



AMERICAN INDIAN DEVELOPMENT ASSOCIATES QUARTERLY

## **INTEGRATED JUSTICE SYSTEMS IN AMERICAN INDIAN COMMUNITIES PLANNING SERIES:**

### ***UNDERSTANDING THE TRIBAL JUSTICE AND LAW ENFORCEMENT ENVIRONMENT***

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#### **INTRODUCTION**

When engaging in design and development of integrated criminal justice systems in American Indian communities, it is important to understand why and/or what is driving a tribal government's decision to undertake design and development of an integrated justice system. Some view justice integration as a natural progression to manage growth in the number of governmental agencies responding to crime, violence and victimization problems in tribal communities. Others point out that multiple factors contribute to a tribe's decision to create integrated criminal justice systems to improve the usual way in which crime data and information is shared among tribal and non-tribal criminal justice practitioners, administrators and policy makers; allied agencies and programs; and by private and non-profit organizations, businesses, and citizens.

This edition of the *Integrated Justice Systems in American Indian Communities Planning Series* examines the important

aspects of tribal governments from historical, indigenous and modern day perspectives to consider when planning integrated justice and law and order systems in tribal communities.

The following sections articulate important background information to consider in designing systems integration by drawing from the current experience of the New Mexico Crime Data Project (NMCDP). This is a project supported by the Justice Research and Statistic Association (JRSA) – Tribal Justice Statistics Assistance Center (TJSAC) through funding by the US Bureau of Justice Statistics. This is an ongoing project that promises to provide continuing information about important achievements and lessons learned as the project progresses. This edition entitled, *Understanding the Tribal Justice and Law Enforcement Environment* describes tribal justice and law enforcement history and evolution, as well as factors that are the impetus for movement towards integrated justice systems among the three Pueblos.



## INDIGENOUS AND HISTORICAL PERSPECTIVES ON CHANGE

There is widespread opinion that integrated justice systems are new concepts for Indian nations. This notion is only partially correct in that modernization has caused many tribes to restructure their governmental infrastructures along with their oral communication systems and traditional forms of justice, and law and order. In contemporary times, tribes throughout Indian country have instituted new or adapted existing peacekeeping or justice, and law and order systems to keep up with the ever-changing needs of their citizens, historical factors, society and modern technologies. While Americanization and modernization caused extensive and massive changes in tribal justice and law and order systems, many Indian nations still hold true to their fundamental beliefs to create and live by holistic philosophies that enable tribes to engage in open communication with all aspects of their socio-economic and political systems.

In general, administration of justice, law and order are functions of government that Indian tribes have always had as sovereign nations. The status of tribes as sovereign nations is both pre-constitutional and extra-constitutional, in that Indian nations existed prior to establishment of the US government and creation of the US Constitution. The Commerce clause also exempts Indian nations from this national US policy. Indian nations possess four key characteristics of sovereign status: 1) a distinctive permanent population, 2) a

defined territory, with identifiable borders, 3) a government exercising authority over territory and population, and 4) the capacity to enter into government-to-government relationships with other nation-states.<sup>1</sup> Contemporary tribal justice and law enforcement systems exist within this realm.

### *Indigenous Justice and Tribal Court Systems*

Although there have been many efforts to limit the jurisdiction of tribal justice systems, tribes retain the authority to determine the legal structure and forums to use in administering justice and to determine the relationship of the legal structure with other governing bodies internal and external to the tribe. The forums used to handle conflicts and disputes differ among Indian Nations. In many tribal communities, dual justice systems exist, one based on an American paradigm of justice and the other based on an indigenous paradigm. Still others have justice systems that are hybrids evolving out of imposed American style justice systems, but still have incorporated formally and informally indigenous philosophy, methods and practices into court policies, procedures, and practices.<sup>2</sup>

Table 1 describes the varying combinations of Indian justice systems that exist in tribal communities. These include family and community forums, traditional courts, tribal courts, and Courts of Indian Offenses (also called CFR Courts). The latter, CFR courts are federal courts operated by the US Department of Interior, Bureau of Indian Affairs (BIA).<sup>3</sup>

