


# Addressing Inequalities for American Indian and Alaska Native Communities: Indigenous Justice Systems and Tribal Culture

**Presentation for the  
National Academies of Sciences, Engineering,  
and Medicine**  
**Reducing Racial Inequality in Systems of  
Supervision and Justice**  
*Addressing Inequalities for American Indian and  
Alaska Native Communities: Indigenous Justice  
Systems and Tribal Culture*  
Presented by Ada Pecos Melton



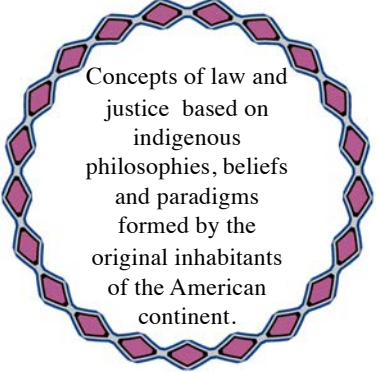
**American Indian Development Associates**  
2401 12th St NW, Suite 205-207  
Albuquerque, NM 87104  
(505) 842-1122 • <https://www.aidainc.net>

© American Indian Development Associates, LLC

1

**Indigenous Justice Systems**

**Derived  
from  
Tribes'  
Inherent  
Authority**



Concepts of law and justice based on indigenous philosophies, beliefs and paradigms formed by the original inhabitants of the American continent.

© American Indian Development Associates, LLC

2

**Primary Foundations**

**Love and Caring**

Based on the unconditional love of everyone affected by wrongdoing (aka crime):

- The offender(s)
- The victim(s)
- The relatives
- The community

**Focal Point**

Atonement by the wrongdoer (offender).


**Goal**

- Cleanse and healing for the wrongdoer, victim, everyone.
- Address the needs of victim(s) or those harmed by the offender's actions.
- Restore peace and harmony of affected individuals, family, and the community.

© American Indian Development Associates, LLC

3

**What Do Indigenous Systems Involve?**



**Disclosure**

**Discussion**

**Resolution**

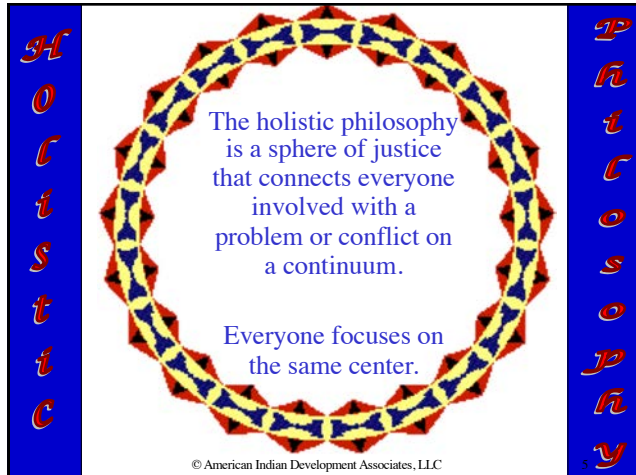
**Restoration**

*The central purpose is to address underlying problems and issues that need to be resolved to attain peace & harmony.*

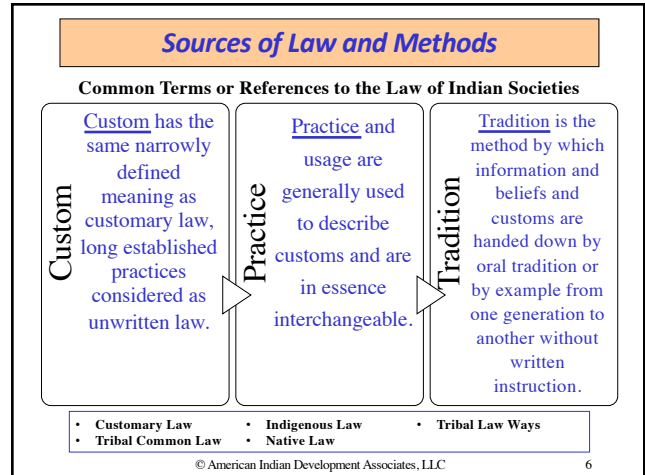
© American Indian Development Associates, LLC

