.2 Understand the origin of tribal jurisdiction
- 3.3 Recognize the jurisdictional powers of tribal governments and how these powers relate to: membership the Indian Child Welfare Act (ICWA), the Violence Against Women Act (VAWA), full faith and credit for tribal domestic violence protection orders, the Oliphant Decision (criminal jurisdiction), the Montana Decision (civil jurisdiction), Major Crimes laws, and Federal laws of general applicability
- 3.4 Identify the uniqueness of the Indian Civil Rights Act (ICRA).
- 3.5 Recognize how Public Law 83-280 relates to tribal governments and impacts tribal and state jurisdiction

Introduction: The Legal Framework within Indian Country

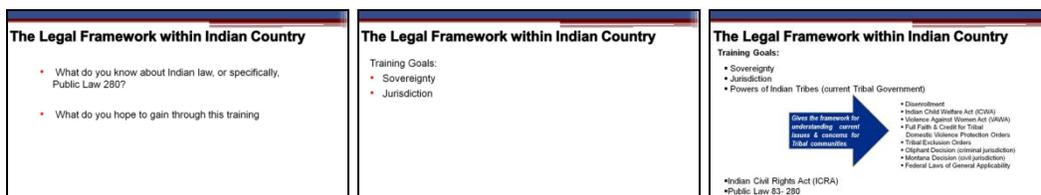


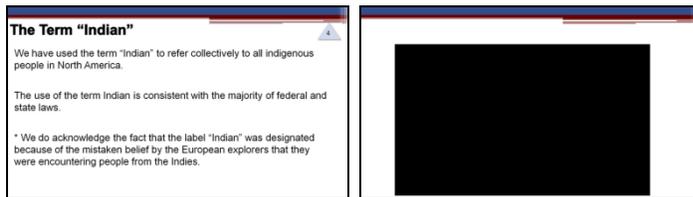
The majority of material covered in this learning module is taken from the resource guide, “A User-friendly PL 280 Resource Guide.” No participant is required to have a copy of this book. However, for those participants who do have their own resource guide, the page number on the upper right-hand corner corresponds with the material in the book.



- Introduction: Instructor’s background of working in Indian country
 - 1) What do you know about Federal Indian law?

2) What do you hope to gain through this training?





Throughout this training module the term “Indian” is used to refer collectively to all indigenous people in North America. This term is consistent with the majority of federal and state laws and the U.S. Constitution. However, it must be acknowledged, that the term “Indian” was not a term chosen by the indigenous people to describe themselves. This term derives from the mistaken belief by early European explorers that they were encountering people from the Indies.



Understanding Tribal Sovereignty

The most foundational concept to understand while learning about the legal framework on tribal lands is the concept of *sovereignty*. If you take sovereignty out of the equation while discussing the legal framework within Indian country, it will be difficult to make sense of things. Sovereignty is the “cornerstone” around which everything else is built. Trying to understand Federal Indian law without an understanding of tribal sovereignty would be similar to learning to fly without having any concept of gravity.

The following questions will be answered as we discuss tribal sovereignty:

- What does tribal sovereignty mean?
- Where did tribal sovereignty come from?
- Does tribal sovereignty still exist?
- If so, what does it mean to me?



Governments/Leadership in tribes

The definition of tribal sovereignty comes right out the 1832 U.S. Supreme Court case, Worcester v. Georgia (31 US 515,543). It reads:

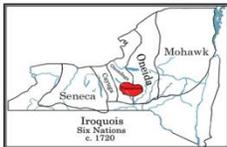
“America, separated from Europe by a wide ocean, was inhabited by a distinct people, divided into separate nations, independent of each other and of the rest of the world, having institutions of their own, and governing themselves by their own laws.”

When Europeans initially came to the new lands of the North American continent, they found indigenous people who were independent of each other and the rest of the world. They had their own systems of government. Indian tribes were recognized as sovereign because they were:

- 1) Independent, free from any other sovereign
- 2) Self-governing; governing themselves by their own laws

Tribal sovereignty is unique from other sovereign governments because:

- 1) It has existed since time immemorial
- 2) It is inherent, not given to the tribes by any government

<p>Early Tribal Governments</p> <p>What did early tribal governments look like?</p> <p>Are there examples from history?</p>	<p>Example of the Iroquois Confederacy</p>  <p>Iroquois Six Nations c. 1720</p>	<p>Example of the Iroquois Confederacy</p> <p>A democracy that existed <i>hundreds of years before the United States</i>.</p> <ul style="list-style-type: none"> - Each nation independent concerning their own affairs - United in concerns and interests of the whole Confederacy (National governments) - Each had an equal voice in the General Council - Each was represented according to population - Close parallels seen in the US Constitution of the Iroquois Confederacy's constitution: The Great Law of Peace - Contained Executive, Legislative and Judiciary branches of government
<p>Example of the Iroquois Confederacy</p> <p>June 11, 1776 Iroquois chiefs were invited to speak to the Continental Congress.</p> <p>The democratic principles of the Iroquois Confederacy influenced similar democratic principles that were incorporated into the US constitution.</p>	<p>Example of the Iroquois Confederacy</p> <p>This was acknowledged by Congress on Oct. 4, 1988 in House Concurrent Resolution 331</p> <p>"The original framers of the Constitution... Most notably, George Washington and Benjamin Franklin, are known to have greatly admired the concepts of the Six Nations of the Iroquois Confederacy."</p> 	

Example of Early Tribal Government

- Are there examples of early tribal governments?

- What did these tribal governments look like?

A great example of early tribal government is found in the Iroquois Confederacy. The Iroquois were an alliance of five individual tribal nations. Later, one more tribe was incorporated into the alliance. The Iroquois Confederacy was often referred to as the “Six Nations.” They existed long before the formation of the United States.

Interesting attributes of the Iroquois Confederacy’s form of government:

- They had a democratic form of government
- Each nation that comprised the alliance were independent of each other in areas concerning their own affairs
- United in concerns and interests of the whole confederacy
- Each nation had a voice in the General Council
- Each nation was represented according to population
- The Iroquois Confederacy was governed by a constitution: The Great Law of Peace
- Their constitution had a balance of powers for government

The early English colonists were well aware of the Iroquois Confederacy. The democratic principles of the Iroquois influenced similar democratic principles that were eventually incorporated into the United States’ constitution. This fact was acknowledged by the U.S. Congress on Oct. 4, 1988, through House Concurrent Resolution #331.



U.S. – Tribal Nations Government-to-Government Relationships

Tribal self-governance was recognized in the early treaties. Treaty-making, the formal way sovereign governments negotiated with each other, was acknowledged as within the power of Indian tribes. Over 370 government-to-government treaties were negotiated between the United States and Indian tribes. Some treaties prior to and post US Constitution signing included the criminal jurisdiction.

<p>Formal vs. Informal</p> <ul style="list-style-type: none"> For thousands of years tribal communities used custom and tradition to govern their people. The Europeans viewed tribal custom and tradition as informal judicial processes. 	<p>Formal vs. Informal</p> <p>The differences between the tribal and non-tribal European judicial processes were between what was viewed as formal versus informal.</p> <p>“Until the middle of this century, few Indian tribes maintained any semblance of a formal court system. Offenses by one Indian against another were usually handled by social and religious pressure and not by formal judicial processes; emphasis on restitution rather than on punishment.”</p>	<p>Formal vs. Informal</p> <ul style="list-style-type: none"> Informal does NOT mean inferior. How well did the laws and justice system work? The quote on page 154 indicates the informal justice system was more effective than the formal justice system. 
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Formal versus Informal Judicial Processes

Tribal judicial processes often appeared foreign to European “formal” processes. Tribal governments incorporated custom and tradition. Although tribal government operated a less formal judicial process, it was not an inferior process. The question can be asked, “How well did the informal process work?” One source indicates it was more effective than the formal European-style justice system.

Quote from page 154 of A User-friendly PL 280 Resource Guide:

“I have found my way into and through 120 different tribes, in North, South, and Central Americas, and the reader who has got thus far in the book, will easily imagine that my life and my property have been, much of the time, at their (Indians) mercy; and will here learn that, not only have I found it unnecessary ever to raise my hand against one of them, but that they have everywhere treated me with hospitality and kindness; and nowhere, to my knowledge, stolen a sixpence worth of my property, though in their countries there is universal poverty to stimulate to crime, and no law to punish for theft, and where travelers carry no trunks with locks and keys!”

Catlin, George, Last rambles amongst the Indians of the Rocky Mountains and the Andes, Sampson Low, Son, and Marston 1868 (digitized from public domain by Bibliolife, LLC) p. 345

<p>Tribal Sovereignty</p> <p>Is tribal sovereignty individual?</p> <p>Can a Native American say, “I’m a sovereign Indian?”</p>	<p>Two “I”s in INDIAN</p> <p>One can’t say, “I’m a sovereign Indian.”</p> <p>But, what can be said is, “WE are a sovereign Indian tribe / nation.”</p> <p>A tribe’s sovereignty – their inherent right of self-government – is not based on individual ethnicity.</p> <p>Tribal sovereignty in relation to the United States government, is based on actual historic, government-to-government dealings.</p>	<p>A Special Relationship</p> <p>“The special relationship between Indians and the federal government is a result... of solemn obligations which have been entered into by the United States government.”</p> <p>Down through the years through written treaties and through formal and informal agreements, our government has made specific commitments to the Indian people. For their part, the Indians have often surrendered claims to vast tracts of land... in exchange, the government has agreed to provide community services such as health, education and public safety.”</p> <p>President Nixon, Special Message on Indian Affairs, July 8, 1970</p>
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Sovereignty is not Individual

An important point to keep in mind as we discuss tribal sovereignty is that tribal sovereignty is not based on ethnicity. One cannot say, “I am a sovereign Indian.” However, an Indian can say, “I’m part of a sovereign Indian nation.”

The special political relationship the United States has with Indians is based on actual historical government-to-government agreements. Indian tribes surrendered claims to vast tracts of land in exchange for things which the U.S. government solemnly promised to provide to tribal governments: community services such as health, education and public safety.

Code for "Indian"

- Federal laws are compiled into the United States Code (USC).
- The USC is arranged by subject matter called "titles".
- There are more than 50 subject matters (or titles) in the USC.
- One of these titles – Title 25 – is entitled "INDIANS".
- This reveals the unique political status between the federal government and Indians.

Title 25 of the United States Code is "Indians"

Title 25 of the United States Code, which is entitled "Indians," reveals the unique political status between the United States and Indian tribes.

Sovereignty & Jurisdiction

QUOTE

Congressional findings:

- Congress, through statutes, treaties, and the exercise of administrative authorities, has recognized the self-determination, self-defense, and inherent sovereignty of Indian tribes.
- Indian tribes possess the inherent authority to establish their own form of government, including tribal justice systems.
- Tribal justice systems are an essential part of tribal governments and serve as important forums for ensuring public health and safety and the political integrity of tribal governments.

25 USC, section 3601 – The Indian Tribal Justice Act

Sovereignty & Jurisdiction

KEY POINT

Tribal sovereignty gives a tribe authority to manage their territories and their people.

This includes the ability to make and enforce laws within their jurisdiction.

QUOTE

Before the coming of the Europeans, the tribes were self-governing sovereign political communities. Like all sovereign bodies, they then had the inherent power to prescribe laws for their members and to punish infractions of those laws."

US v. REISNER, 435 US 212, 222 (1978)

Sovereignty and Jurisdiction

Tribal sovereignty is directly related to tribal jurisdiction. Tribal governments have the authority to manage their territories and govern their people. This includes the ability to make and enforce laws within their jurisdiction.

Major Crimes Act (1885)

Prior to the Major Crimes Act, the tribes had exclusive jurisdiction to try and punish their tribal members.

The Major Crimes Act was enacted by Congress as a result of the Crow Dog Decision. The original Major Crimes listed were:

- Murder
- Manlaughter
- Rape
- Assault with intent to kill
- Arson
- Burglary
- Larceny

KEY POINT

The Major Crimes Act of 1885 introduced, for the very first time, federal jurisdiction over Indian v. Indian crimes.

Major Crimes Act (1885)

The Crow Dog Decision became the pivotal point for expanded federal jurisdiction (under treaty).

A tribe's internal justice system received little attention from non-Indians – it was the business of the tribe how things were handled among the tribe – because it did not affect non-Indians.

At least this was the feeling until the infamous case of Spotted Tail.

Spotted Tail, a Brule Sioux war chief, was killed by another Sioux, Crow Dog, who believed Spotted Tail was going to sign away more of the Sioux's tribal lands.

The killing of Spotted Tail was taken care of according to the Tribe's culture and tradition. Crow Dog had to pay restitution to Spotted Tail's family, 3 horses, 1 blanket and \$500.

Major Crimes Act (1885)

The Crow Dog Decision

Crow Dog was arrested by the acting Indian Agent, in spite of the fact that the Tribe had already punished him.

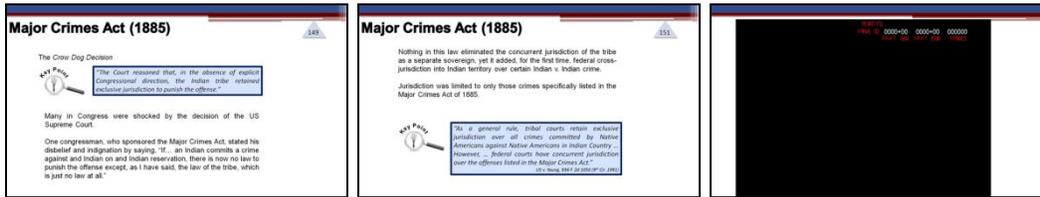
He was tried and sentenced to death by hanging.

Through a turn of events, Crow Dog's case was appealed to the US Supreme Court (Ex Parte Crow Dog)

The Supreme Court recognized:

"Our government has always recognized as exempt from our laws, whether written or unwritten the acts of an organized state or territory, and, in regard to their [Indian's] domestic government, left to their own rules and traditions."

Ex Parte Crow Dog, 98 US 557 (1878)



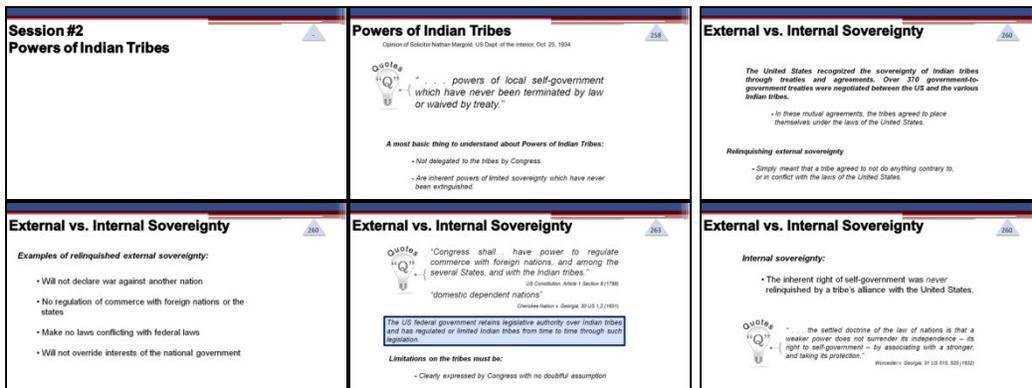
Federal Jurisdiction Imposed on Indian v. Indian Crime

It was not until 1885 that the federal government imposed criminal jurisdiction in Indian country for and Indian v. Indian crime. Prior to this time, any crime committed by an Indian against another Indian on tribal lands, was exclusively dealt with by the tribe. In 1885, the U.S. Congress enacted the Major Crimes Act. Limited criminal jurisdiction was conferred to the federal government through the Major Crimes Act. This did not diminish the tribe’s jurisdiction, but it allowed federal criminal jurisdiction to operate concurrently.

The original seven major crimes were:

- Murder
- Manslaughter
- Rape
- Assault with intent to kill
- Arson
- Burglary
- Larceny

*****Subsequent amendments to the Act have added seven more offenses: kidnapping, incest, assault with a dangerous weapon, assault resulting in serious bodily injury, assault with intent to commit rape, robbery, and felonious sexual molestation of a minor.**



Powers of Indian Tribes

As earlier discussed, American Indian and Alaska Native’s have the authority to govern their territories. Their power of self-government, which has not been terminated by law or waived by treaty, continues to this day.

Fundamentally, what must be understood regarding the jurisdictional powers of Indian tribes is:

- Powers of Indian tribes are not delegated to the tribes by Congress
- Rather, they are inherent powers of limited sovereignty which have never been extinguished

Indian tribes have relinquished their external sovereignty through various treaties and agreements. In these mutual agreements, the tribes agreed to place themselves under the laws of the United States. Relinquishment of external sovereignty simply means an Indian tribe will not do anything contrary to, or in conflict with the laws of the United States:

- Will not declare war against another nation
- No regulation of commerce with foreign nations or the states
- Make no laws conflicting with federal laws
- Will not override interests of the national government

“Congress shall . . . have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes.”

US Constitution, Article 1, Section 8

The United States Congress has used the Commerce Clause of the U.S. Constitution to regulate Indian tribes from time to time through legislation. Any such limitations place on the Indian tribes must be clearly expressed by Congress without any doubtful assumption.

Internal sovereignty of Indian tribes was never relinquished. Their inherent right of self-governance remains.

Exercising Jurisdictional Authority

Exercising internal sovereignty:

• A tribe may or may not be currently exercising their jurisdictional authority. A tribe’s jurisdictional power can be exercised as the tribe sees fit – and can only be limited by an express act of Congress.

QUOTE

“The fact that the Tribe had not set up a system to punish certain of its members does not mean that it lacked the power to do so. It merely failed to exercise its jurisdiction.”

US v. Jackson, 600 F.2d 1281 (9th Cir. 1979)

Exercising Jurisdictional Authority

The most basic principle of Indian law:

QUOTE

“... is the principle that those powers which are lawfully vested in an Indian tribe are not... delegated powers granted by express acts of Congress, but rather inherent powers of a limited sovereignty which has never been extinguished. Each Indian tribe begins its relationship with the Federal Government as a sovereign power, recognized as such in treaty and legislation. The powers of sovereignty have been limited from time to time by special treaties and laws...”

Powers of Indian Tribes, Opinion of the Solicitor, Department of Interior, Boulder, Northern Arapaho, Oct. 25, 1934

Exercising Jurisdictional Authority

Tribal criminal jurisdiction:

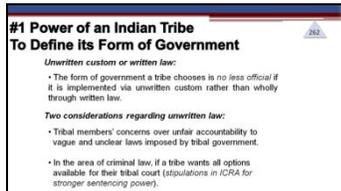
QUOTE

“It is illuminating to deal with the question of tribal criminal jurisdiction... by asking first, what the original sovereign powers of the tribes were, and then, how far and in what respects these powers have been limited.”

Powers of Indian Tribes, Opinion of the Solicitor, Department of Interior, Boulder, Northern Arapaho, Oct. 25, 1934

Exercising Jurisdictional Authority

An Indian tribe may or may not be currently exercising their jurisdictional authority. A tribe's jurisdictional power can be exercised as the tribe sees fit – and can only be limited by an express act of Congress.



#1 Power of an Indian Tribe to Define its Form of Government

Each individual Indian tribe determines its form of government. A tribal government does not have to function exactly like federal and state governments. It must be remembered that tribal governments were in existence long before the United States' federal and state governments. Don't expect every area of tribal government to fit into the exact models of government that we are familiar with.

“Our relations with Indian tribes have ‘always been . . . anomalous . . . and of a complex character; . . . ‘we have also recognized that the tribes remain quasi-sovereign nations which, by governmental structure, culture, and source of sovereignty are in many ways foreign to the constitutional institutions of the Federal and State Governments.”

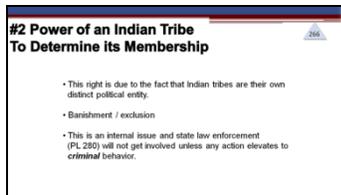
Sana Clara Pueblo v. Martinez, 436 US 49, 71 (1978)

Tribal governments have the power to:

- Adopt a form of government
- Create various offices and prescribe the duties
- Provide for the manner of election and removal of tribal officers
- Prescribe the procedure of the tribal council and subordinate committees or councils
- Provide for the salaries or expenses of tribal officers and other expenses of public business
- Prescribe the forms through which the will of the tribe is to be executed

Although the form of government a tribe chooses is no less official if it is implemented via unwritten custom rather than entirely through written law, there are some factors to consider regarding unwritten law:

- 1) Tribal members' concerns over unfair accountability to vague and unclear laws imposed by tribal government
- 2) In the area of criminal law, if a tribe wants all options available for their tribal court there are stipulations in the Indian Civil Rights Act that must be met for stronger sentencing power

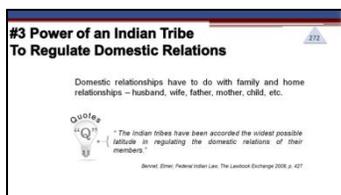


#2 Power of an Indian Tribe to Define its Membership

Tribal governments have the power to:

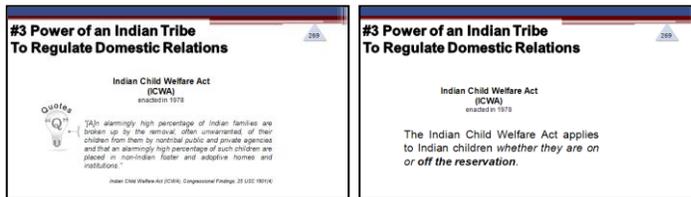
- Define the conditions of membership within the tribe
- Prescribe rules for adoption
- Classify the members of the tribe
- Grant or withhold the right of membership of the tribe

The right of an Indian tribe to define their membership is due to the fact that Indian tribes are their own distinct political entity. A tribe may adopt an individual into the tribe as a member. Conversely, a tribe has the power to exclude or banish a tribal member.



#3 Power of an Indian Tribe to Regulate Domestic Relations

Each Indian tribe has the power to regulate the domestic relations of its members. Domestic relationships have to do with family and home relationships (i.e. husband, wife, father, mother, child, etc.). Tribes regulate domestic relations of their members and community such as marriage, divorce, inheritance, and appointment of guardians for minors.



State – Tribal Nations Government-to-Government Relationships

State and Tribal Relationships

The establishment of guiding principles for a government-to-government relationship between state executive branches and tribes has become increasingly more relevant in recent years. State-tribal policies trace their origins to the long-established relationships between Indian tribes and the federal government. The terminology of a “government-to-government” relationship that is based on a consultation process originated in the 1970s as part of the Tribal Self-Determination Policy initiated by President Nixon. This federal-tribal relationship is embodied in a series of federal policy documents begun by President Reagan in 1984 and expressed most recently in Executive Order 13175, signed by President Clinton on November 6, 2000, entitled “Consultation and Coordination with Indian tribal Governments.” (*National Conference of State Legislatures, 2009, p.32-33*).

What are Government-to-Government Relationships

A successful government-to-government relationship between a legislature and one or more tribes involves several areas of understanding and cooperation.

