

U.S. DEPARTMENT OF JUSTICE  
Office of Justice Programs

## CATEGORICAL ASSISTANCE PROGRESS REPORT

178739

The information provided will be used by the grantor agency to monitor grantee cash flow to ensure proper use of Federal funds. No further monies or other benefits may be paid out under this program unless this report is completed and filed as required by existing law and regulations (Uniform Administrative Requirements for Grants and Cooperative Agreements — 28 CFR, Part 66, Common Rule, and OMB Circular A-110).

1. GRANTEE <b>NATIONAL INDIAN JUSTICE CENTER</b>	2. AGENCY GRANT NUMBER <b>97-DD-BX-0034</b>	3. REPORT NO. <b>2</b>
4. IMPLEMENTING SUBGRANTEE	5. REPORTING PERIOD (Dates) FROM: <b>August 1988</b> TO: <b>March 1999</b>	
6. SHORT TITLE OF PROJECT <b>T/TA for Tribal Courts</b>	7. GRANT AMOUNT <b>\$250,000</b>	8. TYPE OF REPORT <input type="checkbox"/> REGULAR <input checked="" type="checkbox"/> FINAL REPORT <input type="checkbox"/> SPECIAL REQUEST
9. NAME AND TITLE OF PROJECT DIRECTOR <b>Joseph A. Myers, Executive Director</b>	10. SIGNATURE OF PROJECT DIRECTOR <i>Joseph A. Myers</i>	11. DATE OF REPORT <b>July 8, 1999</b>

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**FINAL REPORT**  
**AUGUST 1998 - MARCH 1999**

**Introduction**

The Bureau of Justice Assistance (BJA) awarded Grant # 97-DD-BX-0034 to the National Indian Justice Center (NIJC) on September 26, 1997. The purpose of this grant is to provide **Training and Technical Assistance to Tribal Courts (T/TA Grant)**. The original program period for this grant began July 1, 1997 and ended December 31, 1998. NIJC requested and received a no-cost 90-day extension in order to conduct two strategic planning sessions which were difficult to schedule. This resulted in extending the program period to end on March 31, 1999.

Recently, the U.S. Department of Justice reported a significant rise in incidents of violence in Indian Country. Other statistics maintained by the Office for Victims of Crime, State Victim Assistance and tribal victim assistance programs show that as much as 40% of the violence in Indian country takes place in the home. This violence is often inadequately addressed by tribal, state and federal judicial systems.

This T/TA Grant provided vital training and technical assistance necessary for tribal courts to evaluate and successfully address child abuse and neglect, domestic violence and Indian youth gangs. Many tribal courts do not fully understand the dynamics or the impact of the court system in a case involving child abuse and neglect, domestic violence and Indian youth gangs. Most tribal court judges and other personnel are reluctant to allocate limited tribal court resources to cases involving domestic violence or violent youth because the court will often hear the same case repeatedly. The T/TA provided pursuant to this grant worked on fundamental changes in perception, tribal court operations and the scope of tribal court jurisdiction in these areas.

NIJC's sought to fulfill training and technical assistance needs by providing (1) long-term strategic

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planning for tribal courts; (2) guides on tribal court jurisdiction, child abuse and domestic violence on the reservation and Indian Youth Gangs and (3) regional training sessions for tribal court judges on child abuse, domestic violence and gang violence.

The following report is the final report for activities conducted during the program period:

## PHASE I DEVELOPMENT AND ASSESSMENT

### **Task 1.1      Select and meet with Project Advisory Committee**

The Project Advisory Committee (PAC) for the BJA Grant to Improve the Interaction Among Tribal, State and Federal Courts (a separate grant) submitted recommendations and discussed their concerns about training and technical assistance for tribal courts. The needs of tribal judges and other court personnel were examined and potential curricula for the regional trainings suggested. A memorandum summarizing the meeting discussions was sent to committee members, May 12, 1997.

