



**3RD ANNUAL
TRIBAL LEADER/SCHOLAR FORUM**

**Reno, Nevada
June 3, 2008**

*The National Congress of American Indians
Policy Research Center*



ABOUT THE NCAI POLICY RESEARCH CENTER

The Annual Tribal Leader/Scholar Forum

Tribes need data to support their policy agenda and inform their policymaking. The NCAI Policy Research Center's Tribal Leader/Scholar Forum presents tribal leaders with cutting-edge research and the relevance of research findings for local and national policymaking. An important part of this forum is the opportunity for dialogue between tribal representatives and researchers. The afternoon breakout sessions provide in-depth discussion that applies research findings to tribal policymaking and considers the implications, impact, and potential next steps of research. This publication compiles abstracts and presentations from the plenary session of NCAI's 3rd Annual Tribal Leader/Scholar Forum.

NCAI's Policy Research Center

In winter 2003, NCAI secured seed funding for a national tribal research and policy center that would focus solely on issues facing tribal communities. Developed under an advisory council of tribal leaders, Native scholars, tribal organization heads, regional Indian policy center directors, private sector researchers, and state policymakers, this tribally-driven consortium of existing research bodies and primary researchers is equipped to gather and assess data on conditions and trends in Indian Country, and support and inform the policy development efforts of tribal leaders, tribal organizations, Congress, the Administration, and state governments with objective data and analysis. Through this work, the Policy Research Center (PRC) can provide tools necessary to inform public policy debates with meaningful data and assist in shifting the discourse in Native policy from a problem-focused approach to truly proactive, future-thinking strategy development.

The Center, a federation of partnering policy research organizations, develops, coordinates, and disseminates policy-focused research. It applies this body of work to Native policy issues on the horizon of federal, state, and tribal policymaking. The Center has a close relationship with the National Congress of American Indians, whose membership's priorities both contribute to the development of the Center's research agenda as well as benefit from the direct dissemination of policy research findings and think tank policy scenarios. It is up to the elected tribal leaders from their respective communities and the national tribal organizations that serve them to apply the research findings, come to consensus on positions where possible, and move their advocacy agenda forward.

PRC Mission and Vision

The mission of the NCAI Policy Research Center is to provide tribal leaders with the best available knowledge to make strategically proactive policy decisions in a framework of Native wisdom that positively impact the future of Native peoples. The vision is to support Indian Country in shaping its' own future.

For more information on the NCAI Policy Research Center, visit our website at www.ncaiprc.org or contact Sarah Hicks, Center Director, at shicks@ncai.org or (314) 602-6630.

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Engaging Tribal Citizens to Strengthen Governance and Culture

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The findings and practical implications outlined below are taken from my paper "Key Concepts in the Finding, Definition, and Consideration of Custom Law in Tribal Lawmaking" to be published in the Spring 2008 American Indian Law Review. My research explored methods for finding local custom with an eye to the needs of tribal lawmaking bodies and judges in tribal courts using more or less western adversarial process. This topic and the research has been informed by my work as a legal clinician entrusted to advise tribes on the drafting of tribal constitutions and laws and my work with the tribal common law as a tribal appellate judge. I have been concerned with the defacto policymaking of drafting attorneys and judges and the lack of useful theories or even guidelines for respecting and reliably working with custom.

Summary of Findings

My research focused on useful methodologies for identifying local values and ways (a.k.a. "customs and traditions") and for capturing and integrating them into written tribal laws (constitutions, statutes, and/or written judicial opinions and orders). My findings are as follows:

- (1) *"Custom" is law and it permeates every subject category within the written laws;*
- (2) *Custom law exists and operates underneath written tribal laws in many contemporary tribal societies - A functional definition of substantive custom is one that distinguishes "custom as a kernel of law" (what people feel/believe/do given certain values); "custom of a legal nature in its natural setting" (legal norms vs. social norms where the traditional system somehow backs or recognizes the norm);" and "custom that is enforceable under tribal law" (custom that is incorporated into written tribal law in a policymaking process);*
- (3) *Custom law varies among groups at the sub-tribal level (villages, clans, bands, etc.) - Tribal societies are comprised of multiple legal levels with variances in their legal structure and substantive bodies of custom;*
- (4) *Tribal legislators, judges, and adhoc elders may not be the most reliable sources to identify and define customary law elements - Some sources are more reliable than others for identifying and defining relevant legal norms (custom that is law in its natural setting). For example, traditional authorities from the same village or clan who have decided similar cases in the past would be more reliable (this is known as the trouble case method).*
- (5) *Custom law often naturally arises from kinship, ceremonial, and other relationships and*

looks like duties and obligations with rules in case of breach of duty; and

(6) All contemporary tribal societies arguably have "new custom laws" that are naturally arising and that are in the process of being internalized by members - Customs, or generally accepted practices and values change but may still be considered "custom that is law."

Practical Implications

(1) Identifying and integrating custom and tradition concepts into the tribe's written law is a policymaking activity that should be undertaken responsibly and for good reasons;

(2) Local community members should be involved in the custom identification and definition process before law drafting teams work with the custom AND be engaged in a discussion of when it is just to extend custom over minorities and reformers;

(3) Law drafting teams should include representation from knowledgeable traditional or local authorities from all relevant legal levels (villages, clans, bands, etc.) if they were not part of the process above in number 2;

(4) Tribal judges may not be able to take judicial notice of custom and tradition where they do not come from the same legal level as the parties before them;


(5) Tribal court establishment and judicial codes should be amended to include provisions that say where custom and tradition should fall in the list of mandatory and persuasive legal authorities that tribal judges are required to follow in their decision-making; and

(6) Tribal leaders should consider whether they have the resources to establish and fund advisory bodies to the judiciary to identify, consider the relevance of, and define the nature of custom applicable in specific cases and certified to them by a tribal judge.

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Key Concepts in Working with Custom Law



Pat Sekaquaptewa

Big Picture Question



- What are the issues and concerns with respect to integrating customs and traditions into contemporary tribal written laws?
 - Constitutions
 - Codes
 - Judge-made case law

Policymaking

"Policymaking" – picking and choosing bits of custom and tradition and putting them into written tribal law for a good reason.

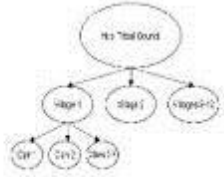
<p><u>Custom or Tradition</u> Mother's sister = mom</p>	<p><u>Tribal Policy</u> Mother's sister has a right to notice of court proceedings involving her sister's children</p>
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Critiques


- Don't mess with it
- No one agrees about it
- It doesn't apply anymore or it is a waste of time
- It's too hard to work with

Problems with Norm Collection: Identification of Legal Levels

- Subgroups have naturally arising custom law



Problems with Norm Collection: Authority & "Trouble-Case Method"



- Traditional Authority
 - advisements/decisions in past but similar disputes
- The deciding principle is the custom law

Problems with Norm Collection & Interpretation: Relationships, Duties, & Obligations

- Many custom law principles concern ...
 - Relationships
 - Writables
 - In cases of breach of duty
 - Rules about who then owes what to whom



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Problems with Norm Application: Considerations of Justice

- Are tribes bound to bring customs and tradition in line with ...
 - Human rights principles
 - U.S. civil rights and property principles
 - Local morality
- Is it just to adopt a group or subgroup's custom law and apply it to ...
 - The whole tribe
 - Minorities
 - Reformers
- Should the tribal public have an opportunity to comment upon proposed tribal legislation including custom law?

