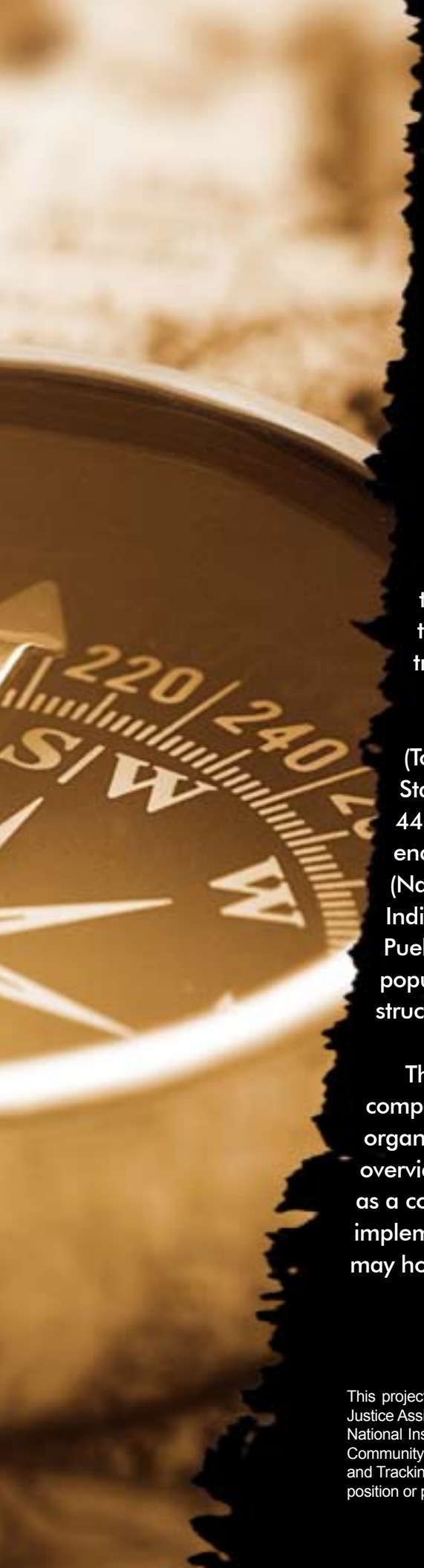




RE-DISCOVERING THE BENEFITS OF COMMUNITY SUPERVISION IN INDIAN COUNTRY

by Kimberly A. Cobb, Adam Matz and Tracy G. Mullins





Tribal communities have long had methods in place for working with individuals who violate tribal law. The methods, while often times not standardized or formalized, were based on today's concept of peacemaking, whereby "a respected member of the tribe brought individuals together and assisted in restoring harmony between them and working out a suitable remedy to victimization, often restorative in nature" (Meyer, 2009, pg. 176). Historically, Indian culture has embraced and exalted the idea of the community being responsible for imposing and restoring social order. Elders or individuals who were specifically selected either through hereditary right or custom, played a significant role in redirecting tribal members who were acting out. Today, in many tribes, this process is more formalized and supported through the use of tribal police and probation; both of which are relatively new systems in tribal communities.¹

Today, there are 565 federally recognized American Indian tribes (Toensing, 2010). More than 4.1 million individuals across the United States report belonging to a federally recognized tribe and approximately 44 percent of all American Indians report residing on reservations which encompass over 56 million acres of tribal lands in the lower 48 states (National Congress of American Indians). Some of the largest American Indian tribes include the Cherokee, Navajo, Chippewa, Sioux, Choctaw, Pueblo, and Apache (Perry, 2004, p. 1). Each tribe, regardless of its population, features a unique history, culture, language and governance structure.

The diversity which exists among tribal nations is reflected in the various components of each tribe's justice system, including their legal codes, organizational structure and operating policies. This article will provide a brief overview of justice systems in Indian Country, explore the use of probation as a correctional alternative in Indian country, the challenges tribes face in implementing probation programs and practices and look at what the future may hold for tribal justice and probation.

CRIME ISSUES PREVALENT IN INDIAN COUNTRY

SUBSTANCE ABUSE

Alcoholism is a common problem in Indian country. Alcohol abuse has been associated with numerous negative consequences including crime, domestic violence, sexual assault and rape, suicide, morbidity and ultimately mortality (Aguirre & Watts, 2010; Kovas, McFarland, Landen, Lopez, & May, 2008). However, alcohol is far from the only substance abused on tribal land. Marijuana, methamphetamine, cocaine, heroin and various pharmaceutical drugs are also regularly abused (NDIC, 2008). Most of the illegal drugs appear to be imported to Indian country through gang networks expanding into tribal regions; few are physically produced in Indian country. The lack of law enforcement coverage in some areas as well as jurisdictional confusion makes tribal jurisdictions easy targets for gang and drug infiltration.