An advisory committee composed of persons from the PAC and others was formed for this training and technical assistance grant. The aforementioned memorandum was circulated to this advisory committee which used it as a foundation for its discussions about training and technical assistance activities for tribal courts.

The advisory committee determined through telephonic and in person meetings that the training and technical assistance for tribal courts on the issues of domestic violence, child abuse and gang violence should include a judges' training session on those issues, long-term court planning to resolve those issues as well as guidebooks and information reports.

Invitations were sent to the committee members to meet in Las Vegas, Nevada during the first BJA Regional Training Session. Those committee members invited were:

William Canby  
Elbridge Coochise  
B.J. Jones

Gary LaRance  
Kristine Olson  
Ted Quasula

William Thorne  
Robert Yazzie  
John Kelly

Unfortunately, a quorum could not be established but several members met informally at that site.

### **Task 1.2      Publication of Training Brochure**

The training brochure was published in a special edition of the Tribal Court Record (TCR). Updated mailing lists and 20 preliminary copies of the TCR were forwarded to BJA. The special edition of the TCR was circulated to all tribal courts. (See appendix A.)

The grant announcement and the application in the TCR provide tribal court judges with the information needed to apply for a tribal court strategic plan, to attend a regional training and to receive monographs produced under this grant.

A second mailing was done on February 23<sup>rd</sup>. This mailing was directed to tribal councils and

chairpersons. This staggered mailing process allowed tribal court judges time to evaluate whether or not their courts and staff needed to engage in a strategic planning process and time to approach their councils for cooperation and support. The staggered mailing to the chairpersons introduced the concept of the BJA discretionary grant award concerning strategic planning, regional training and monographs. This highlighted the need for planning, training and monographs for tribal courts to the various councils. Inherent in tribal governments designed by the Bureau of Indian Affairs is the lack of separation of powers. Tribal politics can be quite treacherous to the credibility of tribal courts. The image of tribal courts is sometimes tainted by tribal council overreaching.

Additionally, distribution of the announcement was made by fax to a majority of tribal courts before each regional training session.

**Task 1.3 Identification, review and assessment of existing training curricula on child abuse, domestic violence and youth gang violence in Indian country**

Since the initiation of this grant, NIJC has been reviewing, updating and expanding its library of resources on child abuse, domestic violence and youth gang violence in Indian country. This task was ongoing throughout the grant period and beyond. Other relevant resources, such as the Project Advisory Committee, and Northern Plains Tribal Judicial Training Institute have also sent NIJC their review of certain materials on these issues. The reviews, updates and expansions provide tribal courts with timely resources including sample tribal code provisions; videos on domestic violence, child abuse and neglect and gang violence; model Children's Bills of Rights; tribal Victims rights amendments; and various articles and cases which were made available to tribes requesting T/TA on these issues.

NIJC submitted a progress report outlining the sub-issues in the three main topic areas.

**Task 1.4 Assessment Report/Progress Report**

Two progress reports submitted in February 1998 and March 1998 to BJA have specifically outlined the approach and delivery plan for the various training and technical assistance activities.

**PHASE II  
WRITING AND PUBLICATION OF MONOGRAPHS**

**Task 2.1 Monograph design and dissemination plan**

NIJC, in consultation with BJA, and the advisory committee designed a format and methodology for the monographs. This included the layout and use of logos for the cover, the type of binding to be used and the title. This format was similar to that used in the Improving Interaction grant monographs.

NIJC created a mailing list composed of tribal courts, tribal chairpersons, Native American CJA programs, and Victim Assistance in Indian Country (VAIC) programs. The focus of the mailing is to reach tribal communities and their law enforcement, schools, social services and tribal leaders.