- There is a mutual—and ongoing—understanding between both parties that each is an independent government that works for respective Constituencies. As such, the state-tribal relationship is fundamentally an intergovernmental relationship.
- Both states and tribes understand that the relationship is unique, not only because all tribal citizens are state citizens and legislative constituents, but also because of the nature of the tribal-federal relationship.
- One or more mechanisms exist that facilitate the intergovernmental relationship between the state legislature and tribal leaders. Such mechanisms allow the states and tribes to maintain their respective governmental roles and responsibilities and to collaborate when appropriate.
- Both sides try to reach agreement on common issues, but recognize that there will always be some areas of conflict. These areas of conflict should not be allowed to

influence the entire intergovernmental relationship. (*National Conference of State Legislatures, 2009, p.11*)

State Commissions, Offices, and Legislative Committees

Approximately 42 states have an executive branch office or commission dedicated to Indian Affairs (<http://www.ncsl.org/research/state-tribal-institute/state-tribal-relations-committees-and-commissions.aspx>). Although each of these offices and commissions may vary in their structures and specific roles, typical duties include reviewing and facilitating tribal comments on proposed legislation and other state policies; assessing the needs of the state's American Indian population; facilitating cooperative projects and programs between the state or local governments and the tribes; and serving as a clearinghouse for information about tribal-state issues. These commissions generally do not have significant decision-making authority but, instead, act as a vehicle for tribal input into state processes. Like the legislative committees, these commissions also can be subject specific.

State Legislative Committees

Approximately 15 states have legislative committees to address Indian issues. Although many states have created Indian affairs committees in the past several years, some states have had these forums for decades. A legislative committee—standing, interim or study—can act as a liaison between the legislature and tribal governments and can address issues of state-tribal relations in general. Legislative committees study specific issues and may propose, review or introduce legislation. A legislative committee on Indian affairs or state-tribal relations with authority to vote on legislation certainly could substantially affect the lawmaking process and exert political clout with agency directors and staff. (*National Conference of State Legislatures, 2009, p.17*)

State and Tribal Government-to-Government Challenges

The relationship between tribes and States are both complex and challenging. With multiple interconnections and interdependencies that are often woven together through federal, tribal, state, and local laws, States and tribes government-to-government relations often face numerous barriers which may include:

- Outdated and inaccurate perceptions of American Indian tribes.
- Reluctance of tribes because of constitutional and direct relationship with the federal government and constitutional recognition.
- Lack of understanding and familiarity with tribal issues.
- Insufficient understanding of the sovereign government status of Indian tribes.
- Lack of trust and respect between State and tribal leaders.

Models for Cooperation between State and Tribal Governments

Interest in facilitating improved tribal and State relations has increased in recent years. With this increased interest mechanisms for cooperation have been created which can contribute to improved intergovernmental relationships. These mechanisms or institutions according to the national conference of state legislatures include:

- State Legislative Committees
- State Commissions and Offices
- State-tribal Government-to-Government Agreements and Protocols
- Tribal Delegates in State Legislatures
- Individual Legislator Efforts
- State Recognition of Native Cultures and Governments
- Training for Legislators and Tribal Leaders on Respective Government Processes
- Other Potential Legislative Mechanisms

Indian Child Welfare Act (ICWA)

The Indian Child Welfare Act (ICWA) is an extremely important piece of legislation to tribal communities. ICWA was enacted in response to a very real threat tribal communities faced – the loss of their children.

Federal policy enacted in the late 1800's mandated Indian children to attend far-away boarding schools. The philosophy of the boarding schools was, "kill the Indian . . . save the man" (Richard Pratt, 1892). Such policies of assimilation continued well into the mid 1950's. A special report by a U.S. Senate subcommittee documented that there were 77 boarding schools run by the Bureau of Indian Affairs in 1969, comprised of approximately 35,000 Indian children as resident students. The senate report made special notice that "nearly 9,000 of the boarding school children are under 9 year old."

Source: Report on Indian Education, Nov. 3, 1969

ICWA was enacted in 1978 because:

"[A]n alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions."

Indian Child Welfare Act (ICWA), Congressional Findings, 25 USC 1901(4)

The legal application of ICWA applies to Indian children whether they are on or off the reservation.

<p>#3 Power of an Indian Tribe to Regulate Domestic Relations</p>  <p>Violence Against Women Act</p> <p>The unique legal relationship of the United States to Indian tribes creates a federal trust responsibility to assist tribal governments in upholding the law of Indian women.</p>	<p>#3 Power of an Indian Tribe to Regulate Domestic Relations</p> <p>Federal Trust Responsibility</p> <p>The special relationship between Indians and the federal government is a result of solemn obligations which have been entered into by the United States government.</p> <p>Down through the years through treaties and through formal and informal agreements, our government has made specific commitments to the Indian people. For their part, the Indians have often surrendered claims to vast tracts of land... in exchange, the government has agreed to provide community services such as health, education and public safety.</p>	<p>#3 Power of an Indian Tribe to Regulate Domestic Relations</p> <p>Violence Against Women Act (VAWA)</p> <p>Originally signed by President Clinton in 1994 (part of the Violent Crime Control & Law Enforcement Act)</p> <ul style="list-style-type: none"> - Not specific to only Native American women - When VAWA was reauthorized in 2005 Title IX - Safety for Indian Women was added, acknowledging the unique needs of Indian communities and the challenges facing Native American women.
<p>#3 Power of an Indian Tribe to Regulate Domestic Relations</p> <p>Violence Against Women Act (VAWA)</p> <p>Congress identified the high statistics of violence against Indian women:</p> <ul style="list-style-type: none"> - 1 out of 3 Indian women are raped in their lifetime - Higher rates of battering and sexual assault compared to other ethnic groups - Homicide is a leading cause of death of Indian women between 15 - 24 yrs. old 	<p>#3 Power of an Indian Tribe to Regulate Domestic Relations</p> <p>Violence Against Women Act (VAWA)</p> <ul style="list-style-type: none"> - Created through the evolution of criminal jurisdiction in Indian country through the years - Nationwide non-Indian accounts for 7% of the people living on tribal lands - About 1% of Native women nationwide are married to non-Native men - The 1979 Clinton Decision - Tribal courts have no criminal jurisdiction authority to prosecute non-Indian crime (over - Supreme case, 468 US 913, 1995) 	<p>#3 Power of an Indian Tribe to Regulate Domestic Relations</p> <p>Violence Against Women Act (VAWA)</p> <p>The US Supreme Court acknowledged:</p> <p><i>"We are not unaware of the prevalence of non-Indian crime on today's reservations which the tribes forcefully argue requires the ability to try non-Indians."</i></p>
<p>#3 Power of an Indian Tribe to Regulate Domestic Relations</p> <p>Violence Against Women Act (VAWA)</p> <p>Although Indian tribes cannot arrest non-Indians, tribal courts can issue protective orders against non-Indian abusers.</p>	<p>#3 Power of an Indian Tribe to Regulate Domestic Relations</p> <p>Protection orders can be issued state courts, US territory courts and Indian tribal courts.</p> <p>VAWA defines protection orders as:</p> <p>Any injunction or other order issued for the purpose of preventing, solemn or threatening actual or threatened assault or communication with or physical proximity to another person.</p> <p>An important provision within VAWA is its Full Faith and Credit section.</p> <p>Full Faith and Credit directs all states, Indian tribes and US territories to honor each other's protection orders as if they were their own.</p> <p>This allows victims of violence to move according to their needs - for family support, safety and/or for employment - and still have the protection of the issued order against their abuser.</p>	<p>#3 Power of an Indian Tribe to Regulate Domestic Relations</p> <p>Tribal protection orders may not look like state protection orders.</p> <p>There is no requirement that a tribal protection order:</p> <ul style="list-style-type: none"> - Have a certification affixed to the order - Be an order of a judge or the issuing authority - Be recorded or filed with the police or courts - Be the new jurisdiction <p>Example: California Family Code sections 6400 - 6409 outlines state procedure for implementing VAWA's mandates.</p>
<p>#3 Power of an Indian Tribe to Regulate Domestic Relations</p> <p>A protection order is presumed valid and enforceable if it includes:</p> <ul style="list-style-type: none"> - The identity of the protected individual and the "respondent" individual against whom enforcement of the protection order is sought - Is currently in effect (inter current) - Was issued by a court with subject matter jurisdiction over the involved parties - Was issued after the "respondent" was given reasonable notice and had an opportunity to be heard before the issuing court. If an ex parte order, the respondent had or will have an opportunity to be heard (due process). <p>* If a foreign protection order is not presented, a law enforcement officer of this state may consider other information in determining whether there is a probable cause to believe that a valid foreign protection order exists.</p>	<p>#3 Power of an Indian Tribe to Regulate Domestic Relations</p> <p>VAWA 2013</p> <p>Includes significant provisions addressing tribal jurisdiction over non-Indian perpetrators of DV.</p> <p>What will Tribes be able to do under the new law?</p> <p>Tribes will be able to exercise their sovereign power to investigate, prosecute, convict and sentence:</p> <ul style="list-style-type: none"> - Both Indians and non-Indians who <ul style="list-style-type: none"> - Assault Indian spouses or dating partners - Or violate a protection order in Indian country 	<p>#3 Power of an Indian Tribe to Regulate Domestic Relations</p> <p>VAWA 2013</p> <p>Includes significant provisions addressing tribal jurisdiction over non-Indian perpetrators of DV.</p> <ul style="list-style-type: none"> - Expands a tribe's ability to protect Indian women who are either married to a non-Indian or in a dating relationship with a non-Indian - Congressionally authorizes enforcement of tribal criminal jurisdiction (with federal or state) over non-Indians. ONE of the conditions that qualify a "special domestic violence criminal jurisdiction"
<p>#3 Power of an Indian Tribe to Regulate Domestic Relations</p> <p>VAWA 2013</p> <p>A Very NARROW Scope:</p> <ul style="list-style-type: none"> - Only applies to DV and dating violence criminal offenses against an Indian in Indian country - Only applies to a non-Indian who has established a marriage or intimate relationship for a significant amount of time with a tribal member - Lives in the Indian country of the tribe - Employed in the Indian country of the tribe - Is a spouse, intimate partner with a member of the tribe or an Indian who lives in the Indian country of the tribe. 	<p>#3 Power of an Indian Tribe to Regulate Domestic Relations</p> <p>VAWA 2013</p> <p>When does this new law take effect?</p> <p>Although tribes can investigate and enforce civil protection orders now, generally tribes cannot criminally prosecute non-Indian abusers until at least March 7, 2015.</p> <p>Each tribe will determine if and how they choose to participate through legislation and judicial process.</p> <p>A defendant's rights under federal law must be fully protected through a participating tribe's criminal justice system.</p>	<p>#3 Power of an Indian Tribe to Regulate Domestic Relations</p> <p>VAWA 2013</p> <p>What rights do non-Indian defendants have?</p> <p>Proven defendant's rights under the Indian Civil Rights Act (ICRA) will continue to apply in Indian country:</p> <ul style="list-style-type: none"> - Show evidence of guilt in the tribal defendant - Be represented by counsel in the tribal defendant - Object to evidence only if it is material and was not fairly admitted in proceedings - Include Indians and non-Indians in jury pools - Defendants indicted outside by a tribal court must be notified of their right to file a federal habeas corpus petition.

Violence Against Women Act (VAWA)

The Violence Against Women Act (VAWA) was originally signed by President Clinton in 1994 as part of the Violent Crime Control and Law Enforcement Act. The important provision of full faith and credit was part of the 1994 VAWA. Subsequent reauthorizations have been enacted to include other provisions and authorize appropriations of funds to a multitude of programs and services.

VAWA is not specific to only American Indian and Alaska Native women; however, it is inclusive of American Indian and Alaska Native women. When VAWA was reauthorized in 2005, *Title IX – Safety for Indian Women* was added. This section acknowledged the unique needs of Indian tribes to provide tribes the ability and resources to protect and

provide services to assist victims of domestic violence, sexual assault dating violence, challenges facing American Indian and Alaska Native women.

Congress identified the high statistics of violence against Indian women:

- 1 out of 3 women are raped in their lifetime
- Higher rates of battering and sexual assaults are committed against Indian women than any other ethnic group
- Homicide is the leading cause of death of Indian women between the ages of 15 through 34 years old.

Contributing factors are:

- Gaps in criminal jurisdiction, specifically the *Oliphant Decision* of 1978, which determined that tribal courts have no criminal jurisdiction over non-Indians
- Nationwide, non-Indians account for ¾ of the people living on tribal lands
- About ½ of all Indian women are married to non-Indian men

Although Indian tribes cannot criminally prosecute non-Indians, tribal courts can issue protective orders against non-Indian abusers.

VAWA defines protection orders as:

Any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with, or physical proximity to, another person.

An important provision within VAWA is its Full Faith and Credit section.

Full Faith and Credit directs all states, Indian tribes and U.S. territories to honor each others' protection orders as if the order was their own.

This allows victims of violence to move according to their needs – for family support, safety and/or for employment – and still have the protection of the issued order against their abuser.

VAWA 2013: [USDOJ: Tribal Justice and Safety Homepage](#)

What will tribes be able to do under the new law?

Tribes will be able to exercise their sovereign power to investigate, prosecute, convict and sentence ...

- Both Indians and non-Indians who committ
- Domestic and Dating Violence
- Or violate a protection order in Indian country

Includes significant provisions addressing tribal jurisdiction over non-Indian perpetrators of DV.

Expands a tribe's ability to protect Indian women who are either married to a non-Indian or in a dating relationship with a non-Indian

Congressionally authorizes concurrent tribal criminal jurisdiction (with federal or state) over non-Indians ONLY in situations that qualify a "special domestic violence criminal jurisdiction"

VAWA 2013 A very Narrow Scope:

- Only applies to DV and dating violence criminal actions against an Indian in Indian country
- Only applies to a non-Indian who has established a marriage or intimate relationship for a significant amount of time with a tribal member
- Lives in the Indian country of the tribe
- Employed in the Indian country of the tribe
- Is a spouse / intimate partner with a member of the tribe or an Indian who lives in the Indian country of the tribe.

VAWA 2013 When does this new law take effect:

Although tribes can issue and enforce civil protection orders now, generally tribes cannot criminally prosecute non-Indian abusers on or after March 7, 2015.

Each tribe will determine if and when they choose to participate through legislation and judicial process.

A defendant's rights under federal law must be fully protected through a participating tribe's criminal justice system.

VAWA 2013 What rights do defendants have: <http://www.justice.gov/tribal/vawa-tribal.html>

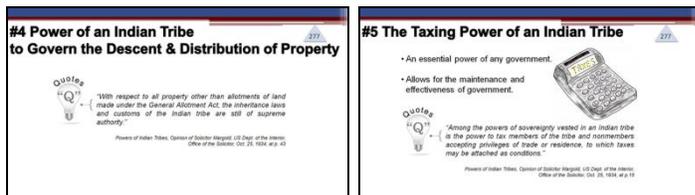
What rights will defendants have under the new law?

A tribe must:

- Protect the rights of defendants under the Indian Civil Rights Act of 1968, which largely tracks the U.S. Constitution's Bill of Rights, including the right to due process.
- Protect the rights of defendants described in the tribal Law and Order Act of 2010, by providing:
 - Effective assistance of counsel for defendants;
 - Free, appointed, licensed attorneys for indigent defendants;
 - Law-trained tribal judges who are also licensed to practice law;
 - Publicly available tribal criminal laws and rules; and
 - Recorded criminal proceedings.
- Include a fair cross-section of the community in jury pools and not systematically exclude non-Indians.
- Inform defendants ordered detained by a tribal court of their right to file federal habeas corpus petitions.

Include Indians and non-Indians in jury pools

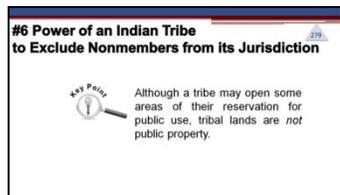
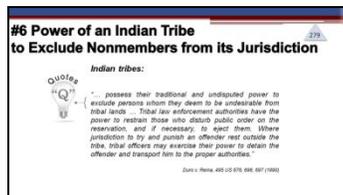
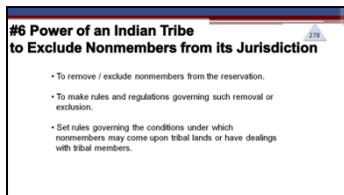
Defendants ordered detained by a tribal court must be informed of their right to file a federal habeas corpus petition.



#4 & #5 Powers of an Indian Tribe

Solicitor Nathan R. Margold, U.S. Department of the Interior, Office of the Solicitor, outlined the 4th and 5th Power of Indian tribes:

- The power of an Indian tribe to govern the descent and distribution of property
- The taxing power of an Indian tribe



#6 Power of an Indian Tribe to Exclude Nonmembers from its Jurisdiction

Each Indian tribe has the authority within their jurisdiction to:

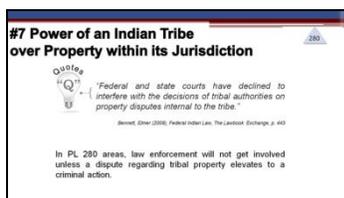
- Remove or exclude from the limits of the reservation nonmembers of the tribe
- Prescribe appropriate rules and regulations governing such removal and exclusion
- Govern the conditions under which nonmembers of the tribe may come upon tribal land or have dealings with tribal members

Indian tribes:

“... possess their traditional and undisputed power to exclude persons whom they deem to be undesirable from tribal lands . . . tribal law enforcement authorities have the power to restrain those who disturb public order on the reservation, and if necessary, to eject them. Where jurisdiction to try and punish an offender rests outside the tribe, tribal officers may exercise their power to detain the offender and transport him to the proper authorities.”

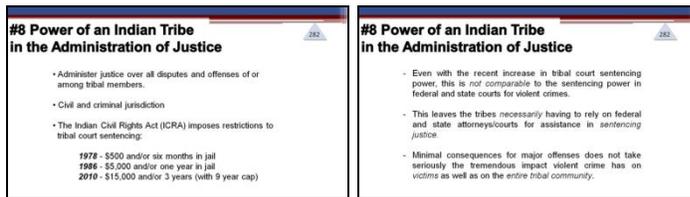
Duro v. Reina, 495 US 676, 696, 697 (1990)

The fact that a tribe may open some of their reservation areas for public use does *not* mean that tribal lands are public property.



#7 Power of an Indian Tribe over Property within its Jurisdiction

Refer to the handout, *Powers of Indian Tribes*.



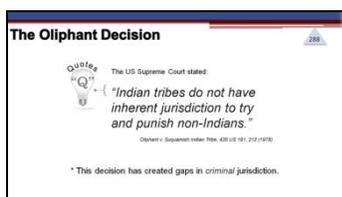
#8 Power of an Indian Tribe in the Administration of Justice

In direct correlation to tribal jurisdiction is the power of an Indian tribe to administer justice with respect to all disputes and offenses of or among the members of the tribe. A limitation on this power by the federal government is the Indian Civil Rights Act of 1968. The Indian Civil Rights Act (ICRA) imposes restrictions on tribal court sentencing. The ICRA originally allowed tribal courts to give maximum sentences of \$500 and/or six months in jail. As such sentences for serious crimes were insufficient, the ICRA has been amended two times to increase tribal court sentencing powers.

- 1986 – increased to \$5,000 fine and/or one year in jail
- 2010 – increased to \$15,000 fine and/or 3 years in jail/prison (with a 9-yr. cap)

Even with these increases, tribal courts are not allowed to prosecute crimes comparable to the sentencing power in federal and state courts for violent crimes. This leaves the tribes in need of relying on federal and state attorneys/courts for assistance in sentencing justice.

Allowing only minimal consequences for major offenses does not take seriously the tremendous impact violent crime has on victims as well as on the entire community.



The Oliphant Decision

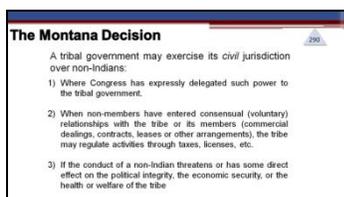
The 1978 Oliphant Decision (Oliphant v. Suquamish Indian tribe, 435 US 191) is a controversial U.S. Supreme Court case. In this case the court stated:

“Indian tribes do not have inherent jurisdiction to try and to punish non-Indians.”

This case created gaps in criminal jurisdiction for tribal communities. This same court case admitted this fact:

“We are not unaware of the prevalence of non-Indian crime on today’s reservations which the tribes forcefully argue requires the ability to try non-Indians.”

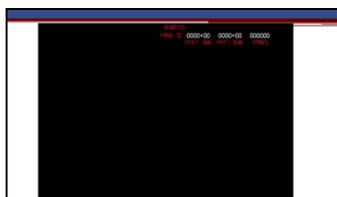
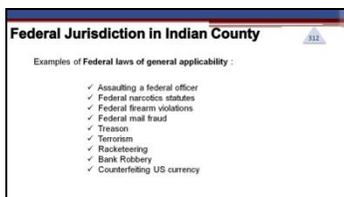
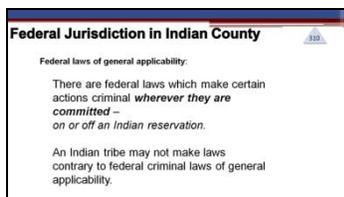
Note: This court decision is being address in the VAWA 2013. In response to the escalating rate of offences to Native women congress authorized tribes to prosecute of non-natives in a narrow scope (see VAWA 2013 p. 82).



The Montana Decision

Three years after the Oliphant Decision, the Montana Decision articulated the powers of Indian tribal government in the realm of civil jurisdiction over non-Indians. A tribal government may exercise its civil jurisdiction over non-Indians:

- 1) Where Congress has expressly delegated such power to the tribal government
- 2) When non-members have entered consensual (voluntary) relationships with the tribes or its members (commercial dealings, contracts, leases or other arrangements), the tribe may regulate activities through taxes, license requirements, etc.
- 3) If the conduct of non-Indians threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe



Note: SME: Check for updates on Plains Commerce Bank, Petitioner v. Long Family Land and Cattle Company, Inc., et al.

Federal Jurisdiction in Indian Country

Federal laws of general applicability make certain actions criminal wherever they are committed. The federal government has criminal jurisdiction over these actions, whether they are committed on or off an Indian reservation. No Indian tribe may make laws contrary to federal criminal laws of general applicability.

Examples of federal criminal laws of general applicability are:

- Assaulting a federal officer
- Federal narcotics statutes
- Federal firearm violations
- Federal mail fraud
- Treason
- Terrorism
- Racketeering
- Bank Robbery
- Counterfeiting US currency

The image shows a grid of nine presentation slides, each titled "Session #3 Indian Civil Rights Act (ICRA)". The slides contain various text, quotes, and bullet points explaining the ICRA, its relationship to the Bill of Rights, and its application to tribal governments and non-Indians.

- Slide 1 (Top Left):** Illustrates a person reading a newspaper titled "The Indian Bill of Rights".
- Slide 2 (Top Middle):** States "ICRA is sometimes referred to as the 'Indian Bill of Rights'". It lists that the Bill of Rights are the first 10 amendments to the US Constitution, that the Bill of Rights were embedded into the US Constitution to protect individual US citizens from arbitrary and abusive actions of government, and that tribal governments pre-date the United States and the US Constitution.
- Slide 3 (Top Right):** Discusses violations of civil rights of Indian people by tribal, federal, and state governments during the mid-1950s to mid-1960s. It mentions a Senate subcommittee created to hear issues involving civil rights violations of American Indians and that many on the committee were surprised to learn that the protections against government provided in the US Constitution did not apply to tribal governments.
- Slide 4 (Middle Left):** Explains that some members of Congress suggested that the Bill of Rights in the US Constitution be extended to tribal governments in "wholesale fashion" to create the Indian Civil Rights Act. It notes that ICRA was modified to fit the unique needs of tribal governments, specifically in political, cultural, and economic areas.
- Slide 5 (Middle Middle):** States that the Indian Civil Rights Act's 10 listed civil rights were established to protect tribal members from tribal governmental abuse. It includes a quote: "... the Indian Civil Rights Act has been extended to protect the rights of non-Indians while on tribal lands from unreasonable searches and seizures by tribal government."
- Slide 6 (Middle Right):** Notes that Indian tribes have the right as sovereign governments to govern their people and territories through tribal law enforcement / security officers. It includes a quote from the Indian Civil Rights Act: "Section 102 of the Indian Civil Rights Act is one such limiting act of Congress. That section provides as relevant part as follows: 'No Indian tribe in exercising powers of self-government shall... violate the right of people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures...'"
- Slide 7 (Bottom Left):** Discusses tribal law enforcement / security officers as agents of tribal government. It includes a quote: "Tribal police officers do not lack authority in those situations which involve disorder, the public order of administration... The Supreme Court has recognized that tribal law enforcement activities possess traditional and longstanding power to exclude persons whose they deem undesirable from tribal lands, and therefore have the power to exclude those who disturb public order on the reservation, and if necessary to arrest them."
- Slide 8 (Bottom Middle):** States that public interaction with tribal officers and the need for public safety increases wherever there is a high volume of people in one area (such as at a casino or other large business enterprise of the tribe). It includes a quote: "One court said, 'Unfortunately, more people on Indian land means a greater potential for crime on Indian land.'" and lists that tribal police / security can enforce their tribe's civil-regulatory laws by issuing warnings, citations or exclusions, and can detain for criminal actions and deliver to the proper authorities.
- Slide 9 (Bottom Right):** Notes that if tribal law enforcement / security officers, as agents of tribal government, conduct an unreasonable search and seizure, the exclusionary rule will be considered if their case goes before state or federal court. It includes a quote: "The exclusionary rule has been a part of the Fourth Amendment search and seizure jurisprudence for nearly a century."

