

**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

Tribal Law and Policy Institute

**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

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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

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Criminal Jurisdiction

Native v. Non-Native Defendant

“Native” Defendant (No Tribal
Membership)

Public Law 280

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Civil Jurisdiction

Domestic Relations

Juvenile Delinquency

Mental Health

General Civil Matters

Torts

Probate

Contract

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Tribal-State Collaboration & Conflict

“Shared” Defendants

Probation Supervision

Law Enforcement

Domestic Relations

Child Custody/Support

Mental Health Issues

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Tribal-Federal Collaboration & Conflict

“Shared” Defendants

Dual Prosecution

Probation Supervision

Victims Rights

Law Enforcement

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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

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Challenges for Tribal Courts

Non-Native Defendants
Residents
Corporations

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

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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

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Detention & Corrections Issues

No Facility

Condemned Facility

Overcrowding in existing facilities

Recruiting, Training & Retention Issues

Separation of inmates

Male - Female

Adult - Juvenile

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Substance Abuse Testing/ Treatment Options

Limited Testing and Treatment Options

Cost

Limited Providers

Conflicts/Impropriety

In-patient facilities off reservation

Co-Occurring Disorders

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Technological Issues

Geography

Funding

Unreliable service

Training Issues

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Sentencing/Disposition

Wellness Court - Alternative to Detention

Pre or Post Plea

Holistic Rehabilitation v. Punishment of an act

Cultural considerations

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Benefits of Drug Courts

Investment in the Community

Keeps people in the Community

Reduced Introduction to “New Partners in Crime”

Restoration of Relationships

Total Law and Public Justice

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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Total Law and Public Justice