

Chapter 3: What Is Needed— Assessing Resources

[3.1] Age/Offense Appropriate

The issues presented to a tribe when considering whether to create a juvenile justice code require a multipart analysis. Initially the team must consider the magnitude and dimensions of the juvenile justice problem in the community. Then the team must consider whether the community has the ability and willingness to work with youth who find themselves in trouble, as well as working with the families of those troubled youth.

The team must also decide at what age certain defined behavior(s) become potentially “criminal,” as opposed to a problem requiring parental and/or family intervention. A growing area of concern is determining when a behavior problem requires school intervention as opposed to law enforcement attention. Criminalization of school behavior at all ages has upset many parents, but that must be balanced with the concerns of school teachers and administrators who fear that out-of-control students are interrupting education and posing a threat to others in the school environment.

It is possible for a team to progress into a full juvenile justice system in a piecemeal manner. For instance, a community after reviewing key issues may decide to start only with status offenses as outlined in the previous chapter, or may seek to work only with those offenses that would be considered misdemeanors if committed by adults. Assuming responsibility for felony offenders, even considering the restrictions of ICRA, requires development of a complex system, including treatment and detention that is often very costly. Many tribes have opted to limit their response to juvenile felony violators to reentry programs (Reentry is not addressed in this iteration of the Juvenile Code Resource. This topic could be covered in a section of a juvenile code; it could also be the subject of a separate tribal reentry statute.) that help the youth transition from felony treatment or incarceration back into the community.

Decisions around the scope of a juvenile justice system should be driven by perceived problems and potential resources. Juvenile justice systems have a tremendous need for resources; they are not and cannot be expected to become self-sufficient overnight. The hope is that by judicious use of specialized resources addressing the problems of tribal youth at an early stage, the negative influences on and in the community can be eliminated and these youths can be transformed into community resources.

[3.2] System Support/Collaboration

The juvenile justice system is made up of various entities with multiple needs (e.g., the courts, attorneys and lay advocates, law enforcement, probation, case workers, social and behavioral services, residential and detention facilities). It is essential that each part of the system is created with the understanding that it is related to, but not controlling of, all other segments of the system. The most effective systems are those where there is understanding and collaboration. All parts of the system must be, in general, committed to the same goals if the system is to be effective. All players must buy in to the philosophical underpinnings of the system or the system will work against itself, thereby decreasing effectiveness, and in general frustrating workers and users of the system.

A. Law Enforcement

A respected police department with officers who perceive themselves as community protectors is essential. They are the face of justice for much of the community. To be effective in their role as law enforcement officers the officers must be seen as protectors. They must be integral members of the community. They must be persons who have personal reputations for fairness and who support the needs of community youth, elders, and families. The more grounded they are in the tribal culture and the community, the more effectively they will carry out their obligations.

Professionally, it is essential that tribal law enforcement officers are equally competent to state and local police officials, and are also perceived to be so by the community. Their ongoing competency is critical, and it is recommended that they avail themselves to federal officer and other training opportunities, as possible. Continued training should be mandatory. Part of their job responsibilities should include being a member of the communities they serve. Some jurisdictions use officers as prosecutors or presenters in juvenile court. Though this seems a quick fix to filling the role of prosecutor, it is not ideal, because the role of prosecutor is time consuming and pulls the officer out of the field, leaving the community without the active presence of officers on patrol.

Additionally, law enforcement must have modern equipment. It is unacceptable to have a force that does not have the ability to protect themselves and their community. The law enforcement department can be expensive, but it is a critical branch of tribal government.

B. Prosecutor (a.k.a. Presenting Officer)

The juvenile justice system must have a person designated to review the reports that are forwarded to the system for possible dependency, delinquency, and/or criminal filing, which may include diversionary filings. The minimum requirements for this position include advocate-level abilities, for example, advanced competency in reading and writing, coupled with the ability to communicate verbally at an advanced level and a good working knowledge of the community and the culture of the community.

The prosecutor must see their role as integral to the system and be willing to participate as a community member. The most effective prosecutors are those who are not just seen as aligned with law enforcement but also seen as aligned with justice and fairness (including therapeutic goals). They need to be able to represent the interests of law enforcement, victims, and the community, while not losing sight of the very real fact that the “wrongdoer” is also a member of the community and many are also “victims” in their own right.

