



# **Improving the Administration of Justice in Tribal Communities through Information Sharing and Resource Sharing**

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## **Background: Tribal Justice Challenges:**

Tribal justice systems face unique challenges in developing justice systems which ensure due process, adhere to their tribal codes, and embrace their cultural heritage. In establishing such a multi-faceted system, tribes have encountered numerous barriers and continue to strive towards justice systems designed to meet the needs of their people. Historically, tribes have always had a means of handling disputes among their members, generally focusing on a peacekeeping method rather than an adversarial one (National Tribal Justice Resource Center, n.d.). Many tribal justice systems are often described as “hybrids” in that they borrow certain features from existing [Westernized] systems and modify to fit their own needs and customs.

A laundry list of obstacles can be identified from the literature on hindrances to an effective tribal response to criminal offending. This list includes things such as lack of: correctional options for offenders; communication, coordination and collaboration between internal and external agencies; support for local solutions; infrastructure development; financial resources; and long-term comprehensive solutions as well as jurisdictional conflicts and limited access to data and information (Coleman, Gaboury, Coleman, and Seymour, 1999). However, one great obstacle that handicaps tribal and state/local/federal criminal systems to effectively intervene with a common group of tribal offenders is the lack of information and resource sharing between tribal justice agencies and respective state and federal justice agencies. The integration of information sharing systems in traditional justice systems faces many issues within itself. Agencies who typically deal with similar individuals, whether in law enforcement, community corrections, institutional corrections, or treatment modalities, encounter obstacles related to policy and procedures, funding, technology, and trust (Iowa CJIF, 2005).

There has been a lack of succinct 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. At the request of the Bureau of Justice Assistance (BJA), a one-day focus group was convened by the American Probation and Parole Association (APPA), in cooperation with the Indian Alcohol and Substance Abuse Program (IASAP) and the Tribal Court Assistance Program (TCAP) to discuss these challenges and outline strategies/solutions.

This bulletin will discuss challenges identified by three jurisdictional teams of justice personnel (tribal, state and federal) in establishing mechanisms for information and resource sharing. This bulletin will also attempt to identify successful collaborative strategies and determine additional ways in which more effective working partnerships can be encouraged and developed as a means to offer needed services to tribal offenders and to help local, state and federal pretrial, probation and parole officers perform their duties more effectively and efficiently.

## **Logistics:**

The American Probation and Parole Association (APPA), in cooperation with the Indian Alcohol and Substance Abuse Program (IASAP), and the Tribal Court Assistance Program (TCAP) convened a focus group consisting of representatives from four federally recognized tribal jurisdictions as well as state and/or federal representatives who serve offenders within those four tribal jurisdictions. The four tribes invited for participation included Turtle Mountain Band of Chippewa Indians in North Dakota, Salt River Pima Maricopa Tribe in Arizona, Oglala Sioux Tribe, Pine Ridge Reservation in South Dakota, and Squaxin Island Tribe in Washington State. At the last minute, Squaxin Island tribe notified us that they were unable to participate and the team decided it was too late to identify another northwest tribe. Tribal and state representatives were in attendance for all three jurisdictions and one federal representative was in attendance.

The focus group was designed to discuss information sharing and resource sharing as two separate topics. Challenges and solutions to information sharing was the primary focus in the morning, and challenges and solutions to resource sharing was the afternoon focus. Interestingly, the two topics revealed shared challenges and solutions.

## **Definitions:**

For purposes of this meeting, definitions for information sharing and resource sharing were developed and agreed upon by the teams to guide our discussions. The provision of these definitions was essential because information and resource sharing can mean different things depending on the population and the topic you are discussing.

The definition of information sharing we presented to participants originated from the Global Justice Information Sharing Initiative. It states that information sharing involves “getting the right information to the right people in the right place at the right time to ensure a just and safe society. Privacy is protected, security is ensured and quality includes timely and reliable data” (Wicklund, personal communication).

The definition of resource sharing presented to the participants involves “the sharing of human, technological, educational and therapeutic resources in a manner that assists all parties involved. Memoranda of understanding help guide the effective and fair sharing of resources” (Wicklund, personal communication).

## **Information Sharing:**

### ***What information needs to be shared?***

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.).

Participants shared their ideas of what information would be useful to share among tribal, state, and federal probation agencies. Not surprisingly, all three jurisdictions agreed on numerous types of information which could aid in supervising offenders including:

- Criminal histories (*including status and traffic offenses*)
- Pending warrants
- Conditions of release
- Law enforcement information (such as traffic stops, etc.)
- Patrol information
- Record inquiry updates
- Names of those currently on supervision
- Photographs of those currently on supervision
- Risk/Need Assessment information
- Treatment histories
- Official disposition reports
- Demographic data
- National Criminal Information Center (NCIC) access

The participants felt that the acquisition of these bits of information would assist them discovering potential patterns of behavior or escalating behavior, which is information necessary for developing supervision and treatment plans, as well as alerting them if another jurisdiction is currently looking for a particular individual or has them on supervision as well.