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Practical Implications for Tribal Leaders

- Policymaking w/custom is good when done responsibly and for a good reason
- The tribal community should be involved in a structured discussion of custom
- The law drafting team should include traditional or local authorities' input on custom
- The court establishment or judicial codes should be amended to include provisions ...
 - Flexibility or directing the judges' use of custom
 - Establishing custom law advisory bodies
 - Funding custom law advisory bodies to archive custom on an ongoing basis in particular areas

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Structured Process for Working with Tribal Communities to Identify Relevant Custom & Tradition

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Social Norms & Legal Norms

"Social Norm" – A felt standard of proper behavior.
"Legal Norm" – A felt standard of proper behavior backed by official recognition or sanction.

- Identify a social norm in your community.
What is something that everyone says you should or shouldn't do?
- Identify an unwritten legal norm in your community.
What is something that everyone says you should or shouldn't do?
What happens to you if you do or omit doing this thing?

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Tradition & Current Practice

"Tradition" – Old values or ways of doing things.
"Current Practice" – Current, generally accepted ways of doing things.

Identify a tradition in your community.
What is the old way of doing things?
How have things changed?
Is there a different practice for this tradition now?

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Traditional Authority & Modern Secular Authority

"Traditional Authority" – The old offices or respected leaders.

"Modern Secular Authority" – Constitutionally or statutorily recognized leaders or other leaders elected or appointed by the community.

- (1) Identify several traditional authorities in your community.
- (2) Identify several tribal secular leaders.

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Legal norms vary within different, traditional and secular "legal levels"

Example: The Hopi Tribe

Identify your community's legal levels. Identify a legal term that may be different from one place to the next. Is there written tribal law that recognizes the different norms/rules for different groups?

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Policymaking

"Policymaking" – picking and choosing bits of custom and tradition and putting them in your written tribal law for a good reason.

<u>Custom or Tradition</u> Mother's sister = mom	<u>Tribal Policy</u> Mother's sister has a right to notice of court proceedings involving her sister's children
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Can you think of an example where your tribe has done this?

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Good Governance in Tribes: Moving from Ad-Hoc Knowledge-Building to a Tribal Civics Class

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Summary of Findings

This applied research project focuses on developing strategies for strengthening tribal governance by offering a practical and doable tribally-based civics program. This proposal addresses a long-standing problem in Indian Country of disparity in knowledge levels among tribal members regarding tribal governance, policies and processes. Some tribal members are very well informed regarding their tribal institutions and processes, while others do not fully understand how their tribal governments operate or why decisions are made. This can be frustrating for tribal members because it can lead to setting unreasonable expectations for your leaders or government; or worse, feeling helpless to make positive changes in your community.

This proposal suggests a solution for this problem: creating a tribally-based and focused civics class for tribal members to be conducted within their communities by their own people. The potential benefits include: a better-informed tribal citizenry; better communication between tribal leaders and their constituents; and a more-empowered tribal constituency, which can work toward creating solutions and developing a vision for their tribes.

In the United States and most other developed nations, students are required to take a government civics class because they have proven to be effective mechanisms for creating an informed citizenry. In a democracy, it is vital to have an informed citizenry not only about the issues but also about the processes of governance.

Most tribes do not have a similar program in place. This lack of a formal educating mechanism leads to an ad-hoc procedure for gaining political knowledge. The ad-hoc route includes learning from peers or family, attending meetings to educate yourself, running for tribal office, etc. All of these are proven effective tools for increasing political knowledge, but they vary in access and accuracy. Including a Tribal Civics course/workshop on tribal homelands would offer members another tool to add their knowledge base and help build an empowered citizenry.

Another complicating factor for American Indians is they all must learn American civics in school. Without a tribal civics class, there is no formal education process to balance the information American Indians learn in American schools about their American government. Therefore, sometimes, tribal members can have unrealistic expectations for their tribal governments, in terms of ability to provide resources because they are basing their expectations on a different nation's system and resources.

The academic term for how, what and why people learn about their government is called political socialization. Of the most common tools for political socialization: school, family, friends, shared events, religion, organized groups; the most glaring absentee for tribal political socialization is education.

Practical Implications

I will offer a template to begin the curriculum development discussion, but I strongly encourage participants to adapt the course to fit the unique needs of their tribal community.

Good Governance in Tribes: Moving from Ad-hoc Knowledge-Building to a Tribal Civics Class

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About Me:

- Bad River Chippewa Tribal Member; raised on reservation.
- Education: Ph.D. University of Michigan
B.A. University of Wisconsin-Madison
- Work Experience: college recruiter, Bad River Special Projects Coordinator; college professor at UWSP, NAU.
- Served on: BR Police Commission, BR Health Board, NACA Board
- Area of Expertise: Native American Politics and Tribal Governance



Tribal Government Woes & Criticisms

- Crisis management decision-making
- Lack of trust among tribal members
- Too bureaucratic
- Nepotism
- External forces have too much power

Positive Starting Points

- Tribes are sovereign entities.
- Tribes need engaged, knowledgeable and committed tribal members in order to operate.
- Tribal Members care about their tribes and want to be effective tribal citizens.
- Tribal Leaders want to be effective, responsive, and make good decisions for their tribes.



What Does Good Tribal Governance Mean?

- Maintain Sovereignty
- Govern
 - Effective Leadership
 - Set policy
 - Make decisions and implement them
 - Local reference: trash pick up
 - National reference: gaming compact
- Preserve Land
 - Boundaries
 - Environment
- Fiscally Responsible
- Culturally Relevant
- Engaged Membership

Engaged Tribal Member

- Have Political Knowledge
- Participate in Political Processes
- Embrace Tribal Ideology and Value System



What is Political Knowledge?

- Knowing what you have:
 - Tribal Council, President, Constitution
- Knowing how your government works:
 - Can it make laws regarding “x”?
 - How does it relate with other governments?
- Knowing your rights.
- Knowing your responsibilities
- Understanding what you care about as a people.

Political Socialization

- It is how we learn about politics and our government
 - Knowledge-building
 - Framing our knowledge – giving it context
- Happens over a lifetime, but childhood and young adulthood is usually the most significant time
- Beliefs can change over time



Agents of Political Socialization

- Family
 - Most influential on child
 - Teaches *you* most of your values
 - Families tend to have similar political views
 - But
 - What if parents are unaffiliated or not interested?
 - Or if parents had a negative experience?

Agents of Political Socialization

- Friends
- Mass Media
- Religion
- Organized Groups
- Shared events




Schools as Agents


- Extremely Effective
- Nationalism
- Knowledge building
 - *Supreme Court*: What is the Supreme Court?
 - *Process*: How does a bill become a law?
 - *Policy*: How best manage our nation's health care?
 - *Current events*: What should our government do about the gas price?

American Civics Class

- Required in American schools
- Democracies need educated citizens
 - Creates stability and social order
- Students learn one version of history & way of governance
- U.S. Government in schools ties us nationwide





- Teaches American political values and skills
 - Respect for rules & procedures
 - Being law-abiding
 - Fairness
 - Legitimacy
 - Equality
 - Deliberation
 - Debate
 - Patriotism



- United States Symbols

Theoretical Question:

How can American civics classes be a problem for tribal people?