See [Chapter 17: Presenting Officer/Prosecutor and Consent Decrees](#).

C. Attorneys/Lay Advocates

Consistent with the federal ICRA, the tribal juvenile justice system must allow youth in the juvenile or dependency court to have legal counsel (an attorney or a lay advocate at their own expense). The minimum requirements for this position vary under tribal law given the tribe’s choice of sentencing power. However, juvenile matters are unlikely to result in the secure detention of a juvenile for a duration of longer than one year. Secure detention for longer than one year would trigger federal law requirements that a tribe pay for a licensed attorney for a youth involved in juvenile court. However, many tribes are opting to pay for licensed attorneys for youth, in any case, to protect the rights and interests of youth in the tribal juvenile justice system. Nevertheless, many tribes continued to allow lay advocates to practice in their justice systems. The requirements for such practice varies under tribal law and can range from the mere payment of a fee with approval to practice by the Chief Judge to passage of a tribal or state bar exam.

Lawyers and lay advocates will need to educate themselves about the purposes and role of defense counsel in therapeutic court dockets such as wellness [drug] court for the purpose of successfully habilitating or rehabilitating their clients. Many other types of diversion and community-based programs will have similar requirements. Lawyers and advocates will also need to familiarize themselves with existing programs and should be encouraged to participate in the development of new programs.

D. Juvenile Judge

The juvenile court judge is required to further the tribe’s juvenile justice policy and the purposes of the juvenile code. In more modern codes these tasks are about supervising and coordinating treatment and other services and monitoring and responding to youth and family compliance and/or noncompliance. Only in extreme cases will the judge adjudicate (hold a trial for) a youth to be a delinquent (to find him or her guilty of committing a juvenile offense)—and to sentence that youth to secure detention.

The tribe’s juvenile code purposes may include some or all of the following: (1) securing the care, protection, and mental and physical welfare of youth; (2) preserving and retaining the unity of the family; (3) removing from children committing delinquent acts the legal consequences of criminal behavior, and substituting programs of supervision, treatment, and rehabilitation; (4) ensuring that

the rights of the parties are recognized and protected; and (5) coordinating services for youth and their families with an emphasis on prevention, early intervention, diversion, and community-based alternatives.⁹

Judges who have not previously worked in juvenile court will need to educate themselves with respect to the rehabilitative focus (as opposed to the criminal court's primarily fact-finding and punitive focus) of the juvenile justice system, the preferred use of diversion programs, and particularly therapeutic diversion programs (e.g., wellness [drug] court). Juvenile judges are essential leaders in the co-development and operations of therapeutic dockets and community-based programs (including tribal-school efforts to respond to truancy). They will need to understand their new and unusual role as reform team leader, collaborating team leader in justice system operations, parental figure, mentor, sponsor, and supporter of the success of tribal youth.

E. Probation Department

Probation officers are generally required to “enforce” terms that the court imposes on youth. Behavior requirements often arise when an adolescent or young adult is released pending adjudication or postdispositional requirements imposed on the youth (the youth must complete requirements as part of their obligation to the court for admissions, findings, or convictions). Occasionally these requirements may be imposed as diversion requirements, meaning that if the youth and his or her family comply with certain requests the matter will not be officially filed or brought to court. Diversionary supervision is usually less intensive, and may be referred to case managers (described in the following text).

Probation officers should complete course work in their area of concern at the junior or other college. If there is not an available candidate with the academic credits/training then it is essential that the probation officer have competency at the advocate level (advanced competency in reading and writing, coupled with the ability to communicate verbally at an advanced level and a good working knowledge of the community and culture of the community).

The probation officer must assist the youth and their family in determining what services would benefit the youth and family to address the problems noted; assisting in the assessment of services; providing ongoing monitoring and encouragement for the youth; and providing a progress report on the youth for the court.