### ***Advantages to Sharing Information.***

The teams participating in the focus group recognized the need for and shared the desire to establish protocols and means for sharing information and resources across jurisdictions. The jurisdictions discussed what they felt the advantages to sharing information across jurisdictions would be if protocols could be implemented. The ideas discussed addressed how information sharing can enhance the supervision of offenders, better allocate resources and manpower, and increase public safety and public awareness.

The teams agreed that without the sharing of the information listed above, probation officers are crippled in relying only upon information they can access through the individual offenders, the offenders family and friends, and information from their own justice entity. Through the process of information sharing, PPO's<sup>1</sup> can become informed of the information necessary to make vital decisions, such as risk level and sentencing recommendations as well as develop more precise and relevant supervision and treatment plans. Tribal agencies may collect or be privy to different sources of information than state/local/federal agencies and vice versa. Information captured on risk/need assessments, criminal history reports, court orders (such as pending warrants, driving restrictions, etc.) are critical pieces of data for PPO's to have at their disposal. As can be seen in the case scenario in Exhibit 1: Case Study: DUI Offender, if a piece of that information is missing, then public safety may be compromised.

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<sup>1</sup> For purposes of this document, the term PPO's will be used to denote Probation & Parole Officers.

## *Exhibit 1: Case Study: DUI Offender*

**Case 1:** *A member of a tribal community is arrested on a state highway and arrested for a Driving Under the Influence (DUI) offense. A pre-sentence investigation is conducted with information gathered only from the state's justice and law enforcement information systems. It appears this is the first DUI offense for this individual. They are diverted through a DUI program and placed on limited supervision for a short period of time. While on supervision, the offender is arrested and charged with vehicular manslaughter for driving while intoxicated and killing his passenger.*

**Case 2:** *A member of a tribal community is arrested on a state highway and arrested for a DUI offense. A pre-sentence investigation is conducted with information gathered from the state and the tribal justice and law enforcement information systems. This time, the state discovers that this individual has been arrested four times previously for DUI offenses and currently had their tribal driver's license suspended and was in violation of tribal probation orders. Instead of being diverted and released, this individual now is under high-risk supervision or possibly incarcerated and, potentially, two lives have been saved.*

*These outcomes are dramatically different based on the information available and shared.*

Additionally, if these pieces of information were shared, such as risk/need assessment information, it would reduce the number of hours one agency may spend collecting, analyzing, and synthesizing information that has already been completed by another supervising agency.

Another example of maximizing shared information to enhance supervision, allocate resources and manpower more effectively, and increase public safety is the imposition of supervision conditions and requirements. If an offender with two supervision plans has to satisfy weekly drug screens; weekly individual, group, and family treatment sessions; daily contact requirements; and employment and housing verifications; etc. for both jurisdictions, this could amount to doing nothing more than traveling between jurisdictions to complete these requirements. Not only is this a burden on the individual systems supervising this one offender, it places a heavy burden on the offender and could ultimately set them up for failure. For example, having to adhere to both sets of requirements would more than likely impede the offenders' quest for or maintenance of employment or attendance at a treatment program; which are common conditions of supervision.

Information sharing between jurisdictions could also reduce the duplicity of services/resources provided to offenders on dual supervision. For any one offender, having one set of requirements to fulfill can be overwhelming, but having two, possibly exact, set of demands is virtually impossible. Ideally, the supervision of one offender could be shared, with one entity taking the lead and sharing information with the other. The goals of both entities are still being met, but manpower and resources are not being exhausted as a result. Another avenue to explore may be shared supervision, where each entity offers up resources they have available to fulfill an agreed upon supervision/treatment requirement. For instance, the state/local/federal jurisdiction may have employment/education opportunities available while the tribal jurisdiction may be able to provide home visits, thus reducing traveling on the part of the state/local/federal

probation officer. This allows for each jurisdiction to maximize the resources they have available and target them more appropriately to individuals who need them.

The number and type of services/resources available in most jurisdictions is often scarce or overburdened in tribal and state/local/federal jurisdictions. It takes significant time and manpower to collect and enter information for each offender. By combining shared knowledge of offenders on their caseload, each jurisdiction maximizes their resources, enhances supervision of offenders, and increases their ability to protect their respective communities from additional crimes being committed by offenders already under supervision.

### ***Obstacles and Barriers to Information Sharing.***

Wanting to share information and being able to share information are two very different things. There is no question that systems wishing to share information face challenges. Often times, these challenges are technical in nature--more of "how to" than "should we." Hesitancy among federal/state and tribal agencies to share information often stems from philosophical differences; where tribal culture has historically focused on restorative justice, Anglo-American justice focuses more on retributive justice (Townsdin & Melton, 2004). Before any information sharing Memorandums of Understanding or Agreements can be implemented, entities must be willing to understand and appreciate each others' justice philosophies. One way to accomplish this is to clearly articulate specifically:

1. What information will be shared?
2. With whom will information be shared?
3. How shared information will be used?
4. Methods for resolving disputes concerning shared information when they arise.