DOMESTIC VIOLENCE

Rates of domestic violence for American Indian women far exceeds that of other racial groups, more than twice the rate of African American women for example (Oetzel & Duran, 2004; Dugan & Apel, 2002; as cited in Tehee & Esqueda, 2008).

SEXUAL ASSAULT AND RAPE

Thirty-four percent of Native American women have been raped in their lifetime (Yuan, Koss, Polacca, & Goldman, 2006). Summarily, one-in-three Native American women are the victims of sexual assault and rape on Indian reservations. It is estimated 54 percent of rapes occur when women are very young, often before the age of 12 (Tjaden & Thoennes, 2000). Some caution such figures are actually lower as most rapes are not reported to law enforcement (Bubar, 2010).

CHILD MALTREATMENT

Tribal leaders and advocates agree child maltreatment is a problem within the tribal community (DeBruyn et al., 2001). Abuse and neglect is particularly prominent with smaller single-parent families whom lack the support and means to care for their child or children. Alcoholism and depression are common risk factors for child abuse, though alcoholism is not necessarily prevalent in neglect cases. More transient families are also associated with greater risk of abuse to children.

STREET GANGS

Overall there is believed to be over 400 gangs and 4,500 gang members who consider a reservation or nearby location to be their home. The Navajo reservation is believed to be home to 55 gangs and 900 members alone (Joseph & Taylor, 2003).

TRIBAL JUSTICE SYSTEMS

Tribal justice systems are constantly evolving in many tribal communities. Typically, only the basic justice personnel are planned for (i.e., judge, prosecutor, clerk) during the planning of these systems. Community supervision/probation positions are often an afterthought. In fact, many tribal community supervision/probation officer positions are often initiated from grant funds. For some tribes, if the grant money is not renewed then the position simply fades away leaving offenders in the community with no systemic supervision. Other tribes attempt to find ways to write the position into their new tribal budgets once they see the value and benefit the position provides to the community.

Crime in Indian Country is a hot topic for justice professionals today. Most tribal communities are seeing increases in violent crimes, such as domestic violence and sexual assault (Bubar, 2010; Luna-Firebaugh, 2006; & Wahab & Olsen, 2004). It is asserted that the increasing numbers of violent crime being committed is a gross underestimation of the actual amount of crime being committed on reservations because of issues related to reporting and data collection. In fact, a statement in the National Institute of Justice publication *Policing on American Indian Reservations* (2001), reveals that "even when it is possible to get accurate tribal-level data, the character and prevalence of crime vary widely from reservation to reservation" (p. vii). Many tribes are quick to admit that many of their crime issues are "either directly or indirectly related to alcohol abuse" (National Institute of Justice, 2001, p. vii). Regardless of crime issues a particular tribe faces, they must have a system in place to hold offenders accountable and repair the harm done to victims.

Justice systems in Indian Country vary greatly in the services they have available to not only enforce laws but also deal with those

charged with violating the law. For example, less than half of all tribes feature one or more full-time sworn police officers with arrest powers (Perry, 2005; Wakeling, Jorgensen, & Michaelson, 2001) and of the 315 federally recognized tribes that responded to the Census of Tribal Justice Agencies in Indian Country survey in 2002, only 175 reported having operating tribal courts (Perry, 2005). Further, it is reported that only 82 correctional facilities including jails, confinement facilities and detention centers (Minton, 2009) are operational in tribal communities and thirty-six of these facilities have exceeded capacity (Martin, 2005). Finally, 70 percent of the 315 tribes responding to the *Census of Tribal Justice Agencies in Indian Country* survey in 2002 indicated they offer probation for adults and 66 percent indicated they offer probation for juveniles (Perry, 2005).²

The tribal justice systems of today take on many different forms and vary considerably among tribes. Some tribal courts have adopted some of the philosophies and processes established in state and federal courts; while other tribes have enacted their own laws and justice systems incorporating tribal customs and traditions (National Tribal Justice Resource Center, n.d.). Recently, federal funds have become available for tribal jurisdictions to develop new and/or enhance existing justice system operations including peacemaking courts, drug courts, community supervision programs and correctional facility construction/revitalization. Through these funding streams, tribal jurisdictions have an opportunity to develop comprehensive justice systems which incorporate recognized justice principles into their criminal procedures while ensuring their unique tribal customs and traditions are preserved and reflected.