Probation officers often interact with the youth when he or she is referred or first brought in (sometimes detained or arrested and sometimes taken into protective custody). If detained or arrested, they initially determine if the youth is releasable, and under what conditions. They also

⁹ Taken and summarized from Model Tribal Juvenile Code (2015) (*Developed by the University of Washington's Native American Law Center drafted as part of the John D. and Catherine T. MacArthur Foundation's Models for Change initiative and for the Bureau of Indian Affairs*) Section 1.01.110 (d) Purpose and Policy.

interview the youth, family, and community (victim) at an appropriate presentencing point. The interview summary report will become part of the probation officer's report to the court.

Perhaps the most important facet of probation officers' responsibilities is their partnership with the youth and his or her family. They must align with the youth while meeting their quasi-law enforcement responsibilities. They monitor compliance and ensure that compliance is progressing. Under many juvenile justice processes, probation officers oversee youth and family compliance with pretrial, diversion, and posttrial programs and services. Good probation officers are akin culturally to clan and/or aunt and uncle relatives. They are a loving, nonjudgmental presence that can help determine community standards and assist a wrongdoer to right his or her wrongs.

About Family Group Decision Making*

Consider Having Your Juvenile Intake or Probation Officers Use a “Family Group Decision Making Process.”

Family Group Decision Making (“FGDM”) recognizes the importance of involving family groups in decision making about children who need protection or care, and it can be initiated by service providers and/or community organizations whenever a critical decision about a child or youth is required. In FGDM processes, a trained coordinator who is independent of the case brings together the family group and the service providers to create and carry out a plan to safeguard children and other family members. FGDM processes position the family group to lead decision making, and the statutory authorities agree to support family group plans that adequately address agency concerns. The statutory authorities also organize service providers from governmental and nongovernmental agencies to access resources for implementing the plans. FGDM processes are not conflict-resolution approaches, therapeutic interventions, or forums for ratifying professionally crafted decisions. Rather, FGDM processes actively seek the collaboration and leadership of family groups in crafting and implementing plans that meet the child's or youth's needs.

* Taken from University of Colorado, Kempe Center, [National Center of Family Group Decision Making](#). For more information on the purposes, values, and processes of Family Group Decision Making Process, go to the Kempe Centers, [Family Group Decision Making in Child Welfare - Purpose, Values and Processes](#).

F. Case Managers/Community Workers

Generally, in the juvenile justice system case managers are used for certain “dockets” or “calendars” (court actions are grouped by type, e.g., children's court [dependency], juvenile court [status, delinquency, and FINS], family court [paternity, divorce, and probate], criminal court, and wellness court [drug court]). Case managers develop an expertise in the services needed for their area of specialty. For instance, a wellness court worker would have access to and be acquainted with substance abuse and mental health treatment and treatment-associated resources.

Case managers, in addition to their specialty knowledge, need the advocate skills outlined. This knowledge is combined with their community and cultural awareness and their ability to align with

the youth and their families. The partnership responsibilities outlined in the probation officers section are equally applicable to case managers.

G. Facilities—Treatment and Electronic Detention

There is a significant lack of juvenile facilities in Indian country for youth. All but a few tribes are too small in population to support a full range of facilities required to address the divergent needs of a stressed youth population. Additionally, serious offenders are either housed in state or federal facilities because of the jurisdictional composite imposed on reservations.

Tribal juvenile systems need to designate a liaison officer to work with youth that are housed in off-reservation facilities, whether they are treatment or locked facilities. The liaison officer may be a case manager, but his or her responsibility would include maintaining contact with the youth and his or her family during the period of treatment or incarceration. The liaison officer should develop a transition plan for the return of the minor to the community. It is possible for tribal systems to partner with other systems off reservation when the primary purpose of out-of-home placement is for treatment. Partnering can involve locating culturally appropriate treatment and ensuring that monitoring and support is there for the youth. It is important that any period of separation from the community and family does not end up feeling to the youth like they have been thrown away.

Additionally, tribal/state/federal agreements can be put in place to exercise concurrent jurisdiction, under which the tribe constructs agreements supporting dispositional alternatives that feature wraparound services. An example of concurrent jurisdiction would be allowing a youth to opt for treatment in a tribal or Native facility. A treatment failure would result in a period of time at a locked nontribal facility.