The teams participating in the focus group identified four main categories of barriers they have encountered when they have either shared or attempted to share justice information across jurisdictions: (1) legal barriers, (2) trust barriers, (3) technological barriers, and (4) policy barriers. Each one of these brings with it a unique set of challenges but also lends itself to some creative and practical solution seeking encompassing the long-reaching potential to have an impact on all barriers.

***Legal Barriers.*** The focus group participants indicated that while in today's world, the release of information outside of the originating organization can be complicated; but for sovereign<sup>2</sup> tribes, the challenges can appear daunting. Sovereignty can be a significant stumbling block for some tribes wishing to enter into information sharing agreements with state and/or federal agencies. Establishing information sharing networks with agencies outside the tribe can sometimes be threatening to many sovereign tribal governments as they generally do not want the state or federal government to interfere with or hinder the processes they have established.

The participants indicated that, although it is changing, there is a significant lack of formal Memorandums of Understanding/Memorandums of Agreement (MOU/MOA's)

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<sup>2</sup> Being an autonomous state or free from external control (Merriam-Webster online dictionary).

between jurisdictions outlining what information will be shared and for what purpose. The Institute of Tribal Environmental Professionals state that MOU/MOA's are often used interchangeably and simply represent a statement of cooperation or understanding about a specific or general topic between two (or more) parties and are often used to clarify the roles and responsibilities of each party in a shared situation of interest.

Some of the participants indicated that tribal legal codes can be a hindrance to tribes wanting to share information with outside jurisdictions if they have not been updated in some time. For instance, some tribal legal codes have not been updated in generations and are not reflective of the issues tribal justice systems face in working with today's tribal offenders.

**Trust Barriers.** Probably one of the biggest challenges the focus group participants felt that tribal jurisdictions face with entering into information sharing agreements with state/federal agencies is a lack of trust. Trust issues can be complicated and are caused by a variety of factors; however, the jurisdictional teams identified two primary trust barriers—(1) fear related to how shared information will be used, and (2) concerns that the state will not reciprocate in information sharing ventures. Many tribal members have a fundamental fear of how information shared with non-tribal agencies will be used. For example, if a tribal offender is arrested by the state for a driving while intoxicated offense, if the tribe shares that this offender also has similar charges in tribal court, will that information be used in the best interest of the tribal offender, such as getting them into treatment for alcohol issues, or used against tribal offender by way of enhanced penalties? As a result tribal members want assurances that the shared information will only be used in the interest of public safety and offender supervision. In terms of reciprocity, the focus members stated that if a tribe shares information to assist with an arrest, they want to be assured that information will be shared back regarding the outcome of that arrest.

“it may not be politically expedient to share driving records in a DWI/DUI case, which may result in increased penalties frequently referred to as *enhanced sentences* in state court”  
(Townsdin & Melton, 2004)

**Technological Barriers.** In the technologically advanced world we live in today, sharing information should be as simple as a touch of a button. However, not all jurisdictions have equal access to technology. For example, some rural jurisdictions in America, including tribal jurisdictions, do not have computers or internet access. Sharing automated information requires National Information Exchange Model (NIEM<sup>3</sup>) conformant operating systems, networking data sharing systems, and access to internet providers which can be problematic for some jurisdictions who lack those resources.

Along with having these components in place, data elements and measures must be identified and users must be trained in data entry, processing and retrieval in order for

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<sup>3</sup> NIEM was developed from a partnership between the U.S. Department of Justice and the Department of Homeland Security. It is designed to “develop, disseminate and support enterprise-wide information exchange standards and processes that can enable jurisdictions to effectively share critical information in emergency situations, as well as support the day-to-day operations of agencies throughout the nation”. Retrieved from <http://www.niem.gov/>.

its use to be effective. Often times, information systems are developed to collect a multitude of information, with no real understanding of how that information is going to be used (if at all). Unlimited amounts of data can be captured, but unless the data is linked to an identified use or measure and how that data is entered and analyzed, it is nothing more than a useless piece of information.

***Policy/Political Barriers.*** The philosophies and governing structures of jurisdictions differ greatly. The governing structure of one tribal jurisdiction may be different from a neighboring tribe; which causes additional challenges for state/federal jurisdictions working with them in terms of understanding and appreciating how each one operates. A main barrier identified by the focus group participants was a lack of understanding of various Acts, including the Freedom of Information Act<sup>4</sup> and the Health Insurance Portability and Accountability Act<sup>5</sup> (HIPAA).

Another policy barrier mentioned centers around the fluctuation in leadership and their individual agendas. For some tribal leaders, developing MOU/MOA's is a high priority on their agenda, but making those agreements come to fruition before their term comes to an end is a constant struggle. The same is true on the state/local/federal side; beginning the processes of developing those documents is a high priority, but at the end of their term of service, they are not completed. Because these processes are never fully implemented, the process returns to the drawing board with new leaders, new agenda's, new personalities, and new trust issues. Conversely, there are leaders who are faced with more urgent issues which then push developing these relationships and agreements to the bottom of their list of priorities. For instance, one focus group participant alluded to a number of tribes that are facing financial deficits right now and struggling to maintain stability. The participant further opined that tribal leaders focus on what they can accomplish quickly during their term and are, therefore, may be limited in the amount of time that they can devote to long-term, systematic planning.