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<b>Table 1 Justice Forums</b>				
<b>Dimensions</b>	<b>Family &amp; Community Forums</b>	<b>Traditional Courts</b>	<b>Tribal Courts</b>	<b>Courts of Indian Offenses</b>
<b>History</b>	Established by unwritten customary law and traditions.	Established by the tribal council and tribal religious leaders according to unwritten laws.	Established by the tribal council, usually under the authority of the tribe's Constitution.	Established by the Secretary of Interior under Title 25, Code of Federal Regulations (CFR).
<b>Authority</b>	Subject only to authority of traditional clan systems and/or family elders, based on consensus of participants.	Subject only to authority of tribal council & religious leaders.	Subject to authority of tribal councils or law & order committees. Tribal constitutions may require US Interior Department approval of council ordinances or resolutions affecting the tribal court.	Subject to authority of tribal council <u>and</u> Interior Department. Council may adopt ordinances or resolutions affecting CFR Court, but Interior Department must approve them.
<b>Rules of the Court</b>	Procedures and offenses defined according to unwritten, customary laws, traditions, and practices.	Procedures and offenses defined according to unwritten, customary laws, traditions, and practices.	Procedures and offenses defined by tribal council in codes or ordinances. Tribal judges may develop rules of procedure for hearings and trials.	Procedures and offenses defined in Title 25, Code of Federal Regulations. Judges may develop Rules of Court for conduct of hearings and trials.
<b>Judges</b>	Presided by family elders, chosen elders or adults from the community, or traditional tribal officials	Judges are governors or other tribal officials, who serve without pay and are appointed by the tribal religious leaders.	Judges may be elected by the tribal membership or appointed by the tribal council if paid by the tribe.	Judges are appointed by the Bureau of Indian Affairs, subject to approval by the tribal council, and are paid with federal funds.
<b>Appeals Procedures</b>	Usually cannot be appealed, but matters may be pursued through formal tribal courts.	Appeals of decisions by pueblo governors are heard usually by the tribal council	Appeals of tribal court decisions may be heard by a tribal appellate court, composed of judges, or by the tribal council.	An appellate court composed of Judges appointed under CFR rules may hear appeals of CFR court decisions.

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American justice systems are vertical with hierarchical power structures that limit participation by those affected by a crime or conflict. It is an adversarial system that focuses on offender rights while promoting punitive reactions against them. It limits offender accountability to the state and ignores his or her obligations to the crime victim. This system fragments the problems into what it perceives to be manageable parts, but leaves many aspects of the problem undiscovered and unresolved. Because of these characteristics, modern legal systems contradict the cultural values of most Indian communities who depend on, and are bonded by group cohesiveness, cooperation, and group problem solving to live peaceably in their communities.<sup>4</sup>

Then again, there are many Indian tribes throughout Indian country that have invested extensive tribal and federal resources to develop justice systems following the American justice paradigm. This paradigm is different from the indigenous justice paradigm in many ways and creates challenges for tribes. However, these challenges can be overcome with careful and thoughtful planning. One major challenge is that overtime, fragmentation and specialization in American style courts and law enforcement systems has caused disconnect in the flow of offender and victim information to all the players in the system; thereby requiring these often massive systems to pause and consider ways to become connected again through integration.

The indigenous paradigm, which guides family and community forums and the traditional courts, involve holistic approaches that connect all the affected persons on a continuum of shared and

balanced power and responsibility.<sup>5</sup> It is based on customary laws, practices, and traditions that require involvement of the individuals in conflict, their families, and when necessary, tribal officials. This process is non-adversarial and facilitates discussion between people in conflict in a safe environment that promotes resolution of underlying problems and keeping relationships intact. The communication process is fluid and allows for discussion of multiple viewpoints of the problem or conflict from those directly and indirectly affected. Although information is shared freely and discussed openly in these settings, once a resolution is reached the matter is considered closed. Ongoing disclosure of information is discouraged to prevent new conflicts.

Contemporary crimes, experiences with repeat offenders and modernization are but a few of the challenges for tribes to consider while updating indigenous information sharing approaches. The updating process must be done in ways that respect the value of bringing conflicts to closure so that wrongdoers (i.e. offenders) and victims can go on with their lives crime free, safe, and in peace.

The indigenous approach to conflict resolution contradicts the adversarial American justice paradigm, which is focused on the individual offender and limits participation by strangers who have no investment in the individual offender, the victim, the community or the relationships involved. In an adversarial system, communication is controlled and rehearsed, and limited to only a few players whose main goal is to win. Furthermore, in the American justice paradigm, separation of powers and separation of church and state are essential doctrines to ensure that justice

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occurs uncontaminated by politics and religion. For many Indian people, law and justice are part of a whole that prescribe a way of life. Therefore, separation doctrines are difficult for tribes to embrace and some find it impossible to make such distinctions. Among several New Mexico Pueblos, judicial roles and responsibilities are attached to the Governor and Lieutenant Governor positions; hence they also serve as tribal judges during their terms in office.