Another alternative is to impose electronic monitoring. This requires a careful assessment, and should not be widely used as the success of the monitoring requires a level of commitment that youth without substantial family support may not have. The monitoring program can be a global positioning system (GPS) and/or a drug or alcohol monitoring system. This approach has been very effective with youth who have support and who have the external/internal resources to help them comply. Many jurisdictions have statutes that allow for such monitoring by classifying the monitoring as “detention.”

See [Chapter 9: Relations with Other Agencies and Courts](#).

H. Housing Needs

Many youth find themselves in an impossible situation with parents who are unable to parent on a full-time basis due to parental incapacity. When this occurs, if a youth has a caring adult parental alternative, who provides housing and supports the youth's need for care, the tribe needs to be able to carefully evaluate that alternative and support where reasonable. Although group homes and residential schools may be less than desirable, adolescents and young adults may prefer those alternatives. It is preferable that these placements be achieved without designating youth as dependents or delinquents. It is important to realize that alternatives do not have to be limited to those developed in the dominant society. Even considering giving adolescents the right to partial emancipation or any other designation that supports their semi independence may be a good option at times.

Labeling does not further these solutions. Parents and youth will often turn away from alternatives not wishing to be stigmatized by terms such as *delinquency* or *dependency*. Any structured supportive alternative may be preferable to youth who are essentially homeless.

I. Mental Health Assessment and Treatment

There is a tremendous need to have competent mental health services available for tribal youth and their families. Trauma, both historical and individual, is in recent years being understood as a cause of negative behavior in tribal youth.

Juvenile justice systems need to assess the nature and degree of trauma in tribal youth, families, and communities, particularly as Native communities have been ground zero to much trauma. Traumatic events may include the following:

1. Abuse or assault: physical, emotional, sexual
2. Exposure to family violence/intimate partner violence
3. Accidents that cause injury and/or death to family and/or close friends
4. Deliberate harm by others; torture; abuse; abuse of power
5. Harm by others in the line of duty
6. Negative consequences of economic policies, poverty
7. Homelessness, being a refugee
8. Human caused and natural disasters
9. Living under occupation or in conditions of servitude or slavery
10. Mass violence: assaults, massacres, genocide, wars

11. Neglect by others of those cannot care for themselves
12. Serious illness
13. Structural violence (social structures and institutions that deprive people of their rights and ability to meet basic needs)
14. Sudden loss of loved ones, status, identity, possessions, home, territory
15. Sudden changing of the rules, expectations or norms
16. Surgical, dental, and medical procedures, including difficult births
17. Witnessing death or injury

Of particular importance in Indian country is historical trauma, which is the “cumulative emotional and psychological wounding over the lifespan and across generations emanating from massive group trauma.”¹⁰ This trauma is pervasive throughout Indian country. Mental health providers have researched historical interactions that have negatively impacted tribal communities to understand the root causes of current behaviors.

Understanding the impact of trauma in Indian country is essential. Untreated trauma results in reenactment behaviors, those that turn unhealed trauma energy against the self or others. Upon analysis, untreated trauma can be identified as the basis for much “deviant behavior.” It is important to identify the source of such behavior if treatment or resolution of the behavior is one of the objectives of bringing youth into the juvenile justice system.

To recap, careful assessment of potential trauma must be part of any examination of a youth’s presenting behavior. If trauma is found, then the treatment plan must incorporate trauma-based responses.

Please see [Chapter 29: Trauma-Sensitive Statutory Provisions](#) and [Chapter 24: Nondelinquency Proceedings—Family in Need of Services \(FINS\) Referral to Juvenile Counselor](#).

¹⁰ Maria Yellow Horse Braveheart, *The Historical Trauma Response among Natives and Its Relationship with Substance Abuse: A Lakota Illustration*, 35 *Journal of Psychoactive Drugs* 1 (p. 8) (2003).

J. Schools

Youth committing delinquent acts in a community often have academic histories that are riddled with problematic behavior, including truancy, social problems (acting out), and significant issues with academic performance. Tribal youth must be educated to be good tribal citizens and competent parents, and to be able to participate successfully in the workforce. Failure in school often foreshadows a lack of success as young adults and is a common factor among the prison population.