4

# Addressing Inequalities for American Indian and Alaska Native Communities: Indigenous Justice Systems and Tribal Culture



5



6



7



8

# Addressing Inequalities for American Indian and Alaska Native Communities: Indigenous Justice Systems and Tribal Culture

## Do indigenous justice systems exist now?

### Many tribes have multiple co-existing systems:

- Peacekeeping, Traditional Sheriffs, War Captains, Village Officers, Sworn Police Officers
  - People patrolling wilderness and ancestral land areas, where illegal hunting, dumping, drug trafficking, marijuana growing occurs.
- Family forums, traditional courts, indigenous peacemaking, tribal courts.

### Who works in indigenous systems?

- Family relatives, leaders
- Cultural-based healers, natural leaders
- Tribal Officials
- Program staffs
- Justice practitioners

© American Indian Development Associates, LLC

9

## Differences in the Paradigms of Justice

American Justice Paradigm	Indigenous Justice Paradigm
Vertical	Holistic
Communication Rehearsed	Communication is Fluid
English language is used	Native language is used
Written statutes, rules, procedures	Customary law passed down orally
Separation of powers	Law and justice part of whole
Separation of church and state	Spirituality is essential
Adversarial and conflict oriented	Builds trusting relationships and safe environments
Argumentative	Talking, listening and discussion is essential
Isolate behavior, freeze frame acts	Reviews entire problem and contributing factors
Fragmented approach	Comprehensive problem solving

© American Indian Development Associates, LLC

10

## Differences in the Paradigms of Justice

American Justice Paradigm	Indigenous Justice Paradigm
Time controlled process	Relaxed time limits, silence and patience are valued
Exclusive and limit participation in the process	Inclusive of all affected parties in process
Representation by strangers	Representation by extended family members
Focus on individual rights	Focus on victim & communal rights
Punitive and removes offender	Corrective; Offender is accountable and responsible for change
Prescribed penalties by and for the state	Customary sanctions used to restore relationships
Right of accused, especially against self-incrimination	Obligation of accused to verbalize accountability
Vindication to society	Reparative obligation to victims and community; apology & forgiveness

© American Indian Development Associates, LLC

11

## Root Causes of Racial Inequities



### Affected policies that Traumatize and Re-traumatize to this day:

- Education
- Energy
- Environment
- Health
- Housing
- Religion and Spirituality
- Economy
- Peace and Security

Created the legal framework for the federal-tribal relationships and "Delegated Authority" in many areas.

© American Indian Development Associates, LLC

12

# Addressing Inequalities for American Indian and Alaska Native Communities: Indigenous Justice Systems and Tribal Culture

## Impact on Supervision: *Creating Safe Pathways*

### Tribal-Specific Issues

- Limits on criminal jurisdiction.
- Sentencing disparities.
- High incarceration rates.
- Growing rate of sex offenders.
- Minimal ways to make amends.
- Disconnect from culture benefits.
- Return to same tribal neighborhoods.
- Without amends, apology and forgiveness cannot occur.
- Have no way to restore their status as good citizens, regain privileges.

### Resilience

- Native American tribes and people know and live the historical forces and racial inequities affecting us.
- We have powerful resilience that counteracts the traumas and inequities endured.
- Culture is our resource.
- It is grounded in our traditions, beliefs, and ways of life.

© American Indian Development Associates, LLC

13

13

## So what can we do?

- Incorporate accountability through a cultural lens—apply indigenous justice principles!
- Respect and give full faith and credit to indigenous systems and tribal courts.
- Support non-competitive multiyear funding to tribes to develop justice systems reflective of who they are as indigenous people.
- Infuse programs with culture, spirituality—crucial elements for identity, healing, and restoring one's life in a good way.
- Consult cultural experts to guide program design, develop or provide cultural-based services, treatment, etc.
- Help Native people access programs and resources.
- Reflect your clientele with staffing!
  - Hire Native people to work in justice systems.
- Strive for cultural competency!
  - Provide ongoing cultural education to staff.
- Practice cultural responsiveness!
  - Incorporate elements in rehabilitation, supervision, reentry plans.
- Engage in intergovernmental relations with Tribes.



© American Indian Development Associates, LLC

14

14