Indian Nations are faced with the inevitable conflicts created by two justice paradigms competing for existence in one community. Although modern tribal courts follow the Anglo-American legal system; many adhere to the traditional values of the indigenous paradigm.

### ***Law Enforcement***

The law enforcement environment varies from reservation to reservation and community to community. Some tribes have their own tribal police that they fund or operate with federal funding. Other tribes have federal police provided completely or partially by the BIA, the Federal Bureau of Investigation (FBI) for felony investigations, and occasionally, the U.S. Marshals. Some are under the criminal jurisdiction of the state or county authorities as authorized by P. L. 280.<sup>6</sup>

Several New Mexico Pueblos function under a traditional tribal government structure. Under this structure, a Tribal Sheriff and Deputies are appointed who exercise the Pueblos' inherent authority to enforce Pueblo laws, which include surveillance and the power to arrest and detain alleged offenders. In most instances, the Tribal Sheriff and

Deputies serves as unpaid public servants that serve their communities for up to one or two year terms. For this type of law enforcement environment, the BIA supplements the law enforcement needs of the Pueblos with support for patrol, investigations and transporting offenders. For the most part the traditional Tribal Sheriffs and Deputies depend on indigenous community policing customs, traditions and practices to carry out their peacekeeping, community protection, and law and order responsibilities. These traditional officials do not carry firearms and do not wear police uniforms.

The 1953 passage of P.L. 83-280 transferred substantial jurisdiction from the Federal government to states. This law was enacted on the heels of the termination era when there was a strong move to assimilate Indian people into the dominant society. This policy was supposedly aimed at curing the problem of "lawlessness" on Indian reservations, but its actual impact has made it difficult for the affected states and tribes to provide effective and adequate law enforcement and justice to Indian citizens.<sup>7</sup> In at least six states where P.L. 280 exists law enforcement services should be provided by the state, county or municipal governments, but the reality is that law enforcement services range from adequate to inconsistent to non-existent. States control the process for retroceding jurisdiction back to the tribe; but even when retrocession occurs there are still remnants of state presence in the tribal community. Often retrocessions are only for limited areas such as traffic or child welfare, leaving other areas of law enforcement within state jurisdiction.

The BIA took over the delivery of law enforcement services during the early

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days of the reservations. Now it is recognized that the BIA has the responsibility to provide law enforcement services to American Indian communities as part of the trust relationship between the Federal government and Indian tribes. To that end, the BIA provides direct law enforcement services in approximately 65 agencies (many of which serve multiple tribes). There are over 560 Indian tribes through the country and approximately 304 Federal Indian reservations, several Indian nations, especially those in Oklahoma and Alaska do not live on specified reservations, but nonetheless exist as sovereign nations. By 1996, sixty percent of law enforcement departments were operated by the Indian Nations themselves made possible by P.L. 93-638 (the Indian Self-Determination Act), which allows Indian Nations to contract and receive funding to operate law enforcement systems and other programs from the BIA.<sup>8</sup> There are only a few tribal police departments funded entirely by the tribes themselves.

In recent years, funding under the US Department of Justice (DOJ) Community Oriented Policing Services has provided sorely needed financial support for tribal police departments to increase officers, replace and/or add new equipment and vehicles and acquire new technology to enhance police communications, data collection and storage. Other USDOJ initiatives have provided funds for Indian specific projects such as the Three Tribes Integrated Justice Project, which supports three tribes—the Pueblo of Zuni, the Hopi Tribe and the Navajo Nation—to acquire modern technology to design, develop and implement elaborate information technology systems that enhance each tribes communications systems and internal management information systems.

These systems support their ability to collect, store and share information internally, with each other, and with external jurisdictions, such as county, state and federal law enforcement agencies.

Most tribal law enforcement departments are small, are in rural locations, and cover large geographic areas. They usually cannot operate specialized crime units, therefore, tribal officers need continuous training in all aspects of law enforcement ranging from standard patrol to more specialized areas of investigation. The lack of adequate law enforcement impedes victim protection and safety. In 1996 the BIA Office of Law Enforcement Services (OLES) provided less than 400 uniformed BIA officers to approximately 40 locations throughout Indian country and 97 BIA criminal investigators covering the same territory. Although OLES is constantly seeking additional funding, increases to fund more BIA officers have changed very little since 1996.