Need to Balance Information Learned in American Civics Classes

- Having only American civics knowledge can lead to confusion
 - You mean, our tribe doesn't have a separation of branches?
- And lead to having unrealistic expectations
 - Does expectations on other tribal resources or systems
 - Frustrating for members and leaders
 - Why can't the tribe give us any money?


But isn't one civics class enough?

- No, because differences can exist b/w tribes and US in:
 - Values
 - Resources
 - Responsibilities
 - Goals
 - Procedures, processes, and institutions
 - Deliberation and communication techniques
 - Histories



Reflection

- Where did you learn about tribal politics and government?
- Who taught you?
- What did you learn?



Common Tribal Government Knowledge Sources

- ✓ Family
- ✓ Self-taught
- ✓ Town Crier
- ✓ Moccasin Grapevine




Why is this a problem?

- Knowledge varies by individual and experiences
- Information may not be valid
- Power of knowledge tends to be concentrated among those who are "in the know"

Applied Research Question


- How can tribes create a tribal civics class to educate tribal members and strengthen tribal sovereignty?



Goals for this project:

- Build Tribal Member Knowledge
- Formulate a Tribal-Specific Curriculum
- Increase Political Participation
- Strengthen Tribal Sovereignty
- Increase Feelings of Belonging
- Improve Relations w/ outside political actors

Developing your Tribal Civics Curriculum



Step 1: Get the Right People Involved

- Tribal leaders
- Elders
- Teachers
- Tribal Administrators
- Community Members
- Instructor



Step 2: Put together Curriculum

- Suggested Topics:
 - Sovereignty
 - Tribal foundation
 - Tribal political history
 - Treaties, Executive Order
 - Constitution, By-Laws
 - Describe and explain what your government is and what it does
 - Council, Legislature, Chairperson
 - How elected or chosen? How long do they serve?



- Tribal Court
 - How organized?
 - What kinds of cases does it hear?
- Membership requirements
 - How do you determine who is a member?
- Powers of Tribal Government
 - Pass ordinances
 - Taxation
 - Run tribal business
- Tribal Administration
 - How are you organized? Departments?
 - Who does what? And answers to whom?
 - Who makes what kind of decisions?



- Tribal – Federal Relations
 - History of policies over the years
 - How have the Feds recognized tribal sovereignty? How have they limited it?
 - Relevant Federal laws
 - Current status of relations
- Tribal – State Relations
 - History of relations
 - Current status of relations
- Tribal-International
 - United Nations



- Tribal Lands and Boundaries
 - Jurisdiction
 - Environmental concerns
 - Water Rights
- Rights and Responsibilities of Tribal Members
 - Serving on Committees
 - Voting
- May want to include neighboring tribes for context
 - Treaty signed together, related
 - Or because have very different system

- Economic Development
 - Gaming and/or other businesses
 - Natural Resource – mining, timber
- National & Regional Indian Organizations
 - NCAI
 - NARF
 - GLIYC
- National/Tribal Policy Concerns
 - NAGPRA
 - Freedom of Religion
 - IHS Funding and Administration




Tribal Policy Concerns

- Youth and Elderly Programs
- Social Services
- Schools and language programs
- Tribal specific like preserving your waterfront, protecting treaty rights, preserving your native plant species



Step 3: Assemble Class Materials


- Organize your materials, copy them for distribution to your class, and put in a binder.
 - Constitution
 - Maps
 - Relevant ordinances and documents
 - Compacts
 - Treaties, Executive Orders
 - Tribal history summary
 - Current federal legislation bills or relevant laws
 - Anything that will help your tribal members better understand their tribe and how it works.



Include your own symbols, flags, and national heroes




Photos of Tribal Landmarks & Homeland




Step 4: Incorporate Tribal Values and Skills into Course

- Who are we as a people?
- Where have we been?
- Where would we like to go?
- Discuss roles and responsibilities as tribal members.
- Discuss what good leadership means.
- Deliberation building activities.
 - How can we best talk with each other?
 - How can we disagree with each and still move forward?



- Discuss your tribal values and how those could be reflected in decision making?
 - And in tribal administration
- Discuss better ways you can work with or educate people outside the tribe
 - Other government leaders
 - Neighboring communities
 - School systems, if off-reservation



Step 5: Format Suggestions

- Target adult members
 - Weekend series (Successive Saturdays)
 - Night and/or Day meetings to accommodate work schedules
 - Seminar (Three-four days in a row)
- Hold an “elders only session”
- Youth
 - Incorporate in tribal schools if not already being done
 - Coordinate it through youth programs
- Reward employees for taking the course
 - Certificate or time off to attend



Step 6: Teach it

- Hire, appoint, or ask someone to be the primary teacher, if not done already
- Get guest speakers when appropriate to address their particular areas
 - Tribal leaders, administrators, elders
 - Adds real-world examples
 - Builds relationships between leaders and participants



Step 7: Review

- Class evaluation
 - Ask participants to fill out evaluations to see how class went.
 - Revise your class if you need to.
- Conduct your own assessment of program
 - Are classes well attended?
 - Are people more involved with politics and government?
 - Are your meetings better attended? Are people asking good questions?
 - Do tribal members think these classes have been useful?



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No Longer Invisible: Understanding and Meeting the Needs of American Indian and Alaska Native Youth in the Juvenile Justice System

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Combating crime and caring for youth engaged in delinquent and criminal behaviors are critical issues facing Tribes today. Native youth make up 1% of the population nationwide, but account for 2% of youth arrested for public drunkenness and driving under the influence, and 3% of youth arrested for liquor law violations. Native youth also suffer disproportionately from risk factors known to be common precursors to delinquency including poor health, poverty, low educational attainment, violence, depression, and substance abuse.

The research presented will identify and synthesize the current knowledge of American Indian and Alaska Native youth involved in juvenile justice systems through a review of available statistics, including Federal, State and Tribal level data, and a review of academic and policy literature. The research will present a picture of the needs of American Indian and Alaska Native youth in juvenile justice systems, identify specific areas for further research, and make policy recommendations to support Tribes in the development of Tribal juvenile justice systems or collaborations with Federal and State governments to ensure that Native youth are treated fairly and provided appropriate services to meet their needs.

Summary of Findings

While Tribes traditionally exercised control over juvenile justice – that is, disciplining, controlling, teaching and caring for youth – many Tribes stopped exercising jurisdiction in this area as Tribal jurisdiction and resources were eroded by shifting Federal policies over the last century. As a result, many American Indian and Alaska Native youth are prosecuted in State and Federal justice systems. While we know that Native youth are involved in all three (Federal, State and Tribal) justice systems, it is often difficult or impossible to determine where these youth are being prosecuted or held. American Indian and Alaska Native youth who get into trouble may also come into contact with several different justice systems, making it difficult to gather useful data, design effective programs, or track outcomes for youth. Our findings include:

- Native youth make up 1% of the population nationwide, but account for 2% of youth arrested for public drunkenness and driving under the influence and 3% of youth arrested for liquor law violations. In 2006, the top five crimes that Native youth were arrested for

were liquor law violations, larceny-theft, disorderly conduct, running away, and drug abuse violations. For youth involved in gangs, according to a 2002 survey of youth gangs in Indian country, most offenses were graffiti, vandalism, drug sales, and aggravated assault.