Another issue identified during the focus group meeting is that some tribal leaders do not have educational or occupational backgrounds in politics. The consequence of that is once they become elected, they face a certain learning curve in managing this new role while also being bombarded from various constituents to find solutions to the urgent problems facing their tribe. Some tribal focus group participants indicated that there are times when some non-tribal jurisdictions insinuate that because tribal jurisdiction staff may not have received the level of education and training that they have received so they may not be able to provide the same level of supervision of offenders as non-tribal jurisdictions.

### ***Overcoming Barriers to Information Sharing.***

Once the group identified the advantages that come from information sharing and the problems that they have encountered in their jurisdictions, what can be done to fix the problems? That is exactly what we asked the focus group participants. They had no problems identifying practical, realistic solutions that they would like to see occur. The

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<sup>4</sup> The Freedom of Information Act legislatively mandates the availability of information and documents controlled by the U.S. Government.

<sup>5</sup> HIPAA enacted federal protections for personal health information and established patient rights in with whom and how their personal health information is shared.

solutions discussed by the group relate to all the barriers to information sharing identified. One solution which is paramount to overcoming any barrier is forming relationships. A by-product of relationship building is opening and establishing lines of communication. Establishing effective lines of communication can be as simple as meeting a counterpart one time; putting a face to a name. Doing this one simple task not only increases the comfort level of a person to call on someone for help, but also increases the probability that that person will respond to that call. It is essential for respective leaders to form relationships as well. By example, leaders have the ability to establish relationships that their staff may emulate.

The focus group participants stated that forming relationships also works to break down stereotypes that individuals form of each other based on generalizations. Particularly in criminal justice, officials are not always working with the “best of the best” of a particular population; therefore, it is easy to extend negative attributes and behaviors to an entire group of people. Establishing working relationships and gaining an appreciation for the strengths and challenges of each group helps to break down those beliefs and allow for constructive individual opinions to be formed. It was stated that one way to make this happen is for the tribe to share information about their tribal beliefs and customs to state/federal counterparts. It is important for state and federal colleagues to gain a better understanding of the day to day life of tribal offenders to aide in the supervision process as well as how their culture may have an impact on the behavior of offenders on supervision.

***Overcoming Trust Barriers.*** Participants stated that the barrier that must be addressed before any progress can be made on the other identified barriers is trust between the jurisdictions. Many ideas were tossed around as to how to build trust between tribal leaders and state/federal representatives—but all of the ideas discussed centered on establishing basic working relationships. To initiate contact with respective leaders, a multi-jurisdictional meeting was proposed as one way to help professionals across jurisdictions meet and get to know each other. In order to keep the relationship growing, participants suggested scheduling and adhering to regular meetings as well as rotating meeting locations between tribal jurisdictions and state/federal jurisdictions. It was also suggested that to facilitate comradeship, ground rules be set about how to have difficult discussions in a respectful manner. Other suggestions mentioned building relationships from the top down; allow administrators and tribal leaders to find common ground and build upon that as a foundation. Participants stated that it will take all individuals getting out of their “comfort zone” for change-making discussions to take place. The key, as it often is with any partnership, seems to be building one-on-one relationships with justice counterparts.

**Exhibit 2: Focus Group’s Identified Ways to Establish Trust:**

- Respond to Requests for Information in a timely manner
- Engage in personal contact with probation counterparts, such as making telephone calls instead of sending faxes or more impersonal methods of gathering information
- Establish memorandums of agreement/understanding outlining what information will be shared and specifically with whom information will be shared.

In accomplishing this, it may be necessary to spend time educating political leaders, both tribal and state/federal, in what they stand to gain by forging working relationships across jurisdictions.

One state/county jurisdiction at the meeting suggested that state/county justice agencies invite the tribal jurisdiction to participate in job-shadowing. In this type of a scenario, a tribal probation officer would go to the state probation office and spend an entire day working side-by-side with a state probation officer. This provides the tribal probation officers an opportunity to learn how the state probation office deals with certain situations and share how they might have handled a similar situation. It also allows the two counterparts to begin establishing a true working relationship. The tribal probation office then can invite the state probation office to visit the tribe for a day; reciprocating the desire to build a relationship. This strategy was tried in one jurisdiction participating in the focus group and they stated that now, each officer felt comfortable calling upon their counterpart because they had established that relationship; the lines of communication across jurisdiction had been opened.

***Overcoming Legal Barriers.*** The focus group participants conceded that overcoming legal barriers will be challenging. Changes to legal codes and policies and procedures are an intricate and time consuming task that may involve bringing many different individuals to the table. But, the group agreed it is not impossible.