For most tribes, tradition and culture play an important role in the operation of their tribal justice systems (Melton, 1995). As such, the interventions used often involve spiritual and holistic services rather than punitive methods. For some tribes, the use of peacemaking processes have been lost throughout the years and replaced with traditional adversarial approaches. However, many tribes are attempting to recreate peacemaking programs that will allow them to develop justice responses that bridge their cultural traditions with the current crime issues faced by their tribes (Meyer, 2009). Peacemaking is attractive to tribal communities as it is effective in reducing conflict and crime, is more cost effective than more traditional methods of dealing with crime, incorporates traditional tribal practices (Meyer, 2009), and helps to restore or maintain an individual's tribal identity (Porter, 1997). Other processes utilized by tribal justice systems in lieu of the adversarial Anglo-approach include talking circles, family or community gatherings and traditional mediation (Melton, 1995).

USE OF PROBATION IN INDIAN COUNTRY

Every jurisdiction, whether federal, state, local or tribal, has been charged with reducing prison populations by finding alternatives to incarceration. One of the most utilized alternatives to incarceration is community corrections, claiming more than five million offenders under the umbrella of community supervision (PEW, 2009). The administration of probation at federal, state, and county levels is quite diverse³ and can sometimes be a tangled web to unweave. Similarly, there is great variation found among the types of probation services offered in Indian Country. Some tribal probation officers carry a caseload of either

adult or juvenile offenders (and sometimes a mix of adult and juveniles). Anecdotal reports from some tribal probation officers indicate the caseloads for some probation officers are quite large; some exceeding 400 probationers per officer. The background of tribal probation officers also varies depending on the location. Some may have formal degrees and experience in criminal justice or a related field, while others may not. Some may have received some training in probation—either through the state or county academies or through the Tribal Probation Academy offered by Fox Valley Technical College, while others have no training provided on their roles and very little guidance and direction from the court on what to do. There are also some tribes that may order probation as a condition of release; however, their conditions (which may consist of only a fine) are overseen by the judge or other court personnel (such as the clerk). In a case like this, the person pays the fine and no other formal conditions are applied. Other tribes may ask an elder or some other respected community member to “watch” the offender and help mentor that person along. Finally, there are tribes that have designated personnel in place to serve as probation officers—ranging from tribes that have one individual overseeing all probationers to tribes that have multiple individuals in place forming a probation department. Whatever probation service they offer, tribal justice agencies are beginning to fully recognize and appreciate the benefits of having community supervision protocols in place and are taking necessary steps to formalize that role as an essential component to their tribal justice system.

CHALLENGES TO IMPLEMENTING COMMUNITY SUPERVISION PROGRAMS IN INDIAN COUNTRY

Tribal probation officers face many of the

same challenges that federal, state and county probation officers face. For example, “they schedule and manage a growing caseload, tackle complex and often ill-defined legal problems, must appease all parties involved, and, through it all, conduct a fair and efficient dispensation of justice” (Wahwassuck, 2008, p. 736). For many Native Americans, maintaining self-governance includes “the ability to operate a justice system that takes into account the goals and traditions of tribal societies” (p. 734). However, tribal jurisdictions do face unique challenges in implementing community supervision programs which maintain public safety through offender compliance, but also incorporate unique, individual tribal customs and traditions aimed at offender restoration and rehabilitation. The following topics briefly discuss struggles which some tribes may experience.

POLICIES AND PROCEDURES

One challenge cited by tribal probation officers is a lack of formal policies and procedures guiding their job duties and responsibilities. Many tribal probation officers are initially hired with grant funds. Therefore, in addition to immediately receiving offenders on a supervision caseload, tribal probation officers must develop operational and administrative policies and procedures for their agencies. Additionally, tribal governments have begun to contemporize their tribal codes. Some Nation’s codes may not recognize the unique criminal behaviors and justice system responses necessary to hold tribal offenders accountable. For example, procedures concerning interrogations and confessions must also comply with the provisions of the applicable tribal code and/or constitution. The unique provisions of such a code could also impact how probation operates. Another unique challenge is that probation is not even included in some tribal codes; therefore, legally, probation has no

authority to provide monitoring or enforcement of sentencing conditions. For this reason, it is imperative that tribal probation officers carefully review their tribal codes and if probation is not included, advocate for needed revisions.