- For youth prosecuted in state juvenile justice systems, there is evidence that racial bias may play a role in how Native youth are treated in state juvenile justice systems. According to a national report by the National Council on Crime and Delinquency (NCCD) in 2008, disproportionality exists at each stage of the juvenile justice system (i.e., referrals, pretrial detention, formal processing, adjudication, waiver to adult court, and residential placement) with the exception of arrests.
- Native youth are more likely to receive to the two most severe punishments in juvenile justice systems: out-of-home placement (i.e., incarceration in a state correctional facility) and waiver to the adult system. Compared to white youth, Native youth are 1.5 times more likely to receive out-of-home placement and are 1.5 times more likely to be waived to the adult criminal system. Nationwide, the average rate of new commitments to adult state prison for Native youth is 1.84 times that of white youth.
- The majority of youth in the federal juvenile justice system are Native youth. Seventy percent of the youth committed to the Federal Bureau of Prisons (BOP) as delinquents are Native American, as are 31% of youth committed to BOP as adults. Compared to youth prosecuted in county/state juvenile justice systems, youth tried in federal court spend more time in detention and face tougher and longer sentences that are often served hundreds of miles from home.

Despite the jurisdictional overlaps, Tribal governments have primary responsibility for addressing juvenile delinquency in Indian communities, particularly low-level or less serious offenses characteristic of adolescent delinquent behaviors. Tribal law enforcement departments may work together with State and Federal agencies, but many are still the primary law enforcement presence in the community. Some Tribes operate their own juvenile systems, which may include juvenile codes, juvenile courts, and juvenile treatment and detention facilities. It is therefore critical that Tribal governments – like States – have access to the resources they need to effectively reduce juvenile crime and the flexibility to design programs that meet the needs of their youth. Unfortunately, current law does not provide a stable source of funding specifically for Tribal juvenile justice systems.

Practical Implications

As Tribes develop and refine their own juvenile justice systems, they need not do so in a vacuum. Tribes can draw on the research and experiences of state juvenile justice systems, the successes and failures of those systems, and the recommendations of non-Indian juvenile justice policymakers. For many Tribes, traditional methods of raising and disciplining children coincide more closely with a community-based system focused on treatment and rehabilitation than with a system based on punitive treatment and incarceration. There are a few initiatives (e.g., the Annie

E. Casey Foundation's Juvenile Detention Alternatives Initiative) occurring nationwide that have similar goals and are minimizing the use of incarceration through the use of community-based alternatives. This is not to say that Tribes must necessarily follow recommendations developed in a non-Indian context. Rather, the work of non-Indian juvenile justice researchers and policymakers may offer considerations and options for addressing modern juvenile delinquency problems that some Tribes may wish to adapt in addressing these same problems in their communities.

In addition, the main piece of federal legislation providing funding and protections for youth in the juvenile justice system is the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDP A) which is scheduled for reauthorization in 2008. The presenters believe that the JJDP A will be reauthorized in 2009 but activities to strengthen the Act are already underway. The presentation will provide options to work with non-Indian juvenile justice stakeholder organizations to influence the reauthorization in 2009.



SEVEN WAYS TO GET INVOLVED IN JUVENILE JUSTICE

1. **Become more informed about the laws affecting youth in your area.** To learn more about your state's juvenile justice system, visit the National Center for Juvenile Justice website at www.ncjj.org/stateprofiles. NCJJ has compiled a comprehensive analysis of each state's juvenile justice system, services providers, laws, policies, and practices, including links to individuals and agencies in each state.
2. **Connect with other groups working on juvenile justice issues in your area.** There are hundreds of people working on juvenile justice reforms across the country. To obtain the contact information for juvenile justice specialists, corrections officials, and child advocates, consult the CFYJ directory available at http://www.c4yj.org/state_contacts2.html.
3. **Host meetings with juvenile justice professionals and state/local policymakers to discuss the findings in the policy brief.** CFYJ can provide multiple copies of the policy brief free of charge or they are available online at http://www.c4yj.org/key_research.html. If you are interested in educating the state or federal legislature, consult our legislator guide for tips and sample materials, available at <http://www.c4yj.org/Downloads/start/LegislativeGuide.pdf>.
4. **Speak to youth directly to learn more about their experiences.** CFYJ has written an interview guide, available at <http://www.c4yj.org/Downloads/start/InterviewGuide.pdf>, for the purpose of interviewing current and formerly incarcerated youth in the adult criminal justice system, their parents and families. The guide can be used for a variety of purposes including: documenting experiences and identifying patterns, establishing a connection with youth and their families, and to engaging, involving, and empowering youth, parents and families in the policy process. This can illustrate concretely to state/local policymakers, the public, and the media the needs of Native youth.
5. **Visit the tribal detention facility or state/local contract facility where youth are held.** Speak to youth to learn about why they are in detention and hear their experiences and consider inspecting the facility. For help in understanding what to look for, consult the Juvenile Detention Alternatives Initiative (JDAI) practice guide on conducting a self-assessment of a detention facility, available at <http://www.jdaihelpdesk.org/Pages/PracticeGuides.aspx>.
6. **Engage the media.** The CFYJ Media Guide, available at http://www.c4yj.org/Downloads/start/YJ_MediaGuide.pdf, explains how you can cooperate with news agencies to get your message into the spotlight. Planning media hits, writing media materials, pitching stories, and more are all covered in this comprehensive yet easy to understand manual. If interested in working with the press on issues affecting Native youth in the adult criminal system, please contact CFYJ at (202) 558-3580 for further assistance.
7. **Tell us your story.** CFYJ's Case Profiles Project gathers personal stories from children prosecuted in the adult criminal justice system, as well as their parents and families, in order to understand first hand the experiences of those affected by the current system and support their recommendations for change. If you or a member of your family has been impacted by juvenile and criminal justice policies, please tell us your story. using the Case Profiles Packet, available at <http://www.campaign4youthjustice.org/Downloads/TellUsyourStory.pdf>.

» BECAUSE THE CONSEQUENCES AREN'T MINOR «

Publications Request

Name: _____ Tribal Affiliation: _____

Address: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

- DO NOT send me CFYJ's e-communications (monthly e-newsletter and weekly news roundup) which discuss recent research, events, and news related to the prosecution of youth as adults

Organization and Title (if applicable): _____

Please send me (check all that apply):

- The Tangled Web of Justice: American Indian and Alaska Native Youth in Federal, State, and Tribal Justice Systems.*** Released in June 2008, a policy brief which presents the latest research on Native youth in the juvenile and adult criminal justice systems.
- Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America.*** Released in November 2007, a national report which presents the latest research on the characteristics of youth incarcerated in U.S. jails and the risks they face.
- The Consequences Aren't Minor: The Impact of Trying Youth as Adults and Strategies for Reform.*** Released in March 2007, a national report on the issue of transfer/waiver of youth to the adult criminal court.
- "Childhood Interrupted."** A short DVD and discussion guide about the practice of trying youth in the adult system.
- A Capital Offense: Youth in DC's Adult Criminal Justice System and Strategies for Reform.*** A study of the status of children prosecuted in the adult criminal justice system in the District of Columbia which calls for an end to pre-trial placement of youth in the DC Jail.
- Policy Brief 1: Return Them to Juvenile Court.*** A policy brief that encourages decision-makers, juvenile justice officials, and concerned citizens to embrace the benefits that juvenile courts have long provided in separating youth from adult court.
- Policy Brief 2: Youth Transferred to Adult Court: Racial Disparities.*** A policy brief that examines the extent to which transfer laws disproportionately are applied to youth of color and suggests directions for future research on racial disparities among youth tried as adults.
- Policy Brief 3: Children Tried as Adults.*** A policy brief that summarizes the statutory law and protections provided in each state regarding the pretrial detention of children being tried as adults.
- Policy Brief 4: Perpetual Punishment: The Consequences of Adult Convictions for Youth.*** A policy brief that examines the life-long consequences that adult arrests and/or convictions place on youthful offenders.