The development of Memorandum Of Understanding (MOU) /Memorandum Of Agreements (MOAs) can expedite the process of information sharing and allows each jurisdiction to specify certain conditions under which information sharing could take place. Tribes may enter into such agreements with neighboring state and local jurisdictions to address a variety of issues such as transportation (highway development), agriculture, assistance to needy families, and emergency management and response (such as fire, EMS, and police). These types of agreements can also be helpful in sharing criminal data due to the fact that crime problems tribal communities' face often extends beyond the boundaries of their reservation land into state/federal territory. The same is true for state jurisdictions as offenders sometimes will retreat to tribal reservations to avoid state/federal prosecution.

Establishing MOU/MOAs<sup>6</sup> can facilitate the equitable sharing of information between tribes and state/federal jurisdictions. During the establishment of these agreements, it is essential that both sides recognize that each entity is acting in a government-to-government capacity<sup>7</sup>.

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<sup>6</sup> “formal mechanisms by which crime data and information sharing can occur between tribes or between a tribe and a state governments”. (Melton, n.d.).

<sup>7</sup> The U. S. Department of Justice’s Global Justice Information Sharing Initiative has developed [Privacy and Civil Liberties Policy Development Guide and Implementation Templates](#) to guide agencies in developing protocols and agreements pertaining to information sharing.

MOUs/MOAs should clearly outline the goals and objectives of the agreement and allow the parties to negotiate and agree upon points of information that will be shared, with whom it will be shared, how it will be shared, how it will be communicated and used, and by whom it will be shared. The negotiation process during the development of MOU/MOAs allows both parties to express their interests and misgivings about sharing information outside of their jurisdiction and provides a way to address those issues specifically through mutual agreements. However, parties should take heed that the development of the MOU/MOAs is not a one-time process. As the parties implement the agreement into action, the lines of communication should remain open as issues arise and need to be addressed and the agreement should remain open for potential revisions. For example, the Thlopthlocco Tribal Town put into their agreement with the United States Corps of Engineers a clause stipulating that periodic face-to-face meetings would be held to re-evaluate the agreement and make revisions as needed, but also stipulated that ongoing communication would be pursued through various other means as necessary (see Exhibit 3).

**Exhibit 3: United States Corps of Engineers,  
Memphis District and Thlopthlocco Tribal Town  
Memorandum of Agreement**

- A. The parties intend to continue consultation as ongoing stewards of the land. The parties have periodically scheduled face-to-face meetings. However, it is necessary that consultation continue in the absence of, or in between, such meetings to continue the relationship between the parties or deal with immediate issues. This section does not alter this intent, but defines the means of interim communications and less formal consultation for those periods on which more formal consultation is impractical.
- B. The parties agree that the preferred method of communication between periodic meetings shall be electronic mail, facsimile, or telephone. In the event this means fails, the parties shall use the U.S. Mail system.
- C. Without limiting any right to communicate after this period, the parties intend to reply within thirty (30) days to an issue that is raised during routine communication. In the absence of a reply, the parties intend to reasonably move forward as though no objections or expressions of concern were received. Again, this simply states the intent of the parties to reasonably act, but in no way limits rights that may be present in law.

*Source: United States Corps of Engineers, Memphis District and Thlopthlocco Tribal Town Memorandum of Agreement, pg. 2*

**Overcoming Technology Barriers.** In the grand scheme of things, sharing information electronically would allow immediate access to the most recent, accurate information available regarding a particular offender. Focus group participants indicated that some tribal jurisdictions struggle to acquire and stay up-to-date with the technology which would allow such instantaneous access possible. One participant stated that the one obvious solution to this problem is for these tribes to obtain the funds necessary to update their current technological status. However, the group quickly stated that many tribes are operating on bare-minimum budgets and funds to make such purchases are not realistic.

Therefore, the focus group participants came up with several avenues tribal jurisdictions could pursue. One option would be to look into purchasing technology as a joint adventure with another organization. Sometimes technology companies will offer discounts for systems bought in bulk or will provide discounts for certain organizations (such as state/federal governments, institutions of higher education, non-profit organizations, etc.) which the tribal jurisdiction may not be able to pursue on their own, but could take advantage of in conjunction with other eligible organizations.

Another solution identified by the focus group was for tribal jurisdictions to identify and try to obtain equipment from organizations who discard their old systems. Government agencies, colleges/universities, and businesses often will sell or donate computers and software upon updating their systems. For instance, universities often operate surplus stores where individuals and/or businesses can purchase used computers, printers, fax machines, etc. at a reduced cost. Similarly, depending on availability, tribal jurisdictions could attempt to network and partner with tribal colleges to share technological resources.

The group cautioned; however, that before committing funds on technological purchases, tribal jurisdictions should research what to look for in purchasing new or used equipment and/or software<sup>8</sup>.