As a result of the Federal-Tribal trust relationship, there is overlapping and shared jurisdiction in Indian country between Indian Nations and the Department of Justice through the U.S. Attorneys and FBI. These agencies play a major role in providing law enforcement, investigation and prosecution services to Indian Nations including funding and technical assistance for enhancement of criminal justice systems. The overlapping jurisdictions in Indian country has contributed to ineffective law enforcement from these agencies through: 1) lack of coordination and communication among the tribal police, BIA criminal investigators, U.S. Attorneys, and FBI agents; 2) lack of clearly defined

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investigative responsibilities; 3) inadequate training for all these agents; and 4) by inhibiting the collection of standardized nation-wide statistics on crime in Indian country, which makes it difficult to identify trends in criminal and juvenile delinquent activity and victimization and to have complete and accurate criminal histories for criminal and non-criminal uses.

and practices found in indigenous philosophy, beliefs and traditions. These indigenous principles are in line with modern strategies to develop integrated justice systems.

### ***Tribal Diversity***

Table 2 exemplifies the diversity of the three Pueblos participating in the New Mexico Crime Data Project and how their respective indigenous philosophy, customs and traditions still dictate the construct of their justice and law enforcement systems. Important aspects of indigenous culture permeate the structure and processes followed by tribal systems.

Indigenous justice values continue to influence the structure and design of modern tribal courts and law enforcement systems. In particular, many Southwestern tribes continue to operate justice and law enforcement systems based on customary law, philosophy, traditions and practices. These systems thrive on important principles of communication, inclusiveness and sharing of resources and responsibilities to holistically address wrongdoing commonly referred to as serious, delinquent or violent crime. This is an important premise, which tribes should expound upon to anchor current efforts to integrate and make whole again the fragmented systems that seem to flourish in tribal communities throughout Indian country. Hence it is important for Indian tribes to reinforce their current integration, data and information sharing efforts as a return to methods, approaches

**Table 2. Tribal Diversity**

<b>Diversity Dimensions</b>	<b>Pueblo of Laguna</b>	<b>Pueblo of Acoma</b>	<b>Pueblo of Zuni</b>
Language	Keres	Keres	Zuni
Location	Rural	Rural	Rural
Tribal Enrollment	7,980	4,782	9,780
Children's Codes	Written Code	Customary Law	Extensive Revision
Juvenile Code	Minimally part of Criminal Code	Minimally part of Criminal Code	Written Code
Criminal Code	Written Code	Written Code	Written Code
Customary Law	Moderate integration in formal systems	Extensive integration in formal systems	Moderate integration in formal systems
Local Law Enforcement	Tribal Police	Tribal Police & Traditional Officials	Tribal Police
Tribal Leadership	Elected 2 year term	Appointed 1 year term	Elected 4 year term
Court	Modern Court	Modern & Traditional Court	Modern Court
Judicial	Hired by Tribal Council	Hired by Tribal Council	Hired by Tribal Council
Indigenous Justice	Family Gatherings & Village Resolution System	Family Gatherings & Traditional Court	Family Gatherings



## CHALLENGES OF A MULTI-JURISDICTIONAL ENVIRONMENT

Contemporary tribal societies operate under multi-jurisdictional conditions in various governmental areas. Today's tribal society has become very mobile. Often tribal members travel extensively from reservations to urban areas for education, work, medical purposes, commerce, entertainment, and a myriad of other reasons. This contact with the outside world has brought new influences into tribal communities. Attitudes, ideas and issues that had been previously shielded from the reservations are now commonplace. Intertribal and inter-racial marriages bring outsiders to the reservation, either for visits or to reside. Continued poverty and the resulting disproportionate rates of crime and the rise of gang influences places burdens on tribal law enforcement.

Crimes such as DWI/DUI, which may involve multiple jurisdictions as the locus for the crime, are becoming commonplace and require a multi-jurisdictional approach. Increases in domestic violence and responding local, state and national legislation have created the need to share protection orders and warrants since many offenders flee from tribal jurisdiction or move between tribal and off-reservation jurisdictions. Similarly, child welfare cases often generate custody orders that accompany the child from jurisdiction to jurisdiction.

Tribal, state, and federal governments each have varying degrees of law enforcement, social services and other responsibilities for various aspects of tribal life. The states and federal

governments have legislatively or judicially assigned responsibilities. Tribes have the responsibility of providing for the health, safety and welfare of the tribal community. Differing attitudes about the discharge of the various responsibilities influences the ability of each government to fulfill its obligations. These differing attitudes also impact information sharing capacities and procedures.