**Task 2.2 Three Monograph Topics Selected**

In consultation with the advisory committee, NIJC selected three (3) topics for separate

monographs from each topic area: child abuse and neglect, jurisdiction and Indian Youth Gangs. The topics reflected the concern of Indian communities about these issues. The topics selected were:

- Bench Book on Domestic Violence and other violent conditions. There is tribal court jurisdiction over cases involving domestic violence, child abuse, and youth gang violence. Tribal court judges are in need of a tribal court specific "Bench Book on Domestic Violence." NIJC prepared this Bench Book specifically for tribal court judges paying special attention to the formal procedures as well as the social impact of the case upon the victim of domestic violence, including child victims of abuse and neglect. This bench book was produced through this grant and forwarded to BJA for commentary. (See appendix B.)
- Civil and Criminal Jurisdiction Monograph. This monograph was designed specifically for tribal court judges, advocates as well as for state and federal court judges who deal with issues of tribal jurisdiction. It is a thorough and acclaimed discussion of tribal civil and criminal jurisdiction. This monograph was forwarded to BJA for commentary. (See appendix C.)
- Indian Youth Gangs. For tribal courts there is no reference directed to them on gang violence in Indian country. This monograph surveys for tribal court judges the conditions of youth gang violence in Indian country. This monograph was produced under this grant and forwarded to BJA for commentary. (See appendix D.)

#### **Task 2.3      Each Monograph was Designed and Developed**

This task corresponded to Tasks 2.2 and 2.4. Draft monographs were forwarded to the Advisory Committee and BJA for comment as per task 2.2. In consultation with BJA, necessary changes were incorporated into the final monograph during the time set for submission of the draft and final. The final versions were forwarded to BJA for commentary.

#### **Task 2.4      Each Monograph was Published**

Each monograph was submitted to BJA in final form for BJA commentary. BJA forwarded the final drafts to other sources for review and commentary. No review or commentary was returned to NIJC. Upon the advice of BJA, NIJC proceeded to publish the monographs. All monographs are published with individual ISBN's and have been disseminated to tribal courts throughout the country. (See appendices B, C and D.) Copies of the monographs have also been forwarded to tribal law experts, Federal Indian law experts, U.S. Supreme Court Justices, Federal court judges and others concerned about Indian country. (See appendix E for letters from the U.S. Supreme Court.)

### **PHASE III Delivery of Strategic Plans and Regional Trainings**

#### **Task 3.1      Tribal court request for a strategic plan was developed**

A tribal court request form for a strategic plan was developed and published in the TCR. (See appendix A.) The first mass mailing of the form was completed by February 20, 1998. Additional mailings were made subsequent to that date.

NIJC received complete applications (including required tribal council resolutions) from the following tribal courts:

1. Lac Du Flambeau Band of Lake Superior Chippewa Indians (Wisconsin),
2. Ho-Chunk Nation Trial Court (Wisconsin),
3. Nez Perce Tribal Court (Idaho),
4. Sault Ste. Marie Tribe of Chippewa Indians (Michigan),
5. Red Cliff Band of Lake Superior Chippewa (Wisconsin),
6. Rosebud Tribal Court (South Dakota), and
7. Ysleta del sur Pueblo (Texas).

Additional applications were received from 3 other tribes but were submitted without the required tribal council resolution. NIJC worked closely with all tribes to facilitate the application process but some applicants were unable to obtain the tribal council resolution.

Completed forms were maintained by NIJC. Based upon need, population base, regional location and case load; NIJC selected several courts for the strategic plans. The first court was the Nez Perce Tribal Court. Unfortunately, the tribe had to postpone the on-site several times over a six (6) month period, making it difficult to schedule other sites. Because of delays and on-site political conditions at the Nez Perce Reservation, which included a tribal council election in which council members close to the strategic planning project were not re-elected, the strategic planning session was scheduled, rescheduled, and then finally canceled. Substantial preparation time was allocated to the Nez Perce project that was not recoverable. In fact the Nez Perce strategic planning manual was designed and printed prior to the cancellation of the first scheduled planning session. NIJC has forwarded the Nez Perce manual to the tribal court for their use.

The second court chosen was the Rosebud Tribal Court. This court has been in existence for many years and has had to face great obstacles including vast poverty, remote location, large population and case load including murder and many serious Indian v. Indian felony type of cases. This court operate with limited resources and amidst intense political pressure. This strategic planning session resulted in costs beyond the initial budget as explained in task 3.3.