The Indian Civil Rights Act (ICRA)

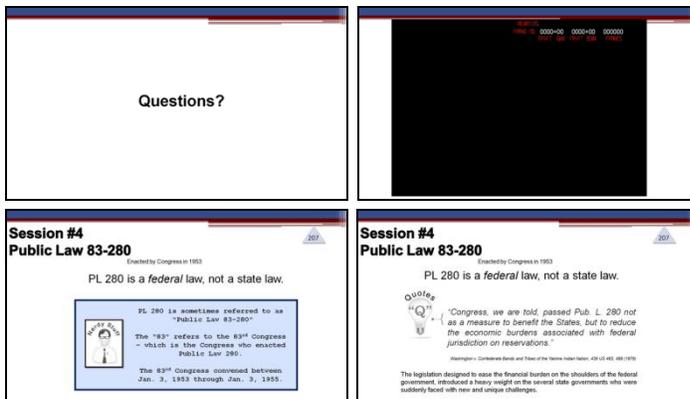
The Indian Civil Rights Act (ICRA) is sometimes referred to as the "Indian Bill of Rights." The Bill of Rights are the first 10 amendments to the U.S. Constitution.

- The Bills Of Rights are embedded into the U.S. Constitution to protect individual U.S. citizens from arbitrary and abusive actions of government.
- Tribal governments pre-date the United States and the U.S. Constitution

- Indian nations are separate sovereigns – therefore, the Bill of Rights do not apply to tribal governments.

Congress enacted ICRA to similarly protect individual tribal members from abusive and arbitrary actions of their governments. However, ICRA was specifically modified to fit the unique needs of tribal governments in these three areas:

- 1) Political
- 2) Cultural
- 3) Economic



Public Law 83-280

The “83” in Public Law 83-280 refers to the 83rd Congress – the congress who enacted Public Law 280 (PL 280). PL 280 was passed by Congress to ease the burden on the federal government. Jurisdictional responsibilities of the federal government, through the General Crimes Act and the Major Crimes Act, were transferred over to several states. This transfer of jurisdictional powers introduced a heavy weight on state governments who were suddenly faced with unique challenges they had never dealt with before.



Mandatory and Optional State Jurisdiction

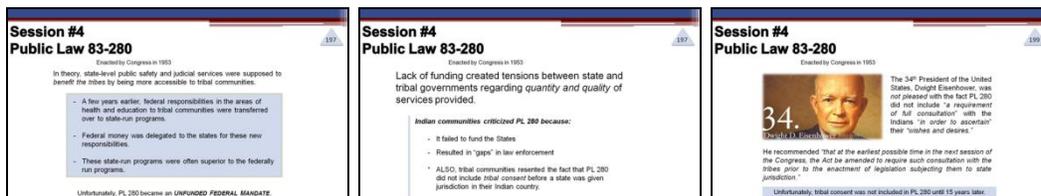
Six states, California, Oregon (except Warm Springs), Nebraska, Minnesota (except Redlake), Wisconsin, (except Menominee) (and Alaska upon statehood), were mandated by the federal government to provide criminal and civil jurisdiction in Indian country. Under this law tribes and States have worked together on retro session activities. For further information talk with the tribe you are working with the determine their status.

51% of all federally recognized tribes in the lower 48 states and 70% of all recognized tribes (including Alaska Native villages) are affected by PL 280.

Captured Justice, by Duane Champagne & Carole Goldberg

In 1953, when the original PL 280 was enacted, all other states

were given the option to take over civil and criminal jurisdiction in Indian country. Therefore, those states that were required to take jurisdiction in 1953 are referred to as the “Mandatory PL 280 States.” Any other state which took on jurisdiction in Indian country is labeled, “Optional PL 280 States.



Concerns Regarding PL 280

In theory, state-level public safety and judicial services were supposed to benefit the tribes by being more accessible to tribal communities. Early models of transferred federal responsibility to state-run programs, in the areas of health and education, proved successful – even superior to federally-run programs. Such programs were allotted federal money to cover the costs of these additional responsibilities.

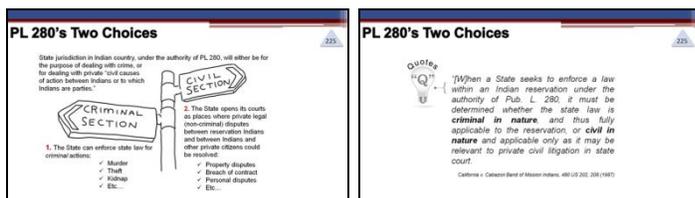
Unfortunately, PL 280 was an unfunded federal mandate. This created tensions between the states and tribal governments regarding the quantity and quality of services provided.

Indian communities criticized PL 280 because:

- It failed to fund the States
- Resulted in “gaps” in jurisdiction and thereby law enforcement services
- It did not include tribal consent

Even President Eisenhower, who signed PL 280 into law, expressed “grave concerns” that PL 280 did not require tribal consent before a state assumed jurisdiction on tribal lands. He recommended:

“... at the earliest possible time in the next session of the Congress, the Act be amended to require such consultation with the tribes prior to the enactment of legislation subjecting them to state jurisdiction.”

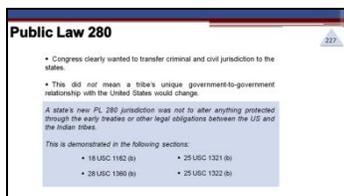


PL 280 Two Choices

State jurisdiction in Indian country, under the authority of PL 280, will either be for:

- 1) Dealing with crime , or
- 2) Dealing with private civil causes of action between Indians or to which Indians are parties

No other jurisdictional authority is authorized, by Congress through PL 280.



Congress' Authorization through PL 280

PL 280 did not alter anything protected through the early treaties or other legal obligations between the U.S. and Indian tribes. This is specifically clarified and written into PL 280.

- Adds federal jurisdiction concurrently

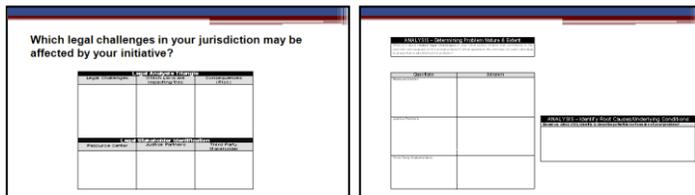
Re-assumption of Concurrent Federal criminal jurisdiction

- Does not require a State’s approval
- It does require approval by the US Attorney General
- Certain factors will be considered . . .

Factors considered by the US Attorney General:

- Will it improve public safety and criminal law enforcement and reduce crime?
- Will it increase law enforcement resources?
- Will it improve access to judicial resources?
- Will it improve access to detention and correctional resources?
- Weigh all comments and information by federal & state agencies, along with
- tribal consultation.

* If a tribe is denied re-assumption, the tribe can submit a new request.



Legal Analysis Triangle		
Legal Challenges	Which Laws are Impacting this	Consequences (Risk)
Legal Stakeholder Identification		
Resource Center	Justice Partners	Third Party Stakeholder

ANALYSIS – Determining Problem Nature & Extent

What is it about **related legal challenges** of your tribal justice initiative that contributes to the common root cause(s) of the overall problem? What questions do you have for each individual or group that is affected by this problem?

Questions	Answers
Resource Center:	
Justice Partners:	
Third Party Stakeholders:	

ANALYSIS – Identify Root Causes/Underlying Conditions

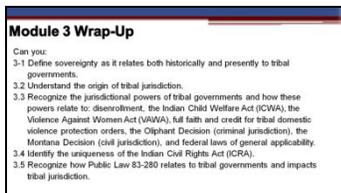
Based on ANALYSIS, identify & describe potential root causes of your problem?

Activity: Legal Considerations

QTC: Which legal challenges in your jurisdiction may be affected by your initiative?

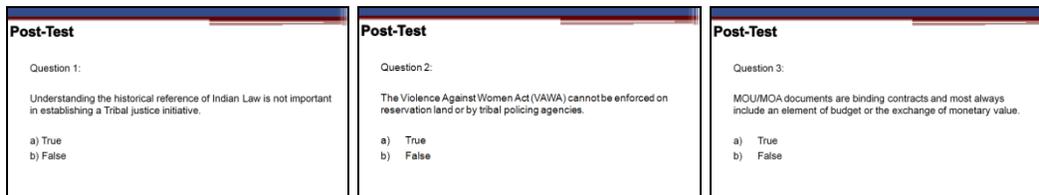
QTC: Who are the partners who can help you resolve or overcome legal challenges and provide resources to help address those challenges?

Module 3 Wrap-Up



Can you:

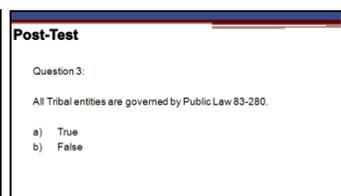
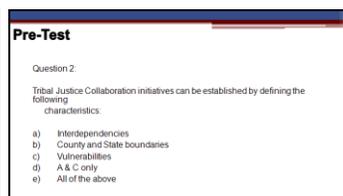
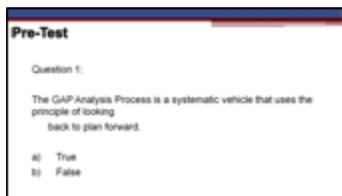
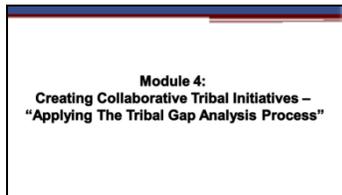
- 3.1 Define sovereignty as it relates both historically and presently to tribal governments
- 3.2 Understand the origin of tribal jurisdiction
- 3.3 Recognize the jurisdictional powers of tribal governments and how these powers relate to: Membership, the Indian Child Welfare Act (ICWA), the Violence Against Women Act (VAWA), full faith and credit for tribal domestic violence protection orders, the Oliphant Decision (criminal jurisdiction), the Montana Decision (civil jurisdiction), and federal laws of general applicability.
- 3.4 Identify the uniqueness of the Indian Civil Rights Act (ICRA)
- 3.5 Recognize how Public Law 83-280 relates to tribal governments and impacts tribal jurisdiction



Module 3 Post-Test

1. Understanding the historical reference of Indian Law is not important in establishing a tribal justice initiative.
 - a) True
 - b) False
2. The Violence Against Women Act (VAWA) cannot be enforced on reservation land or by tribal policing agencies.
 - a) True
 - b) False
3. All tribal entities are governed by Public Law 83-280.
 - a) True
 - b) False

Module 4: Creating Collaborative Tribal Initiatives – “Applying The Tribal Gap Analysis Process”



Module 4 Pre-Test

1. The GAP Analysis Process is a systematic vehicle that uses the principle of looking back to plan forward.
 - a) True
 - b) False
2. Tribal Justice Collaboration initiatives can be established by defining the following characteristics:
 - a) Interdependencies
 - b) County and State boundaries
 - c) Vulnerabilities
 - d) A & C only
 - e) All of the above
3. Cross Jurisdictional collaboration models should never cross state lines or include agencies from outside your own state.
 - a) True
 - b) False

Learning Objectives

This objective will explore the purpose and importance of start-up procedures, protocols, policies, planning and timelines, and provide an opportunity to apply GAP analysis in the development of MOA/ MOUs and other agreements utilized by other Tribal and non-Tribal law agencies.

TLO

This objective will explore the purpose and importance of start-up procedures, protocols, policies, planning and timelines, and provide an opportunity to apply GAP analysis in the development of MOA/ MOUs and other agreements utilized by other tribal and non-tribal law agencies.

Enabling Objectives

At the conclusion of this module, participants will be able to:

- 4.1 Identify the important issues and unique cultural aspects for identifying interdependencies, vulnerabilities and incentives for a tribal justice collaboration initiative.
- 4.2 Apply problem-solving techniques to complete a Gap Analysis Process.
- 4.3 Demonstrate and discuss components of MOU/MOA and other legal documents that may be used to give structure for collaboration initiatives.

ELO

- 4.1 Identify the important issues and unique cultural aspects for identifying Interdependencies, vulnerabilities and incentives for a tribal justice collaboration initiative.
- 4.2 Apply problem-solving techniques to complete a Gap Analysis Process.
- 4.3 Demonstrate and discuss components of MOU/MOA and other legal documents that may be used to give structure for collaboration initiatives.

Tribal Justice Gap Analysis: Interdependencies, Vulnerabilities, and Collaboration Incentives

Interdependencies: Two or more agencies that are experiencing a similar issue related to a criminal justice system GAP.

Vulnerabilities: Any capability weakness that can be exploited or that the absence contributes to the issue and prevents a solution.

Collaboration Incentives: Motivating factors for implementing measures to safeguard the vulnerabilities that exist within interdependencies.

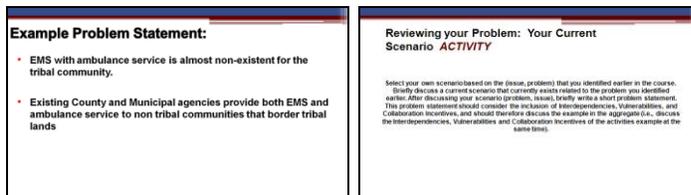
Introduction: Tribal Justice Gap Analysis: Interdependencies, Vulnerabilities, and Collaboration Incentives

Interdependencies: Two or more agencies that are experiencing a similar issue related to a criminal justice system GAP.

Vulnerabilities: Any capability weakness that can be exploited or that the absence

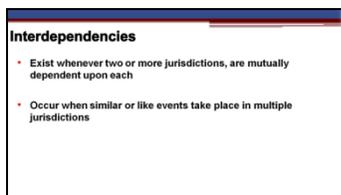
contributes to the issue and prevents a solution.

Collaboration Incentives: Motivating factors for Implementing measures to safeguard the vulnerabilities that exist within interdependencies.



Problem Statement (*Example*): MOU/MOA’s between juvenile courts are outdated or non-existent for the tribal community. Existing County and Municipal courts provide juvenile justice services to both tribal and non tribal communities that border tribal lands. Collaborative Partnerships, supported by MOU/MOA’s, etc. should be created to not only provide juvenile justice services to tribal lands; but also create a partnership for tribal government to engage in providing other resources.

In pursuing a tribal collaborative justice initiative, it is imperative that you have an understanding about jurisdictional interdependencies, vulnerabilities and collaboration incentives – particularly with regard to the interdependencies, vulnerabilities and collaboration incentives that exist within your jurisdiction. We will discuss each in turn.



Interdependencies

Interdependencies exist whenever two or more jurisdictions are mutually dependent upon each other. The importance of these interdependencies lies in the fact that logic dictates that if one fails, the other will also fail to some extent.

This interlinkage has created a new dimension of vulnerability, which, when combined with an emerging constellation of issues/problems, poses unprecedented tribal risk.

Interdependencies occur when similar or like events take place in multiple jurisdictions. The seriousness, the time line and the method of operation all give rise to the solution being more easily obtained when partnerships are formed. The synergistic effect of manpower, equipment, training and other resources complete the solution and the

return of a quality of life for each jurisdiction.

Needless to say, no one jurisdiction has their own problems or issues. It is safe to say that our society has produced problems and issues that cannot be restricted or defined by geographical boundaries.

Discussion Hypothetical

Is there any area that is immune to the scenario presented?

Have the sharing of intelligence and resources led to solutions or reductions of these issues

Problem Discussion I: Let us examine the groups selected problems. Is there any jurisdiction that is immune to these issues? Has the sharing of skills and resources led to solutions or reductions of these issues?

The answer to this question is not as simple as one might think.

Activity: Part 1- Interdependencies

What interdependencies for this region can you identify (i.e., in the region wherein the course is being administered)?

Activity: Part 1 – Interdependencies

What Interdependencies for this jurisdiction can you identify (i.e., for the jurisdiction wherein the course is being administered)?

Vulnerabilities

- Any weaknesses that can be exploited by an aggressor or make an asset susceptible to threat damage
- A deficit in capabilities or preparedness that can be damaged or destroyed

Activity: Part 2 – Vulnerabilities

- What Vulnerabilities exist within the interdependencies that have been identified for this region (i.e., in the region wherein the course is being administered)?

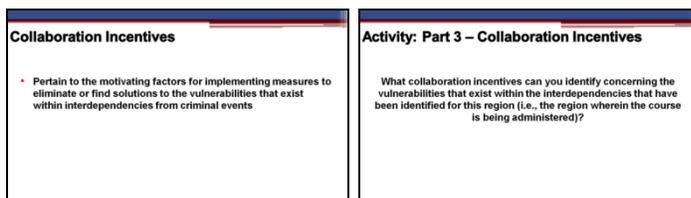
Activity: Part 2 – Vulnerabilities

What Vulnerabilities exist within the Interdependencies that have been identified for this jurisdiction (i.e., in the jurisdiction wherein the course is being administered)?

Collaboration Incentives

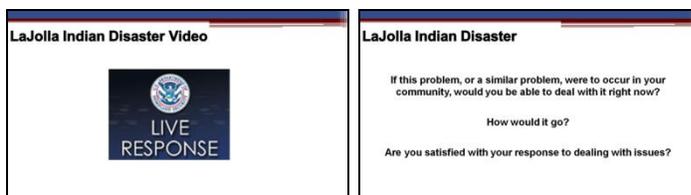
Jurisdictional collaboration incentives pertain to the motivating factors for implementing measures to eliminate or find solutions to the vulnerabilities that exist within interdependencies from issues and problems. The assessment of mitigation often entails risk management through the establishment of priorities.

For purposes of your initiative, you should be particularly concerned about mitigating the vulnerabilities that exist within your area’s interdependencies and that have the highest risk or impact.



Activity: Part 3 – Collaboration Incentives

What collaboration incentives can you identify concerning the vulnerabilities that exist within the interdependencies that have been identified for this jurisdiction (i.e., the jurisdiction wherein the course is being administered)?



LaJolla Indian Disaster

The LaJolla Indian Disaster: In October 2007 southern California suffered from widespread wildfires that burned 1,775 homes and caused millions of dollars in damages. The La Jolla Reservation had suffered extensive damage from this wildfire. Disaster News noted:

The long-term recovery committee also continues to collaborate with the Inter tribal Long-Term Recovery Foundation, disaster preparedness, response and long-term recovery cooperative among nine of the 18 American Indian tribes in San Diego County.

“For a tribe, especially a small tribe, it’s (disasters) something they hope doesn’t happen, but because they try to provide so many other services for their people that it’s often low on the list of priorities,” said Theresa Gregor. Gregor works with the Intertribal Long-Term Recovery Foundation and with the La Jolla Band of Luiseño Indians as the American Red Cross case management liaison for the disaster recovery team.

Indians are among those most severely impacted by the fires in San Diego County. The Poomacha fire scorched roughly 92 percent of the La Jolla Reservation. They lost 40 homes - the most of all area reservations. Flooding from a severe storm several weeks later destroyed one more house. About 2,000 acres of the Santa Ysabel Reservation burned. No houses were destroyed, but other buildings were damaged.

More than 70 percent of those who lost their homes didn’t have insurance. The San Diego Foundation, Jewish Family Services and others helped fund the rebuilds on the La Jolla Reservation. Other area reservations helped La Jolla meet the required 25 percent match for FEMA funding, as well as providing modular homes for survivors.

Thirty-nine homes have been rebuilt, with 37 completed about 10 months after the fire, so the foundation’s focus is now disaster mitigation. The intertribal recovery committee worked with the United Church of Christ and Church World Service to raise future preparedness.

“Together we (UCC and CWS) provided ‘go-packs’ in case of evacuation for young children, elderly, people with disabilities and provided some of the inserts, like flashlights, batteries, filter masks,” said Florence Coppola, executive for national disaster ministry for UCC. The backpack kits were assembled and distributed by a high school class from the Santa Ysabel Reservation.

CWS and its partners also provided generators to alleviate power-outages. The intertribal foundation caters not only to basic needs, but focuses on individual needs. They held a family weekend at the La Jolla campground

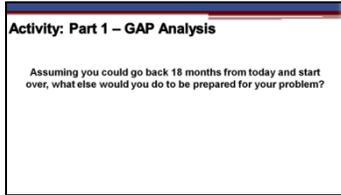
where survivors could get services like a back massage or family photographs taken, just so they could have something to put on the walls of their new homes,” said Adam Geisler from the inter tribal foundation.

“It’s important for survivors to feel like they have things of their own,” said Geisler. The Southern Baptist Convention sifted through the ashes of La Jolla Reservation homes in the aftermath of the fire to search for survivor’s personal items.

QTC: If this problem, or a similar problem, were to occur in your community, would you be able to deal with it right now?

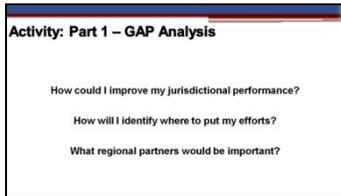
QTC: How would it go?

QTC: Are you satisfied with your response to dealing with issues?



Activity: Part 1 – GAP Analysis: Planning Forward by Looking Back

Assuming you could go back 18 months from today and start over, what would you do to be prepared for your problem?



QTC: How could I improve my jurisdictional performance?

QTC: How will I identify where to put my efforts?

QTC: What partners would be important?



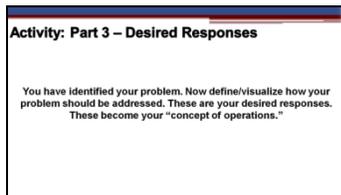
Model Process for Needs and Capacity GAP Identification

1. Identify **Real Problems**
2. Identify **Desired Responses**
3. Identify **What Needs to be Done**
4. Rate my **Capacity** to do the necessary functions

Identify where to prioritize our efforts

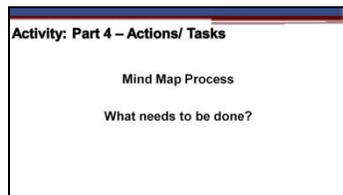
Activity: Part 2 – GAP Analysis: Real Problems

What insights did you gain from explaining/exploring your problem in greater detail?

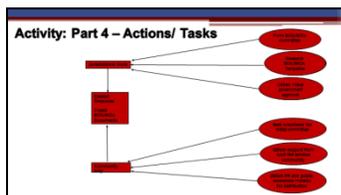


Activity: Part 3 – GAP Analysis: Desired Responses

You have identified your problem. Now define/visualize how your problem should be addressed. These are your desired responses. These become your “concept of operations.”