1012 14th Street NW, Suite 610 | Washington DC 20005 | ph: 202.558.3580 | fax: 202.386.9807 |
info@campaign4youthjustice.org

» www.campaignforyouthjustice.org

A Tangled Web of Justice

American Indian & Alaska Native Youth
in Federal, State, and Tribal Justice Systems

Neelum Arya
Director of Policy & Research
Campaign for Youth Justice
Washington, D.C.

Addie C. Rolnick
Attorney
Sonosky, Chambers, Sachse, Endreson & Perry, LLP
Washington, D.C.

Why study Native youth and juvenile justice?

- May be subject to the rules of 3 different governments (tribal, state and federal)
- Culturally distinct
- Racial minority
- Limited information (comprehensive data, long term studies)

What did we do for this report?

- Reviewed available data from other sources (BIA reports, DOJ reports, census data, privately-funded projects)
- Spoke informally with some of the people and organizations involved with Native youth
- Did not conduct original research

Demographics

- Young population (44% under age 25)
- Almost one million American Indian & Alaska Native youth in the U.S.
- Native youth make up 1% of all youth in U.S.
- 36% of Native Americans live on reservations or in Alaska Native villages
- 64% live in cities or town outside of Indian country

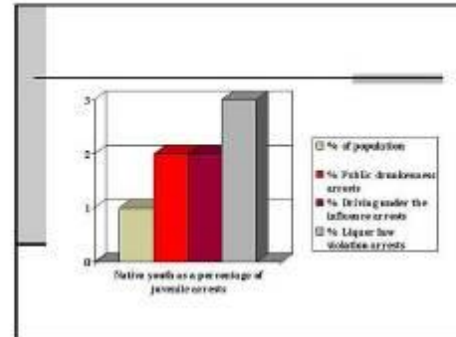
Risk factors related to delinquency

- Less likely to complete high school and get advanced degrees
- Experience high rates of child abuse and violence
- High suicide and substance abuse rates

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Types of offenses

- 1% of youth population
- 2% of youth arrested for public drunkenness, driving under the influence
- 3% of youth arrested for liquor law violations
- Most common offenses are not violent crimes



Top 5 offenses in 2000-2006

1. Liquor law violations
2. Larceny-theft
3. Disorderly conduct
4. Running away
5. Drug abuse violations

Disproportionate Sanctions (National)

- 1.5 times more likely to be waived into the adult criminal system
- 1.5 times more likely to be placed out of home
- 1.84 times more likely to be committed to adult state prison

Disproportionate Sanctions (State)

- AK: 3 times more likely than white youth to be referred to juvenile court in Anchorage. Almost 5 times more likely in Fairbanks.
- WI: More than twice as likely to be arrested as white youth. Almost twice as likely to be detained. Almost 4 times more likely to be confined in a secure facility.
- MT: Arrested and referred at more than twice the rate of white youth. Less likely to be diverted out of the system. More likely to be placed in secure detention.
- SD: More than twice as likely as white youth to be arrested. 1.3 times as likely to be detained. 3.6 times as likely to be placed in a secure correctional facility.

Disproportionate Sanctions (State)

- MT: Native girls are 6.5% of the population but 37% of all girls in secure custody.
- OK: Native youth are 11% of the state population but 18% of the youth sentenced to an institution and 28% of the youth prosecuted as adults.
- MN: Native youth are 1% of the state population but 16% of the juveniles sent to the Minnesota Correctional Facility at Red Wing.

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Justice

Federal System

- Besides Native American youth, the only youth in the federal system are those who have committed federal crimes, like drug trafficking, serious gang crimes, or immigration violations.
- Outside of reservations, most youth go to state court, but federal law does not require U.S. Attorneys to defer to tribal courts.

Federal System

- With high caseloads and scarce resources, many young offenders simply are not prosecuted by U.S. Attorneys
- When prosecuted, federal law sentences tend to be longer than state law sentences.
- Native youth make up 70% of the youth in BOP custody as juveniles and 31% of the youth committed to BOP as adults

Tribal Justice Systems

- In 2002, only 25% of Lower 48 tribes reported having a separate juvenile justice system.
- Only 39% reported ordering probation for juveniles.
- Only 7% reported having their own juvenile residential facility.
- Many tribes contract to use state or local facilities or services.

2004 Inspector General Report

- Significant maintenance backlog
- Understaffing and lack of supervision
- Several youth suicides in detention facilities
- Youth held in adult facilities or secure juvenile facilities because of a lack of alternatives

Lack of Detention Alternatives

- BIA does not prioritize non-detention programs
- Insufficient funding available for treatment, diversion, probation
- Lack of supplemental services

Recommendations

- Strengthen tribal juvenile justice systems
- Reduce reliance on secure detention in tribal justice systems
- States should work to reduce disproportionate contact of Native youth
- Greater attention to Native youth in the federal system

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& Perry, LLP & Campaign for Youth
Justice

Contact Information

Breakout session at 1:30 pm in Ponderosa A

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& Perry, LLP & Campaign for Youth
Justice

Helping Tribal Communities Cope with Type 2 Diabetes
Patricia Hamrick, Psy.D.
Washington State University; Psychology Post-Doctoral Resident
Email: phamrick@wsu.edu

Relevance at the Tribal and National Level

Diabetes is an illness with serious health consequences for Cherokee tribal members. It affects many people including those who receive a diagnosis, their family members, friends, and the community at large. Diabetes has a profound effect not only among the Cherokee, but throughout Indian country. There is a degree of pan American Indian cultural influence that defines American Indian people. It is probable that Cherokee people's coping abilities have been shaped in ways similar to the general American Indian population and while individual tribal differences are acknowledged this research has the potential of applying to other American Indian tribes. Learning about the experience of a diabetes diagnosis and what influences health outcomes is important information in the development of health initiatives, policies, and programs for tribal members. It can be incorporated into grant writing and used in determining financial allocations most effectively. This is true on both the local tribal and national levels.

Research Study

This study involved long semi-standardized qualitative interviews with ten Cherokee participants. They were at least $\frac{3}{4}$ Cherokee by self report with a diagnosis of Type 2 Diabetes for more than two years, both genders, and between the ages of forty and fifty-nine. Participants spoke, understood, or wrote Cherokee. A "cultural checklist" developed with the assistance of Cherokee Nation IRB members was used as part of the selection process. The method of data analysis used for this study involved an inductive, first and second level coding approach. Member checks along with an external audit were used for verification.

Findings

This phenomenological study explored how Cherokee Indians cope with a diagnosis of Type 2 Diabetes. Of particular interest was how cultural variables affect their coping response. Nine major themes emerged: (a) perceptions of causes of illness in general and diabetes specifically, (b) initial experience and response of receiving a diabetes diagnosis, (c) role of information and education, (d) medical community support, (e) family, (f) spirituality, (g) traditional Cherokee medicine, (h) use of humor, and (i) current coping. Results suggested that certain aspects of the Cherokee culture influence health outcomes: (a) traditional Cherokee world view, (b) traditional Cherokee medicine, (c) role of family and generational concerns, (d) humor, (e) respect, and (f) trust.