Compatibility issues should be explored carefully before making any purchases, both internally if existing systems are being updated and externally if plans to network with state/federal agencies are in place. Equally important to having the proper hardware and software, is the technology's capacity to capture and extract meaningful data. It is helpful to involve stakeholders in the process of identifying what elements are to be measured, as well as what data will be used to inform those measures so that information specialists can design programs to meet those needs. For the data to be meaningful, it is essential that individuals entering information into the

system receive appropriate training to ensure information gets entered and used correctly.

Also, it is important that system users are made aware of the importance of the information they are entering as well as how it will be used to capture criminal history, recidivism data, solicit funds, etc. In cases where automated systems are not available, a paper process should be implemented to effectively and efficiently record, collect and analyze data. One participant shared that being able to quantitatively define issues puts them in terms decision makers can understand. For example, one tribe presented data to their tribal council comparing the number of child neglect/abuse investigations one of

#### **Exhibit 4: New Mexico Pueblo Crime Data Project**

The Pueblo of Laguna in New Mexico reached out to the Governor of New Mexico regarding sharing information pertaining to traffic offense convictions. Both entities recognized that offenders typically cross jurisdictional lines and put each community's citizens in danger. Tragically, a fatal DWI incident sparked the initiation of this venture wherein prior DWI convictions was not shared with a neighboring jurisdiction, resulting in the death of four people. As a result, "the need to initiate dialogue and address these issues of mutual concern (public safety and quality of life) overrode other concerns by the Pueblo that may have restricted access to tribally held DWI information" (Melton, pg. 4).

<sup>8</sup> More information about this can be found at <http://www.it.ojp.gov/>

their officers completed per month with their state counterparts; which showed that one tribal officer was completing almost four times as many investigations than their state counterpart. Ultimately, the tribal leaders approved additional personnel to make the investigation rates more comparable with the state counterparts. Since the problems were clearly defined, the tribe was able to implement solutions.

***Overcoming Policy/Political Barriers.*** The group discussed that one way to overcome political barriers is through education. Tribal jurisdictions stated that they would like education on the Acts and codes which guide what information can be shared, with whom the information should be shared, and under what circumstances the information should be shared. Likewise, state/federal jurisdictions would like education on laws governing the tribal jurisdictions they work with. Establishing a knowledge base of the policy and political barriers that are hindering information sharing across jurisdictions and the unique issues each jurisdiction must contend with could facilitate efforts to improve information sharing across jurisdictions.

## **Resource Sharing:**

### ***What resources need to be shared?***

Resource sharing, like information sharing, can mean different things depending on the population and the topic you are discussing. In the justice arena, resources can take on the form of things such as, but not limited to people, technology, programs, and curricula. For purposes of discussion with our focus group members, resource sharing was defined as “the sharing of human, technological, educational, and therapeutic resources in a manner that assists all parties involved. Memoranda of understanding help guide the effective and fair sharing of resources” (Wicklund, personal communication).

Resources in any jurisdiction are a precious commodity. In many jurisdictions, there are not enough resources available to fulfill local community needs, let alone having enough to accommodate neighboring communities. Additionally, it is sometimes difficult for communities to identify exactly what resources are available and what services they provide. The focus group participants indicated that another benefit of multi-jurisdictional conferences, mentioned earlier as a way to establish and enhance lines of communication between jurisdictions, is to help communities identify resource needs, resource availability, and target populations. In addition, multi-jurisdictional conferences provide a forum for each jurisdiction to discuss and identify ways they can work together to fill the gaps in services.

***Advantages to Improved Resource Sharing.*** The focus group participants agreed that the main advantage deriving from the sharing of resources between tribal and state/federal jurisdictions is the ability to provide better services to offenders on their caseloads by meeting their needs more effectively. Evidence-based practice tells us that being responsive to the needs of individual offenders by matching resources to identified needs promotes better outcomes (Crime and Justice Institute, 2004). Situations arise on both sides of the jurisdictional line when offenders are in need of services not available. For some tribal justice systems, it may be that the resource simply does not exist, and for state/local/federal jurisdictions it may be that the resource is there but is overburdened at the time of need. Crossing jurisdictional lines to provide the needed resource would be of

benefit to help ensure that offenders receive access to resources that will help facilitate long-term behavioral change. One participant stated that sharing resources also contributes to the improvement of relationships between jurisdictions through the partnerships developed to provide services and continues to work to break down those barriers discussed earlier (trust, legal, policy, and technology).

***Obstacles and Barriers to Resource Sharing.*** The focus group participants identified numerous barriers they have experienced in past attempts to share resources between their jurisdictions.

***Rural and Remote Locations and Transportation Issues.*** Not surprisingly, state/federal and tribal focus group participants expressed problems in being able to effectively supervise and provide services to offenders in rural settings. When offenders live in remote areas, home visits and office visits can be challenging. For example, one tribal probation officer reported supervising offenders in areas where simply making a home visit constitutes an 8-hour drive, one way. Similarly, offenders in rural and remote locations also often lack access to transportation (public or private) to attend mandated meetings with supervision officers, court hearings, or service appointments.