ACCESS TO RESOURCES/SERVICES/INTERVENTIONS

Many tribes face challenges pertaining to the resources (such as services and interventions) they have available either on the reservation or through access to federal, state and/or county services to address needs identified by tribal offenders. The status of many tribes as sovereign⁴ nations limits their access to many federal and state initiatives which could assist them in providing services to tribal offenders. Indian Health Services⁵ is available to provide an array of services for tribal offenders, including those related to substance use/abuse, but in many jurisdictions, these services are overburdened and limited in scope.

DESOLATE AND VAST GEOGRAPHICAL JURISDICTION

Another major challenge faced by some tribal probation officers is geography. Many reservations span hundreds of miles of often desolate land. For example, the Navajo Reservation comprises 18.5 million acres of land (Kraus, 2001). There have been instances cited by tribal probation officers when simply completing a home visit may constitute an eight-hour drive to an offender's home, one way, making regular home visits challenging if not impossible.

Officer safety is a related issue to tribal probation officers supervising offenders in desolate areas. Many tribal probation departments do not have marked vehicles or two-way radios or safety equipment such as

bullet-proof vests and handcuffs, which could prove dangerous when making home visits in troublesome areas. Additionally, cell phone service can also be problematic in areas where service becomes unavailable, leaving probation officers vulnerable.

TRAINING AND ON-GOING PROFESSIONAL DEVELOPMENT

Many tribal probation officers have cited a lack of basic training and ongoing professional development available for tribal probation officers as a challenge to implementing effective probation programs. Training opportunities in the tribal justice realm has traditionally focused on tribal judges and tribal law enforcement. To perform their roles and responsibilities effectively, tribal probation officers need training in areas such as how to interview offenders and use appropriate assessment tools; how to use information gained through the assessment process to develop individualized case plans; how to effectively use sanctions/incentives to support and enforce community supervision plans; the purpose and use of electronic supervision tools; how to effectively supervise and manage specialized offender populations and officer safety precautions. Many tribal probation officers report facing power struggles with tribal law enforcement over areas such as conducting searches and arresting individuals in violation of probation orders. Tribal probation officers indicate that tribal law enforcement feel these duties reside with them and not with probation. Many feel that the professionalization of tribal probation would help cure some of this dissension between these two justice partners.

OFFICE AND FIELD-CHALLENGES

As mentioned earlier, probation is typically not originally planned for in the establishment of tribal justice systems. Consequently, when

probation offices are established, they often operate on bare-minimums. Many tribal probation officers report working out of office space not conducive to their duties (such as not having areas to conduct urinalysis testing or interviews in a safe setting) (Rogers, 2010). Further, many report not having basic office equipment such as computers or appropriate software for offender supervision management (many develop their own paper-file system which inhibits their ability to quickly pull data or share information with other agencies).

Additionally, tribal probation officers struggle with having the necessary equipment to conduct adequate field supervision of offenders. As mentioned earlier, they often are not equipped with marked vehicles and two-way radios which help to promote officer safety when conducting field supervision (Rogers, 2010). Likewise, most tribal

probation officers lack the provision of bullet-proof vests and protective weapons (such as TASER's, OC spray, handcuffs, or guns) or items typically contained in a field-officer bag, such as drug testing kits, safety gloves and masks, evidence kits and field books (Rogers, 2010). The lack of these tools make it potentially dangerous for tribal probation officers to conduct field visits of offenders on their caseloads, thus limiting contact to only office visits for officer safety reasons.

JURISDICTIONAL CHART:

Indian Perpetrator & Indian Victim:

- Felony = Federal Court
- Misdemeanor = Tribal Court

Indian Perpetrator & Non-Indian Victim:

- Felony = Federal Court
- Misdemeanor = Tribal Court

Indian Perpetrator Of Victimless Crime:

- Felony = Federal Court
- Misdemeanor = Tribal Court

Non-Indian Perpetrator & Non-Indian Victim:

- State Court

Non-Indian Perpetrator & Indian Victim:

- Federal Court

Non-Indian Perpetrator Of Victimless Crime:

- State Court

(Rogers, 2010)