Causes of Illness and Diabetes

Participants saw the general cause of illness to include heredity and lifestyle factors such

as diet, exercise, and stress. Some participants saw fundamental changes in Cherokee lifestyle as responsible for many illnesses including diabetes. Interviewees cited a move away from traditional natural food sources and their preparation as creating an unhealthy diet. Also, they felt that changes in physical activities related to gathering and growing food, use of modern conveniences, and transportation result in a decrease in exercise.

A culturally specific way that Cherokee people give meaning to the cause of illness is suggested by one participant, who spoke at length about a traditional Cherokee worldview. He focused on balance, in both a spiritual and physical sense, and seeing diabetes as a form of imbalance. While only two of the interviewees consistently use Cherokee traditional medicine, they are in the group that is successfully controlling their diabetes. They used Cherokee herbal remedies as a supplement to other health care services and they reported a greater sense of personal control.

Initial Response

Participants had seen the consequences of uncontrolled diabetes with family, friends, and members of the community. The image they had of diabetics was of amputation, blindness, dialysis, and death due to strokes and heart disease. While many of the interviewees knew that there was a likelihood that they would eventually be diagnosed with diabetes, their first reaction was one of shock, dismay, and hopelessness. Some described it as feeling like they had been given a terminal diagnosis and all the future held was debilitation and death. Most of the study members went through a period of confusion and uncertainty before they were able to accept the diagnosis and began lifestyle changes necessary for the control of diabetes.

Information and Education

Many of the interviewees did make lifestyle changes that contributed to controlling diabetes. They identified information and education as the basis on which they were able to do this. All of the participants reported that they had a very limited knowledge of diabetes before their diagnosis. They stated that it was after they were diagnosed that they learned how to control diabetes. The education and information provided by the medical community was the foundation on which they learned to manage diabetes. The realization that they could actively take charge of the situation and influence health outcomes was the beginning of a more effective coping response.

Medical Community Support

Participants strongly endorsed the value of support from the medical community. They saw the role that medical personnel played as a major component assisting in their ability to cope with diabetes and experience a healthy life. Health care providers were viewed as sources of information on diet, exercise, medication, glucose monitoring, and other issues related to diabetes. Interviewees appreciated check ups in terms of feedback helping with self-regulation. Study members saw encouragement from their health care providers as important emotional support.

Family

Study members viewed family as fundamental to Cherokee values and culture. They expressed a strong sense of obligation and responsibility toward other family members. In return they saw the family as a source of strength and support. Participants spoke of the importance of family to them and the role that it plays in coping with diabetes. All of the interviewees had a history of diabetes in their family and many had been caretakers for family members. This shaped their health expectations and initial response to a diagnosis of diabetes. Most viewed their development of diabetes as inevitable. Participants had watched loved ones experience disability and death from complications due to uncontrolled diabetes. This was their view of diabetes and what they saw in their future. Consequently, when they received a diagnosis, the responses were ones of hopelessness and despair. Interviewees indicated that family support was a factor in coping with diabetes and making necessary behavior changes, such as diet and exercise. They noted that family members gave them reminders that helped in self-regulation activities, were available during crises, and gave emotional support and encouragement.

Cherokee culture engenders a sense of responsibility and obligation to future generations. This aspect of family and cultural values influenced participants coping in terms of motivation. Study members expressed the desire to be role models for their children and maintain good health to help raise and teach their grandchildren. Some participants specifically wanted to be able to pass down the Cherokee language and traditions. One interviewee spoke about the need to learn how to control diabetes in order to build healthier patterns of behaviors to pass on to the next generation.

Humor, Respect, Trust

Humor, respect, and trust have significant roles in Cherokee culture. These aspects of Cherokee culture contribute to effectively coping with and treating illness. Participants identified the use of humor as a culturally appropriate response to challenging life situations. Humor and laughter act as a coping mechanism that relieves stress and helps create a broader perspective when dealing with a serious health problem like diabetes. Cultural issues of trust and respect are important in terms of treatment and the patient-health care provider relationship. Participants described the Cherokee as a proud people and respect as an important component of their cultural makeup. It is essential that mutual respect exists in the patient-health care provider relationship for diabetes treatment to be effective. In light of the Cherokee history of oppression, it is not surprising that it takes time to build trust with Cherokee patients. This is particularly true for those health care providers from outside the community and non-Indians. Trust building is based on respect, consistency, and genuine concern and caring for the patient. This raises issues of care continuity and its effect on successful treatment of diabetes for Cherokee patients.

Cherokee Indians Coping with Type 2 Diabetes

Patricia Hamrick, Psy.D.
Washington State University
Psychology Post-Doctoral Resident

Cherokee Experiences of Living with Diabetes

Research Method

- How Cherokee Indians cope with a diagnosis of Type 2 Diabetes
- Of particular interest was how cultural variables affect their coping response
- Qualitative research was conducted involving comprehensive semi-standardized interviews with ten participants.

Participants

- Six women and four men from northeastern Oklahoma
- ¾ Cherokee by self report
- Diagnosis of type 2 diabetes for more than two years with no serious complications
- Between the ages of forty and fifty-nine
- Participants were English speaking and either spoke or understood Cherokee
- A "cultural checklist", devised with assistance of an advisory committee set up by the Cherokee IRB, was used as part of the selection process.

Nine Major Themes

- Perceptions of causes of illness in general and diabetes specifically
- Initial experience and response of receiving a diabetes diagnosis
- Role of information and education
- Medical community support
- Family
- Spirituality
- Traditional Cherokee medicine
- Use of humor
- Current coping

Coping Response Styles

- Emotion focused coping:
avoidance, wishful thinking, denial, disengagement, numbing, and self-blame
- Problem focused coping:
individual monitoring of self, being involved in treatment, seeking information, and problem solving

**Diabetes as a Cultural Construct
and Influence on Initial Coping
Response**

- Prevalence of Diabetes and devastating effects influence perceived health outcomes
- Negative perceptions and a sense of lack of control resulted in an initial coping response that was emotion focused and ineffective.
- 90% of Participants

**Development of Problem Focused
Coping Response**

- 70% Participants
- Time: Weeks-8 years
- Information and education
- Medical community support
- Family support
- Spirituality

Cherokee Culture and Health

- Traditional Cherokee world view
- Traditional Cherokee medicine
- Role of family and generational concerns
- Humor
- Respect
- Trust

***Implications for Clinical Practice
and Program Development***

- Health Care Provider Training
- Counseling Services
- Multigenerational activities
- Cherokee culturally influenced information dissemination

Borrowing Trouble: Predatory Lending in Native American Communities

Jerilyn DeCoteau
(**PRESENTER**)

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Summary of Findings and Policy Recommendations

First Nations Development Institute's (First Nations') report, "*Borrowing Trouble: Predatory Lending in Native American Communities*," is the result of a research study conducted by First Nations under a grant funded by the Annie E. Casey Foundation. The report details the practices of lenders targeting borrowers in Native American communities with loan products that are often designed to exploit vulnerable borrowers who generally cannot afford to repay the loans. As a result, borrowers often end up in foreclosure, bankruptcy, or having to endure other financial hardships.

While the recent difficulties in the subprime mortgage lending market have sparked national interest in predatory lending practices, as this report accurately reveals, predatory lending has long been a major concern for Native American communities. In fact, in a survey conducted by First Nations at a National American Indian Housing Council conference, an astounding 73% percent of respondents reported that predatory lending was a problem in their communities. The most common forms of predatory lending practiced in these communities included loans against tax refunds, payday loans, pawnshop transactions, mortgage loans, and car title loans.