***Access to Treatment/Community Resources.*** The focus group participants discussed the fact that alcohol and substance abuse among tribal offenders is a significant issue. The Office of Applied Studies (2006) reports that tribal offenders demonstrate higher percentages of abuse of illegal substances than non-tribal offenders. Additionally, crime records for Indian country indicate that a majority of property and violent crime committed on reservations are offenses correlated with illegal substances (e.g. possession, manufacture, or trafficking) or offenses related to the use of illegal substances (e.g. theft by unlawful taking, criminal mischief, DUI, forgery, etc.) (National Drug Intelligence Center, 2008).

*I've seen our tribe send an offender to substance abuse treatment just because it was the only program we had available...the offender didn't even have a substance abuse problem.*

*Personal comment from Tribal Probation Officer*

Tribal jurisdictions often lack the treatment resources needed to accommodate the tribal offenders requiring intervention. The focus group participants representing tribal jurisdictions stated their tribal offenders are often being sent to inappropriate treatment programs, because of limited options. The problem is that sending an offender to a treatment intervention not suited for them will not only be unsuccessful at facilitating behavior change it also potentially takes away that treatment opportunity for an offender who could truly benefit from it.

Treatment options for substance abuse are not the only resource lacking in tribal jurisdictions. While Indian Health Services<sup>9</sup> (IHS) is responsible for providing a menu of health-related services for tribal members, services targeting other criminogenic needs<sup>10</sup>, such as anti-social values or low-self control may not be available.

State and federal jurisdictions also expressed a lack of knowledge of cultural treatment options available for tribal offenders on their supervision caseloads. They state that there are times when tribal offenders may request alternative treatment modalities related to their tribal culture. However these alternatives are not available for state/local/federal jurisdictions to make referrals to as they are most times only available on reservations.

***Access to Training and Technical Assistance Opportunities.*** Participants expressed that while this is changing, historically, tribal jurisdictions have not been afforded the training and technical assistance opportunities which are provided to state/local/federal agencies. Part of this lack of training availability stems from their designation as sovereign nations (for select tribes); therefore, state, local, and federal dollars are not accessible to them. Another obstacle is the ability of personnel to travel to participate in such opportunities. This problem is not unique to tribal jurisdictions, but is also prevalent in small, rural local jurisdictions. These smaller jurisdictions often have small staff which makes it difficult for them to travel or be away from their positions to receive training. Attempts have been made to make training available via distance-learning opportunities (web-based; CD-ROM); however, many rural jurisdictions often lack the technology necessary to participate (i.e. DSL or high-speed internet connections).

### ***Overcoming Barriers to Resource Sharing.***

The focus group members acknowledged that before some of the solutions they identified to address barriers to resource sharing can be implemented; lines of communication, a foundation of trust, and policy/legal issues will have to be addressed. While not insurmountable, each jurisdiction must be willing to work together—something the jurisdictions represented in the focus group expressed interest doing in their respective communities.

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<sup>9</sup> “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 is the principal federal health care provider and health advocate for Indian people and provides a comprehensive health service delivery system for approximately 1.9 million American Indians and Alaska Natives who belong to 562 federally recognized tribes in 35 states”. (Retrieved from: [http://www.ihs.gov/PublicInfo/PublicAffairs/Welcome\\_Info/IHSintro.asp](http://www.ihs.gov/PublicInfo/PublicAffairs/Welcome_Info/IHSintro.asp))

<sup>10</sup> Criminogenic needs are defined as dynamic (or changeable) risk factors that, when addressed through targeted intervention, affects an offender’s recidivism risk. Criminogenic needs include criminal personality; antisocial attitudes, values, and beliefs; low self control; criminal peers; substance abuse; and dysfunctional family. Crime and Justice Institute, 2004.

**Overcoming Rural and Remote Location/Transportation Barriers.** The group acknowledged that there are solutions which can help offenders in rural jurisdictions receive the same exposure to services as those in more urban locations. One solution proposed was a designated central or regional meeting location that is more accessible to the offenders living in rural areas. Having a more accessible location for offenders to meet with their supervision officer alleviates several problems for offenders and supervision officers. These designated locations allow supervision officers to satisfy their requirements of meeting with offenders about their supervision plans without exhausting their available time or their automobile resources. It also can reduce some of the burdens offenders face finding transportation to satisfy their supervision requirements. By reducing the distance offenders have to travel to meet their requirements, it may help minimize the frequency that they are in violation of the terms of their supervision related to mandated reporting.

One tribe utilized a rural housing development with available space to serve as a central meeting location for probation officers and probationers.