Tribes face challenges related to fulfilling its responsibility to provide for the effective, efficient and safe operation of tribal government while protecting tribal culture, tradition and membership. Tribes are the first responders in most situations arising on the reservation, including situations over which the tribal court may not have jurisdiction. Tribal courts have jurisdiction over a great number of situations; however, federal law has limited the tribe's jurisdiction over non-Indians (*Oliphant v. Suquamish Tribe* 435 U.S. 191) and over the scope of its sentencing power in criminal cases under the Indian Civil Rights Act (25 U.S.C. § 1302).

These two situations alone provide a number of scenarios in which information sharing is of importance to tribes. As first responder, what information is available to the tribal officer? Officer safety can be compromised if that officer does not have access to criminal histories of all who are involved in the incident, including non-Indians and Indians from other tribes. Domestic violence provides a scenario in which the tribe has jurisdiction, but there is a potential for the offender to flee the jurisdiction. How do surrounding jurisdictions find out about a tribally issued protective order or warrant?

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New Mexico passed legislation several years ago, which mandates State criminal and juvenile justice practitioners and administrators to notify Indian tribes of Indian youth involved in the State's juvenile justice system in various provisions of the New Mexico Children's Code (NMCC). Specifically under the NMCC Delinquency Article, State practitioners (i.e. juvenile probation officers) are mandated to contact an Indian youth's tribe at adjudication for purposes of "exchanging information and consultation in preparing predisposition reports and disposition recommendations."

At the same time, tribes need to be aware that sharing information can have negative impacts or be perceived negatively in the tribal community. Surrounding communities can use shared information in a manner that is discriminatory to tribal members. Tribal members may feel that the tribe has the responsibility to protect its members from any negative consequence. Thus 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.

State governments have limited jurisdiction in tribal communities, which limits their interests in what occurs on tribal lands, even in P.L. 280 states. However, there are increasing instances where information sharing is needed, such as multi-jurisdictional crime locations, accessing criminal history information of tribal members and non-members for criminal and non-criminal purposes.

Issues facing the state are often the same as those impacting the tribes, which

include officer safety when executing foreign warrants. The willingness of the state to enter into information sharing agreements and develop data sharing protocols is dependent on the political landscape of the state and the ability of the state to address tribal needs within an information system that has already been designed and proven to meet state agency needs.

The federal government has extensive responsibilities in tribal communities. However, in most situations, those responsibilities do not result in the capture, management or sharing of crime data. However in those situations in which crime data is generated or captured by federal law enforcement agencies or courts, it is important that tribal law enforcement agencies and courts have access to reservation based crime data.

Unlike the need for "street level" information, tribal needs for federally generated or captured information is primarily for funding, planning and other administrative purposes. Currently, the FBI and BIA control the vast majority of tribal crime data. In many cases tribal crime data is aggregated with other tribes or areas, which limits its use for planning. In other situations, the kind of data collected is not specific enough to use to analyze crime rates, conduct crime mapping or use the data for law enforcement planning. Federal funding for law enforcement is based on crime rates, i.e. Byrne Formula Funds. Tribes are eligible to apply for the funds, but as long as the data is aggregated or remains in the control and format of the FBI or BIA, there is limited usefulness of that data to apply towards acquiring Byrne Formula funding. Furthermore, tribal law and order agencies, whether controlled by tribes or

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the BIA minimally use national databases, such as NIBRS, UCR CJIS and/or national registries. Several reasons contribute to the lack of use, some based in knowledge about national systems, usefulness of these systems to local efforts, benefits to the tribal government, no direct access to such systems, among other reasons.

### IMPETUS FOR CHANGE

#### *Internal and External Reasons for Change*

Internal and external factors contribute to reasons Indian Nations are deciding to return to holistic planning of their law and order systems through the use of modern day technology to design integrated systems. While many tribes are moving towards integration on their own, external factors have had a role in accelerating this movement. For example, efforts among the New Mexico Tribes and Pueblos received a major boost in their efforts as a result of a horrific DWI crash occurring on an Indian reservation that killed four people. Lloyd Larson, an Indian male with several previous DWI convictions occurring off and on Indian lands in various parts of the State caused this deadly crash while driving a BIA vehicle. This tragic 2002 event caused extensive media attention and close examination of the factors involved in handling DWI cases occurring on Indian lands.

