**18th Annual National Association of Drug Court Professionals Conference**

July 17-20, 2011
Washington, DC

**NADCP TRIBAL PRESENTATIONS**

**Tribal Law & Courts 101**

Presenters:
- Jerry Gardner, Executive Director, TLPI
- Joseph Thomas Flies-Away, Consultant, TLPI
- Charlene Jackson, Consultant, TLPI

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**Tribal Law and Policy Institute (TLPI)**

**Tribal Wellness Court Resources**

Tribal Law and Policy Institute is a Native American owned and operated non-profit corporation organized to design and deliver education, research, training, and technical assistance programs which promote the enhancement of justice in Indian country and the health, well-being, and culture of Native peoples.

Tribal Court Clearinghouse

[www.tlpi.org](http://www.tlpi.org)
Responsibilities of Tribal Courts

Exercise of Tribal Sovereignty
Defend Tribal Sovereignty
Application of Custom
Resolve Internal Disputes
Decisions Reflect Tribal Values

Creation & Establishment of Tribal Justice Systems

Constitutional
Tribal Council - Constitutional Authority
Statute
Traditional
Tribal Justice Systems/Courts: Different & Distinct

- Organization
- Priorities
- Laws
- Procedure
- Jurisdiction
- Resources

Criminal Jurisdiction

Native v. Non-Native Defendant

“Native” Defendant (No Tribal Membership)

Public Law 280
Civil Jurisdiction

- Domestic Relations
- Juvenile Delinquency
- Mental Health
- General Civil Matters
- Torts
- Probate
- Contract

Tribal-State Collaboration & Conflict

- “Shared” Defendants
- Probation Supervision
- Law Enforcement
- Domestic Relations
- Child Custody/Support
- Mental Health Issues
Tribal-Federal Collaboration & Conflict

“Shared” Defendants
Dual Prosecution
Probation Supervision
Victims Rights
Law Enforcement

Tribal-State-Federal Collaboration & Conflict

Comity/Full Faith & Credit
United States Bill of Rights v. ICRA
Legal & Procedural Differences
Enforcement/Application of Judgments
Cultural Differences
Challenges for Tribal Courts

Non-Native Defendants
Residents
Corporations

Federal Declinations
(Native Offenders U.S. decline to prosecute)

Law Enforcement Issues

Recruiting, Training, & Retention

Limited number of officers for large areas

Cross Deputization
State Officers assisting on reservation
Tribal Officers assisting off reservation

Bureau of Indian Affairs Law Enforcement
Detention & Corrections Issues

No Facility
Condemned Facility
Overcrowding in existing facilities
Recruiting, Training & Retention Issues
Separation of inmates
  Male - Female
  Adult - Juvenile

Substance Abuse Testing/ Treatment Options

Limited Testing and Treatment Options
Cost
Limited Providers
Conflicts/Impropriety
In-patient facilities off reservation
Co-Occurring Disorders
Technological Issues

Geography
Funding
Unreliable service
Training Issues

Sentencing/Disposition

Wellness Court - Alternative to Detention
Pre or Post Plea
Holistic Rehabilitation v. Punishment of an act
Cultural considerations
Benefits of Drug Courts

Investment in the Community
Keeps people in the Community
Reduced Introduction to “New Partners in Crime”
Restoration of Relationships

For More Information . . .

TLPI believes in providing resources free of charge, or at minimal cost, whenever possible.

Visit www.tlpi.org

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