*Comment by Focus Group Participant*

Another solution suggested by the group would be for tribal probation officers to carpool with state/local/federal probation officers when visiting common clients. The two jurisdictions could coordinate with each other and determine common clients they share that live in similar locations and plan to meet with those offenders in one trip. Another option along the same lines as carpooling is developing mobile offices (such as a van or SUV that carries all the necessary supplies that supervision officers may use during an office visit such as drug screening materials, breathalyzer machines, etc.). Other solutions include:

- ✧ Allowing tribal probation officers to administer drug screens/breathalyzers to tribal offenders under state/local/federal probation supervision to reduce the burden on state probation officers for traveling to the reservation for these types of checks.
- ✧ Use of technology (electronic monitoring)—in areas that have access to technology that works—to enhance the supervise offenders living in rural locations

**Overcoming Barriers to Treatment/Community Resources.** Participants discussed that one way to begin addressing the need for more treatment and community resources is to quantify the specific treatment needs for offenders. Providing data to tribal leaders or state/local/federal decision makers on what needs are not being met and how many individuals are in need of a particular service is likely to bring about action to either provide services the area in need or forge partnerships with other jurisdictions for service delivery. Having data to quantify a specific need or needs gives credence to the problem and brings about discussions on how to fill the gap.

The group further discussed that once the needs are quantified, the use of multi-jurisdictional meetings can be a way to help identify gaps in resources, discuss options for how jurisdictions can work together to fill gaps in services, and determine how to

implement resource sharing initiatives (whether it be through formal MOU/MOA's, or discussions with leaders, or changes to laws and legal codes).

The group discussed the potential for sharing jurisdiction over tribal offenders (e.g., courtesy supervision) as another potential solution to addressing a lack of resources. For example, tribal offenders on state/local/federal supervision may be able to access culturally-based treatment options if the tribal probation officer is willing to accept responsibility for providing supervision and sharing information back to the state/local/federal probation officer regarding compliance and/or non-compliance. Likewise, if resources are not available on the reservation, supervision can be shared with state/federal jurisdictions to address offender needs with the same information sharing stipulations. However, officers will have to exercise caution to ensure that information obtained is not used in a negative way against offenders who are non-compliant. For example, one participant shared that they have been in situations where a state jurisdiction used information obtained from a tribal officer for revocation purposes only, causing the tribal offender to be institutionalized. While in some cases revocation may be necessary, the jurisdictions should work together to come up with alternative ways to address non-compliance when appropriate. The group stressed that communication between the two jurisdictions will be imperative.

***Overcoming Barriers to Training and Technical Assistance.*** The U.S. Government realizes there is a lack of training and technical assistance provided to tribal jurisdictions. In response to this shortfall, the U.S. Government provides funds to tribal agencies to fill this gap. The group discussed that one of the easiest ways to overcome lack of training in tribal jurisdictions is to simply make them aware or extend invitations to them when such opportunities are available. Again, the use of multi-jurisdictional conferences allows training and technical assistance to be delivered to a more diverse audience at a regional location. These conferences could bring together jurisdictional teams of state, local, federal and tribal personnel who are charged with working together. Providing training and technical assistance at these venues allows not only for material to be delivered in a meaningful way to a targeted audience, but having all the key players in one place allows for the teams to begin to make plans for implementing shared strategies. If teams are already scheduling and attending multi-jurisdictional meetings regularly, then provide training and technical assistance at these meetings removes the burden of additional travel and time away from the office. This relieves some of the strain on smaller jurisdictions with limited staff. Other strategies to open access to training for tribal jurisdictions include:

- ✧ Providing scholarships to reduce the financial burden on tribes to send personnel to training.
- ✧ Having the tribe provide staff coverage for tribal personnel when they are absent for training purposes.
- ✧ Offering training on reservations so they are accessible to their staff while still being able to receive the information.
- ✧ Offering train-the-trainer opportunities so that one person from the tribe can receive the training and return to the jurisdiction and train other personnel

- ✧ Providing training via alternative means (e.g. online, web-casts, etc.) making sure that tribes have the technological capabilities to receive such modalities.

State jurisdictions indicated that promoting the provision of training and professional development opportunities to tribal members working as probation officers would also help professionalize tribal probation. This would create an additional employment pool from which state and federal jurisdictions could seek to hire. The participants shared that it is difficult for state and federal probation and parole agencies to employ tribal members in their jurisdictions because they often lack the educational and professional background required to be a state or federal probation officer. More skilled tribal probation officers would facilitate neighboring jurisdictions in hiring tribal members in these positions and potentially ease the relationship and trust building process needed to work more effectively with tribal offenders and tribal jurisdictions.

### **Focus Group Summary Comments:**

Bringing together jurisdictional teams for purposes of discussing barriers and solutions resulted in productive discussions that have the potential to propagate long-reaching changes in community supervision practices in those jurisdictions. One benefit of this meeting from the participants' perspective was an opportunity to meet their counterparts on the other side of jurisdictional border, which was identified as a mechanism to begin the process of building trust and working relationships. Many of these jurisdictions have networks in place to collaborate in supervising common offenders, but the lines of communication had not yet been established. The meeting helped open communication lines. This focus group also allowed participants to state the problems as their jurisdiction understands them in a positive way and opened up an avenue for exploring solutions. Finally, this meeting allowed participants to formulate new ideas to take back to their jurisdictions, and present them in a way that will, hopefully, instigate change.

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