Larson had two prior state convictions for drunken driving for incidents on New Year's Day 1994 and in February 1994. Both times he pleaded guilty and served three days in jail. State

police arrested Larson a third time on April 20, 1995. A state court database showed that the DWI charge was dismissed, but gave no reason. Apparently Larson had two tribal DWI convictions because the media reported that he had four DWI convictions, as well as five other DWI arrests, with no information about dispositions. The common assumption is that had the most recent judge known of the number of Larsen's DWI convictions, his driver's license would have been suspended or revoked and he would not have been driving a government vehicle.

The New Mexico Motor Vehicle Division (MVD) did not have records of all of Larson's arrests or convictions with several occurring on tribal lands. Although the MVD keeps a list of traffic citations and convictions, including DWI, not all state law enforcement agencies report citations and not all state or municipal courts report convictions, so the MVD records are not always complete. Further, MVD records are not sufficient in court to prove prior convictions. Prosecutors must produce the actual court document with a judge's signature. Old court documents sometimes prove impossible to find or are incomplete.

As a result of this case, several New Mexico Pueblos and Tribes, such as the Pueblos of Laguna, Acoma, Zuni and other tribes, and DWI activists lobbied the New Mexico legislature for passage of House Bill 278, *An Act Relating to Motor Vehicles, Intergovernmental Agreements for Exchange of Motor Vehicle Offense Information between Tribes and the State*, (NMSA 66.5.27.1) authorizing the State to enter into intergovernmental agreements to share motor vehicle offense information.

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This legislation was seen as a major step forward in the fight against drunk driving in New Mexico. However, the legislation only addressed one side of the equation, that of authorizing the State MVD to enter into agreements, but had no impact on tribal capacity or authority to enter into such agreements. Strategies to address design of intergovernmental agreements and other planning process are discussed in the following *Integrated Justice Systems in American Indian Communities Planning Series*.

### SUMMARY

Generally justice integration is the ability of justice service agencies to efficiently and effectively share information with each other and with other justice enterprises. In the 21<sup>st</sup> century, efficient and effectiveness have come to mean electronic, thus justice integration based in information technology is the common vision. For Indian Nations across Indian Country, justice integration is only now being considered through modern technology tools. Nationally there are very few tribal justice integration efforts. There are even fewer justice integration efforts that look to sharing data with states or other tribes. Justice integration holds a great deal of potential for the New Mexico Tribes and Pueblos to effectively and efficiently deliver justice services and for sharing data with the states and other tribes. This is being pursued through the New Mexico Crime Data Project being implemented in three New Mexico Pueblos in collaboration with the State of New Mexico and several federal agencies.

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### ENDNOTES

- <sup>1</sup> Valencia-Weber, G. and C. Zuni (1995), *Domestic Violence and Tribal Protection of Indigenous Women in the United States*, St. John's University Law Review.
- <sup>2</sup> Vicenti, C.N. (1995) *The Re-emergence of Tribal Society and Traditional Justice Systems*, in *Indian Tribal Courts and Justice, Judicature: Vol. 79, No. 3*.
- <sup>3</sup> The Bureau of Indian Affairs, in the US Department of Interior was the first federal agency established to work with American Indian and Alaska Native tribes under a government-to-government relationship. It is a decentralized organization with a central office in Washington, D.C. and administering 84 agencies at the reservation level through eleven area offices: Anadarko, Aberdeen, Albuquerque, Billings, Eastern, Juneau, Minneapolis, Navajo, Phoenix, Portland, and Sacramento.
- <sup>4</sup> Fairbanks, C.D. (1991), *Mediation in the Tribal Courts: Revitalizing Traditional Concepts of Justice*, paper presented at the Native American Rights Fund National Conference, Dispute Resolution: A Reaffirmation of Indian Concepts of Justice, sponsored by the Indian Law Support Center.
- <sup>5</sup> Melton, A.P. (1995), *Indigenous Justice Systems and Tribal Society*, *Indian Tribal Courts and Justice, Judicature: Vol. 79, No. 3*.
- <sup>6</sup> P.L. 83-280 enacted by Congress in 1953 allows certain states to exercise criminal jurisdiction over crimes occurring on Indian lands.
- <sup>7</sup> Goldberg, C. (1997), *Planting Tail Feather: Tribal Survival and Public Law 280*, McNaughton & Gunn, Inc.: CA
- <sup>8</sup> P.L. 93-638, the Indian Self-Determination Act enacted by Congress in 1975 provided the first nationwide mechanism for Indian tribes to receive direct funding from the Federal government to operate, control and manage their own justice, law enforcement and health programs. The Bureau of Indian Affairs in the U.S. Department of Interior and the Indian Health Service in the U. S. Department of Health and Human Services were the first two federal agencies to implement this direct funding strategy.

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