



## THE HARVARD PROJECT ON AMERICAN INDIAN ECONOMIC DEVELOPMENT

John F. Kennedy School of Government • Harvard University

### HONORING NATIONS: 2006 HONOREE

#### **Tulalip Alternative Sentencing Program Tulalip Tribes**

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*Born out of a need to create a judicial system that Tulalip citizens can trust and that also helps offenders to recover rather than just throwing them away, the Tulalip Tribal Court Alternative Sentencing Program supports development of a safe, healthy, and law abiding community. Focusing on the mental, physical, and spiritual health of offenders, the Program melds indigenous and therapeutic jurisprudence, going beyond just placing offenders in jail. Beginning with the Tulalip Alternative Court and now backed by the entire Tulalip justice system, the nation's strategies for implementing Tulalip law now better reflect the sentiments of one of its traditional sayings, "To pull that canoe, you have to pull together."*

The Tulalip Tribes' reservation is located in Washington State, about 40 miles north of Seattle. The Tulalip Reservation was reserved for the use and benefit of Indian tribes and bands signatory to the 1855 Treaty of Point Elliott. It was established to provide a permanent home for the Snohomish, Snoqualmie, Skagit, Suiattle, Samish and Stillaguamish Tribes and allied bands living in the region. A decade ago, the Nation was confronted with social problems such as crime, violence, and drug use. At that time, the launching by the nation of gaming enterprises served to heighten awareness of the critical importance of community safety and threats to that safety posed by crime. State and county authorities were unable to effectively police the reservation, and much of drug-related crime and violence went effectively unchecked. Tribal citizens did not trust that they would be treated fairly in the non-tribal justice systems, and tribal offenders often felt discarded by those systems, as if no one cared about their rehabilitation. Both of these situations are too common throughout Indian Country. The Tulalip Tribes sought means to provide for their citizens safety and offenders' futures in more personal, immediate and culturally-grounded ways. The Alternative Sentencing Program has proven to be a key component of the effort.

Washington is a Public Law 83-280 state, making the Tulalip Tribes subject to state jurisdiction over criminal matters on Indian lands. In the 1970s, the nation had a small court covering fishing regulations, evictions, and collection notices but, for all intents and purposes, criminal cases were handled by outside entities. Like many other nations subject to PL 83-280, the Tulalip Tribes felt its hands were tied in the criminal justice area. In 2001, however, the Tribes completed retrocession, giving the nation jurisdiction over criminal misdemeanor matters on tribal lands and concurrent jurisdiction with the federal government over felonies. Retrocession and the assertion of sovereignty it entailed laid the groundwork for creating a criminal justice system that could implement Tulalip cultural values, processes, and standards.

The Tribes recognized they had resources available to them, within and outside its community. Retrocession fortified the Tribes' assertions of sovereignty, so it knew it could mandate and legislate how to best implement a new system. The final piece was the realization that the Tribes were well-positioned to create a justice system that valued citizens and contributed to a healthy community.

The nation upgraded its court facility and expanded its collaboration with the Northwest Intertribal Court System (NICS). The NICS, itself an Honoring Nations honoree, was able to provide contract prosecutors, a second judge, clerks, probation and compliance officers, and other necessary personnel. The Tribes also developed a close relationship with the University of Washington clinical law program to provide counsel for needy defendants. With these important partnerships in place, the Tribes were ready to more actively assert control over the nation's criminal justice system.

In structure and form, the early versions of the Tulalip Police Department and the Tulalip

Tribal Court appeared quite non-Native, and the Tulalip Legislature sought to develop a new justice system that would better fit the needs and culture of the nation. Seeking a system tailored to their community, the police chief and criminal court judge, with the backing of the Legislature, convened all those they saw as necessary to create a new way of approaching justice. The subsequent meetings laid the groundwork for the Tulalip Alternative Sentencing Program and culminated in new procedures and case processing. The new procedures mandated that offenders receive holistic treatment to address the reasons that brought the individual into court, including underlying issues such as drug abuse. The Program stipulates that all parties to a defendant's case meet and work together. For example, the judge, defendant, attorneys, and service providers work together regularly, interacting on a professional level, to make each case successful.