Activity: Part 4 – GAP Analysis: Actions/Tasks



Directions – Actions/Tasks

1. Select three “desired responses” from your list in, Part 3, which you feel, are important for your jurisdiction.
2. Write the desired response on the side circle on:
3. Think silently for several minutes as to what has to be done in your jurisdiction for the desired response. Work individually to compile a list of needs for the desired response for your identified problem.
4. On your page record at least six needs for the desired response for your identified problem. All must involve the potential of community partners or resources.

5. Share your needs with your group, using consensus refine the list to include the group’s desired response

This identifies **“What needs to be done”** to achieve each desired response. Together all of the desired response efforts will produce the all-encompassing jurisdictional response managed through the initiative. The desired responses should ultimately be reflected in the resulting course of action. Our purpose here is not to design and write action plans, but rather to look at what needs to be done, break those efforts down into basic elements of work and then explore those efforts for areas where community and agency partnerships can provide the actual response capacity to perform the job for an extended period of time.

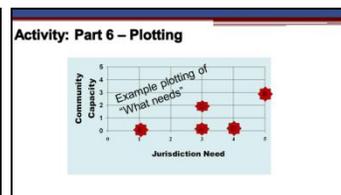
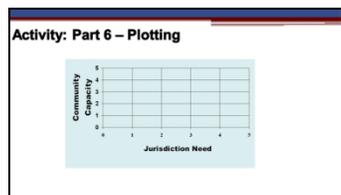
Activity: Part 5 – Needs Rating

- Transfer the information from your mind map process
- Rate the “Need” your jurisdiction has in the problem and your community’s actual capacity to do the work for each need

Activity: Part 5 – GAP Analysis: Needs Rating

Activity: Part 6 – Plotting

- Plot the ratings you have just assigned
- Record the corresponding “example” letter on the chart according to its “jurisdictional need” and “community capacity” (X,Y) axis value



Activity: Part 6 – GAP Analysis: Plotting

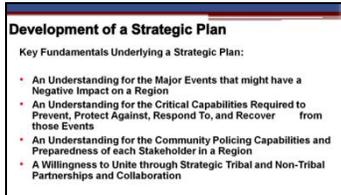
Next Steps: Implementing a Collaborative Approach

Next Steps: Implementing a Collaborative Approach

“If you know the enemy and know yourself, you need not fear the results of a hundred battles.”
Sun Tzu

“If you know the enemy and know yourself, you need not fear the results of a hundred battles.”

- Sun Tzu



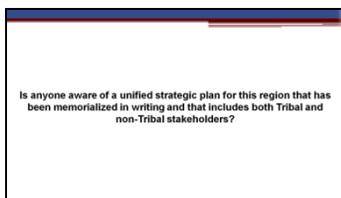
Development of a Strategic Plan

Strategically, in your initiative the “enemy” is any activity and/or behavior, or potential threat related to your problem that could have a negative impact on your jurisdiction. In order for the stakeholders in your tribal Initiative to know this “enemy,” they must each understand the breadth of potential problems and the capabilities necessary to address these problems.

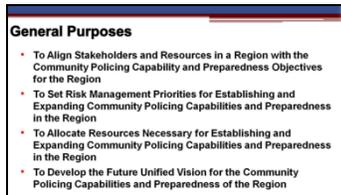
Conversely, in your tribal Initiative the “yourself” pertains to your region as a whole. In order for the stakeholders in your tribal Initiative to know “yourself”, they must each understand the capabilities and level of capacities of the stakeholders, individually and in the aggregate, in your region.

If you keep these strategic fundamentals in mind in developing the strategic plan for your tribal Initiative, and if your tribal Initiative is successful in performing the strategic plan ultimately devised, then your region will not need to fear any major problem that it may encounter.

With those strategic fundamentals in mind, let us now learn more about how to develop a strategic plan for your tribal Initiative. For purposes of this training, we will focus upon the general purposes and basic tenets of strategic plans.



QTC: Is anyone aware of a unified strategic plan for this region that has been memorialized in writing and that includes both tribal and non-tribal stakeholders?

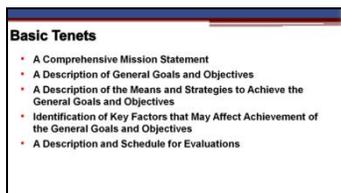


General Purposes

The purpose of your strategic plan for your tribal Initiative is to align the stakeholders and resources in your region with the capability and preparedness objectives for your region. Your strategic plan is the mechanism for setting priorities and allocating resources consistent with those priorities during the term of your tribal Initiative. The strategic plan should be a vision-driven process that is used to develop the future unified value of your tribal Justice initiative. It should strive to answer questions such as:

- What is the status of your tribal justice system capabilities and preparedness in your jurisdiction;
- What are the goals and objectives of the stakeholders with regard to tribal Justice capabilities and preparedness in the region; and
- How do the stakeholders intend to accomplish the goals and objectives set in your jurisdiction?

Needless to say, in order for the strategic plan for your tribal Justice initiative to answer such questions, it must incorporate some anticipatory decision-making from the stakeholders participating in the tribal Initiative.



Basic Tenets¹ of a Strategic Plan

Although there are not any tenets that are required to be included in the strategic plan that is developed for your tribal Initiative, there are certain recommended tenets to

¹ The recommended basic tenets for strategic plans developed for a regionalization initiative were drawn largely from the *Preparation and Submission of Strategic Plans*, Circular No. 1-11 (1998).

which the stakeholders in your tribal Initiative should give due consideration. Those tenets are as follows:

A Comprehensive Mission Statement

The strategic plan for your tribal Initiative should have a comprehensive mission statement. This statement should define the basic purpose of your tribal Initiative with particular focus on the core tribal justice capability and service projects to be undertaken by the stakeholders participating in the initiative. In addition, the mission and vision statement should contain a statement of the vision of the tribal Initiative, including its core values and principles.

A Description of General Goals and Objectives

The strategic plan for your tribal Initiative should include one or more general goals or objectives. Each general goal or objective included in your strategic plan should be stated with sufficient precision to direct and guide the stakeholders toward the actions needed to fulfill the mission of the tribal Initiative. In addition, each general goal or objective should be defined in a manner that allows a future assessment to be made on whether that goal or objective was or is being achieved.

A Description of the Means and Strategies to Achieve the General Goals and Objectives

The strategic plan for your tribal Initiative should include the means and strategies that will be used to achieve the general goals and objectives established for the tribal Initiative. The means and strategies should include: operational processes; skills and cyber technologies; human-capital; funding; tangible equipment; and other resources.

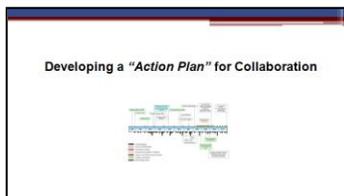
Identification of Key Factors that May Affect Achievement of the General Goals and Objectives

The strategic plan for your tribal Initiative should identify the key factors that may significantly affect the achievement of the general goals and objectives established for the tribal Initiative. This identification should include all key factors, regardless of whether said factors are external or internal to your tribal Initiative. Key factors may be economic, demographic, social or environmental. In addition, the identification should indicate the link between the key factors and the particular goal or objective set forth in your strategic plan that you anticipate the key factor may affect.

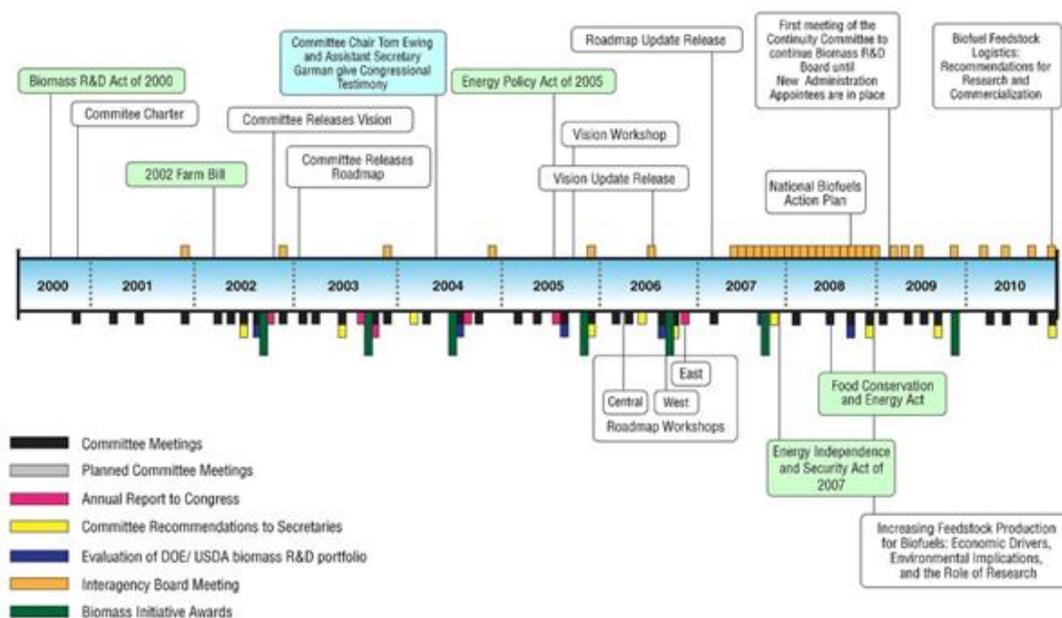
A Description and Schedule for Evaluations

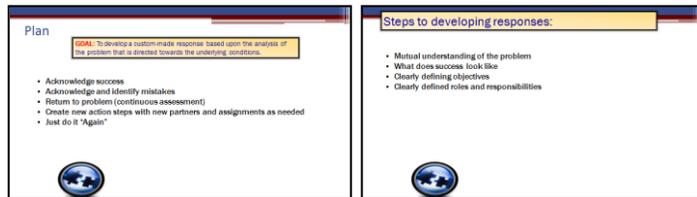
The strategic plan for your tribal Initiative should develop a methodology for evaluating whether the goals and objectives set forth in the strategic plan have been achieved

and how a jurisdiction would know whether it has accomplished its objectives. One way of accomplishing this is a developing a methodology that focuses on objective measurement and systematic analysis. In addition, the strategic plan should specify how often the evaluations should be performed.



Developing a “Action Plan” for Collaboration





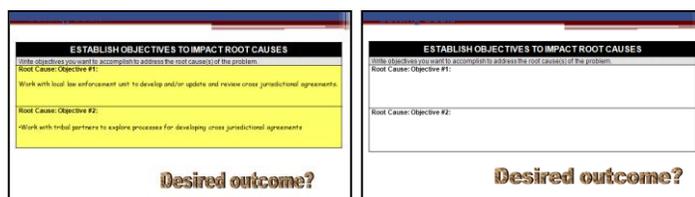
GOAL: To develop a custom-made response based upon the analysis of the problem that is directed towards the underlying conditions.

Plan:

- Acknowledge success
- Acknowledge and identify mistakes
- Return to problem (continuous assessment)
- Create new action steps with new partners and assignments as needed
- Just do it “Again”

Steps to developing responses:

- Mutual understanding of the problem
- What does success look like
- Clearly defining objectives
- Clearly defined roles and responsibilities

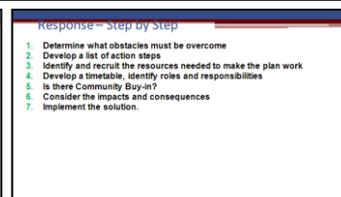
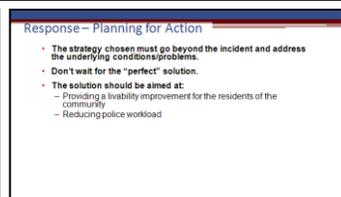


ESTABLISH OBJECTIVES TO IMPACT ROOT CAUSES

Write objectives you want to accomplish to address the root cause(s) of the problem.

Root Cause: Objective #1:

Root Cause: Objective #2:

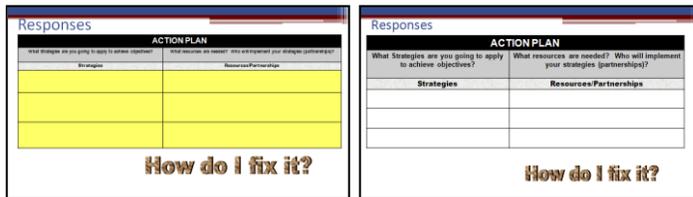


Response-Planning for Action

- The strategy chosen must go beyond the incident and address the underlying conditions/problems.
- Don't wait for the "perfect" solution.
- The solution should be aimed at:
 - Providing a livability improvement for the residents of the community
 - Reducing police workload

Response-Step by Step

1. Determine what obstacles must be overcome
2. Develop a list of action steps
3. Identify and recruit the resources needed to make the plan work
4. Develop a timetable, identify roles and responsibilities
5. Is there Community Buy-in?
6. Consider the impacts and consequences
7. Implement the solution.



Responses:

ACTION PLAN	
What Strategies are you going to apply to achieve objectives?	What resources are needed? Who will implement your strategies (partnerships)?
Strategies	Resources/Partnerships



Action Steps:

ACTION PLAN	
Strategy:	
Tasks	
Timetable:	Responsibility:

Key Notable

It is important to remember that once the stakeholders in your Tribal Justice system initiative have developed the strategic plan for the initiative, they must remember to periodically review, update and revise that plan.

Key Point: It is important to remember that once the stakeholders in your tribal justice initiative have developed the strategic plan for the initiative, they must remember to periodically review, update and revise that plan.

Timeline

- The success of a regionalization initiative will depend, in part, upon the time it takes to eliminate capability and preparedness gaps

*"We must use time as a tool, not as a couch."
-John F. Kennedy*

Implementing a Timeline for Tribal Justice Initiatives

The late President John F. Kennedy once stated that “[w]e must use time as a tool, not as a couch.” Those words hold particularly true for your tribal Initiative. That is, the performance of your tribal Initiative will ultimately be measured by the time it takes to eliminate the tribal criminal justice capability and preparedness gaps in your region. If your tribal Initiative is not able to eliminate its gaps in a timely fashion, then those gaps may be exploited by criminals and terrorists. Therefore, all of the stakeholders in your tribal Initiative must be cognizant of the importance of accomplishing the key planned or projected events, goals and objectives for your tribal Initiative in a timely fashion.

Timeline

- General Purposes
 - To provide capability and planning reference points
 - To establish capability and performance deadlines
 - To assist each stakeholder with time management
- Basic Tenets
 - Identification of events
 - Identification of the responsibilities
 - Identification of the initiation date
 - Identification of the completion date

The best way for each stakeholder to understand the timetable expectations for the performance of the key planned or projected events, goals, and objectives for a tribal Initiative is with a timeline. A timeline provides strategic planning reference points on how capable a jurisdiction is today; performance points indicating how well a region is performing and achieving its goals and objectives toward the desired capabilities of the jurisdiction; and an indicator of how long it will take to get to the desired justice systems and management level of collaboration. A timeline also assists each stakeholder with

the management of the time that each stakeholder has allotted for the tribal Initiative, and provides each stakeholder with advance notice of performance deadlines.

It is recommended that your tribal Initiative’s timeline for achieving collaboration contain, at a minimum, the following tenets:

- An identification of the planned or projected events for your tribal Initiative
- Identification of the stakeholders responsible for performing each planned or projected event for your tribal Initiative
- An identification of the initiative date for each planned or projected event for your tribal Initiative
- An identification of the completion date for each planned or projected event for your tribal Initiative

Key Notable

- A community policing regionalization timeline must be an evolving document that continually expands with the Tribal community policing regionalization initiative.
- In setting the initiative and completion dates for each planned or projected event for your Tribal community policing regionalization initiative you must take into consideration the time differential for each stakeholder’s respective decision-making process.

Key Point: A collaborative initiative timeline must be an evolving document that continually expands with the tribal Initiative.

Key Point: In setting the initiative and completion dates for each planned or projected event for your tribal Initiative you must take into consideration the time differential for each stakeholder’s respective decision-making process.

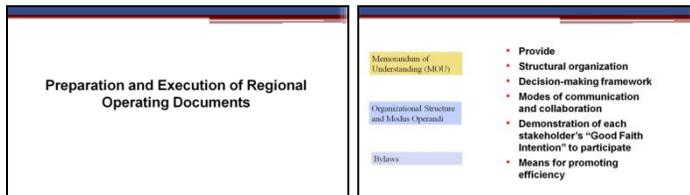
Needless to say, if your initiative and completion dates are not realistic, then performance misunderstandings between the stakeholders are likely to ensue, this may undermine the overall success of your tribal Initiative.

Activity: Timelines

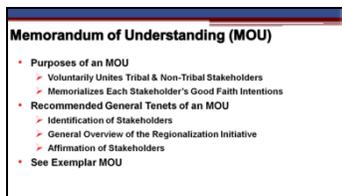
Are there any timelines that have been memorialized in writing in this region that include events, goals and objectives for both Tribal and non-Tribal stakeholders?

QTC: What timelines do you need to set forth for your problem including goals and objectives for both tribal and non-tribal stakeholders?

There are a number of documents that should be prepared and executed while organizing your tribal Initiative. These documents help establish a decision making framework that is agreed upon by the stakeholders in a tribal Initiative. Three of the most important initial documents to prepare and execute in a tribal Initiative are the Memorandum of Understanding, the Organizational Structure and Modus Operandi, and the Bylaws. We will now examine the purpose and recommended general tenets for each of these documents. We will also discuss some exemplar operating documents.



Preparation and Execution of Cross Jurisdictional Operating Documents



Memorandum of Understanding

The first of the three most important initial documents to prepare and execute in a tribal Initiative is the Memorandum of Understanding (“MOU”).

We will now examine the basic purpose of an MOU and the recommended general tenets for an MOU. We will also discuss an exemplar MOU.

Purpose

An MOU is the governance document in a tribal Initiative that voluntarily unites all tribal and non-tribal stakeholders that have agreed and consented to pursue and participate in a tribal Initiative. The MOU memorializes in writing the good faith intentions of each stakeholder by specifying the tenets upon which each stakeholder has agreed and consented to voluntarily unite. The MOU is to remain in effect for as long as the tribal Initiative is in operation, or otherwise, until the stakeholders in a tribal Initiative agrees to cancel or modify the MOU in accordance with the other operating documents for that tribal Initiative.

Recommended General Tenets

Although there are not any tenets that are required to be included in the MOU which is prepared and executed in your tribal Initiative, there are certain recommended tenets that the stakeholders in your tribal Initiative should give due consideration to including in their MOU. Those tenets are as follows:

A Stakeholder Identification Tenet

An MOU should identify each stakeholder that is agreeing to cooperate, support, collaborate, administer, perform, and otherwise work together in the tribal Initiative. As such, the MOU should identify every tribal and non-tribal stakeholder agreeing to the tribal Initiative. This tenet should also reference the fact that additional stakeholders may be included in the tribal Initiative by written addenda to the MOU.

A General Overview Tenet

An MOU should set forth a general overview of the tribal Initiative contemplated by the stakeholders agreeing to cooperate, support, collaborate, administer, perform, and otherwise work together in the tribal Initiative. This overview should, at a minimum, include the following:

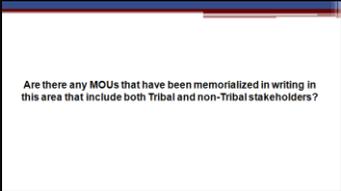
- A synopsis of the strategic plan for the tribal Initiative
- An identification of the stakeholders within the tribal Initiative who intend to submit grant applications for funding the tribal Initiative – notably these stakeholders should generally be the state stakeholders given the present flow-through structure for funding
- Agreement of each stakeholder that it will use its best efforts to participate and cooperate in the tribal Initiative
- An identification of any private or non-governmental stakeholder who has agreed to serve as a liaison in the tribal Initiative
- Agreement of any private or non-governmental stakeholder liaison to use its best efforts to coordinate and facilitate the tribal Initiative

- a catch-all agreement by all stakeholders in the tribal Initiative to cooperate, support, collaborate, administer, perform, and otherwise work together in the tribal Initiative

An Affirmation Tenet for Each Stakeholder

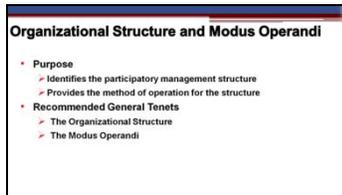
An MOU should include an affirmation executed by each stakeholder, wherein each stakeholder verifies his authority and willingness to voluntarily enter into the MOU. The execution of an affirmation by each stakeholder is that stakeholder’s active demonstration to each other stakeholder of its consent and good faith intent to pursue the tribal Initiative. Such affirmations have historically been used to demonstrate symbiotic pacts.

Exemplar MOU



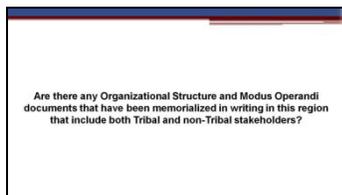
QTC: Is anyone aware of any MOUs / MOA’s that have been memorialized in writing for your region that include both tribal and non-tribal stakeholders?

QTC: Take a few minutes and review the exemplar MOU /MOA’s. What questions do you have about the exemplar MOU’s purpose, content, or structure?



Organizational Structure and Modus Operandi

The second of the three most important initial documents to prepare and execute in a tribal Initiative is the Organizational and Modus Operandi document.



QTC: Is anyone aware of any Organizational Structure and Modus Operandi documents that have been memorialized in writing for your region that include both tribal and non-tribal stakeholders?

We will now examine the basic purpose of an Organizational Structure and Modus Operandi document, and the recommended general tenets for it. We will also discuss an exemplar Organizational Structure and Modus Operandi document.

Purpose

The Organizational Structure and Modus Operandi document is the governance document in a tribal Initiative that sets forth the participatory management structure for the tribal Initiative that has been agreed to by the stakeholders in the tribal Initiative. The document also sets forth the method with which the participatory management structure operates.

Recommended General Tenets

Although there are not any tenets that are required to be included in the Organizational Structure and Modus Operandi document in your tribal Initiative, there are certain recommended tenets that the stakeholders in your tribal Initiative should give due consideration to including in their Organizational Structure and Modus Operandi document. Those tenets are as follows:

The Organizational Structure Tenet

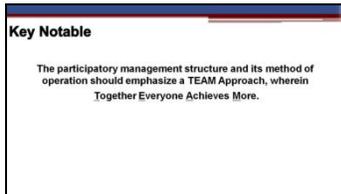
An Organizational Structure and Modus Operandi document should set forth the participatory management structure for your tribal Initiative. This tenet should include the following:

- An overview of the management structure for your tribal Initiative
- An identification of the primary organizations comprising the management structure for your tribal Initiative – it is recommended that at a minimum, your management structure include a management board (who functions as the ultimate decision making organization within your tribal Initiative), a management advisory committee (who functions as the management information advisors for the management board in your tribal Initiative), and a fiscal advisory committee (who functions as the fiscal information advisors for the management board in your tribal Initiative)
- An identification of the specialized working groups for your tribal Initiative (who will aid the primary organizations in the performance of their tasks in your tribal Initiative)
- An identification of the liaison for your tribal initiative (who will be responsible for coordinating and facilitating certain activities within the management structure of your tribal Initiative).

The Modus Operandi Tenet. An Organizational Structure and Modus Operandi document should set forth the method with which the participatory management structure operates. This tenet should include the following:

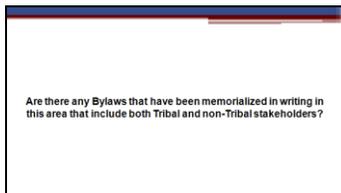
- An overview of the method of operation for the management structure in your tribal Initiative
- An identification of the projects to be performed by the management structure in your tribal Initiative – it is recommended that these projects be capability-based projects identified based upon a gap analysis assessment derived from uniform research conducted on each stakeholder's respective service capabilities

- An identification of the tasks through which each project to be performed by the management structure in your tribal Initiative must pass
- An emphasis on a participatory management structure.