JURISDICTIONAL LABYRINTH

American Indians live in a world of jurisdictional "checkerboards" in which the Federal government holds jurisdiction over violent felony crimes while local tribal governance is tasked with prosecuting misdemeanor and lesser violations (Tweeten, 2000).⁶ The borders of tribal land are accompanied by state jurisdiction. Further,

tribal jurisdiction is limited to tribal members on tribal land, nontribal members (even if on tribal land) become the jurisdictional responsibility of the state and/or federal government. Such jurisdictional nuances tend to convolute the justice process and the local tribal justice system's responsiveness to crime on the reservation. It is well known that many crimes that fall under federal jurisdiction on Native American reservations go unprosecuted, contributing to a state of lawlessness on tribal land (Jalonick, 2008). Though some efforts, such as the signing of the Tribal Law and Order Act of 2010 and

increased cooperation between state and tribal courts (Stenzel, 2009), show potential for change, the jurisdictional labyrinth continues to be a common issue.

INFORMATION SHARING

Information sharing between tribal and federal, state and county jurisdictions is also a challenge. The sharing of information among justice agencies is essential for the effective monitoring of released offenders, as well as for the apprehension of suspected offenders. Information sharing among justice agencies not only enhances investigations and prevention/deterrent strategies it also assists in the proper allocation of resources (Steber, n. d.). Tribes communicate a fear of how information shared with outside justice agencies will be used and whether information sharing will be reciprocated. While some tribes have embarked on information sharing agreements with neighboring jurisdictions, holistically there has been a lack of strategies identified and disseminated to the field that provide direction to jurisdictions on how local tribes, state and the federal agencies can collaborate more effectively.

THE FUTURE FOR TRIBAL JUSTICE & TRIBAL PROBATION

Tribal justice systems are discovering, or perhaps rediscovering, ways to effectively address the crime issues plaguing their communities. Tribal leaders as well as federal, state and local agencies are becoming more and more committed to doing whatever it takes to provide for the safety of individuals residing on reservations by working together in innovative ways. There are several factors that are indicative of the positive changes taking place in Indian Country to address the challenges tribal justice and tribal probation personnel face in working with tribal offenders.

One sign of commitment to reducing crime in Indian Country is the *Tribal Law and Order Act of 2010*, which was passed on July 21, 2010. This Act signals a commitment to the safety of tribal members by increasing the commitment to interagency information sharing and transparency across jurisdictions, increased sexual assault training for criminal justice professionals, enhanced sentencing options, and the deputization of tribal criminal justice professionals thereby allowing the tribe to prosecute cases under federal jurisdiction. While the passage of the Act is a step in the right direction, it will take persistent efforts on the part of all parties involved to ensure that it is implemented effectively.

Another sign of dedication to tribal justice systems enhancement is the \$127 million recently awarded by The U.S. Department of Justice to tribes seeking to improve or enhance components of the tribal justice system through the Coordinated Tribal Assistance Solicitation (CTAS), which combined ten different Department of Justice program opportunities for funding (Department of Justice, 2010). This funding provides tribes a unique opportunity to develop comprehensive justice systems which will mesh correctional philosophies with their individual tribal philosophies and hopefully through that, reduction in crime on their land.

Finally, the good news is that amidst all of the struggles identified in this article, tribal probation is forging ahead and making great strides in becoming a welcome and essential component of many tribal justice systems. While it is difficult to accurately ascertain the number of individuals serving in a tribal probation capacity, it is surely a field that is growing as evidenced by the inclusion of probation in the Tribal Law & Order Act of 2010 (Section 405) and the growing number of individuals seeking training and technical

assistance in the field of probation from tribal nations.

STEPS IN THE RIGHT DIRECTION

Many of the challenges identified in this article faced by tribal probation can be addressed through the development and dissemination of informational material and guides, the provision of training and targeted technical assistance and through the forging of partnerships designed to provide tribal probation personnel with a network of colleagues to reach out to when questions or struggles arise. As tribes recognize the value of and take on the task of implementing probation programs, the Department of Justice is responding by supporting the development of informational materials and, training curricula, sponsorship of training events and availability to technical assistance opportunities to equip tribal probation officers with the tools they need to be successful.