The third court chosen was the Ysleta Del Sur Pueblo Tribal Court. This court is vastly different in terms of available resources, population and case load. The Ysleta Tribal Court is located within the city limits of El Paso, Texas. This Pueblo was relocated to Texas and still possesses rich cultural heritage. It is a new tribal court which is still building community confidence and developing its codes.

The original grant required five strategic planning sessions. Due to unforeseen costs, the fourth and fifth planning sessions were replaced by developing a generic tribal court strategic plan which takes into consideration variations in population, case load and available resources. This decision was made in consultation with BJA.

### **Task 3.2      On-site protocol**

NIJC submitted to BJA a generic on-site protocol. The "generic" form was sent to BJA.

### **Task 3.3      Strategic Plans completed**

Originally, NIJC proposed to conduct five (5) strategic planning on-site sessions. We planned for three(3) but one was canceled, conducted two (2) and developed one (1) generic strategic plan. The first session was conducted on the Rosebud Sioux Reservation for the Rosebud Sioux Tribal Court in Mission, South Dakota. Prior to the on-site a consultant and two NIJC staff members spent two days preparing for the trip. Additionally, several days were spent lining up reservation participants for the session. These days involved telephone contacts, letters and faxing information. These preliminary matters took significant time and staff effort.

The Strategic Plan for the Rosebud Sioux Tribal Court. During the week of October 21, 1998, NIJC conducted a strategic planning session on the Rosebud Sioux Reservation in Mission, South Dakota. The session was facilitated by an NIJC consultant, Ms. Shelly Stump, and two (2) members of the NIJC staff, Ms. Kelly Myers and Ms. Jeannie Gregori. Prior to the on-site, these three (3) individuals engaged in a two day prep session at the NIJC offices in Petaluma, California. NIJC staff reviewed several Rosebud codes pertaining to child abuse, domestic violence and youth issues.

During this strategic planning session, NIJC staff and consultants conducted the strategic planning brainstorming process with at least twenty-five (25) community members ranging from judges, advocates, court administrators, clerks, law enforcement personnel, victim service providers, tribal council members, tribal elders, tribal community college students and professors. These interviews began at 8:00 a.m. and lasted until 7:00 p.m. The local tribal radio reported about the purpose of the strategic planning process. The interviews generated a lot of ideas for improvement in the overall judicial system including law enforcement.

During the second day, the strategic planning process was focused on the participation of tribal court personnel in an effort to develop specific tasks and assign personnel to accomplish those tasks. Community members also attended and provided input into the process. Many were satisfied that the tribal court was addressing their concerns by establishing short and long-term objectives for the court.

The on-site was successful to the extent that the Rosebud Tribal Court adopted the strategic plan that was drafted at the on-site. (See appendix H.) We facilitated the discussions and recorded the community and court concerns; they made the choices and developed the strategies. Draft plans were developed and disseminated to all participants in the strategic planning process. Commentary was returned and incorporated as needed. This session was more expensive than we anticipated in the original budget. The Rosebud Reservation is isolated; communication was difficult; participants were numerous and extensive staff and consultant time was required for the Rosebud Project.

The Strategic Plan for the Ysleta Del Sur Pueblo Tribal Court. During the week of March 17, 1999, two members of the NIJC staff conducted a strategic planning session for the Ysleta Del Sur Pueblo Tribal Court in El Paso, Texas. NIJC staff met for one day in preparation for the on-site visit. The logistics and the agenda for the session were finalized in preparation for the trip. Prior to the on-site there was effective communication between the court and NIJC. NIJC received and reviewed all tribal codes and resolutions. Ysleta operates a traditional pueblo government and does not operate pursuant to a tribal constitution.

The strategic planning session was conducted without any problems. There were approximately twenty (20) participants including members of the tribal council, judiciary, court staff, community services programs and the tribal youth program. (See appendix H.) The participants were very interactive and

moved the session forward with their enthusiasm. The plan was adopted by the participants. It was a successful session.