It is essential that any juvenile justice system place a heavy emphasis on the academic performance of potential and actual offenders. This may include academic testing and remediation. Between 69 and 85 percent of the prison population shows a failure to graduate high school. (These figures are not Native specific.) Most professionals working with youth predict that a lower prison population could be supported by a higher high school graduation rate. If tribes wish to do better than our state neighbors they must not ignore the implication of the relationship between high school success and criminal involvement. School issues must be given primary attention to avoid the long-term impact of educational shortcomings.

Another issue that communities should resolve is the presence of law enforcement at school sites and the use of law enforcement for disciplinary intervention with troubled and problematic students. The recent specter of elementary children being hauled off in handcuffs for admittedly bad behavior or tantrums has caused many parents and educators to call for a review of the trend to arrest children exhibiting problem behaviors. Frustrated school administrators fearing damage to facilities and injury to staff and other students are increasingly calling on law enforcement, when parents do not respond to less drastic requests. However, the consequences of criminalizing children must be seriously considered. Other options must be fully explored as the long-term impact on the individual child and the attendant “cost” to the community is potentially very high.

K. Cultural Resources

The juvenile court should strongly consider establishing a cultural division inside the court. This entity or position would be responsible for establishing individualized cultural reengagement or engagement plans for youth. The court should have the ability to provide mentors for youth, with activities that are supportive of the participant developing values consistent with those of the tribal community. These activities should be individualized and feature both group and one-on-one services. Language class involvement has proven successful in increasing youth self-esteem in many communities.

It is not enough to talk about making culturally relevant systems. Such a system requires a commitment and a visible presence. It is very important, particularly for a juvenile justice system that official promises and talk match up with the reality presented to youth and their families. Our youth are the future and they have seen state and federal officials talk about how important youth are while NOT allocating resources to youth needs. Tribes have talked about the importance of culture, the

importance of those values being the guiding principles for our youth; and it is incumbent on tribes to dedicate whatever resources are necessary to demonstrate their commitment to Native culture.

See [Chapter 30: Integrating Culture, Customs, Traditions, and Generally Accepted Practices](#).

L. Transitional Supports, Including Housing

Life skills are essential for tribal youth. Parents and parental figures need to model life skills and/or ensure that they are taught to youth. It is important that youth involved in the juvenile justice system acquire such life skills, without them they cannot be successful. If youth cannot support themselves, as in providing for their own food and shelter, getting and holding a job, and engaging in future planning, then they should not be allowed to age out of the juvenile system. It is not about an age requirement, it is really about youth being able to meet the requirements of caring for themselves.

It is possible to assist students, in college or completing certificate programs, with housing while they are completing their education. However, vacations, breaks, and graduations must be considered. Supervised youth hostel facilities or living stipends to assist in transitions are a possible solution. Transitional supportive housing for young adults is a problem that needs to be addressed along with all the other housing concerns of reservations. Housing for this age group should be supportive and have on-site services that will assist youth in their primary concerns of job search, budgeting, planning, etc.

M. Support for Parents

Parents may need assistance ranging from visitation support (if the child or adolescent is housed away from the community), directed parenting assistance (e.g., how to parent an adolescent, a special needs adolescent, or an adolescent parent), and respite care. Some parents need assistance in applying for programs for their children (scholarship, financial aid applications, public aid programs, program admissions forms, etc.). It is essentially impossible for youth to succeed without adult assistance, and the adult assistance needed increasingly requires substantial knowledge.

A frequent concern is that a youth may be manifesting a family problem and the “real” issues are in the family, or lodged in family-based dysfunctional behaviors. If the youth’s behavior is a symptom of the family’s issues, then the issues can become quite complicated. Many juvenile systems allow for cross-referrals, and it may be appropriate to institute dependency proceedings. On occasion it is appropriate to combine the two matters and treat the family issues with the delinquency behavior.

There is also the issue of parents who may lack physical and/or mental capacity without assistance to parent their children. These parents may be able to parent, or partially parent with supportive services, and very careful plans have to be made to provide such ongoing support.