One significant way tribal probation officers can equip themselves to develop or enhance their probation program is by receiving training through the Tribal Probation Academy (TPA). Recognizing the lack of basic training tribal probation officers are afforded, Fox Valley Technical College's Criminal Justice Center for Innovation developed the Tribal Probation Academy to offer tribal probation officers basic skill sets necessary to effectively provide community supervision. The Washington State Patrol Academy in Shelton, Washington has opened their doors to the TPA and provides the classroom, lodging for students, meals and staff, as requested. The basic training curriculum provides new and current tribal probation officers with four weeks of structured training on topics such as gathering case information, conducting interviews, interpreting court documents, making referrals, participating in court proceedings,

and safety precautions, to name a few topics.⁷ To date, this Academy has graduated 126 tribal probation officers and plans to continue this training with funding from the Bureau of Justice Assistance.

The American Probation & Parole Association (APPA) has been working for several years on various projects focused on enhancing probation practices in Indian Country. This past June, APPA partnered with the Tribal Judicial Institute to conduct a *Training Symposium on Improving Supervision Outcomes with Substance Abusing Tribal Offenders* in San Diego, California. This symposium targeted tribal probation officers with training on topics designed to enhance probation supervision practices including the use of risk and need assessment, supervision and case management strategies, best practices for working with domestic violence offenders, and using the Family Support Approach in community supervision. Over 40 tribal probation officers attended this symposium.

APPA is also working on a Desktop Guide for tribal probation on the use of risk and need assessment as a strategy to more effectively manage their caseloads and maximize limited resources. Assessment tools are used to help guide decision making in almost every part of community supervision including pre-trial, pre-sentence investigation, supervision classification, supervision case management, reclassification, violations of probation and early discharge decisions (NYS Division of Probation and Correctional Alternatives). Specifically, risk assessment has been deemed "the single most important decision made by probation and parole officers today" (Byrne, 2006). Given the large, diverse caseloads that many tribal probation officers are charged with supervising, the use of risk and need assessments will help them prioritize and manage their caseloads

more effectively, help them place offenders in services and interventions to address identified criminogenic needs to more appropriately utilize the resources available to them and possibly identify areas where more resources are needed. The Desktop Guide will provide tribal probation officers with an overview of the benefits and use of risk and need assessment in a probation setting, tips for choosing tools to meet the needs of their individual jurisdictions and a catalog of available assessment tools predominately utilized by the field. Ideally, this Guide will be used by tribal probation officers as a resource.

Building upon the innovative work done by Fox Valley Technical College through the Tribal Probation Academy, APPA is working with the Center for Strength Based Strategies, the Vera Institute of Justice and Fox Valley Technical College to build upon the basic training tribal probation officers receive at the academy to provide intermediate training on the use of risk and need assessment, motivational interviewing and the Family Support Approach. This intermediate training will provide more in-depth, hands on training on these topics. The training will utilize a blended-learning approach whereby participants will be asked to complete an online or CD-ROM lesson as a precursor to on-site training. Utilizing this approach will allow the on-site training to focus on skill building and skill practicing so that tribal probation officers become comfortable using the skills acquired at the training once they return to the office.

Finally, APPA is working to help tribal justice systems develop/enhance correctional options utilized in their justice system. APPA anticipates providing on-site technical assistance for up to 20, as well as limited, office-based technical assistance as requested. This project, funded by the Bureau of Justice Assistance, enables APPA to work with selected tribes to explore the

use of programs such as day reporting centers, which have the potential benefit of freeing up correctional resources (Pennsylvania Department of Corrections, 2003), residential reentry centers (halfway houses) which provide transitional services such as employment counseling and job placement, financial management and substance abuse treatment (Federal Bureau of Prisons), and intensive supervision programs which allow chronic offenders to remain in the community under rigorous restrictions. Other technical assistance may focus on the review and/or development of policies and procedures which will help provide direction to tribal probation officers, focus groups to explore the options desired and reasonable for a particular tribe to implement or assistance networking tribes with consultants that can help address their needs. Through this technical assistance, it is hoped that sentencing options will be increased and tribal judges and probation officers will have more resources at their disposal to help manage growing caseloads.

CONCLUSION

There are many more initiatives to help tribal justice agencies further develop and enhance tribal justice systems strategies for dealing with crime on their reservations more effectively. There is great momentum right now to facilitate the development and enhancement of tribal justice systems which provides a unique opportunity for tribal, local, state and federal governments to work together on initiatives that will, hopefully, positively impact tribal nations for generations.

If you would like more information on any of the APPA projects discussed here, please contact Kim Cobb via phone at (859) 244-8015 or via email at kcobb@csg.org.