Key Point: The participatory management structure and its method of operation should emphasize a **TEAM** Approach, wherein **T**ogether **E**veryone **A**chieves **M**ore.

Exemplar Organizational Structure and Modus Operandi Document



Bylaws

The third of the three most important initial documents to prepare and execute in a tribal Initiative is the Bylaws document.

QTC: Is anyone aware of any Bylaws that have been memorialized in writing for your region that include both tribal and non-tribal stakeholders?

We will now examine the basic purpose of the Bylaws, and the recommended general tenets for them.

Purpose

The Bylaws document is the governance document in a tribal Initiative that sets forth the rules and guidelines adopted by the stakeholders in the tribal Initiative for dealing with routine matters. Such rules and guidelines help facilitate the efficient and orderly performance of the activities and projects contemplated by a tribal Initiative. The Bylaws also help memorialize the stakeholder's respective rights and expectations with regard to the overall governance of the tribal Initiative, which reduces the likelihood of future misunderstandings concerning the performance of a tribal Initiative.

Recommended General Tenets

Although there are not any tenets that are required to be included in the Bylaws for your tribal Initiative, there are certain recommended tenets that the stakeholders in your tribal Initiative should give due consideration to including in their Bylaws. Those tenets are as follows:

Name and Location

The Bylaws should specify the name of the tribal Initiative, and the geographical area of our country that it encompasses.

Convening Authority

The Bylaws should include a recitation of the authority from which the tribal Initiative operates. This usually includes reference to the MOU executed by the stakeholders in the tribal Initiative, as well as the Organizational Structure and Modus Operandi document.

Mission and Purpose

The Bylaws should include a statement of the mission of the tribal Initiative, and its corresponding purpose.

Restrictions

The Bylaws should specify any restrictions germane to the activities and projects contemplated by the tribal Initiative.

Membership

The Bylaws should designate the types of stakeholders who can be members in the tribal Initiative. It is recommended that all tribal and non-tribal stakeholders with an

interest in a tribal Initiative be eligible for membership. Moreover, the Bylaws should designate the requirements for eligibility to serve as a member of a board, committee or group comprising the management structure of the tribal Initiative. The Bylaws should also specify the rights, responsibilities, and terms of service of board, committee and group members; as well as the procedures for terminating members, reinstating member, and filling member vacancies.

Meeting Procedures

The Bylaws should set forth the procedures for conducting meetings in a tribal Initiative. Those procedures should specify the requirements for the agendas, minutes, records, and notice to be given for the meetings. The procedures should also specify whether the meetings will be open to the public. In addition, The Bylaws should specify the stakeholder attendance requirements to constitute a quorum so that business can be transacted at any meeting conducted in a tribal Initiative.

Voting Rights

The Bylaws should set forth the voting procedures for voting at meetings conducted in a tribal Initiative, and the rights of each stakeholder to vote in the tribal Initiative. The Bylaws should also specify whether voting by proxy is permitted.

Fiscal Management

The Bylaws should specify the fiscal management for the tribal Initiative, including the identification of the fiscal year for the tribal Initiative and the maintenance of fiscal records.

Amendment Procedures

The Bylaws should specify the procedure for amending, adding to or repealing the Bylaws of a tribal Initiative.



Securing a Research Tool to Assess Jurisdictional Capabilities and Collaboration Efforts

A recommended start-up policy to adopt in the early stages of your tribal Initiative is a policy that provides that all of the stakeholders in your tribal Initiative have agreed to utilize the same research tool to gather their respective information pertaining to capabilities and collaboration effort. This policy should also provide that all stakeholders agree to share their respective information requested through that research tool. By using the same research tool, the information gathered by each stakeholder is compatible to each other stakeholder's information, thereby rendering all the information susceptible to uniform analyses and comparisons. When used in conjunction with a risk management model for your region, this data uniformity promotes the generation of jurisdictional resource capabilities and collaborative partnership baselines, best practices and alerts for your region; and also provides the stakeholders with the ability to continually assess capability and gaps and measure the performance of the tribal community initiative in eliminating those gaps.

By way of illustration, suppose your tribal Initiative selects a resource capabilities and preparedness research tool and the tool is administered on all of the stakeholders in your region in Year One of the tribal Initiative. The information gathered through the tool is then analyzed with regard to baselines, best practices and alerts for the region as of Year One. Your organizational structure for the tribal Initiative then uses those baselines, best practices and alerts to assess the capability and collaboration gaps for your region, and the priorities for eliminating said gaps. Subsequently, in Year Three of your tribal Initiative, the research tool is again administered on all of the stakeholders in your region. As was done in Year One, the information gathered through the tool is analyzed with regard to baselines, best practices and alerts for the region as of Year Three.

Your management structure for the tribal Initiative then compares the baselines, best practices and alerts for Year One and Year Three, and therefore, has an objective means to measure the performance of the tribal Initiative in eliminating the capability and collaboration gaps for your jurisdiction.



Key Point: The research tool should be comprehensive, scientifically developed and peer-tested with regard to capabilities.

Those areas should include but not necessarily be limited to the following: Emergency Management; Law Enforcement; Border Security (if applicable); Detention; Emergency Medical; Community Corrections, Public Works; Public Safety Communications and Interoperability; Critical Infrastructure; Environment; and Fire.

Has anyone ever participated in a research tool that gathered information about Tribal criminal justice capabilities and preparedness? If so, describe what you were able to learn from the information gathered by that tool?

QTC: Has anyone ever participated in a research tool that gathered information about tribal justice capabilities and preparedness? If so, describe what you were able to learn from the information gathered by that tool?

Module 4 Wrap-Up
You should be able to:
4.1 Identify the important issues and unique cultural aspects for identifying interdependencies, vulnerabilities and incentives for a tribal justice collaboration initiative.
4.2 Apply problem-solving techniques to complete a Gap Analysis Process.
4.3 Demonstrate and discuss components of MOU/MOA and other legal documents that may be used to give structure for collaboration initiatives.

Module 4 Wrap Up:

Participants should be able to:

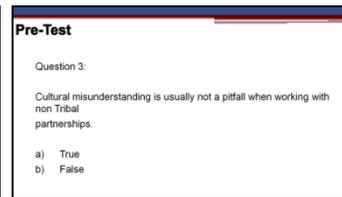
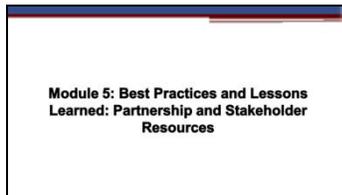
- 4.1 Identify the important issues and unique cultural aspects for identifying Interdependencies, vulnerabilities and incentives for a tribal justice collaboration initiative.
- 4.2 Apply problem-solving techniques to complete a Gap Analysis Process.
- 4.3 Demonstrate and discuss components of MOU/MOA and other legal documents that may be used to give structure for collaboration initiatives.



Module 4 Post-Test

1. The GAP Analysis Process is a systematic vehicle that uses the principle of looking back to plan forward.
 - a) True
 - b) False
2. Tribal Justice Collaboration initiatives can be established by defining the following characteristics:
 - a) Interdependencies
 - b) County and State boundaries
 - c) Vulnerabilities
 - d) A & C only
 - e) All of the above
3. Cross Jurisdictional collaboration models should never cross state lines or include agencies from outside your own state.
 - a) True
 - b) False

Module 5: Best Practices and Lessons Learned: Partnership and Stakeholder Resources



Module 5 Pre-Test

1. Identified Best Practices are always the same for each stakeholder.
 - a) True
 - b) False
2. The first step in planning a tribal justice meeting is
 - a) Identifying potential partners and stakeholder
 - b) Assigning roles and responsibilities
 - c) Electing board members
 - d) Writing comprehensive reports
3. Cultural misunderstanding is usually not a pitfall when working with non tribal partnerships.
 - a) True
 - b) False

Learning Objectives

This objective will explore the best practices lessons learned, pitfalls, review of MOU/MOA's, developing strategic plans, and the next steps needed in conducting tribal justice initiatives meetings.

TLO

This objective will explore the best practices lessons learned, pitfalls, review of MOU/MOA's, developing strategic plans, and the next steps needed in conducting tribal justice initiatives meetings.

Enabling Objectives

At the conclusion of this module, participants will be able to:

- 5.1 Discuss Best Practices, Pitfalls and tidbits that apply to all stakeholders.
- 5.2 Review successful past and ongoing regional collaboration projects, with their respective MOU/MOA, other documents.
- 5.3 Plan a tribal justice collaboration first-steps meeting to be held in the jurisdiction.

ELO

- 5.1 Discuss Best Practices, Pitfalls and tidbits that apply to all stakeholders
- 5.2 Review successful past and ongoing tribal collaboration projects, with their respective MOU/MOA, other documents
- 5.3 Plan a tribal justice collaboration first-steps meeting to be held in the jurisdiction

Stakeholders

There are a number of different types of stakeholders that are important to a Tribal regionalization initiative.

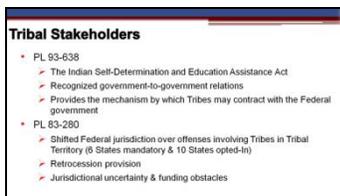
- Tribal stakeholders are comprised of all Federally-recognized Tribes
- Non-Tribal stakeholders are comprised of all Federal, State, and local governmental stakeholders, as well as private or non-governmental stakeholders.

Stakeholders

In a tribal Initiative you will encounter a number of tribal stakeholders who will be integral to the success of your tribal Initiative. tribal stakeholders, for purposes of our training, are comprised of all Federally-recognized tribes and include all tribes that have an interest in a tribal Initiative. One of the most important attributes about tribes is their respective sovereignty. That is, tribes have a unique status in the United States because each tribe is a sovereign nation having the same legal rights of self-determination possessed by independent countries. Non-tribal stakeholders are comprised of all Federal, State, and local governmental stakeholders, as well as private or non-governmental stakeholders. The characterization of stakeholders as tribal and

non-tribal is reasonable given the unique sovereign status of the tribes that comprise the tribal stakeholders.

In organizing, and in otherwise participating in, a tribal Initiative it is important to attain some background information on the various types of stakeholders, so that you are in a better position to communicate, collaborate, and cooperate with each type of stakeholder with an interest in your region. As such, during the remainder of this training module you will be provided with information and discussion opportunities pertaining to the various types of stakeholders in a tribal Initiative, with particular emphasis on recommended “best practices” for working with each type of stakeholder, “common pitfalls to avoid” in working with each type of stakeholder, and “tidbits” for understanding the decision-making process of each type of stakeholder. We will start with the tribal stakeholders, and conclude with the non-tribal stakeholders. As we learn about the “best practices,” “common pitfalls to avoid,” and “tidbits” for understanding the various stakeholders, you should pay particular attention to the recurrent recommendations concerning the importance that contact identification, communication, information and intelligence sharing, interactive drills and exercises, and time play in working with various types of stakeholders to establish a sustainable tribal justice initiative.



Tribal Stakeholders

Public Law 93-638

In 1975, the Indian Self-Determination and Education Assistance Act, Public Law 93-638 (“PL 638”), was signed into law. “This landmark legislation recognized the primacy of the government-to-government relationship between the United States and sovereign tribal nations.”² This legislation provides the mechanism by which tribes may contract with the Federal government to perform functions in Indian country. Under PL 638, funds normally expended by the Federal government are provided to the contracting tribe to provide the contracted services. Tribes may contract or compact for all or any portion of any service normally provided by the Federal government. Today, almost all

² See “Tribal Self-Determination,” <http://info.ihs.gov>

law enforcement programs in tribal country are operated pursuant to a PL 638 Contract or Compact.

Public Law 83-280 (Brief discussion if non-applicable to State)

Moreover, it should be noted that the sovereign status of tribes was not terminated by Public Law 83-280 (“PL 280”). PL 280 just shifted Federal jurisdiction over offenses involving American Indian and Alaska Native tribal Members in Indian country in six States³ and offered other States an option to assume such jurisdiction.⁴ A subsequent amendment to PL 280 contained a retrocession provision, which enabled a State that had previously assumed jurisdiction over tribes under PL 280 to return all or some of its jurisdiction to the Federal Government.⁵ PL 280 did not divest the tribes of their inherent authority to enact and subsequently enforce tribal laws. (e.g., many tribes in PL 280 states operate their own tribal police departments). “Affected tribes and States have faced obstacles in complying with the statute, including jurisdictional uncertainty and insufficient funding for law enforcement.”

In pursuing your tribal Initiative, it is important that you reach out to each tribe with a presence in your region, bearing in mind the sovereign status of each.



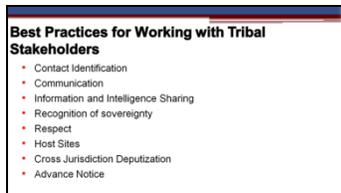
Which stakeholders in your region are affected by your problem?

³ The six states are Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin. See “Public Law 280 and Law Enforcement in Indian Country – Research Priorities,” U. S. Department of Justice, Dec. 2005.

⁴ The ten states that opted-in were Arizona, Florida, Idaho, Iowa, Montana, Nevada, North Dakota, South Dakota, Utah, and Washington. See “Public Law 280 and Law Enforcement in Indian Country – Research Priorities,” U. S. Department of Justice, Dec. 2005.

⁵ The following states contain some tribes who have retroceded: Minnesota, Nebraska, Oregon, Wisconsin, Idaho, Nevada, North Dakota, and Washington. See “Public Law 280 and Law Enforcement in Indian Country – Research Priorities”, U.S. Department of Justice, Dec. 2005.

To assist you with reaching out to tribal stakeholders in your tribal Initiative, we will now turn our training to some recommended “best practices” for working with tribal stakeholders, “common pitfalls to avoid” in working with tribal stakeholders, and “tidbits” for understanding the decision-making process of tribal stakeholders.



Best Practices for Working with Tribal Stakeholders

Representatives from several tribal stakeholders were polled concerning “best practices” that they would recommend for working with tribal stakeholders in a tribal Initiative. The recurrent recommended “best practices” from those tribal stakeholders polled are set forth herein for our training purposes. It is important to note that the recommended “best practices” set forth herein are by no means an exhaustive list. After our review of these “best practices,” though, you will have an opportunity to recommend any additional “best practices” for working with tribal stakeholders that you think would benefit your colleagues in this course.

Contact Identification

It is a best practice when working with tribal stakeholders in a tribal Initiative to identify the contact person or persons with whom the tribal stakeholders are to communicate concerning tribal matters. By knowing who to contact and how to contact them, the tribal stakeholders are placed in a better position to communicate with the other stakeholders in a tribal Initiative.

Communication

It is a best practice when working with tribal stakeholders in a tribal Initiative to communicate regularly with each tribal stakeholder. Regular communications help to nurture and foster your relationships with the tribal stakeholder. In-person communications are especially helpful and productive. Notably, many tribal stakeholders only have limited capabilities for communicating electronically. If communicating electronically with a tribal stakeholder, then one must be cognizant, particularly in the early stages of the relationship, that written communications are sometimes misconstrued due to cultural, environmental, and/or historical differences. By having regular channels of communication with the tribal stakeholders within your

region, the likelihood that your tribal Initiative will be a sustainable success are greatly increased.

Information and Intelligence Sharing

It is a best practice when working with tribal stakeholders in a tribal Initiative to share information and intelligence pertinent to quality of life matters. If you are unwilling to share your capabilities information and law enforcement intelligence with the tribal stakeholders in your region, then those tribal stakeholders will be less likely to share their information and intelligence with you.

Recognition of Sovereignty

It is a best practice when working with tribal stakeholders in a tribal Initiative to always recognize that each tribal stakeholder is a sovereign government. Therefore, each tribal stakeholder in a tribal Initiative must be dealt with on a government-to-government basis. Failure to recognize the sovereignty of the tribal stakeholders in a tribal Initiative will cause the tribal Initiative to fail, as the tribal stakeholders will be unwilling to participate.

Respect

It is a best practice when working with tribal stakeholders in a tribal Initiative to treat each tribal stakeholder with respect. Tribal stakeholders are just as important to any tribal Initiative as any non-tribal stakeholder participating in that initiative. Therefore, tribal stakeholders must be treated with the same respect and trust with which non-tribal stakeholders are treated in a tribal Initiative.

Host Sites

It is a best practice when working with tribal stakeholders in a tribal Initiative to provide them with an equal opportunity to host meetings and/or trainings concerning the tribal Initiative. In addition, non-tribal stakeholders in a tribal Initiative should be willing to participate in meetings and/or trainings that are hosted on tribal lands. Recommend the tribe you are working with hosts the majority of meetings. This is just a good gesture. This will in turn facilitate the willingness of tribal stakeholders to journey from their tribal lands for meetings and/or trainings hosted by non-tribal stakeholders in the tribal Initiative.

Cross Jurisdiction Deputization

It is a best practice when working with tribal stakeholders in a tribal Initiative to consider cross-jurisdiction deputization with those tribal stakeholders. For instance, it may be advantageous for certain officials of tribal stakeholders to be given certain jurisdictional rights outside of their tribal lands, in exchange for certain officials of non-tribal stakeholders being given certain jurisdictional rights inside tribal lands. Cross

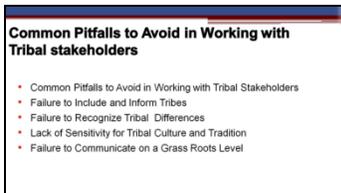
jurisdiction deputization promotes mutual cooperation, assistance, and collaboration between tribal stakeholders and non-tribal stakeholders in a tribal community initiative, particularly with regard to law enforcement.

Advance Notice

It is a best practice when working with tribal stakeholders in a tribal Initiative to provide the tribal stakeholders with advance notice of any meetings and/or trainings. Many tribal stakeholders have personnel and resource limitations, and therefore, they need sufficient notice to plan for their personnel to attend meetings and/or trainings, particularly if the meetings and/or trainings are being held at sites located outside of tribal lands.



What additional “best practices” can you identify for working with tribal stakeholders?



Common Pitfalls to Avoid in Working with Tribal Stakeholders

Representatives from several tribal stakeholders were polled concerning “common pitfalls to avoid” in working with tribal stakeholders in a tribal Initiative. The recurrent recommended “common pitfalls to avoid” from those tribal stakeholders polled are set forth herein for our training purposes. It is important to note that the recommended

“common pitfalls to avoid” set forth herein are by no means an exhaustive list. After our review of these “common pitfalls to avoid,” though, you will have an opportunity to recommend any additional “common pitfalls to avoid” in working with tribal stakeholders that you think would benefit your colleagues in this course in their respective pursuit of cross jurisdictional collaboration.

Failure to Include and Inform Tribes

A common pitfall to avoid when working with tribal stakeholders in a tribal Initiative concerns the failure to include tribal stakeholders and to inform those tribal stakeholders of their importance in that initiative. It is important to include all of the tribal stakeholders in your region at the onset of a tribal Initiative, and to continue to include them throughout the duration of said initiative. Waiting until the middle of a tribal Initiative to include tribal stakeholders does not provide the tribal stakeholders with their due ownership in said initiative, and otherwise creates a gap in the collaborative efforts of that region until the tribal stakeholders are included. In addition, it is important to inform tribal stakeholders of the important role that they play in collaboration activities within a region, so that no tribal stakeholder has a false sense of complacency with regard to developing collaborative partnerships.

Failure to Recognize Tribal Differences

A common pitfall to avoid when working with tribal stakeholders in a tribal Initiative concerns the failure to recognize tribal differences. If you have multiple tribes within your region, then it is important to remember that each tribe is distinct and unique. Each tribe will have its own government structure, culture, and tradition. As such, you should avoid assuming that all tribal stakeholders within your tribal Initiative are alike.

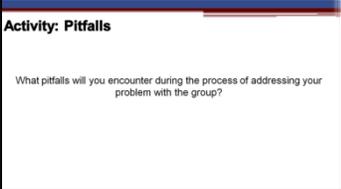
Lack of Sensitivity for Tribal Culture and Tradition

A common pitfall to avoid when working with tribal stakeholders in a tribal Initiative concerns having a lack of sensitivity for tribal culture and tradition. Each tribal stakeholder within a tribal Initiative has its own culture and tradition, which it greatly values. Therefore, it is important to discover the culture and tradition of each tribal stakeholder in your region, and to be respectful of the same. If you can avoid being insensitive toward the culture and tradition of the tribal stakeholders in your region, then you will be better able to communicate with those tribal stakeholders.

Failure to Communicate on a Grass Roots Level

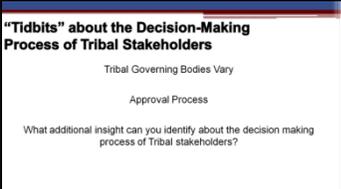
A common pitfall to avoid when working with tribal stakeholders in a tribal Initiative concerns the failure to communicate with tribal stakeholders on a grass roots level. Communication barriers will undoubtedly arise if non-tribal stakeholders attempt to communicate with tribal stakeholders via overly elaborate language that is not native

to the tribal stakeholders and that is not from a source that the tribal stakeholders trust.



Activity: Step 9 – Pitfalls

What pitfalls will you encounter during the process of addressing your problem with the group?



“Tidbits” about the Decision-Making Process of Tribal Stakeholders

Representatives from several tribal stakeholders were polled concerning “tidbits” that they felt were insightful for working with tribal stakeholders in a tribal Initiative. The recurrent “tidbits” from those tribal stakeholders polled are set forth herein for our training purposes. It is important to note that the “tidbits” set forth herein are by no means an exhaustive list. After our review of these “tidbits,” though, you will have an opportunity to recommend any additional “tidbits” about the decision-making process of tribal stakeholders that you think would benefit your colleagues in this course in their respective pursuit of collaborative partnerships.

Tribal Governing Bodies Vary

It is important to understand that tribal stakeholders have different governing bodies. For instance, some tribal stakeholders may be governed by a tribal council, board, or business committee; while others may be governed by a single chairperson, governor or chief. Therefore, it is important to learn from the tribal stakeholders in your region about their respective governing bodies so that you will be better prepared to partner with them in your tribal Initiative.

Approval Process

It is important to understand that the decision making process within many tribal stakeholders often takes time, be patient and stay the course. Many tribal stakeholders prefer to discuss and to give due consideration to matters before they grant their approval. Therefore, it is important to be patient when waiting for approval from a tribal stakeholder in a tribal Initiative.



What additional insights can you identify about the decision making process of tribal stakeholders?



Non-Tribal Stakeholders

Non-tribal stakeholders, for purposes of our training, include all Federal, State, and local stakeholders, as well as any private or non-governmental stakeholders that have an interest in a tribal Initiative. Each type of non-tribal stakeholder will be examined during the remainder of this session with emphasis on the “best practices” for working with each type of non-tribal stakeholder, “common pitfalls to avoid” in working with each type of stakeholder, and “tidbits” for understanding the decision-making process of each type of non-tribal stakeholder. This information is intended as a starting point for preparing you to better understand and work with the non-tribal stakeholders with whom you will need to work in your tribal Initiative. Once you have been equipped with this information, you should reach out to the non-tribal stakeholders in your tribal Initiative to learn more about their respective intricacies.



Federal Stakeholders

The Federal stakeholders in a tribal Initiative are the Federal department and agency stakeholders that are part of our country’s national government with a presence in your region. Needless to say, there are numerous Federal departments and agencies who may be important stakeholders in your tribal Initiative.