The remaining challenges for the Tribes concerned how to best reflect a driving philosophy of the People, "To pull that canoe, you have to pull together." The Tribes devised a system that focuses on the mental, physical, and spiritual health of offenders, while incorporating cultural values. The new system melds forms of indigenous and therapeutic jurisprudence, going far beyond just placing offenders in jail. For example, the Alternative Sentencing Program uses GPS ankle bracelets to monitor and work with offenders, replacing incarceration in the local jail. Each offender on GPS monitoring is required to actively participate in designated self-improvement outcomes. Offenders take part in drug and alcohol treatment; Moral Reconnection Therapy®; mental, medical, and dental health treatment; community services; random and frequent drug and alcohol testing; elders' meetings; educational training, including GED classes; job search support transportation and securing driver's licenses; family support services, such as family reunification and domestic violence perpetrator classes; and classes on life skills, healthy living, parenting, and anger and stress management, as deemed necessary by the team of professionals who operate the Program. Regular, sometimes weekly, team meetings also mean that all tribal agencies are required to work with participants in a timely manner.

If other services are not successful in correcting behaviors, the Alternative Sentencing

Program also offers the Healing to Wellness Court (also known as the drug court). The initiative, started in 2006, brings an even larger range of interested tribal parties into the healing circle, both literally and figuratively. Not only do the judge, defendant, compliance officer, prosecutor, and defense counsel participate directly in conversations with defendants

about their drug use, crime, and rehabilitation, but also law enforcement officers, a representative from the gaming commission, members of the Tribes' Board of Directors, services providers, elders, family members, and peers are included. The focus is on correcting behavior, not penalizing citizens.

The scope of the Alternative Sentencing Program is quite broad. Recognizing that this method of justice and rehabilitation will not work for everyone, and that some offenders benefit from the structure of custody, the Program is currently working with other tribes in Washington to create a Native-controlled jail. The jail will incorporate Native philosophies and healing techniques, bringing the services of rehabilitation to the incarcerated.

The Alternative Sentencing Program has made great gains against crime on the reservation. In only 3 years since the Program's implementation, 25% of the participants in the Program do not re-offend, as compared to only 7-9% in the county. Anecdotal evidence is also strong: the police chief reports violent crime is drastically dropping, cases of resisting arrest are almost non-existent, gang activity is declining, and there is a substantial decrease in the number of outstanding warrants. Parents even report their children's unhealthy activities to police, hoping to get them into the Program because of its reputation for effective rehabilitation.

The Alternative Sentencing Program brings traditional values to the forefront of the judicial process by focusing on restoration, recovery, healing, and the bolstering of family and community connections. By creating a code and process that force interaction, recovery for the citizen is stressed over punishment and all parties have a voice and are working to create a healthy community.

The Alternative Sentencing Program is a case of the Tulalip Tribes reclaiming and strengthening sovereignty within a PL 83-280 state and creating a culturally appropriate justice system. Beyond creating appropriate government infrastructure by partnering with other organizations, the Program has created trust among the Tulalip citizens. By making the reservation safer, and by focusing on recovery and healing rather than punishment, the Alternative Sentencing Program has improved Tulalip Tribes citizens' lives and the environment they live in.

#### Lessons:

- A prerequisite to the implementation of culturally grounded approaches to criminal justice is the assertion of jurisdiction over criminal matters; appropriate intergovernmental arrangements make this possible even in PL 83-280 states.
- Effective tribal criminal codes, the development of accompanying tribal institutions, and clearly specified partner roles and responsibilities strengthen tribal sovereignty and promote productive intergovernmental cooperation on criminal justice issues.
- By focusing on restorative justice, interagency cooperation, and offenders' recovery and well being, the tribal justice system can become a key actor in improving community health.