Survey respondents noted that these loans charged unreasonably high interest rates and that loan products were specifically designed to prey on vulnerable, uninformed borrowers in their communities. "Payday" loans are small, short-term loans with APR interest rates of 300% or higher. A borrower may pay 20% of the original loan cost for a one week loan, and with additional fees this can amount to a cost of over 300% per year. For example, a recent study found that the average APR rate for a payday loan in Colorado was 388%.

Although further research is needed to confirm findings, data from the First Nations Development Institute study suggests a regional concentration of payday lenders near Native American communities. In fact, some American Indians living on or near tribal lands have nearly as many payday lending choices as bank branch choices. The study also notes the disparity that exists between American Indians and whites in the share of loans from lenders engaged in the subprime market – with Native Americans engaged in the high-cost subprime market at twice the rate of whites. Adding to the problem is the fact that those who receive these subprime loans have an increased vulnerability to predatory lending.

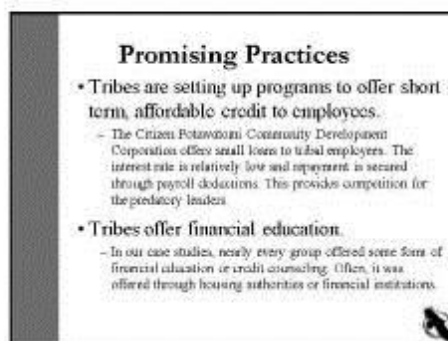
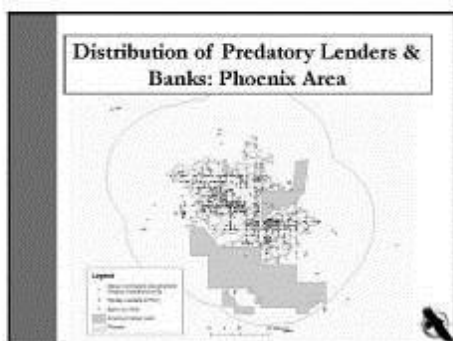
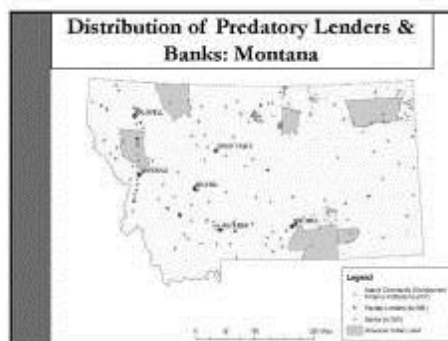
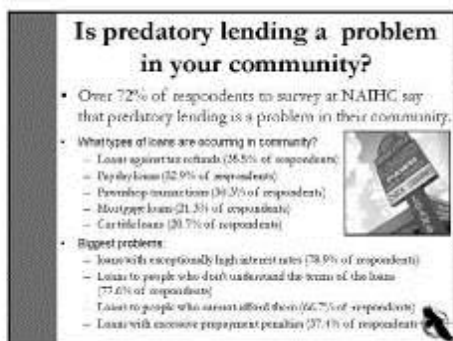
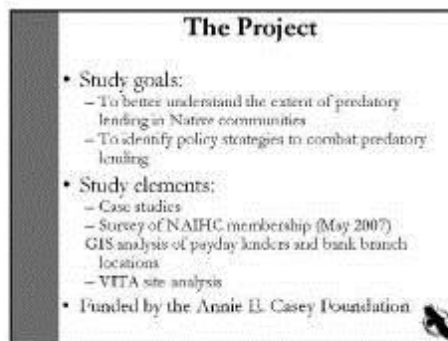
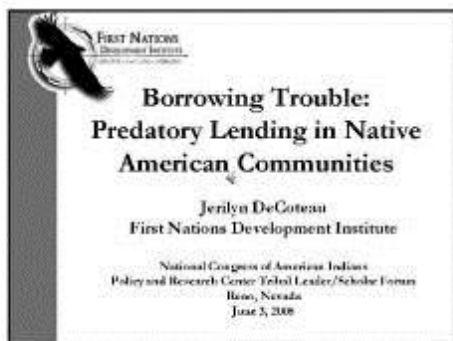
In order to gain important primary data, First Nations also conducted case studies of five tribal communities actively combating predatory lending. The five tribes selected were the Cherokee Nation, the Citizen Potawatomi Nation, the Confederated Tribes of the Umatilla Indian Reservation, the Lac Courte Oreilles Band of Lake Superior Chippewa, and the Winnebago Tribe of Nebraska. The communities each utilized innovative strategies to effectively combat predatory lending. The strategies included offering alternative low interest loan products; financial education; credit counseling; and other asset-building programs and strategies designed to intercede in tribal citizens' decision-making to avoid poor borrowing choices.

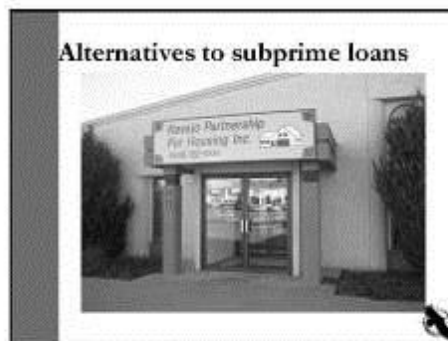
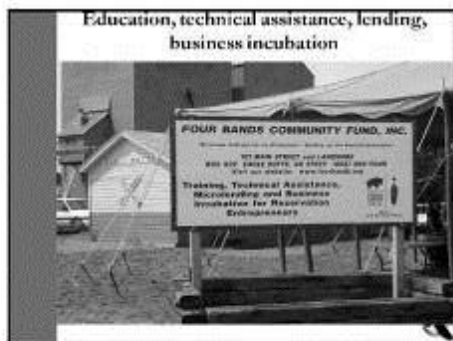
The Cherokee Nation developed one of the first, and longest running, individual development account (IDA, or matched-savings) programs in the country and one of the first youth IDA programs targeting tribal members – both of which are run through the Tribe's Commerce Department. Similarly, the Citizen Potawatomi Nation recently implemented an IDA program to assist people with debt repair and an employee loan program that provides short-term, low interest loans. The Winnebago Reservation is home to Rez Cars, a used car dealership owned and managed by Ho-Chunk, Inc., a tribally owned company. Rez Cars allows customers to buy reliable and affordable cars while at the same time gaining or repairing credit.

Through this extensive research study, which involved the review of national datasets, various surveys, and the five case studies, First Nations identified five primary themes: (1) predatory lending is having a substantial impact on Native Nations; (2) financial education is a key strategy for combating predatory lending; (3) alternative credit programs are essential; (4) legislative and regulatory approaches are not common; (5) and tribal anti-predatory lending efforts are replicable. The study concludes with four key recommendations for Native Nations: (1) develop credit programs and borrowing opportunities that reduce the demand for predatory lending; (2) develop consumer education programs that assist in financial planning and credit repair; (3) set interest rate caps; and (4) collaborate with states on efforts to eliminate predatory lending.

Through a three-pronged strategy of Educating Grassroots Practitioners, Advocating Systemic Change, and Capitalizing Indian Communities, First Nations is working to restore Native control and culturally-compatible stewardship of the assets they own - be they land, human potential, cultural heritage, or natural resources - and to establish new assets for ensuring the long-term vitality of Native communities.