REFERENCES

- Aguirre, R. T., & Watts, T. D. (2010). Suicide and alcohol use among American Indians: Toward a transactional-ecological framework. *Journal of Comparative Social Welfare*, 26(1), 3-11.
- Bubar, R. (2010). Cultural competence, justice, and supervision: Sexual assault against Native women. *Women & Therapy*, 33(1), 55-72.
- Byrne, J. (2006). "Why Assessments "Matters" in an Evidenced-Based Community Corrections System". *Federal Probation*; 70(2).
- DeBruyn, L., Chino, M., Serna, P., & Fullerton-Gleason, L. (2001). Child maltreatment in American Indian and Alaska Native communities: Integrating culture, history, and public health for intervention and prevention. *Child Maltreatment*, 6(2), 89-102.
- Federal Bureau of Prisons, *Community Corrections*, retrieved from <http://www.bop.gov/locations/cc/index.jsp> on July 25, 2007.
- Harte, J. (2010). Summary and explanation of provisions in the Tribal Law & Order Act of 2010. Mapetsi Policy Group. Retrieved from <http://www.narf.org/nill/resources/TLOA/tloamapetsi.pdf> Indian Country Today.
- Hooks, G., & Smith, C. L. (2004). The treadmill of destruction: National sacrifice areas and Native Americans. *American Sociological Review*, 69(4), 558-575.
- Jalonick, M.C. (2008, September 19). *Justice Department won't provide indian crime data*. Reznets; University of Montana School of Journalism.
- Joseph, J., & Taylor, D. (2003). Native American youths and gangs. *Journal of Gang Research*, 10(2), 45-54.
- Kovas, A. E., McFarland, B. H., Landen, M. G., Lopez, A. L., & May, P. A. (2008). Survey of American Indian alcohol statutes, 1975--2006: Evolving needs and future opportunities for tribal health. *Journal of Studies on Alcohol and Drugs*, 69, 183-191.
- Kraus, B. (2001). Wealth, success, and poverty in Indian Country. (May/June 2001). *Poverty & Race*, 10(3), 3-4.
- Luna-Firebaugh, E. M. (2006). Violence against American Indian women and the Services-Training-Officers-Prosecutors Violence Against Indian Women (STOP VAIW) program. *Violence Against Women*, 12(2), 125-136.
- Martin, M. (2005). *Project guide: Tribal justice system assessment*. Demarest, NJ: Justice Planners International LLC.
- Melton, A.P. (1995). Indigenous justice systems and tribal society. *JUDICATURE: The Journal of the American Judicature Society*, 79(3).
- Meyer, J. (2009). How do we get rid of crime? Restore it to harmony? Tribal peacemaking as an alternative to modern courts. In M. Nielsen & R. Silverman (Eds), *Criminal Justice in Native America* (pp. 176-190). Tucson: The University of Arizona Press.
- Minton, T. D. (2009). *Jails in Indian country*, 2008. Washington, D.C.: Bureau of Justice Statistics.
- National Congress of American Indians, Law Enforcement and Tribal Courts. Retrieved from <http://www.ncai.org/Law-Enforcement-and-Tribal-Cou.34.0.html>.
- National Tribal Justice Resource Center document "Tribal Court History" retrieved May 31, 2007 from <http://www.tribalresourcecenter.org/tribalcourts/history.asp>
- National Drug Intelligence Center. (2008). *Indian Country drug threat assessment*. Washington, D.C.: U.S. Department of Justice.
- New York State Division of Probation and Correctional Alternatives document retrieved May 31, 2007 from <http://dpca.state.ny.us/pdfs/whatiscompas.pdf>.
- Pennsylvania Department of Corrections (2003). *Day Reporting Centers as a Sentencing Alternative*.
- Perry, S. W. (2004). *American Indians and crime*. Washington, D.C.: Bureau of Justice Statistics.
- Perry, S. W. (2005). *Census of tribal justice agencies in Indian country*, 2002. Washington, D.C.: Bureau of Justice Statistics.
- Pew Center on the States (2009). *One in 31: The long reach of American corrections*. Washington, DC.
- Porter, R. B. (1997). Strengthening tribal sovereignty through peacemaking: How to Anglo-American legal tradition destroys indigenous societies. *Columbia Human Rights Law Review*, 28; 235-305.
- Rogers, D. (2010, June 15). *Supervision strategies for working with substance abusing tribal offenders*. Presentation at the Symposium on Improving Outcomes Among Substance Abusing Tribal Offenders, San Diego, CA.
- Rogers, D. (2010, August 17). *Enhancing Probation Practices and Correctional Options on Tribal Lands*. Presented at the American Probation & Parole Association Annual Institute: Washington, DC.