Please see [Chapter 25: Nondelinquency Proceedings—Family in Need of Services \(FINS\) Breakdown in Parent-Child Relationship](#).

N. Victim Services

Although most if not all tribes have adopted the approach of the dominant society that crimes are against the tribe as in “People vs. Defendant” or “Tribe vs. Defendant,” it has historically been the position of most tribal cultures that the person wronged is not the tribe, rather it is the person(s) harmed by the action or inaction. In recent decades the state and federal governments have looked to the concept of adding the victim to the equation of justice, not just as a witness, but rather as a party who may participate in the court process, and have their concerns redressed directly.

Victims are being allowed to directly address the court(s) in terms of sentencing; address the perpetrators in terms of harm caused, etc.; and seek restitution for property destruction, physical harms, or the costs associated with those harms.

In addition, restorative justice and/or programs incorporating the concepts of restorative justice have increasingly come into favor, allowing victims’ concerns to be addressed directly by the wrongdoer. This may or may not include direct interaction of the parties, and the negotiation of a plan to make the matter right between or among them.

O. Restorative Efforts—Activities

The previous chapter discussed in summary fashion the approaches of restorative justice. These concepts are culturally familiar and comfortable to most tribes and should be considered as available to youth and their families. Restorative justice practices are designed to restore harmony to the community; repair, as much as is possible, the relationships of the parties; and allow the return of the youth to good standing in the community.

Restorative justice is ideally suited for communities that historically and currently are somewhat insular or isolated. The system creators or those tasked with improving the juvenile justice system should review these concepts and consider whether and how to incorporate them into their tribe’s system.

About Family Group Conferencing*

A Family Group Conference (“FGC”) is a facilitated group dialogue and decision-making process in which a young person who has done harm is encouraged and supported to be directly accountable to the person who was harmed. The focus is on doing right, not on punishment. Typically, participants in a FGC include a young person accused of a crime, his/her family, the persons who were harmed and their supporters, and a trained facilitator. Depending on the severity of the crime, a member of law enforcement might also be present. Ideally, an FGC results in a consensus-based plan for repairing the harm to the extent possible. When the young person completes the plan, filed charges are dropped. The participants also try to understand why the offending happened and tailor the plan to help prevent future wrongdoing.

FGC can also be used in lieu of traditional school discipline processes that would otherwise result in suspensions or expulsions for more serious negative behavior on school campuses. Ideally, a single restorative system of youth accountability that addresses both school needs and juvenile charges would result when youth commit crimes on school campuses.

History of Family Group Conferencing

Family Group Conferencing is the national model for addressing youthful wrongdoing in New Zealand. The Maori—New Zealand’s indigenous people—spoke out against the disproportionate incarceration of their youth and advocated for FGC as a more effective model for dealing with youth crime. In 1989, the New Zealand government passed the Children, Young Persons, and Their Families Act which adopted a national model for using FGC in all youth crimes other than murder and manslaughter. Since 1989, youth incarceration has been rendered virtually obsolete, juvenile detention facilities have been closed, recidivism rates have plummeted, and victim satisfaction rates are high.

* [Family Group Conferencing](#), taken from [Community Works](#).

[3.3] Dispositional Alternatives

The system must have at its disposal the ability to impose consequences that are appropriate for the youth offender, the family, the victim(s), and the community. The consequences must fit the gravity of the offense and the real needs of the youth to learn and incorporate behavior changes. The alternatives must be tailored to the offense and the offender. A certain amount of attention should be given to graduating those consequences to allow the offender to modify or correct his or her behavior with limited consequences. Increasing the consequences is usually associated with increased restriction of freedom of movement, but should also be associated with increased services as in treatment service requirements.

What follows is a listing of possible alternative services for the youth. These services may be tribally established, be contracted for, or be provided by neighboring local, state, or federal governments or nonprofits. If the consequences are imposed from outside the tribe, it is important to remember that continued connection of the youth with their tribe and their family is extremely important to their eventual ability to absorb the “lesson.” In all likelihood, and assuming eventual release, the youth will return to the tribe. He or she may have continuing problems if the underlying issues are unaddressed. The youth may then reintroduce his or her problems to the community.