For more information about this publication, contact Sarah Dewees, Director of Research for First Nations Development Institute, at 540-907-6247 / sdewees@firstnations.org; or visit First Nations Development Institute's website at www.firstnations.org to download a copy of the paper.





- Findings**
1. substantial impact on Native Communities
 2. financial education is a key strategy to combat
 3. alternatives to predatory lenders are essential
 4. legislative and regulatory provisions are rare
 5. tribal anti predatory lending efforts can be replicated

Blackfeet Tribal Code
Consumer Protection, Chap. 1, Consumer Credit

- "With respect to a consumer loan, a lender may contract for and receive a finance charge not to exceed twenty-one percent (21%) per year." Section 4- Finance Charges

- Policy Recommendations**
- Offer alternatives to predatory loans
 - low interest consumer loans secured by payroll deduction
 - Offer financial education
 - basic financial education, credit counseling, investor education
 - Set interest rate caps
 - Consumer protection laws send a strong message
 - Collaborate with states
 - on policy and laws to eliminate predatory lending
 - Assist with credit repair
 - Report to credit agencies

For more information

First Nations Development Institute
www.fnidmatters.org

Jerilyn DeCoteau Director of Policy 783 3rd Avenue, Suite B Langston, CO 80464 303.774.1836 jdecoteau@fnidmatters.org	Sarah Devoes Director of Research 10707 Spotsylvania Ave, Suite 201 Fredericksburg, VA 22408 540.771.5615, ext. 47 sfrazee@fnidmatters.org
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Funded by the Anna E. Casey Foundation

Economic Development Lessons for and from Indian Reservation Economies

Terry L. Anderson, Ph.D.
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Property and Environment Research Center
Senior Fellow,
Hoover Institution
Email: tla@perc.org

Executive Summary

Since the writings of Adam Smith, economists have searched for the causes of “the wealth of nations.” Though less attention has been paid to Indian nations than to developing countries, there is mounting evidence that human capital, physical capital, and natural resources are not sufficient to cause growth unless they are coupled with an institutional environment that gets the incentive right. American Indians have a rich history of crafting institutions that do this as evidenced from anthropological data. In the case of modern Indian reservation economies, two institutions stand out as important to economic development. One is the mosaic of land tenure on reservations and the BIA trust constraints that shackle natural resource use. The other is a perceived lack of a rule of law necessary to give outside investors enough confidence to do business on reservations.

This presentation will summarize data from research on both of these institutions suggesting that reducing high transaction costs imbedded in BIA trust constraints could increase land productivity and that creating credible commitments to contracting on reservations could improve economic growth. As always the challenge is to blend the institutions necessary for transactions in a global economy with those necessary for maintaining Indian cultures.

Summary of Findings

Land tenure is a significant explanatory variable in explaining economic activity on reservations. Agricultural productivity on a sample of approximately 40 large reservations in 1987 was 30 to 40 percent less on individual trust lands than on fee simple lands and 80 to 90 percent less on tribal trust lands than on fee simple lands, controlling for other factors that might influence agricultural productivity. Moreover, reservations with more than 50 percent of land in fee simple had average incomes in 1999 of \$9,531 compared to \$8,613 on reservations with less than 50 percent of land in fee simple. Between 1969 and 1999, reservations with more than 50 percent of land in fee simple saw per capita incomes grow 91 percent compared to 69 percent on reservations with less than 50 percent of land in fee simple.


The rule of law also matters to economic activity. Reservations subject to state jurisdiction (P.L. 280) had per capita incomes in 1999 equal to \$10,713 compared to \$7,966 for those with tribal jurisdiction. Per capita income growth rates between 1969 and 1999 show similar disparities: reservations subject to state jurisdiction grew 86% compared to 68% for tribal jurisdiction.

Policy Implications

High transaction costs associated with trust status must be overcome if productivity on

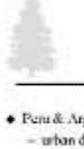
Indian lands is to improve significantly. Clarifying title, reducing fractionation, and allowing land to be used as collateral are crucial to more productive land use on reservations.

Improving the rule of law by waiving sovereign immunity and by contracting for private adjudication procedures should be considered as ways for improving the investment climate on reservations.





Economic Development Lessons for and from American Indian Economies

Terry L. Anderson
Executive Director, PERC
Senior Fellow, Hoover Institution




Property Rights & Economic Development

- ◆ Peru & Argentina
 - urban dwellers given title to property
- ◆ Results
 - Increased investment in housing
 - Increased women labor force participation
 - Smaller families
 - Greater investment in education of children





Causes of Amazonian Deforestation


- ◆ Clearing establishes property rights
 - Clearing by Cattle ranchers: 60-70%
 - Clearing by subsistence agriculture: 30-40%
- ◆ Clearing forests helps large land owners protect their property rights.
- ◆ Lack of title means no collateral and little investment.



My Childhood Hero




Francis Calf-Looking



Am. Indian Income & Unemployment Rates


BIA Region(s)	1999 Am. Indian per-capita income (in 1999 \$)		1999 Am. Indian unemployment rates	
	un/adj. res.	adj/adj. res.	un/adj. res.	adj/adj. res.
Easton	62.4	61.4	31.4	31.3
Great Plains	54.2	61.0	26.5	16.7
Midwest	63.1	65.9	18.3	11.7
Norajo, Southwest, and Western	45.9	65.2	23.6	11.5
Northwest and Rocky Mountain	58.9	65.8	22.2	15.2
Pacific	52.2	61.8	18.3	12.4
FGIAC	48.5	63.9	22.8	12.8




Why Stagnation

- ◆ Powerlessness, dependence, and expropriation
- ◆ Lack of resources
- ◆ Intrinsic aspects of Indian culture
- ◆ Absence of effective institutions


Getting the Incentives Right



Secure Prop Rights & Capital Investment




Clam Gardens



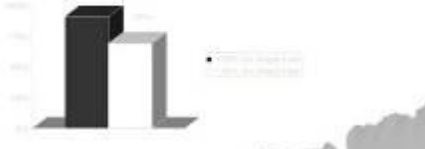
Reservation Property Rights


- ◆ Mosaic of land tenure--fee simple, individual trust, and tribal trust
- ◆ Individual trust 30-40% less productive than fee simple
- ◆ Tribal trust 80-90% less productive than fee simple

1999 Per-Capita Income of American Indians




1969-1999 PCI Gr. Rates for American Indians






Rule of Law on Reservation

- ◆ **Public Law 280**
 - Takes away sovereignty
 - Creates credible commitments
- ◆ **Approx. 30% of reservations with state jurisdiction**



1999 Per-Capita Income of American Indians




Category	Per-Capita Income (1999)
American Indians	~\$4,000
National Average	~\$10,000



1969-1999 PCI Gr. Rates for American Indians




Category	PCI Gr. Rates (1969-1999)
American Indians	~100%
National Average	~150%



Jurisdiction Matters


Kennerly v. District Court of Montana (U.S. Supreme Court 1971) & *Security State Bank v. Pierre* (Montana Supreme Court 1973)

"A result of the Kennerly decision was to dry up credit sources throughout the state to responsible Indian citizens . . ."



Take-Aways

- ◆ Reservation economies no different from developing countries--INSTITUTIONS MATTER
- ◆ Rich history of getting the incentives right
- ◆ More secure p.r. & rule of law crucial for growth
- ◆ Bottom up vs. top down more likely to be successful
- ◆ More case studies will help identify what works



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