Steber, D. L. (nd). Milwaukee Homicide Review Commission: Information Sharing Needs Assessment Final Report. Center for Urban Population Health. Retrieved from <http://www.cuph.org/projects/milwaukee-homicide-review/material/1001/binary/>

Stenzel, P. (2009). Full faith and credit and cooperation between state and tribal courts: Catching up to the law. *Journal of Court Innovation*, 2(2), 225-248.

Tehee, M., & Esqueda, C. W. (2008). American Indian and European American women's perceptions of domestic violence. *Journal of Family Violence*, 23, 25-35.

Tjaden, P., & Thoennes, N. (2000). Full report of the prevalence, incidence, and consequences of violence against women: Findings from the National violence against women survey. Washington, D.C.: National Institute of Justice.

Toensing, G. C. (2010, October 8). Its official: Shinnecock Nation is 565th Federally Recognized Tribe. *Indian Country Today*. Retrieved from <http://www.indiancountrytoday.com/home/content/Its-official-Shinnecock-Nation-is-565th-federally-acknowledged-tribe-104567669.html>

Twetten, D. (2000). Public law 280 and the Indian Gaming Regulatory Act: Could two wrongs ever be made into a right? *Journal of Criminal Law & Criminology*, 90(4), 1317-1351.

U.S. Census Bureau. (2001) *Overview of race and Hispanic origin* (Census 2000 Brief No. C2KBR/01-1). Washington, DC.

U.S. Department of Justice. (2010, September 15). *Justice Department awards \$127 million to improve tribal public safety and criminal justice*. [Press Release]. Washington, DC: Office of Justice Programs.

Wahab, S., & Olson, L. (2004). Intimate partner violence and sexual assault in Native American communities. *Trauma, Violence, & Abuse*, 5(4), 353-366.

Wakeling, S., Jorgensen, M., Michaelson, S. & Begay, M. (2001). *Policing on American Indian Reservations: A Report to the National Institute of Justice*. Washington, DC: National Institute of Justice.

Wahwassuck, K. (2008). The new face of justice: Joint tribal-state jurisdiction. *Washburn Law Journal*, 47, 733-755.

Yuan, N. P., Koss, M. P., Polacca, M., & Goldman, D. (2006). Risk factors for physical assault and rape among six Native American tribes. *Journal of Interpersonal Violence*, 21(12), 1566-1590.

ENDNOTES

¹ The existence of formal police personnel/agencies in Indian Country began around the 1950's to 1960's. The addition of tribal probation to tribal justice systems is more recent, within the past 10 years.

² It should be noted that it is unclear from the BJS Census report how, when responding to the question, tribal courts defined and carried out the function of probation within their tribes. For some tribal courts, probation may entail merely paying a fine with little or no other compliance monitoring; it may be unsupervised or be overseen by the tribal court judge, court clerk, or elder in the community rather than being monitored by a designated probation officer; or it may be monitored by a designated probation officer.

³ Probation is administered in various ways by various types of agencies across the states of the U.S. About 32 of the 50 states administer probation primarily through their Department of Corrections. The other states administer probation as a function of the judiciary. Of these, several are county-level and feature intra-state variations in administration.

⁴ The power of Indian tribes to govern themselves.

⁵ "The Indian Health Service (IHS), an agency within the Department of Health and Human Services, is responsible for providing federal health services to American Indians and Alaska Natives. The IHS provides a comprehensive health service delivery system for approximately 1.9 million American Indians and Alaska Natives who belong to 564 federally recognized tribes in 35 states". Retrieved from http://www.ihs.gov/PublicInfo/PublicAffairs/Welcome_Info/IHSintro.asp

⁶ It should be noted; however, that in reality, many tribes are handling serious tribal offenders. In instances where the Federal Government does not pick up prosecution of serious offenders, the tribe will plead them down to misdemeanor offenses so that the offender is held accountable.

⁷ See <http://www.fvta.edu/public/content.aspx?ID=1240&PID=3> for more information on the Tribal Probation Academy.

Kim Cobb is a Research Associate with the American Probation & Parole Association in Lexington, KY. **Adam Matz** is a Research Associate with the American Probation & Parole Association in Lexington, KY. **Tracy Mullins** is the Deputy Director of the American Probation & Parole Association in Lexington, KY.