

Concept Paper: Development of Tribal Courts (Planning Grants)
(550,000 for 12 months)

Development of the Unified Tribes Inter-Tribal Court System

(10 Pages Maximum)

- I. This is a concept paper for an inter-tribal grant. The following Tribes are participating in this project and in the planning of an inter-tribal court system (Letters of authorization are attached from each Tribe in Appendix A):

1. Uno Tribe of Indians
2. Dos Band of Indians
3. Tres Tribe Indians

II. Target Caseload

The Unified Inter-Tribal Court System will serve the Numero people and others residing within north Whatever county, in Southern State. The combined "Total Indian Resident Service Population" as published in the "1997 Labor Market Information on the Indian Labor Force" is 1,776 for all inter-tribal court tribes combined. The bulk of the cases heard by tribal councils and state court systems in our region involve domestic matters and are more often than not drinking related including child abuse and ;neglect, delinquency, domestic violence, sexual assaults and other drinking related occurrences/crimes.

According to the tribal offices servicing Uno, Dos and Tres, approximately 25% of their members from the ages of 18-35 have or are incarcerated in a nearby county or federal criminal facilities. Recidivism is more than twice the average of the non-Indian population. Most of these cases involve and/or drug and alcohol related Juvenile delinquency and high school drop out rates are more than twice have the local aid surrounding communities. On some of the reservations the high school drop out rate is as high as 90%.

There is a strong perception among tribal members that state resources are inadequate to maintain a sufficient law enforcement and court presence in our rural reservations. The state targets its funding and services only at serious crimes and primarily in "nearby" cities which can be up to 60 miles or more away from the rural reservations. Tribal members are anxious to develop local justice systems based on traditional justice models to intervene in the troubled lives of tribal families at an earlier stage, when problems can be dealt with, and more serious incidents and crimes prevented.

The proposed Unified Tribes Inter-Tribal Court will target cases involving child abuse and neglect, juvenile delinquency, and other family disputes. We will be exploring tribal wellness court models to address the serious alcohol abuse problem in our community - court structures that supervise

the healing of individuals and re-integrating them into the community instead of repeatedly punishing them. Additionally, we will deal with civil court issues that arise on the reservations because of the many visitors to the reservations and economic development on the reservation that is tourist based.

III. How this Caseload is Currently Handled

Presently there are two candidates for handling abuse, neglect, delinquency, and/or criminal matters at the rural reservation level: (1) Either a state court judge or magistrate will hear the matter in a "nearby" city; or (2) the Tribal Council will sit as a court and decide how to deal with a matter (if it involves tribal members). It is important to underscore that the bulk of the incidents and petty crimes committed in the rural reservations may be reported to the appropriate state authorities which often decline to further investigate, detain, or prosecute, leaving the reservations to fend for the public safety on their own and given limited investigative, law enforcement, and often little to no court resources. Petty crimes are often precursors to more serious crimes, especially with respect to young people and within families. If intervention takes place early, more serious problems can be avoided.

A. Child Abuse & Neglect Cases

"Reports of Harm," if for example, a child is being neglected, or abused, can be made by members of the public or by mandatory reporters (such as police, teachers, nurses, etc.) to State Department of Social Services (CDSS) personnel in nearby cities who then investigate the matter and then file petitions in state court (also in the nearby city) to limit parental rights, to compel engagement in treatment and other services (also in the nearby city) and to place a child outside the home. The state court will most often retain jurisdiction over the case for the life of the case. In those cases where the SDSS declines to investigate, to take custody of a child, or to file petitions in state court, tribal members may go before the Tribal Council to obtain a traditional adoption decree or to obtain some other determination or outcome. If these adoption decrees are filed with the appropriate state recording agency, they are to be honored by state courts under state law. However, this scenario is suitable only where there is a native family ready and willing to traditionally adopt the child - there are many other tribal children in need of interventions or temporary placements that fall under the radar of the state SDSS and court system.

Additionally, tribal members are frustrated by the lack of thorough investigation and/or understanding of the customary ways of native families. There is a perception that the state often intervenes when there is insufficient reason to do so (a child is living with an extended family member as they would under the traditional system and has not been neglected) or if there is sufficient reason, the state fails to protect the traditional rights of the child (a child's right to know his or her reservation, lineage, language, and culture) by placing the child with a native foster parent. Indeed the state often declines to license native homes as paid foster homes as they do not look and feel like middle class white homes. *There is an* overwhelming desire on the part of tribal leaders and members to take control of this situation - to look out for the safety, well-being, healing, and rights of Tribal members - and to do so by building tribal justice

forums that incorporate tribal duties and values, and that seem just to those dealt with by such forums.