Undoubtedly, though, the U.S. Department of Justice (DOJ) is at the forefront of the important Federal stakeholders for your tribal Initiative. These stakeholders include;

- Bureau of Alcohol, Tobacco, Firearms, and Explosives
- Federal Bureau of Investigation
- Federal Bureau of Prisons
- Community Oriented Policing Services (COPS)
- Bureau of Justice Assistance

Other Federal stakeholders who may be important stakeholders in your tribal Initiative include, but are not necessarily limited to the following:

- Bureau of Indian Affairs
- Drug Enforcement Administration

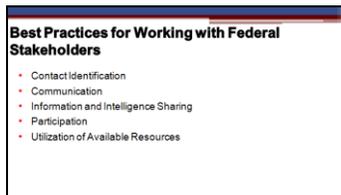
- Indian Health Service
- Bureau of Land Management
- United States Food & Drug Administration
- Animal and Plant Health Inspection Service
- National Park Service
- Environmental Protection Agency
- Fish and Wildlife
- Centers for Disease Control
- U.S. Marshal Service

In pursuing a tribal Initiative, it is important that you reach out to DOJ and to each of the above-referenced Federal stakeholders, among others, who have a presence in your region.

Who are the Federal Stakeholders with a physical presence within your region?

Who are the Federal stakeholders with a physical presence within your region?

To assist you with reaching out to DOJ and other Federal stakeholders in your tribal Initiative, we will now turn our training to some recommended “best practices” for working with Federal stakeholders, “common pitfalls to avoid” in working with Federal stakeholders, and “tidbits” for understanding the decision-making process of Federal stakeholders.



Best Practices for Working with Federal Stakeholders

Representatives from several Federal stakeholders were polled concerning “best practices” that they would recommend for working with Federal stakeholders in a tribal Initiative. The recurrent recommended “best practices” from those Federal stakeholders polled are set forth herein for our training purposes. It is important to note that the recommended “best practices” set forth herein are by no means an exhaustive list. After our review of these “best practices,” though, you will have an opportunity to recommend any additional “best practices” for working with Federal stakeholders that you think would benefit your colleagues in this course in their respective pursuit of developing collaborative partnerships.

Contact Identification

It is a best practice when working with Federal stakeholders in a tribal Initiative to identify the contact person or persons within your state, county, tribe or organization with whom each Federal stakeholder should contact with regard to jurisdictional matters. The identities and contact information for that person or persons should then be disclosed to each Federal stakeholder. Where possible, it is advantageous to identify contacts who are not political appointees, as it is less likely that those contacts may change in the midst of a political upheaval within your state, county, tribe or organization. By knowing who to contact and how to contact them, the Federal stakeholders are placed in a better position to communicate with your State, county, tribe or organization on matters.

Communication

It is a best practice when working with Federal stakeholders in a tribal Initiative to communicate regularly with each Federal stakeholder that has a presence in your region. Regular communications help to nurture and foster your State’s, county’s, tribe’s or organization’s relationship with that stakeholder. In-person communications are especially helpful and productive. Most Federal stakeholders, though, are also available to communicate electronically. By having regular channels of communication with the Federal stakeholders within your region, the likelihood that your tribal Initiative will be a sustainable success are greatly increased.

Information and Intelligence Sharing

It is a best practice when working with Federal stakeholders in a tribal Initiative to share information and intelligence pertinent to community matters. If you are unwilling to share your capabilities information and law enforcement intelligence with the Federal stakeholders in your region, than the opportunities for collaboration with and assistance from those Federal stakeholders will be greatly compromised.

Knowledge about Community Initiatives

It is a best practice when working with Federal stakeholders in a tribal Initiative to stay on top of information and initiatives. Information and initiatives promulgated by DOJ continue to evolve, and therefore, you need to stay current on changes and developments. This will make you better prepared to work with your Federal stakeholders in keeping your region's initiative current.

Participation

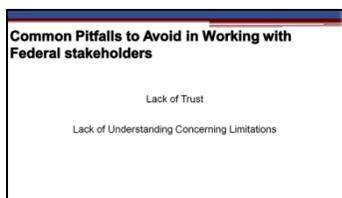
It is a best practice when working with Federal stakeholders in a tribal Initiative to participate actively in meetings, briefings, and practice exercises offered by the Federal stakeholders within your region. Participation in such meetings, briefings and exercises help to foster your relationships with the Federal stakeholders in your region, while making you better prepared to prevent, protect against, and respond to, major events. In addition, team-building exercises help develop trust which is a prerequisite for a sustainable tribal Initiative.

Utilization of Available Resources

It is a best practice when working with Federal stakeholders in a tribal Initiative to keep in mind that Federal stakeholders may have resources and capabilities to aid and assist the other stakeholders in your region on quality of life matters. It is important to understand that these resources and capabilities go beyond just funding resources. Therefore, you should inquire and investigate about the resources and capabilities that the Federal stakeholders within your region have available, and take advantage of the same. By taking advantage of such resources and capabilities, you will be one step closer to achieving a safe and secure region.

What additional "best practices" can you identify for working with Federal stakeholders?

What additional “best practices” can you identify for working with Federal stakeholders?



Common Pitfalls to Avoid in Working with Federal Stakeholders

Representatives from several Federal stakeholders were polled concerning “common pitfalls to avoid” in working with Federal stakeholders in a tribal Initiative. The recurrent recommended “common pitfalls to avoid” from those Federal stakeholders polled are set forth herein for our training purposes. It is important to note that the recommended “common pitfalls to avoid” set forth herein are by no means an exhaustive list. After our review of these “common pitfalls to avoid,” though, you will have an opportunity to recommend any additional “common pitfalls to avoid” in working with Federal stakeholders that you think would benefit your colleagues in this course.

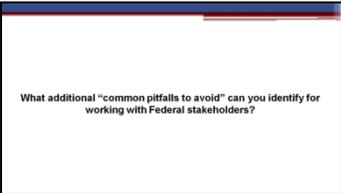
Lack of Trust

A common pitfall when working with Federal stakeholders in a tribal Initiative concerns non-Federal stakeholders who are unwilling to interact with the Federal stakeholders with an open mind. In order for a tribal Initiative to be successful, you must be willing to deal with the Federal stakeholders within your region with an open mind, and a willingness to give those Federal stakeholders an opportunity to earn your trust concerning cross jurisdictional issues.

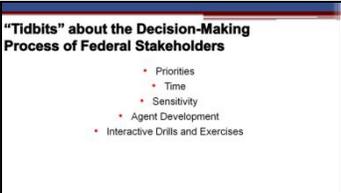
Lack of Understanding Concerning Limitations

A common pitfall when working with Federal stakeholders in a tribal Initiative concerns non-Federal stakeholders who fail to understand that Federal stakeholders have certain limitations on what they can do to assist with efforts. Those limitations are defined by enactments of Congress and the doctrines of the Department of Justice,

and not by the Federal stakeholders themselves. Unfortunately, a failure to understand that certain limitations exist often breeds unwarranted animosity between stakeholders in a region, which may in turn undermine the tribal Initiative.



What additional “common pitfalls to avoid” can you identify in working with Federal stakeholders?



“Tidbits” about the Decision-Making Process of Federal Stakeholders

Representatives from several Federal stakeholders were polled concerning “tidbits” that they felt were insightful for working with Federal stakeholders in a tribal Initiative. The recurrent “tidbits” from those Federal stakeholders polled are set forth herein for our training purposes. It is important to note that the “tidbits” set forth herein are by no means an exhaustive list. After our review of these “tidbits,” though, you will have an opportunity to recommend any additional “tidbits” about the decision-making process of Federal stakeholders that you think would benefit your colleagues in this course in their respective pursuit of developing collaborative partnerships.

Priorities

It is important to understand that the priorities of Federal stakeholders are largely dictated by Congress. Unfortunately, this sometimes leads to a discrepancy between more localized stakeholders and Federal stakeholders within a region. Having an understanding, though, from where the Federal priorities flow, will help suppress any

animosity that might be bred from any such discrepancies. This may in turn facilitate a joint effort stemming from the grass roots up to inform Congress of priority changes that are needed to be made on a basis.

Time

It is important to understand that running issues up the Federal stakeholder chain-of-command often takes time, and therefore you need to be persistent and patient. There are many levels to the Federal chain-of-command. Often times, more localized stakeholders may not be aware that there are so many levels, as they are use to their respective smaller chains-of-command. Needless to say, the more levels of command through which an issue must be run, the more time it will take to get the Federal stakeholder's decision. Having an understanding, though, of the time involved will help you realize that if you are patient and persistent you should eventually have a decision.

Sensitivity

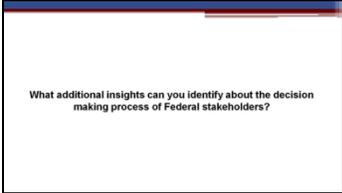
It is important to understand that given the recent natural disasters and terrorist attacks, such as Hurricane Katrina and the September 11, 2001 attacks reviewed in the Opening Scenarios section of this course, there are certain sensitivities within Federal stakeholders for making sure that issues are done right. Having this understanding should help garner your trust of the Federal stakeholders within your region with regard to cross jurisdictional issues.

Agent Development

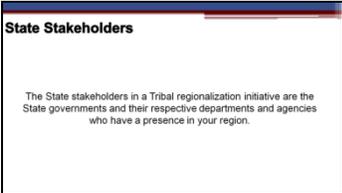
It is important to understand that local Federal agents are often rotated in and out of Federal stakeholder offices to help further develop those agents by providing them with diverse experiences and training, and not to undermine local relationships. As such, it is important to maintain regular contact with the Federal stakeholders within your region, and to request departing agents to initiate the communication between you and the replacement agent prior to the departing agent's actual departure.

Interactive Drills and Exercises

It is important to understand that the interactive drills and exercises offered by Federal stakeholders are geared in part toward demonstrating the Federal decision making processes that occur during major public safety events or terrorist attacks. Therefore, by participating in such interactive drills and exercises, non-Federal stakeholders are enabled to develop a greater understanding of the Federal decision-making process.



What additional insights can you identify about the decision making process of Federal stakeholders?



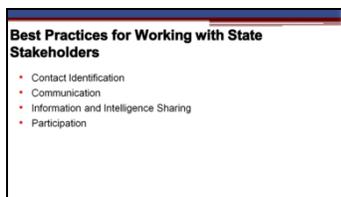
State Stakeholders

The State stakeholders in a tribal justice initiative are the State governments and their respective departments and agencies who have a presence in your region. There are subtle differences from state to State concerning the departments and agencies that comprise a State government. All States, though, have many departments dedicated to quality of life matters. These departments are a good starting point for identifying all of the other departments and agencies within a State that should be included as a stakeholder in a tribal Initiative.

In pursuing your tribal Initiative, it is important that you reach out to the many departments of each State with a presence in your region.

Who are the State stakeholders in your region?

To assist you with reaching out to State stakeholders in your tribal Initiative, we will again turn our training to some recommended “best practices” for working with State stakeholders, “common pitfalls to avoid” in working with State stakeholders, and “tidbits” for understanding the decision-making process of State stakeholders. As you will see, there is some overlap between the recommendations for working with Federal stakeholders versus those for working with State stakeholders; particularly, those recommendations concerning contact identification, communication, information and intelligence sharing, interactive drills and exercises, and time. Such overlap further demonstrates the importance of these types of “best practices,” “common pitfalls to avoid,” and/or “tidbits” for understanding.



Best Practices for Working with State stakeholders

Representatives from several State stakeholders were polled concerning “best practices” that they would recommend for working with State stakeholders in a tribal Initiative. The recurrent recommended “best practices” from those State stakeholders polled are set forth herein for our training purposes. It is important to note that the recommended “best practices” set forth herein are by no means an exhaustive list. After our review of these “best practices” though, you will have an opportunity to recommend any additional “best practices” for working with State stakeholders that you think would benefit your colleagues in this course.

Contact Identification

It is a best practice when working with State stakeholders in a tribal Initiative to identify the contact person or persons with whom the State stakeholders are to communicate concerning quality of life matters. By knowing who to contact and how to contact them, the State stakeholders are placed in a better position to communicate with the other stakeholders in a tribal Initiative.

Communication

It is a best practice when working with State stakeholders in a tribal Initiative to communicate regularly with each State stakeholder. Regular communications help to nurture and foster your relationships with the State stakeholder. In-person communications are especially helpful and productive. Most State stakeholders, though, are also available to communicate electronically. By having regular channels

of communication with the State stakeholders within your region, the likelihood that your tribal Initiative will be a sustainable success are greatly increased.

Information and Intelligence Sharing

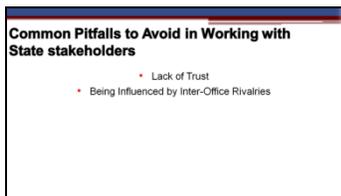
It is a best practice when working with State stakeholders in a tribal Initiative to share information and intelligence pertinent to community matters. If you are unwilling to share your capabilities information and law enforcement intelligence with the State stakeholders in your region, than the opportunities for collaboration with and assistance from those State stakeholders will be greatly compromised.

Participation

It is a best practice when working with State stakeholders in a tribal Initiative to participate actively in meetings, briefings, and practice exercises offered by the State stakeholders within your region. Participation in such meetings, briefings and exercises help to foster your relationships with the State stakeholders in your region, while making you better prepared to prevent, protect against, respond to, and recover from major events. In addition, team-building exercises help develop trust which is a prerequisite for a sustainable tribal Initiative.



What additional “best practices” can you identify for working with State stakeholders?



Common Pitfalls to Avoid in Working with State stakeholders.

Representatives from several State stakeholders were polled concerning “common pitfalls to avoid” in working with State stakeholders in a tribal Initiative. The recurrent recommended “common pitfalls to avoid” from those State stakeholders polled are set forth herein for our training purposes. It is important to note that the recommended “common pitfalls to avoid” set forth herein are by no means an exhaustive list. After our review of these “common pitfalls to avoid” though, you will have an opportunity to recommend any additional “common pitfalls to avoid” in working with State stakeholders that you think would benefit your colleagues in this course.

Lack of Trust

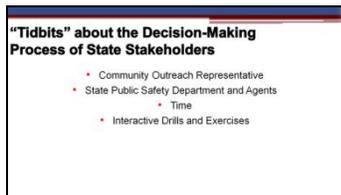
A common pitfall when working with State stakeholders in a tribal Initiative concerns non-State stakeholders who are unwilling to interact with the State stakeholders with an open mind. In order for a tribal Initiative to be successful, you must be willing to deal with the State stakeholders within your region with an open mind, and a willingness to give those State stakeholders an opportunity to earn your trust.

Being Influenced by Inter-Office Rivalries

A common pitfall when working with State stakeholders is being influenced by rivalries. In order for a tribal Initiative to be successful, all rivalries must give way to reciprocal cooperation and respect.



What additional “common pitfalls to avoid” can you identify in working with State stakeholders?



"Tidbits" about the Decision-Making Process of State stakeholders

Representatives from several State stakeholders were polled concerning "tidbits" that they felt were insightful for working with State stakeholders in a tribal Initiative. The recurrent "tidbits" from those State stakeholders polled are set forth herein for our training purposes. It is important to note that the "tidbits" set forth herein are by no means an exhaustive list. After our review of these "tidbits" though, you will have an opportunity to recommend any additional "tidbits" about the decision-making process of State stakeholders that you think would benefit your colleagues in this course.

Community Outreach Representative

It is important to understand that many States have a community outreach representative. Oftentimes, the community outreach representative of a State can help guide you through the decision-making process for that representative's State. Therefore, it is important to develop a relationship with the community outreach representative for the State within whose geographical boundaries your county or tribal lands are located. It may also be advantageous to develop a relationship with the community outreach representative for any other State participating within your tribal Initiative, so that you have a better understanding of the decision-making process within each such State.

State Public Safety Departments and Agents

It is important to understand that each State stakeholder has a Public Safety department and/or agent designated to handle the community matters within that State. This department and/or agent are some of the best points of contact when coordinating and communicating with a State stakeholder about a tribal Initiative.

Time

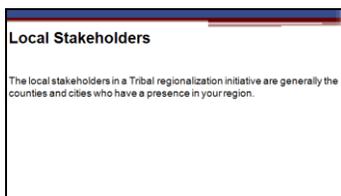
It is important to understand that the decision making process within many State stakeholders often takes time. Not only are there certain levels to the decision-making process within any given State stakeholder, but politics and public policies often have an impact on the speed with which decisions are made. Therefore, it is important to be persistent and patient when waiting on a decision from a State stakeholder.

Interactive Drills and Exercises

It is important to understand that the interactive drills and exercises offered by State stakeholders are geared in part toward demonstrating each State’s decision making process that occurs during natural disasters or terrorist attacks. Therefore, by participating in such interactive drills and exercises, you will be able to develop a greater understanding of each State’s decision-making process.



What additional insights about the decision making process of State stakeholders can you identify?



Local Stakeholders

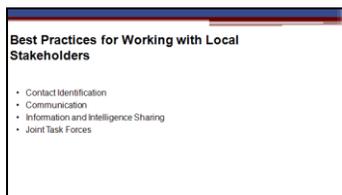
The local stakeholders in a tribal Initiative are generally the counties and cities who have a presence in your region. Each such county or city has its own government, and that government may be comprised of any number of departments, agencies, boards, commissions, management districts or other governmental units. Departments concerned with quality of life issues are a good starting point for identifying all of the other governmental units within a county or city that should be included as a local stakeholder in a tribal Initiative.

In pursuing your tribal Initiative, it is important that you reach out to local law enforcement and other public safety departments of each city or county with a presence in your region.



Who are the local stakeholders in your region?

To assist you with reaching out to local stakeholders in your tribal Initiative, we will again turn our training to some recommended “best practices” for working with local stakeholders, “common pitfalls to avoid” in working with local stakeholders, and “tidbits” for understanding the decision-making process of local stakeholders. As you will see, there is some overlap between the recommendations for working with Federal stakeholders versus those for working with State stakeholders versus those for working with local stakeholders; particularly, those recommendations concern contact identification, communication, and information and intelligence sharing. Such overlap further demonstrates the importance of these types of “best practices,” “common pitfalls to avoid,” and/or “tidbits” for understanding.



Best Practices for Working with Local Stakeholders

Representatives from several local stakeholders were polled concerning “best practices” that they would recommend for working with local stakeholders in a tribal Initiative. The recurrent recommended “best practices” from those local stakeholders polled are set forth herein for our training purposes. It is important to note that the recommended “best practices” set forth herein are by no means an exhaustive list. After our review of these “best practices,” though, you will have an opportunity to recommend any additional “best practices” for working with local stakeholders that you think would benefit your colleagues in this course.

Contact Identification

It is a best practice when working with local stakeholders in a tribal Initiative to identify the contact person or persons with whom the local stakeholders are to communicate concerning cross jurisdictional matters. By knowing who to contact and how to contact them, the local stakeholders are placed in a better position to communicate with the other stakeholders in a tribal Initiative.

Communication

It is a best practice when working with local stakeholders in a tribal Initiative to communicate regularly with each local stakeholder. Regular communications help to nurture and foster your relationship with the local stakeholder. In-person communications are especially helpful and productive. Most local stakeholders, though, are also available to communicate electronically. If communicating electronically with a local stakeholder, then one must be cognizant, particularly in the early stages of the relationship, that written communications are sometimes misconstrued due to cultural, environmental, and/or historical differences. By having regular channels of communication with the local stakeholders within your region, the likelihood that your tribal Initiative will be a sustainable success are greatly increased.

Information and Intelligence Sharing

It is a best practice when working with local stakeholders in a tribal co initiative to share information and intelligence pertinent to community matters. If you are unwilling to share your capabilities information and law enforcement intelligence with the local stakeholders in your region, then the opportunities for collaboration with and assistance from those local stakeholders will be greatly compromised.

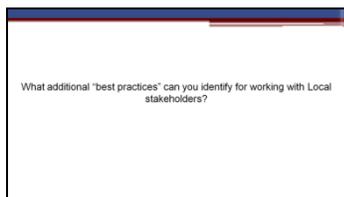
Joint Task Forces

It is a best practice when working with local stakeholders in a tribal Initiative to help organize and actively participate in joint task forces. Joint task forces promote mutual aid, team building and partnerships. For example, Joint Terrorism Task Forces (JTTFs) have been formed by the FBI to maximize interagency cooperation and

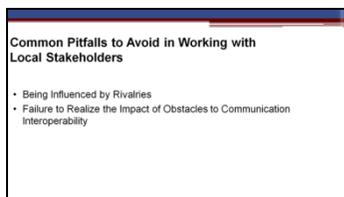
coordination to create cohesive units capable of addressing criminal problems within the U.S.

Community Based Principles

It is a best practice when working with local stakeholders in a tribal Initiative to realize the importance of the communities' principles and the impact that it can have in making collaborative efforts more successful.



What additional “best practices” can you identify for working with local stakeholders?



Common Pitfalls to Avoid in Working with Local Stakeholders

Representatives from several local stakeholders were polled concerning “common pitfalls to avoid” in working with local stakeholders in a tribal Initiative. The recurrent recommended “common pitfalls to avoid” from those local stakeholders polled are set forth herein for our training purposes. It is important to note that the recommended “common pitfalls to avoid” set forth herein are by no means an exhaustive list. After our review of these “common pitfalls to avoid,” though, you will have an opportunity to recommend any additional “common pitfalls to avoid” in working with local stakeholders that you think would benefit your colleagues in this course.

Being Influenced by Rivalries

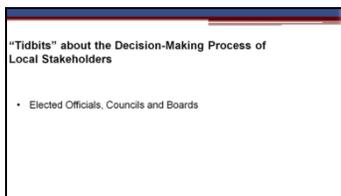
A common pitfall when working with local stakeholders is being influenced by rivalries. In order for a tribal Initiative to be successful, all rivalries must give way to reciprocal cooperation and respect.

Failure to Realize the Impact of Obstacles to Communication Interoperability

A common pitfall when working with local stakeholders is failing to realize that a local stakeholder’s failure to regularly communicate and assist may be attributable to obstacles that limit the local stakeholders ability to interoperable communicate with other local and tribal stakeholders, as opposed to that local stakeholder’s unwillingness to communicate and assist. Such obstacles may entail spectrum limitations, lack of frequencies, incompatible equipment, technology gaps, and service provider limitations, among others. By participating in a tribal Initiative, though, the local and tribal stakeholders within a region will be able to work together and pool their resources and capabilities in an attempt to eliminate any communication gaps.



What additional “common pitfalls to avoid” can you identify in working with local stakeholders?



“Tidbits” about the Decision-Making Process of Local Stakeholders

Representatives from several local stakeholders were polled concerning “tidbits” that they felt were insightful for working with local stakeholders in a tribal Initiative. The recurrent “tidbits” from those local stakeholders polled are set forth herein for our training purposes. It is important to note that the “tidbits” set forth herein are by no means an exhaustive list. After our review of these “tidbits,” though, you will have an opportunity to recommend any additional “tidbits” about the decision-making process of local stakeholders that you think would benefit your colleagues in this course.

Elected Officials, Councils and Boards

It is important to understand that most local stakeholders have elected officials, councils or boards. Most of these elected officials, councils, and boards have certain procedures with which they must comply in reaching decisions. These procedures often take time, and at times, may involve politics and public policy. Therefore, it is important to be patient.

What additional insights can you identify about the decision making process of local stakeholders?

What additional insights can you identify about the decision making process of local stakeholders?

Private or Non-Governmental Stakeholders

The private or non-governmental stakeholders in a Tribal regionalization initiative pertain to any entity that is privately ran and/or not formally related to any Federal, State, local or Tribal government.