Generic Strategic Plan. Subsequent to the above two on-sites NIJC drafted a strategic planning model to be used as a template for future tribal court strategic planning sessions. The Rosebud and Ysleta Del Sur projects provided the basis for the generic plan. (See appendix I for the generic model.) Please note that the above on-sites are first impression projects. The generic model had to flow from these on-sites. Tribal courts are unique and different from state and federal courts. Therefore, the generic model had to be built upon the on-site experiences.

#### **Task 3.4      Strategic Plans**

Three (3) strategic plans were developed, two from the on-sites and one that was developed as a generic model. (See appendices H and I.) The two on-sites resulted in adoption of the strategic plans by the tribal courts and associated agencies, including the tribal councils. Both tribes still and will continue to require technical assistance in revising goals and updating their plans especially when there are significant personnel changes in the tribal court system. NIJC has continued to assist both communities with their strategic plans by setting timelines, checking with personnel assigned to tasks with timeframes, revision and advising even though funding for the project has concluded. The strategic planning process requires at minimum a 5 year commitment by the participants and the facilitator. This should be considered in future BJA projects involving tribal court strategic planning.

The generic model has been requested and disseminated to all of the strategic planning applicants. NIJC has assisted approximately four tribes in adoption and revision of the generic strategic plan through telephonic technical assistance. Many are very interested in receiving on-site strategic planning for their court systems.

#### **Task 3.5      Conducted Regional Training for Tribal Court Judges**

In FY 1998, there were three (3) Regional Training Sessions conducted by NIJC for tribal court judges. The subject matter for these sessions included domestic violence, child abuse and gang violence. The training sites and dates were:

- Treasure Island at the Mirage - Las Vegas, NV, April 27-29, 1998
- Sheraton Lakeside - Kissimee, FL, June 22-24, 1998
- Doubletree at the Lloyd Center - Portland, OR, August 31-September 2, 1998

This three day training session had three distinct areas of training. The first day was devoted to domestic violence issues that focused on spousal abuse and the problems attendant to such conflicts: battered women's syndrome, shelters, mandatory arrest statutes, criminality, secondary victims and other problems. A detailed training agenda and manual are included in appendix F.

The second concentrates on the range of abuses to children: emotional, physical, sexual and neglect issues. The various laws that protect children were surveyed and the afternoon culminated with small group exercises that had the participants work through problems in child abuse.

The third day examined juvenile justice in Indian country and the problems encountered at the

reservation level. Youth gang violence was examined in detail. Again, the participants worked through various scenarios in small groups and reported back to the entire class.

Each participant received a comprehensive manual that is usable as a working reference tool in the workplace. (See appendix F.) Participants also completed training evaluations in which they indicated that they needed and appreciated the training.

## PHASE IV EVALUATION

### **Task 4.1      Develop and Implement Evaluation Process**

NIJC developed evaluation forms in consultation with BJA for all components of the training and technical assistance grant. The generic form was submitted to BJA. Samples are included in the appendices.

### **Task 4.2      Comprehensive Final Report**

This final report and attachments are submitted to BJA within no cost time extensions requested for completion of the grant activities and products. This final report describes and justifies financial adjustments made for grant activities and conditions not originally anticipated.

### Appendices

Appendix A	Tribal Court Record T/TA Request
Appendix B	Domestic Violence Bench Book Monograph
Appendix C	Tribal Civil and Criminal Jurisdiction Monograph
Appendix D	Indian Youth Gang Violence Monograph
Appendix E	Thank you letters from the U.S. Supreme Court
Appendix F	Tribal Court Judges Training Manual
Appendix G	Strategic Planning Training Manual
Appendix H	Tribal Court Strategic Plans, Flyers, Roster Lists
Appendix I	Generic Tribal Court Strategic Plan
Appendix J	Tribal Court Strategic Planning Budgets