B. Juvenile Delinquency Cases

Similar to child abuse and neglect cases, incidents of juvenile delinquency are first reported to state juvenile probation officers in nearby cities who then investigate and file papers before a state juvenile magistrate in the nearby city. In very serious cases, these young people are detained and then sent to residential treatment facilities or youth camps (in cities). More frequently than in the child abuse and neglect cases, state juvenile probation officers choose not to act in what they deem to be "petty" juvenile cases. Reservation members often have to watch as younger members begin with minor infractions and work their way into more serious crimes, often drinking and drug related. Local leaders have a keen sense of when intervention is appropriate and necessary to curb future increased violent behavior. However, without tribal law enforcement and developed tribal juvenile court processes (thus far the Tribal Councils have inadequate process and training to deal with youth), tribal leaders lack control over the situation. If the state will not act, our reservations are forced to sit and watch our young people graduated into the adult criminal system. We are very interested in exploring the tribal juvenile wellness court (drug court) models used by other tribes. These tribal courts supervise the alcohol and/or drug healing process for young people locally and do not send them away to far-flung cities and states to mix with violent youth from the cities.

C. Alcohol Related Crimes

Here, we are most concerned with cases involving families and alcohol and/or drug abuse. This is a serious problem in our rural reservations and we need a way to heal families as a whole. Crimes including driving while intoxicated, theft, assault, property crimes, and domestic violence are far too frequent for our small communities. If the act committed is serious enough, state law enforcement authorities will be called in to arrest, detain, and transport a perpetrator to the nearby city for processing in the state court system. If a case can be made, the individual will be assigned a public defender and will often plead guilty, and be sentenced to jail time (also in the nearby city). Our Tribal Councils and reservations do not currently have a developed criminal court process, tribal law enforcement, or the funds to build and maintain detention facilities. This issue is also more problematic because of state jurisdiction on the reservation. Our highest priority at this time is to deal with the alcohol and substance abuse issues of family members and to heal families through a civil family, meditative, and/or wellness court program, especially those cases that the state declines to handle.

D. Civil Issues

As several of the reservations are rural and are focused on tourist-based business, there are elevated numbers of non-Indian visitors to the reservations. As in any community with high tourist activity, civil matters often arise. Typical civil issues include contracting with the reservations to do construction or to do business on the

reservation. Currently only the state court provides a forum for any disputes that arise out of these types of civil matters, The tribes would like to be able to provide a local reservation forum for civil matters.

IV. The Development Team

Our intertribal court development team will include two persons from each of the participating reservations. One of each of these representatives will be a Tribal Council member from the reservation. We plan to send our team members to the required BJA training seminars.

We plan to involve each of the reservation communities in the planning of the intertribal court in the following staged ways: (1) The team will attend the required trainings and based on the information received design a presentation to be made to each of the participating Tribal Councils and community members; (2) The team will work with the local radio and newspaper to undertake a public education campaign; (3) The team will seek and work with a tribal justice consultant or consultants to draft key Constitutional provisions, an ordinance establishing the subject matter jurisdiction of the court, court rules and sample forms, and a case file and recording system - these documents will go through a public education and comment process with the reservations; and (3) The team will seek and work with a tribal justice consultant or consultants to design a mock court process to run several types of mock cases at the reservation level and using reservation members and youth, which will assist the team, the Council, and the community in conceptualizing the project and identifying need areas.

V. How the Inter-Tribal Court will Improve the Quality of Justice & Outcome of Cases

We will set up an Inter-Tribal Court where each participating Tribe establishes a court under unified tribal laws (each Tribe adopts court establishment and subject matter jurisdiction ordinances or codes, rules, and forms that are identical in process). We will train a core group of "traveling tribal judges" and the individual judges will circuit ride to hear cases in the reservations. These traveling judges would then be teamed up with councilmen or elders from each reservation to make up a judicial panel for cases where a child must be taken into custody and placed or adopted, and in wellness court judging (applying sanctions and incentives to encourage participation in alcohol and/or substance abuse treatment and traditional healing activities). The roving judges will also be trained in a combination of traditional and western mediation techniques in order to ensure consistent record keeping and the memorializing of agreements. In all cases roving judges would apply the substantive customary law of the reservation they are presently presiding in.

Traditional experts (elders and culture bearers) may sit on the judicial panel directly or "testify" in particular cases as to the existence and relevance of particular custom law standards. These tribal, customs do not exist in the state forum nor are they taken into consideration. At the present time these are promising court structure ideas.

The team would have to fully explore different processes for feasibility and to prioritize the more urgently needed areas to work on.