Private or Non-Governmental Stakeholders

The private or non-governmental stakeholders in a tribal Initiative pertain to any entity that is privately ran and/or not formally related to any Federal, State, local or tribal government. Private and non-governmental stakeholders come in a variety of forms. Other types of private or non-governmental stakeholders who may have an interest in a tribal Initiative include, but are not in any way limited to, the National Congress of American Indians, the American Red Cross, the National Sheriffs' Association, various Associations of Chiefs of Police, and various Law Enforcement Technology organizations. Such private or non-governmental stakeholders may be beneficial to your tribal Initiative, as they have certain field expertise and liaison capabilities. In addition, private organizations own approximately 80-85% of the critical infrastructure located within the geographical boundaries of the United States and have a vested interest in quality of life issues.⁶

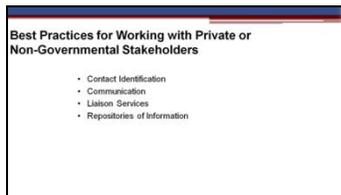
In pursuing your tribal Initiative, it is important that you reach out, in the early phases of your initiative, to private or non-governmental stakeholders.



Who are the private or non-governmental stakeholders in your region?

To assist you with reaching out to private and non-governmental stakeholders in your tribal Initiative, we will again turn our training to some recommended “best practices” for working with private or non-governmental stakeholders, “common pitfalls to avoid” in working with private or non-governmental stakeholders, and “tidbits” for understanding the decision-making process of private or non-governmental stakeholders.

⁶ See http://www.dhs.gov/xnews/speeches/speech_0091.shtm.



Best Practices for Working with Private or Non-Governmental Stakeholders

Representatives from several private or non-governmental stakeholders were polled concerning “best practices” that they would recommend for working with private or non-governmental stakeholders in a tribal Initiative. The recurrent recommended “best practices” from those stakeholders polled are set forth herein for our training purposes. It is important to note that the recommended “best practices” set forth herein are by no means an exhaustive list. After our review of these “best practices,” though, you will have an opportunity to recommend any additional “best practices” for working with private or non-governmental stakeholders that you think would benefit your colleagues in this course.

Contact Identification

It is a best practice when working with private or non-governmental stakeholders in a tribal Initiative to identify the contact person or persons with whom the private or non-governmental stakeholders are to communicate concerning quality of life matters. By knowing who to contact and how to contact them, the private or non-governmental stakeholders are placed in a better position to communicate with the other stakeholders in a tribal Initiative.

Communication

It is a best practice when working with private or non-governmental stakeholders in a tribal Initiative to communicate regularly with each private or non-governmental stakeholder. Regular communications help to nurture and foster your relationship with the private or non-governmental stakeholder. In-person communications are especially helpful and productive. Most private or non-governmental stakeholders, though, are also available to communicate electronically. By having regular channels of communication with the private or non-governmental stakeholders within your region, the likelihood that your tribal Initiative will be a sustainable success are greatly increased.

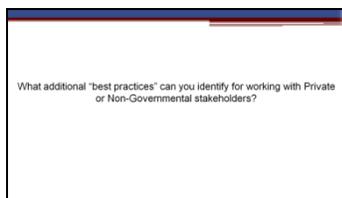
Liaison Services

It is a best practice to realize that private or non-governmental stakeholders often have established contacts with other stakeholders in a tribal Initiative, or otherwise, have the capabilities to establish those contacts. Therefore, it is often a best practice

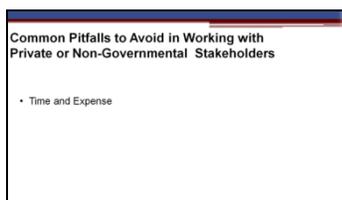
to utilize private or non-governmental stakeholders as liaisons for working with the other stakeholders in a tribal Initiative.

Repositories of Information

It is a best practice to realize that private or non-governmental stakeholders are often repositories of information in the fields of their respective expertise. For instance, there are several private or non-governmental stakeholders who serve on advisory boards for the Department of Justice. Such private or non-governmental stakeholders are particularly beneficial in a tribal Initiative.



What additional recommended “best practices” can you identify for working with private or non-governmental stakeholders?



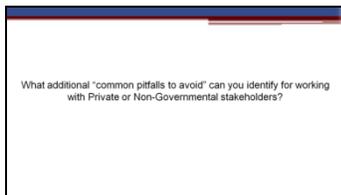
Common Pitfalls to Avoid in Working with Private or Non-Governmental Stakeholders

Representatives from several private or non-governmental stakeholders were polled concerning “common pitfalls to avoid” in working with private or non-governmental stakeholders in a tribal Initiative. The recurrent recommended “common pitfalls to avoid” from those stakeholders polled are set forth herein for our training purposes. It is important to note that the recommended “common pitfalls to avoid” set forth herein are by no means an exhaustive list. After our review of these “common pitfalls to avoid,” though, you will have an opportunity to recommend any additional “common pitfalls to

avoid” in working with private or non-governmental stakeholders that you think would benefit your colleagues in this course in their respective pursuit of tribal Initiatives.

Time and Expense

A common pitfall when working with private or non-governmental stakeholders is failing to realize that they must expend their own time and resources to participate in a tribal Initiative. A failure by the governmental stakeholders to realize the time and expense incurred by private or non-governmental stakeholders in a tribal Initiative can impose a hardship on the private or non-governmental stakeholder unless the governmental stakeholders provide grants or other funding to enable each private or non-governmental stakeholder to participate.



What additional recommended “common pitfalls to avoid” can you identify in working with private or non-governmental stakeholders?



“Tidbits” about the Decision-Making Process of Private or Non-Governmental Stakeholders

Representatives from several private or non-governmental stakeholders were polled concerning “tidbits” that they felt were insightful for working with private or non-governmental stakeholders in a tribal Initiative. The recurrent “tidbits” from those stakeholders polled are set forth herein for our training purposes. It is important to note that the “tidbits” set forth herein are by no means an exhaustive list. After our review of

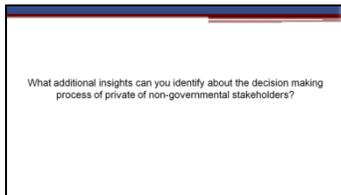
these “tidbits,” though, you will have an opportunity to recommend any additional “tidbits” about the decision-making process of private or non-governmental stakeholders that you think would benefit your colleagues in this course.

Neutrality

It is important to understand that private or non-governmental stakeholders are not as susceptible to political and public policy issues. Therefore, they are often viewed by the stakeholders within a tribal Initiative as a neutral facilitator.

Quick Decisions

It is important to understand that private or non-governmental stakeholders are generally capable of making quick decisions. This is largely attributable to the fact that private or non-governmental stakeholders are not susceptible to the governmental processes and the statutory checks and balances inherent therein. Some private or non-governmental stakeholders do have boards of directors, though, who must pass resolutions before the private or non-governmental stakeholder can act.



What additional insights can you identify about the decision making process of private or non-governmental stakeholders?



Module 5 Wrap-Up

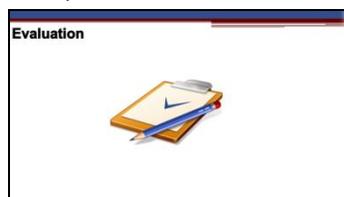
Participants should be able to:

- 5.1 Discuss Best Practices, Pitfalls and tidbits that apply to all stakeholders.
- 5.2 Review successful past and ongoing collaboration projects, with their respective MOU/MOA, other documents
- 5.3 Plan a tribal justice collaboration first-steps meeting to be held in the jurisdiction



Module 5 Post-Test

1. Identified Best Practices are always the same for each stakeholder.
 - a) True
 - b) False
2. The first step in planning a tribal justice meeting is
 - a) Identifying potential partners and stakeholder
 - b) Assigning roles and responsibilities
 - c) Electing board members
 - d) Writing comprehensive reports
3. Cultural misunderstanding is usually not a pitfall when working with non tribal partnerships.
 - a) True
 - b) False



Evaluations

APPENDIX

Appendix: Qwizdom Action Point Guide

How to use the Qwizdom:



1. *Send* key-press to submit answer
2. *Menu* [power] key-press to view menu options (use the scroll keys to scroll through options and press *Send* key to select the option). Holding the *Menu* button for two seconds will turn the remote on/off. The remotes do not automatically turn off. Turn off remotes if they are not in use. *Search*, *Sess. ID*, and *User ID*, and *Exit* are options available in the Menu. When you're in presentation, the menu items are *Help*, *Login User Id*, and *Exit*.
3. *Help*-press *Menu* during presentation to request help.
4. *Clear* [C] key-press to delete response
5. *Scroll* keys-to scroll through menu options or answer choices
6. *True/Yes* and *False/No* keys--use to answer True/False and Yes/No questions

Appendix: Exemplar Memorandum of Understanding (MOU)

This Memorandum of Understanding (“MOU”) is entered into on this ____ day of _____, 2008 [Note: You should insert here the specific date for your MOU.], by the following stakeholders: [Note: You should insert here the identity of each stakeholder participating in your tribal justice initiative.], and any other stakeholder who may lawfully join from time to time as will be reflected by an assigned numbered signatory page that will become an addendum to this MOU (collectively “the Stakeholders”).

WITNESSTH

WHEREAS, the Stakeholders have devised the _____ [Note: You should insert here the identity of your tribal justice initiative.], which is collaborative approach to tribal justice with special emphasis on working together to achieve the goal of preparedness, prevention, response and recovery, and targeted capabilities of, but not limited to: interoperable communications, intelligence and information sharing, and critical infrastructure and key resource protection in the Stakeholders’ Region [Note: This is an example overview of a strategic plan for a tribal justice initiative. You should tailor this overview to fit the strategic plan for your tribal justice initiative.];

WHEREAS, the State of _____ [Note: You should insert here the state stakeholder in your tribal justice initiative that intends to submit grant applications for funding the tribal justice initiative. If there are multiple state stakeholders in your tribal justice initiative, then you should repeat this paragraph for each state stakeholder.] intends to submit grant applications for funding from the Department of Justice and other funding sources for the implementation and performance of the _____ [Note: You should insert here the identity of your tribal justice initiative.] in coordination with the State of _____, the State of _____, and the State of _____ [Note: You should insert here the identity of all of the other state stakeholders who will also be submitting grant applications for funding your tribal justice initiative. If there are no other state stakeholders, then you should delete the “in coordination” phrase.];

WHEREAS, _____ [Note: You should insert here the identity of every Federal stakeholder that agrees to participate in your tribal justice initiative.] and all other Federal stakeholders who may lawfully join the _____ [Note: You should insert here the identity of your tribal justice initiative.] from time to time as will be reflected by an assigned numbered signatory page that will become an addendum to this MOU, each agree to use their respective best initiatives to fully participate and cooperate in the _____ [Note: You should insert here the identity of your tribal justice initiative.] should funding be obtained from the Department of Justice and other funding sources for the _____ [Note: You should insert here the identity of your tribal justice initiative.];

WHEREAS, _____ [Note: You should insert here the identity of every state stakeholder that agrees to participate in your tribal justice initiative.] and all other state stakeholders who may lawfully join the _____ [Note: You should insert here the identity of your tribal justice initiative.] from time to time as will be reflected by an assigned numbered signatory page that will become an addendum to this MOU, each agree to use their respective best initiatives to fully participate and cooperate in the _____ [Note: You should insert here the identity of your tribal justice initiative.] should funding be obtained from the Department of Homeland Security and other funding sources for the _____ [Note: You should insert here the identity of your tribal justice initiative.];

WHEREAS, _____ [Note: You should insert here the identity of every local stakeholder that agrees to participate in your tribal justice initiative.] and all other local stakeholders who may lawfully join the _____ [Note: You should insert here the identity of your tribal justice initiative.] from time to time as will be reflected by an assigned numbered signatory page that will become an addendum to this MOU, each agree to use their respective best initiatives to fully participate and cooperate in the _____ [Note: You should insert here the identity of your tribal justice initiative.] should funding be obtained from the Department of Justice and other funding sources for the _____ [Note: You should insert here the identity of your tribal justice initiative.];

WHEREAS, _____ [Note: You should insert here the identity of every tribal stakeholder that agrees to participate in your tribal justice initiative.] and all other tribal stakeholders who may lawfully join the _____ [Note: You should insert here the identity of your tribal justice initiative.] from time to time as will be reflected by an assigned numbered signatory page that will become an addendum to this MOU, each agree to use their respective best initiatives to fully participate and cooperate in the _____ [Note: You should insert here the identity of your tribal justice initiative.] should funding be obtained from the Department of Justice and other funding sources for the _____ [Note: You should insert here the identity of your tribal justice initiative.];

WHEREAS, the Stakeholders agree that _____ [Note: You should insert here the identity of the private or non-governmental organization that is to serve as liaison for your tribal justice initiative. If there will be multiple private or non-governmental organizations serving as liaisons, then you should repeat this paragraph for each specific organization.] will serve as liaison for the _____ [Note: You should insert here the identity of your tribal justice initiative.] and will coordinate and facilitate meetings and conferences and act as the overall point of contact for the Stakeholders should funding be obtained from the Department of Justice and other funding sources for the _____ [Note: You should insert here the identity of your tribal justice initiative.]; and

WHEREAS, _____ [Note: You should insert here the identity of the private or non-governmental stakeholder that has agreed to serve as a liaison for your tribal justice initiative. If more than one organization has agreed to serve as liaison, then you should repeat this paragraph for each organization.] agrees to use its best initiatives to serve as liaison and to coordinate and facilitate all _____ [Note: You should insert here the identity of your tribal justice initiative.] meetings and conferences and act as the overall point of contact for the

Stakeholders should funding be obtained from the Department of Justice and other funding sources for the _____ [Note: You should insert here the identity of your tribal justice initiative].

NOW, THEREFORE, the Stakeholders hereto, in consideration of the premises set forth above, agree and consent that they will each cooperate, support, collaborate, administer, perform, and otherwise work together in developing the _____ [Note: You should insert here the identity of your tribal justice initiative.], and in performing the _____ [Note: You should insert here the identity of your tribal justice initiative.] should funding be obtained from the Department of Justice and other funding sources for the _____ [Note: You should insert here the identity of your tribal justice initiative].

Stakeholder Signature Page 1

By signing this Agreement you affirmatively state that you have the authority to sign this MOU on behalf of _____. [Note: You should insert here the identity of the stakeholder on whose behalf the person signing this page is executing this Agreement.]

[Note: You should insert here the following information: the name and title of the person signing this agreement, the identity of the stakeholder for whom the person is executing this agreement, and the date the person signed this agreement.]

[Note: You should repeat this Stakeholder Signature Page for each stakeholder in your tribal justice initiative. As you repeat, you should number each Stakeholder Signature Page consecutively, starting with the Number 1.]

Appendix: Exemplar Memorandum of Organizational Structure and Modus Operandi

EXEMPLAR ORGANIZATIONAL STRUCTURE AND MODUS OPERANDI

[Note: This is an exemplar of an Organizational Structure and Modus Operandi document that might be used in a tribal justice initiative. The hypothetical tribal justice initiative in this document has been named the “XYZ REGION.”]

I. ORGANIZATIONAL STRUCTURE

A. Overview

The XYZ REGION utilizes an innovative participatory management structure. The XYZ REGION management structure is comprised of the following: (a) the Primary Organizations; (b) the Specialized Working Groups; and (c) the Liaison. Each is further specified below.

B. XYZ REGION Primary Organizations

The XYZ REGION Primary Organizations are: (a) the XYZ REGION Management Board; (b) the XYZ REGION Management Advisory Committee; and (c) the XYZ REGION Fiscal Advisory Committee. Each is further specified below.

1. XYZ REGION Management Board

The XYZ REGION Management Board shall be the ultimate decision making and management organization for the XYZ REGION. The Board shall consist of twelve directors comprising a representative sample of the Federal, state, local, and tribal stakeholders located within the XYZ REGION. Once assembled, the Board shall adopt a set of bylaws. The bylaws shall prescribe the operation and voting procedures, among other things, of the Board.

2. XYZ REGION Management Advisory Committee

The XYZ REGION Management Advisory Committee shall function as the management information system for the XYZ REGION Management Board. This Committee shall be comprised of representatives from each participating XYZ REGION stakeholder. Each representative shall be appointed by the respective state, local, or tribal stakeholder for whom each member represents. It is recommended that each member appointee be versed in tribal justice issues. Once assembled, this Committee shall adopt a set of guidelines. These guidelines shall prescribe the operation and voting procedure of this Committee.

3. XYZ REGION Fiscal Advisory Committee

The XYZ REGION Fiscal Advisory Committee shall function as the fiscal information system for the XYZ REGION Management Board. This Committee shall be comprised of one representative from each of the state stakeholders participating in the XYZ REGION. It is recommended that each state's representative be that state's State Administrative Agency representative. Of note, only state stakeholders located within the XYZ REGION shall have representative members on the XYZ REGION Fiscal Advisory Committee, as per the current legislation and dictates of the Department Justice, Justice funding to be used for the XYZ REGION is to be administered through the states. Once assembled, this Committee shall adopt

a set of guidelines. These guidelines shall prescribe the operation and voting procedure of this Committee.

C. XYZ REGION Specialized Working Groups

The XYZ REGION Management Advisory Committee and the XYZ REGION Fiscal Advisory Committee may utilize Specialized Working Groups to aid them in the performance of their respective "Project Tasks" discussed in Section II below. Each Specialized Working Group shall be assembled by the XYZ REGION Liaison, and composed of Federal, state, local, tribal, and/or private or non-governmental stakeholders who have specialized expertise on particular issues pertinent to Justice strategies.

D. XYZ REGION Liaison

The XYZ REGION Liaison shall be responsible for coordinating and facilitating the following within the XYZ REGION structure: (a) the operation and performance of each XYZ REGION Primary Organization; (b) the interaction between the XYZ REGION Primary Organizations; (c) the assembly and performance of the XYZ REGION Specialized Working Groups; (d) the interaction between the XYZ REGION Specialized Working Groups and the XYZ REGION Primary Organizations; and (e) the interaction of the XYZ REGION Management Board with the Department of Justice. The XYZ REGION Liaison shall be a private or non-governmental organization with liaison expertise.

II. XYZ REGION MODUS OPERANDI

A. Overview

The premise of the Modus Operandi for the XYZ REGION is TEAM -- Together Everyone Achieves More. As such, in the XYZ REGION the XYZ REGION Federal, state, local, tribal and private or non-governmental stakeholders shall work together in teams within the XYZ REGION management structure to perform several "Project Tasks" in pursuit of gap analysis and gap elimination in the XYZ REGION. The XYZ REGION Liaison shall coordinate and facilitate the performance of these "Project Tasks" in accordance with the management structure established for the XYZ REGION. The XYZ REGION "Project Tasks" are discussed in more detail below.

B. XYZ REGION "Project Tasks"

Project Task 1 – Identification of Capability-Based Projects for the XYZ REGION

"Project Task 1" includes the identification of the capability-based projects needed to be performed within the XYZ REGION. These tasks are identified based upon a gap analysis assessment derived from uniform research conducted on each stakeholder's respective homeland security capabilities and preparedness.

Project Task 2 -- Information Gathering, Findings/Recommendations Preparation, and Proposal Development by the XYZ REGION Management Advisory Committee

"Project Task 2" includes information gathering, finding and recommendations preparation, and proposal development for each of the capability-based projects identified for the XYZ REGION. "Project Task 2" for each capability based project identified shall be performed by the XYZ REGION Management Advisory Committee. The XYZ REGION Liaison shall coordinate and facilitate the operation and performance of the XYZ REGION Management Advisory Committee for the "Project Task 2." In addition, the XYZ REGION Management Advisory Committee shall have Specialized Working Groups assembled by the XYZ REGION

Liaison to provide the Committee with specialized information the Committee needs for the preparation of its findings and recommendations, and for the development of its proposal.

Project Task 3 -- XYZ REGION Management Advisory Committee Presentations

"Project Task 3" includes presentations to be made by the XYZ REGION Management Advisory Committee to the XYZ REGION Management Board. These presentations shall pertain to the information gathered, the findings and recommendations prepared, and the proposals developed by the XYZ REGION Management Advisory Committee for each capability based project identified for the XYZ REGION. The XYZ REGION Liaison shall coordinate and facilitate the presentations between the XYZ REGION Management Advisory Committee and the XYZ REGION Management Board.

Project Task 4 -- XYZ REGION Management Board's Deliberations and Initial Resolutions

"Project Task 4" includes deliberations to be performed by the XYZ REGION Management Board, and initial resolutions to be issued by the XYZ REGION Management Board. More particularly, the Board shall deliberate on the information, findings, recommendations, and proposals presented to it by the XYZ REGION Management Advisory Committee. Thereafter, the Board shall vote and issue its initial resolutions on the proposals presented by the XYZ REGION Management Advisory Committee. With regard to each proposal presented, the Board shall issue one of the following three initial resolutions: (a) a "Preliminary Approval Resolution" ("PAR"); (b) an "Additional Advisement Resolution" ("AAR"); or (c) a "Denial Resolution" ("DR").

If the XYZ REGION Management Board issues a PAR with regard to a proposal of the XYZ REGION Management Advisory Committee, then the proposal is submitted to the XYZ REGION Fiscal Advisory Committee for its findings and recommendations regarding the fiscal feasibility of the proposal.

If the XYZ REGION Management Board issues an AAR with regard to a proposal of the XYZ REGION Management Advisory Committee, then the proposal is returned to the XYZ REGION Management Advisory Committee for performance by said Committee of additional "Project Task 2" work, which may thereafter parlay into additional "Project Task 3" work on said proposal.

If the XYZ REGION Management Board issues a DR with regard to a proposal of the XYZ REGION Management Advisory Committee, then the proposal is extinguished.

Project Task 5 -- Fiscal Feasibility Findings and Recommendations of the XYZ REGION Fiscal Advisory Committee

"Project Task 5" includes fiscal feasibility findings and recommendations to be prepared by the XYZ REGION Fiscal Advisory Committee. "Project Task 5" is performed on XYZ REGION Management Advisory Committee proposals on which the XYZ REGION Management Board has issued a PAR. The XYZ REGION Liaison shall coordinate and facilitate the operation and performance of the XYZ REGION Fiscal Advisory Committee for the "Project Task 5" work. In addition, the XYZ REGION Fiscal Advisory Committee may have Specialized Working Groups assembled by the XYZ REGION Liaison to provide the Committee with specialized information that the Committee needs for the preparation of its findings and

recommendations. The interaction between the assembled Specialized Working Groups and the XYZ REGION Fiscal Advisory Committee shall be coordinated and facilitated by the XYZ REGION Liaison.

Project Task 6 -- XYZ REGION Fiscal Advisory Committee Presentations

"Project Task 6" includes presentations to be made by the XYZ REGION Fiscal Advisory Committee to the XYZ REGION Management Board. These presentations shall pertain to the findings and recommendations prepared by the XYZ REGION Fiscal Advisory Committee on the fiscal feasibility of proposals on which the XYZ REGION Management Board issued a PAR. The XYZ REGION Liaison shall coordinate and facilitate the presentations between the XYZ REGION Fiscal Advisory Committee and the XYZ REGION Management Board.

Project Task 7 -- XYZ REGION Management Board's Deliberations and Final Resolutions

"Project Task 7" includes deliberations to be performed by the XYZ REGION Management Board, and final resolutions to be issued by the XYZ REGION Management Board. The Board shall deliberate on the findings and recommendations presented to it by the XYZ REGION Fiscal Advisory Committee pertaining to the proposals on which the Board previously issued a PAR. Thereafter, the Board shall vote and issue its final resolutions on the proposals. With regard to each proposal, the Board shall issue one of the following two final resolutions: (a) "Final Approval Resolution" ("FAR"); or (b) "Denial Resolution" ("DR").

When the XYZ REGION Management Board issues a FAR with regard to a proposal, then the proposal shall be implemented into the XYZ REGION. Of note, when a proposal is issued a FAR, the proposal may be in the form drafted by the XYZ REGION Management Advisory Committee or it may have modifications based upon fiscal feasibility. Any such modifications must be set forth in the FAR issued for the proposal by the XYZ REGION Management Board.