A. Placement Options—Out of Home Detention, Treatment, and Foster Care

After youth have been subject to punitive measures, they are returned to their home, maintained in their home, or face an out-of-home placement. Less serious offenders may have the opportunity to address mental health concerns and/or substance use/abuse issues during inpatient care. Indian Health Services and specific tribal agencies may offer access to some facilities. It is important that each tribal juvenile justice system's personnel become familiar with the available tribal and neighboring local, state, or federal options. In situations in which there is concurrent jurisdiction and/or intergovernmental agreements, additional placements may be available to youth and some of these facilities may be open to providing culturally relevant supportive services. In all cases there is also a need for after-care services. Planning for those services is essential and should begin before a youth is released from a facility.

If the youth needs an increased level of supervision or would benefit from services and opportunities available from an out-of-home placement, but does not require out of family placement, then foster care/a guardianship/an Indian custodianship is a possible placement option. This could include extended family placements and/or placement with an unrelated adult who is known to the youth and/or the family and who is able to offer a suitable home. A case manager or probation officer will need to supervise and monitor such placements, depending on the offense and the level of supervision needed.

Serious offenders will be housed in locked or semilocked facilities. Those offenders also require ongoing supportive contact and transitional services.

B. Home Detention

Home detention is basically house arrest with limited access to supervised activities, including school and school-related activities. It may include an ankle monitor with GPS and/or substance-use monitoring. It may also include access to counseling (individual or specialized, e.g., domestic violence, antitheft, driving skills), outpatient treatment programs (featuring frequent and random drug/alcohol testing), and employment.

Home detention is often seen as an opportunity for youth to demonstrate their willingness to work with service providers and to show they can discipline themselves with support to avoid bad behavior. This requires parents or adult figures who will support the needs and demands of the supervision and who will place the agreement to report noncompliance at the top of their parenting list.

C. School Placements

This kind of placement can be as simple as requiring a student to reengage in school through the continuation of school or a GED program. It may require a boarding school or other specialized academic program, depending on the needs of the youth in question.

Sometimes youth can find it very beneficial to have a “change of scenery” with a chance to start over where their past does not have to be confronted on a regular basis. The essential importance of this requirement to continue education is that youth **MUST** achieve, as much as possible, education competency and success to avoid further and continued involvement with the criminal system.

D. Specialized Programs, Classes, and Mentors

Specialized programs and classes can be developed on reservation or found in the surrounding communities. They may address certain behaviors, giving the youth tools and information designed to assist them to avoid pitfalls or to acquire needed skills for success.

These classes include but are not necessarily limited to the following:

1. Antitheft
2. Graffiti abatement
3. Alcohol and substance abuse education
4. Driving classes
5. Cultural how-to classes—including producing items and/or attending community events
6. Cultural classes on historical and traditional knowledge
7. Domestic violence classes
8. Life skills classes
9. Peer counseling
10. Youth fellowship classes, so that youth are exposed to positive activities

An important part of these programs may be the partnership with teams of youth to accomplish projects. These can overlap into the provision of services to the community. Additionally, mentors in the model of teaming an adult with a youth are very successful. Mentors should be viewed as fulfilling the role of an adult advisor much as an aunt or uncle and can supplement ongoing support.

E. Protective Orders

Protective orders are designed to keep youth away from person(s), places, and activities. They require that the youth refrain from any contact in a very particular manner. They may allow for some contact under a supervised situation, for example, therapeutic contact with a parent. Protective orders may also be used to keep others from contacting the youth, if the youth is being harassed or otherwise disturbed in an unlawful manner.

These orders are generally for a limited duration and are very specific, often stating the required distance between the youth and persons or places. They are sought for the purpose of protection of the youth or protection from the youth, and can be reviewed by the court for changed circumstances. Violations of these orders are often considered separate criminal offenses. Protective orders should be used wisely and uniformly adhered to so that further criminal involvement is avoided.

F. Conclusion

The “parts” described are required to operate an effective and responsive juvenile justice system. The tribal court must share the responsibility to oversee the development of the system and to ensure that its staff’s vision, mission, and competency meet the demands of this youth-focused and necessarily collaborative and integrated system.