A carefully structured Inter-Tribal Court with good community support and trained judges will greatly increase the quality of justice and the outcomes of uses. If tribal members can go to a tribal forum where local custom and tradition are applied by local tribal judges, the process will be more fair and comprehensible in a time efficient manner. Even more important, where the goal is to heal individuals and families rather than to punish, actual healthy family re-unification is more likely to occur. Fiscally, it is an act of self-determination and self-governance to take control over the future of the tribal community. Community empowerment will result in community healing and an increase in community well being.

VI. Existing Resources that will be Accessed

A. Local Law Enforcement

On and surrounding the reservation, law enforcement is handled by the County Sheriff's Department. There are approximately 2 to 4 *deputies that patrol* and serve the entire rural north County. The Sheriffs Department has one of the largest areas to patrol in State. Their area can range between 30 and 45 miles from one point to another. This causes problems for sufficient law enforcement coverage of reservation areas because there is no additional funding for the Sheriffs Department to patrol the reservations than anywhere else. Although the Sheriffs Department has made efforts to "work more closely" with the reservation's tribal governments and security the past few years, there remains still, the necessity to protect and preserve the peace for misdemeanor type activities.

Additionally, there is tribal security on every participating reservation. Security forces range from 5 to 30 state certified guards. This number fluctuates depending on the time of the year. However, tribal security is primarily paid for by the tribal businesses and their authority is not fully developed due to the lack of sufficient law and order codes.

B. The Native Health Council, Inc. (NHC).

The NHC is a non-profit program providing health care to American Indians and Native Alaskans residing in northern County. There are two clinic facilities. The main center is located on Gold Road, off Highway 66, on the Uno Indian Reservation. The satellite clinic is located on Church Canyon Road, off Highway 98, on the Dos Indian Reservation. The goal of the NHC is "to provide a range of health services which will assist the people we serve in raising their health status to the highest possible level." The Native Health Council is committed to improving the health and well being of American Indians and Native Alaskans in a confidential and culturally sensitive setting.

C. Indian Health Alcohol and/or Substance Abuse Program Services

Certified counselors provide education, prevention, intervention and treatment. Outpatient services include referral to in-patient residential treatment programs for adults and youth including the Youth Day Treatment Substance Abuse Program and Drug Testing.

D. Social Service Workers (ICWA Workers, Community Health, Representatives, Etc.)

The NHC provides licensed clinicians at the individual, couple, marriage, and family levels. Youth and adults services are also provided. Following is a list of available services and programs:

- Psychiatric Services - provides an experienced psychiatrist for the mental health treatment of both adults and children.
- Child Abuse Treatment Program - provides experienced clinicians who work with both parents and children experiencing abuse, implementing a range of treatment methods and activities.
- Domestic Violence Program- provides experienced clinicians who work with victims, children and batterers, implementing a range of treatment methods and activities.
- Indian Child Welfare Act Program - serves the North San Diego County Reservations.
- Social Services Program - provides social workers that provide information on and assistance applying to several available social service programs including Welfare, TANF, Medical, Medicare, Victims of Violence funding, General Assistance, etc.

E. Elders

Well-known and respected elders from our communities will assist the Unified Tribes Inter-Tribal Court. These elders will assist in explaining to the court the importance of traditional law and order, focusing on how historically Numero culture dealt with crime and punishment. Also, elders will help orchestrate alternative-dispute resolution and peace making. Following is a list of tribal elders who are able to assist in the planning of the Unified Tribes Inter-Tribal Court System, and a short descriptive of who they are:

Harry Romez (Uno) - Mr. Romez is a full-blooded Uno who was born and raised on the Uno Reservation. He was *taught and* schooled by many of the traditional Chiefs and medicine people from our area. Today, he spends countless hours volunteering at the local grade schools and Indian education

programs teaching the Uno language, recounting traditional stories, and explaining the significance of the reservation lands. Also, Mr. Romez is very active in the tribal government and community. He is a Director on the Numero Tribal Water Authority (representing Uno Reservation for over 20 years) and a member of the Uno Law and Order Committee.

Mary Low (Uno/Tres)--Mrs. Low is a full-blooded Uno and Tres from Tres Reservation. Currently, she serves as the Chairperson of the Numero Health Board, which serves over 5 reservations and she is a Director of the Numero Water Authority. She also served as Tribal Chairperson for over 7 years and has traveled extensively throughout the state as a proponent of Indian education

Lorna Doon (Dos)-Mrs. Doon is a full-blooded Dos tribal member from Dos Reservation. She is an avid proponent of education in our community: She is responsible for establishing a "satellite" campus from Popular College onto the Dos Reservation. This was one of the first college extensions to ever be built on an Indian Reservation. After retiring from her educational job, she has continued to be very active in her community by traveling and representing her tribe at many functions.