If the XYZ REGION Management Board issues a DR with regard to a proposal, then the proposal is extinguished.

Project Task 8 -- Implementation of Proposals Issued a FAR

"Project Task 8" includes implementation of proposals that have been issued a FAR by the XYZ REGION Management Board. The procedure for the actual implementation into the XYZ REGION of a given proposal shall be set forth in the proposal itself with any modifications thereto being identified in the FAR by the Board. The XYZ REGION Management Advisory Committee and the XYZ REGION Fiscal Advisory Committee shall provide oversight assistance for the XYZ REGION Management Board with regard to the implementation of each proposal issued a FAR. The XYZ REGION Liaison shall facilitate the implementation, and coordinate and facilitate the oversight assistance between the Board and the Committees.

TRIBAL GAP ANALYSIS PROCESS

The process of GAP Analysis is a systematic or step-by-step activity that provides structure to group discussions, strategic planning and logistical preparation. An important part of knowing needs or gaps is the process of identifying partners and establishing MOU/MOA's for new relationships and the shared services. The function of GAP Analysis will allow organizations and entities of government the opportunity to address the following important questions. These questions can relate to public safety, emergency preparedness or other government services.

How could I improve my performance?

How will I identify where to put my efforts?

What partners would be important?

Process for Needs and Capacity GAP Identification

The four steps of the GAP Analysis process are listed below. It is vital that the steps be followed in order.

1. Identify **Real Problems**
2. Identify **Desired Responses**
3. Identify **What Needs to be Done**
4. **Rate my Capacity to do the necessary functions Identify where to prioritize our effort**

GAP Analysis: Real Problems

Step #1: Identifying the real problem or need is the starting place for a GAP Analysis discussion. A problem/need statement must be concise, brief and easily understood. The problem should be one of substance and value, so that buy in from partners and community members may be accomplished. The problem should be focused so that specific services, geographical areas and determined community needs are addressed. All aspects of the problem must be discussed and analyzed. Issues such as cultural, traditions, economic conditions, etc. must always be included in the discussion and description of the real problem. This step provides the direction, motivation and solidifies the commitment to dedicate resources towards the solution of the identified problem. It is during this phase that everyone involved understands the problem and is motivated or inspired to find a solution.

Gap Analysis - Step 1

Real Problems/Issues List	<i>Cultural Competencies: Impacts</i>

GAP Analysis: Desired Responses

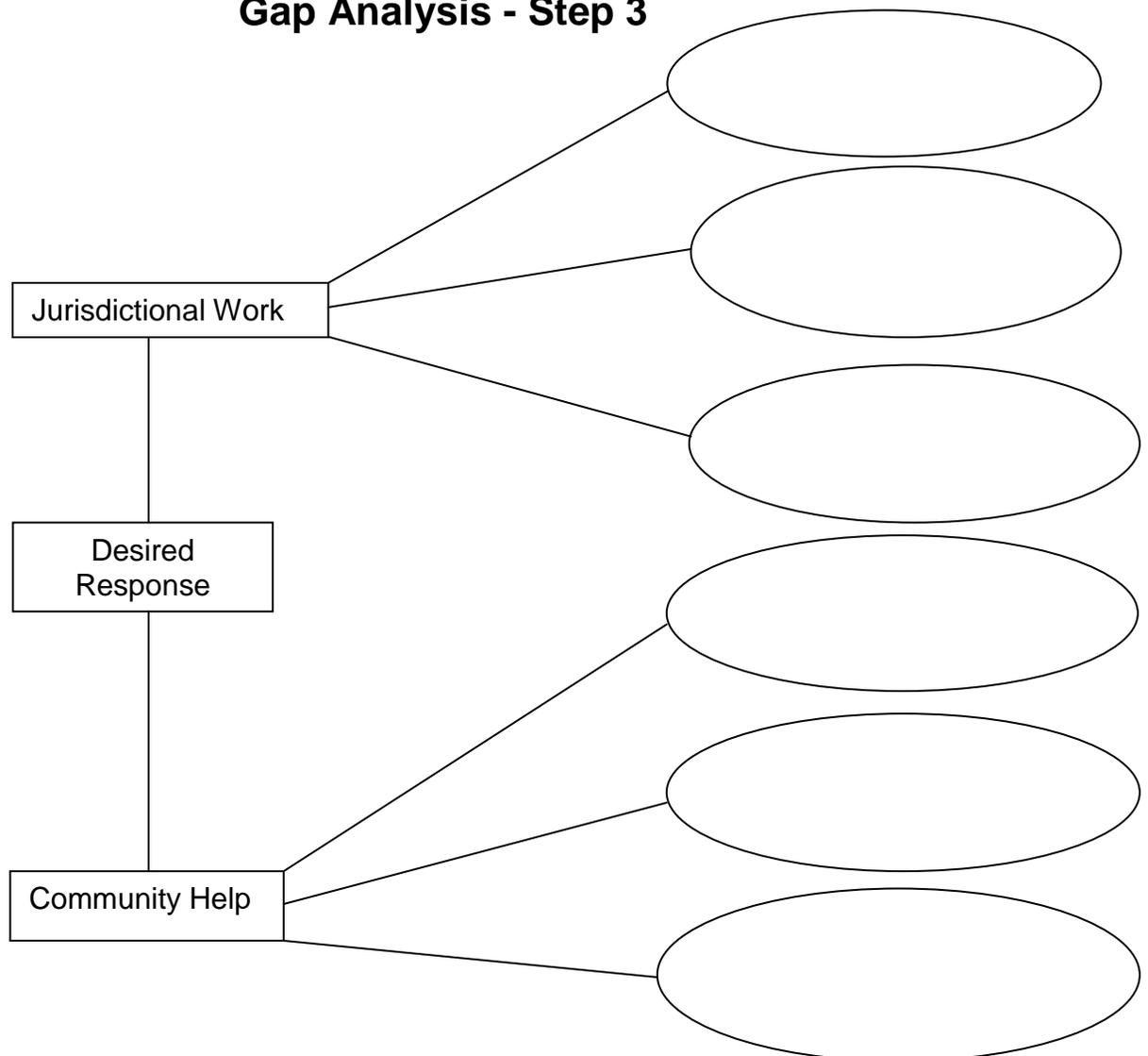
Step #2: Discovering the Desired Responses is usually the most difficult step because it seems to be out of sequence in the process. Most scenarios or projects present themselves with a step-by-step process to begin working on the problem. It is important in the GAP Analysis process to stop and acquire a picture of what success will look like. It is much easier to stay inspired or motivated if everyone has a clear picture of what the solution will mean to the community or jurisdiction. It is also easier to know the steps or tasks that are necessary if the picture of success is clearly displayed. This step in the process becomes the group's concept of operations for the actual work towards the solution.

Describe, by list format, your desired operational responses for this event	Notes

GAP Analysis: Actions/Tasks

Step #3: Now that success is described and everyone knows how the Desired Responses will benefit the community and jurisdiction, it is now possible to fill in our road map with the actions and tasks that will be necessary to accomplish the solution. These are the step-by-step actions/tasks or work that will be essential to achieve the desired response for the elimination of the problem. These action/tasks should be broken out into two sections. What will the jurisdiction be responsible for accomplishing and what can actions/tasks can be accomplished from partners in the community or other departments of government? A list of Actions/tasks should be developed for each desired response created in step #2. The format below is given as an example of one desired response.

Gap Analysis - Step 3



GAP Analysis: Needs & Capacity Rating

Step #4: This step is the actual formula for the GAP Analysis process. The group must now have a candid discussion concerning each of the actions/tasks that were identified in step #3. The first analysis is a needs discussion. This discussion is centered on the individual action/task's need for the success of solving the problem. The suggested rating is 1 through 5 with a 5 rating being very important to the solution and a 1 rating being not important at all. It is important to note in the needs rating process; every action/task should not be given a rating of 5 or very important. It is important to be subjective and realize that some action/tasks are more important to the accomplishment of the solution.

The second part of step #4 is the capacity rating. This is the opportunity to assign a value to your organization's capacity to perform the action/task today. The same numeric value as above is applied. A score of 5 is given if the organization is very capable of performing the action/task or a rating of 1 is given if it would be impossible to perform the action/task today.

Step #4 is completed when each action/task has a needs rating of 1 through 5 and a capacity rating of 1 through 5.

Gap Analysis - Step 4

Rate the need and capacity of your community

<p>Rate the "need" your jurisdiction has for this 0-5 scale 0-none, 5-high</p>	<p>Copy the list of actions/tasks specifically, developed from step #3.</p>	<p>Rate your community's actual "capacity" to do the work for each action/task. 0-5 scale</p>
	A	
	B	
	C	
	D	
	E	
	F	

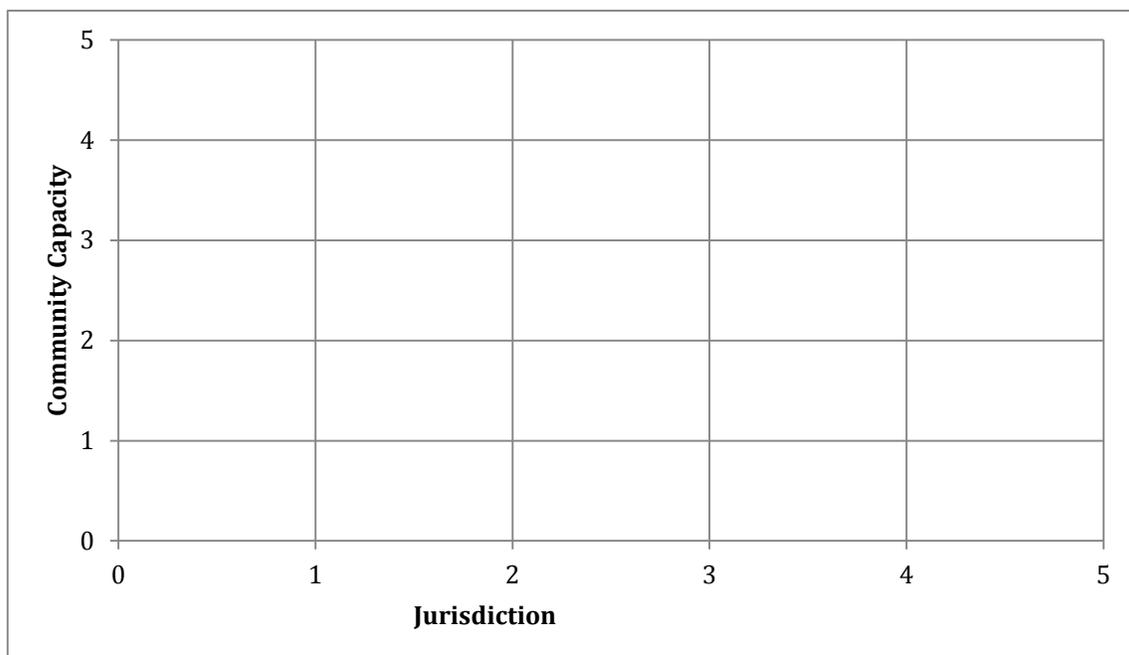
<p>Rate the “need” your jurisdiction has for this 0-5 scale 0-none, 5-high</p>	<p>Copy the list of actions/tasks specifically, developed from step #3.</p>	<p>Rate your community’s actual “capacity” to do the work for each action/task. 0-5 scale</p>
	G	
	H	
	I	
	J	

GAP Analysis: Plotting

Step#5: The plotting step of GAP Analysis is the visual completion of the entire process. The X and Y axis paper shown in the example will provide horizontal and vertical lines will provide intersections for the plotting of the needs and capacity values that were established for each action/task in step #4. The value from the needs column should be placed on the horizontal lines and the value from the capacity column should then be joined to the needs value on the intersecting vertical line.

Plot your priorities Tribal GAP Analysis Scenario

The following pages are intended to display a GAP Analysis process focused on the problem of a lack of collaboration and MOU agreements between fire departments within the region.



Gap Analysis - Step 1 (Figure 1)

Real Hazards/Issues List	<i>Cultural Competency Impacts</i>
Lack of collaboration among Fire Departments	
No MOU or MOA between tribal & County agencies	
No tribal government department for Fire Services	
Overcoming cultural and traditional differences	

Problem Statement: Fire service is almost non-existent for tribal communities. Existing County and Municipal agencies provide fire service to communities that border tribal land. Partnership, including MOU/MOA should be created to deliver fire service to tribal lands; but also create a partnership for tribal government to engage in training and equipment participation. An initiative is needed to create a tribal fire department with collaboration for interlocal agreements within the fire region.

Gap Analysis - Step 2

Step Two: Identify Desired Responses (Figure 2)

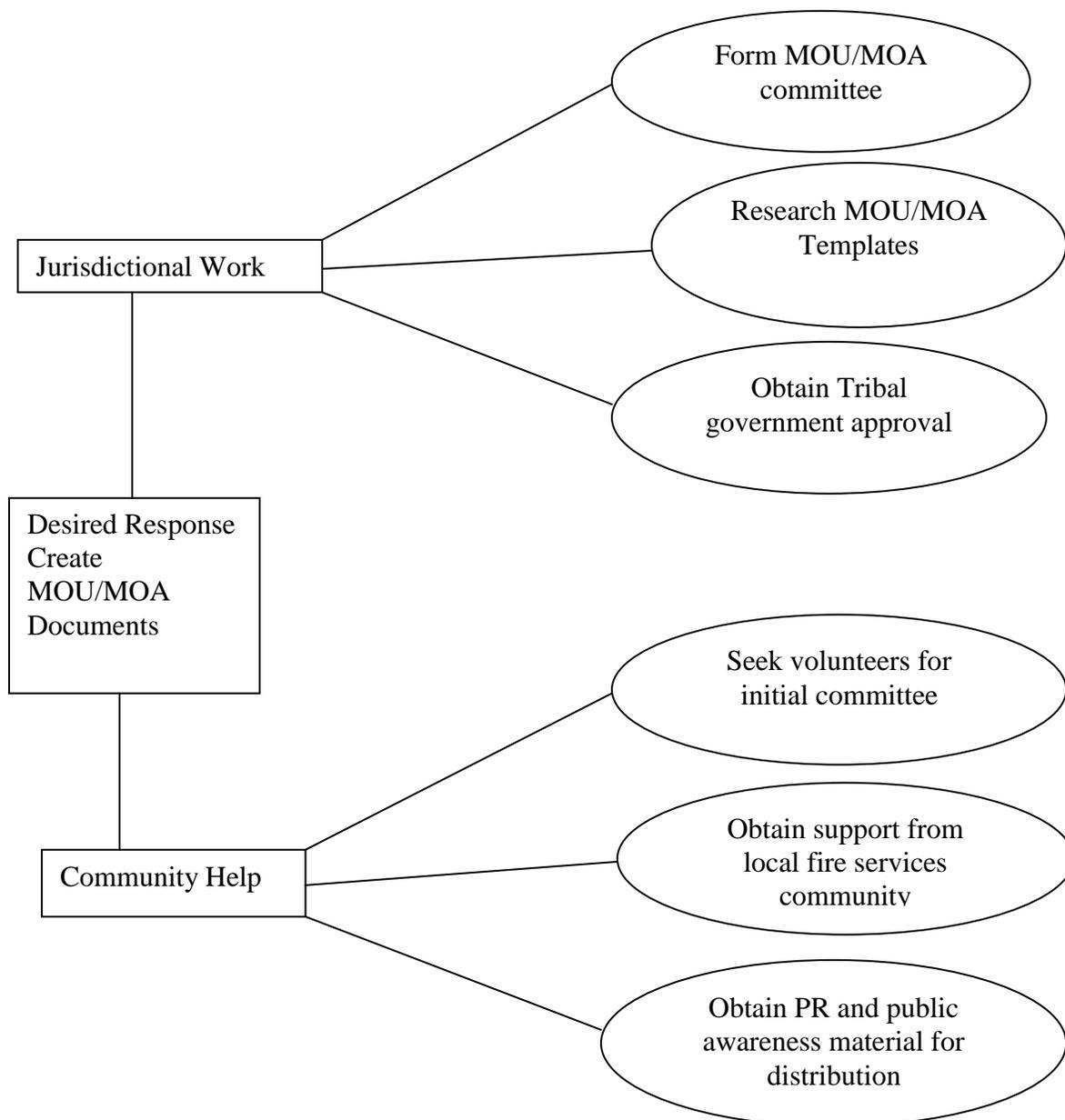
You have identified the real problems/issues. Now define or visualize how each problem should be addressed. These are your desired responses. These become your “concept of operations.”

Describe, by list format, your desired operational responses for this event	Notes
Create working liaison committee between County fire board to include tribal representatives	
Develop MOU/MOA documents to memorialize agreements for Fire partnership	
Establish tribal organization for fire within existing tribal government with Budgetary power	
Seek volunteers from tribal lands to participate in fire training	

Gap Analysis - Step 3 (Figure 3)

The actual actions/tasks for each desired response needs to be specifically described not only by action/task but also by who will be responsible for the activity and who will become partners in the solution of the problem statement. An action/task sheet as displayed below should be completed for each desired response.

Actions/Tasks



Gap Analysis - Step 4 (Figure 4)

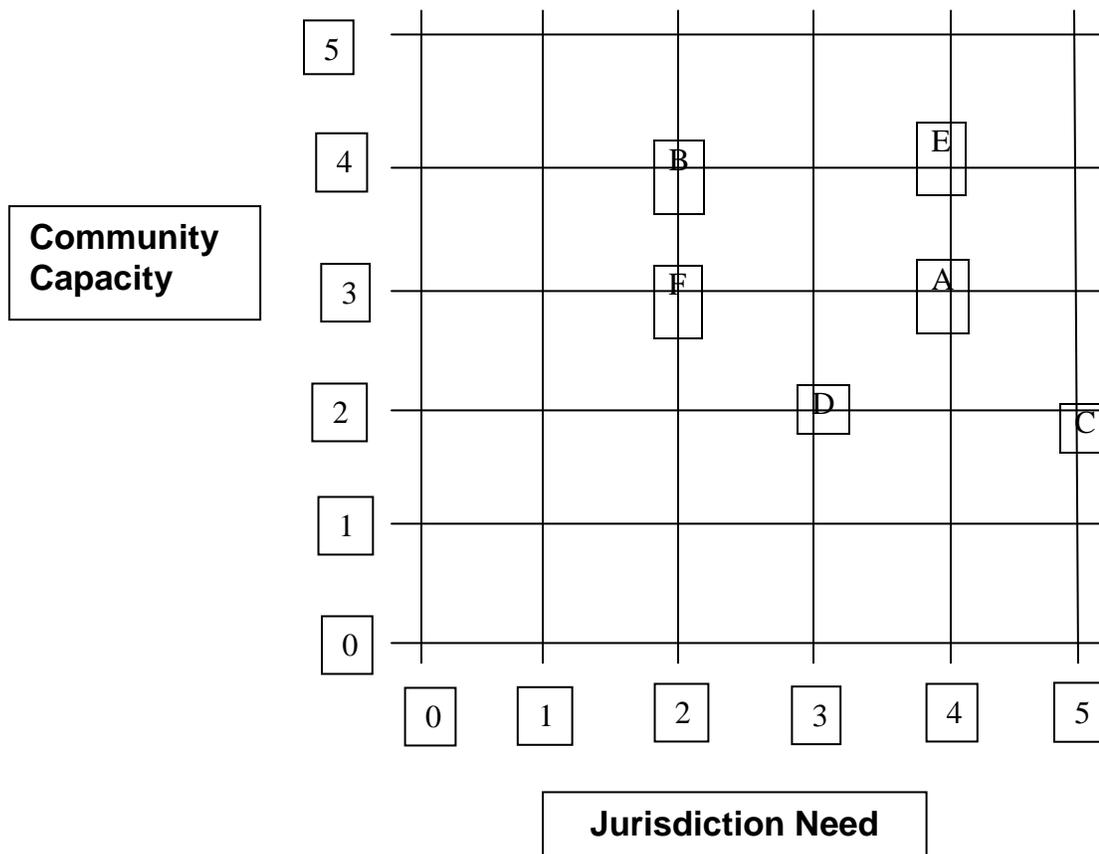
Follow the Three steps outlined in the grey boxes to accomplish the needs and capacity-rating step #4.

Step 4: Rate the need and capacity of your community

Step 2: Rate the “need” your jurisdiction has for this action/task. 0-5 scale 0-none, 5-high	Step 1: Copy the list of actions/tasks specifically developed from step #3.	Step 3: Rate your community’s actual “capacity” to do the work needed for each action/tasks. 0-5 scale 0-cannot, 5-full
4	A Form MOU/MOA committee	3
2	B Research MOU/MOA Templates	4
5	C Obtain tribal Government Approval	2
3	D Seek community volunteers for initial committee	2
4	E Obtain support from local fire community	4
2	F Obtain PR and public awareness material from community sources	3
	G	
	H	
	I	
	J	
	K	

Plot your priorities (Figure 5)

It is clearly displayed on the graph sheet below that the actions/tasks represented by the letters A, D, and C have the highest need but the organization has the lowest level of capacity to accomplish. This visual aid demonstrates for all parties involved as to where the effort and resources must be focused for the problem to be solved.



WORKSHEETS

Problem Name:	Start Date:
Problem Location:	
Officer Name:	
Contact (Complainant):	

SCANNING – Problem Identification

Problem Classification:	Validate Problem Solving Criteria:
<p style="writing-mode: vertical-rl; transform: rotate(180deg); font-size: small;">Check all boxes that apply</p> <input type="checkbox"/> Communication / Logistical <input type="checkbox"/> MOU / MOA Procedural <input type="checkbox"/> Legal <input type="checkbox"/> Staffing / Resource <input type="checkbox"/> Jurisdictional <input type="checkbox"/> Other	<input type="checkbox"/> Reoccurring incidents/events with similar or related characteristics* <input type="checkbox"/> Requires a strategic and organized process <input type="checkbox"/> Concern to tribal Community <input type="checkbox"/> Public expectation that something be done <input type="checkbox"/> Must be completed in partnership with others <p style="font-size: small;">(must be able to check all above) <input type="checkbox"/> YES <input type="checkbox"/> NO</p>

*What are the Similar or Related Characteristics: (describe)

<input type="checkbox"/> Communication / Logistical	
<input type="checkbox"/> MOU / MOA Procedural	
<input type="checkbox"/> Legal	
<input type="checkbox"/> Staffing / Resource	
<input type="checkbox"/> Jurisdictional	
<input type="checkbox"/> Other	

Description of tribal justice problem:

The problem must be something you can manage, take ownership in, and be responsible for completing in partnership with others.

Project Approval:

Submit to Supervisor

Date:	Approved by:
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Resource Analysis Triangle		
Resource Center (Your Immediate Resources)		
Justice Partner Analysis Triangle		
Justice Partners (Assisting Justice Partners)	Resources	
Resource Analysis Triangle		
Third Party Stakeholders (Indirect Resource)	Resources (Indirect Resources)	
Legal Analysis Triangle		
Legal Challenges	Which Laws are Impacting this	Consequences (Risk)

Legal Stakeholder Identification		
Resource Center	Justice Partners	Third Party Stakeholder

ANALYSIS – Determining Problem Nature & Extent

What is it about **related legal challenges** of your tribal justice initiative that contributes to the common root cause(s) of the overall problem? What questions do you have for each individual or group that is affected by this problem?

Questions	Answers
Resource Center:	
Justice Partners:	

Third Party Stakeholders:	
----------------------------------	--

ANALYSIS – Identify Root Causes/Underlying Conditions

Based on ANALYSIS, identify & describe potential root causes of your problem?

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