VII. Sustaining the Inter-Tribal Justice System After the Award Period

We plan to first identify those staff support and service areas where community members are willing to be trained and to volunteer their time to support the Inter-Tribal Court forum and related service areas. For example, children's advocates called "Court Appointed Special Advocates" are often trained to represent children in the state court system on a volunteer basis. We believe that there are untapped reservoirs of talented dedicated members on our local reservations.

We also plan to fundraise from a number of sources: (1) Explore funding from tribal business revenues (tribal gaming casino revenues) and Tribal Priority Allocations through the U.S. Department of Interior, Bureau of Indian Affairs; (2) other federal programs: U.S. Department of Justice, Bureau of Justice Assistance Tribal Court Implementation Grant, Office of Juvenile Justice & Delinquency Prevention, Tribal Youth Program, Drug Courts Program Office, Tribal Drug Courts Initiative, U.S. Department of Health & Human Services, and Administration for Native Americans Grants; and (3) Private foundation funding for alternative dispute resolution forums.

We plan to have our Inter-Tribal Court Development Team compile a fundraising report and strategy and to review and update it every six months. We also plan to seek and retain the services of a tribal justice grant writer on a contract basis.

VIII. Tribal Members Served & Geographic Area Covered

In County, of the nearly 11,000 people who identified themselves as American Indians, only 1,897 live on the area's three largest reservations. Three of County's American Indian reservations- Uno, Dos, and Tres combined contain approximately 70 percent of the American Indians living on the county's reservations.

In Neighboring County, 24,337 people claimed American, Indian heritage in the 2000 census, or about 1 percent of the county's population, which mirrored the state as a whole. This is an increase of 9,287 from the 1990 census, 15,050. Overall, the number of people who ratified themselves solely as American Indian and Alaska Natives in the United States grew by 26 percent during the 1990s to about 2.5 million last year. Add multicultural categories and the number of people claiming some American Indian ancestry is much larger.

Experts and tribal officials say many areas are getting a boost from American Indians returning to the reservation for jobs that many of the residual tribal casinos are providing and others are reclaiming their Indian heritage. With this influx of Indian people returning to the reservations, a sensible and well-developed judicial system is imperative for the tribe to truly succeed. As part of "nation-building", a tribal court is a critical aspect accomplishing and protecting Indian tribal sovereignty.

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IX. Budget

Category:	Cost:
Personnel & Fringe Benefits	\$20,000
Travel to BJA Sponsored Trainings and Site Visits	\$15,000
Computer Equipment and Services	\$52,500
Technical Assistance (Consultants)	\$4,500
Indirect Cost Here we assumed 40% for example, \$20,000 x .40 = \$8,000	\$8,000
Total Funds Requested:	\$50,000

Appendix A: Written Authorization of Participating Tribes

Uno Tribe Of Indians
P.O. Box 89
Uno Valley, State 12345

Bureau of Justice Assistance
Attention: BJA Control Desk
5640 Nicholson Lane, Suite 300
Rockville, MD 20852

May 23, 2001

RE: Concept Paper for the Development of the Unified Tribes Inter-Tribal Court
System

Dear BJA Staff:

As the Chairman of the Council of the Uno Tribe of Indians, and on behalf of the Uno Indian Reservation, I hereby authorize the Uno Tribe, to undertake and submit a BJA Concept Paper for the Development of an Inter-Tribal Court. The Dos Indians Tribal Council is in full support of this project and the development of an inter-tribal court system to serve the justice needs of our combined memberships.

Please direct any further correspondence concerning this concept paper to the Uno Tribe of Indians. The designated contact person is Some Body, who can be reached at 720-742-3791. Thank for your time and careful consideration of the submitted concept paper.

Sincerely,

Mr. Rogers

Chairman, Uno Tribe of Indians

Appendix A: Written Authorization of Participating Tribes

Tres Tribe of Indians
P.O. Box 3000365
Valley Center, State 12346

Bureau of Justice Assistance
Attention: BJA Control Desk
5640 Nicholson Lane, Suite 300
Rockville, MD 20852

May 23, 2001

RE: Concept Paper for the Development of the Unified Tribes Inter-Tribal Court System

Dear BJA Staff,

As the Chairman of the Council of the Tres Tribe of Indians, and on behalf of the Tres Indian Reservation, I hereby authorize the Uno Tribe of Indians, to undertake and submit a BJA Concept Paper for the Development of an Inter-Tribal Court. The Tres Tribe Of Indians Tribal Council is in full support of this project and the development of an inter-tribal court system to serve the justice needs of our combined memberships.

Please direct any further correspondence concerning this concept paper to the Uno tribe of Indians. The designated contact person is Some B ody, La Jolla Law and Order Committee, who can be reached at 720-742-3791. Thank for your time and careful consideration of the submitted concept paper.

Sincerely,

I. M. Leader,

Chairman, Tres Tribe of Indians