

NCJTC
National Criminal Justice Training Center
Fox Valley Technical College

Building Better & Stronger Tribal Justice Systems

PART 2
CUSTOM, TRADITION AND VALUES AS PART OF PLANNING

Presented by
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2 PART SERIES

Sovereignty Considerations **1**

Customs, Traditions, and Values **2**

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2 PART SERIES

Sovereignty Considerations **1**

- Sovereignty defined
- Reaffirm inherent sovereignty

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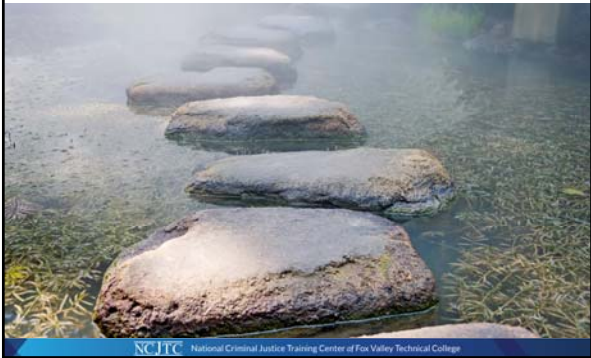
Customs, Traditions, and Values **2**

- Customary laws
- Ceremony / ritual processes
- Developing tribal justice systems that integrate tradition

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A look back in time...



Origins of Laws

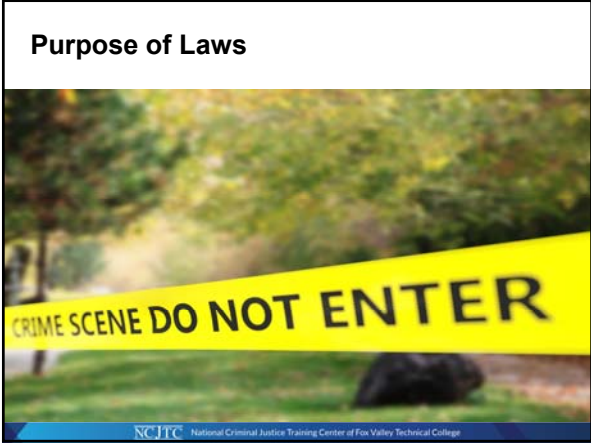


Purpose of Laws

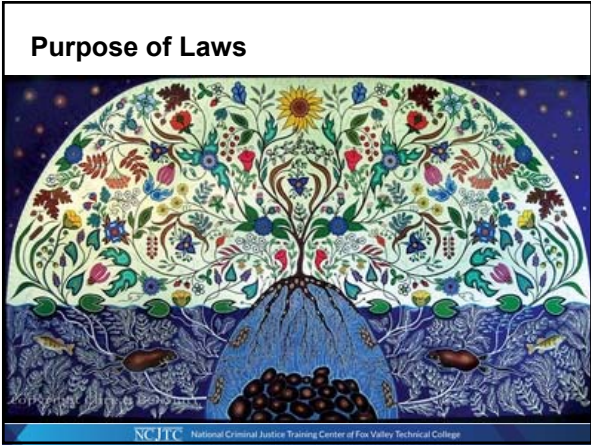


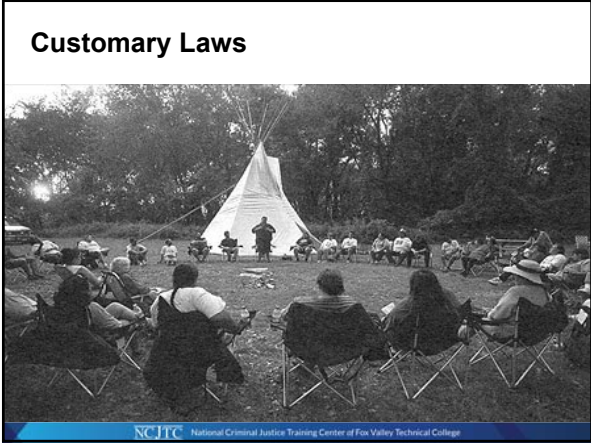












Ceremony, Ritual or Traditional Process



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Ceremony, ritual or tradition



- Often intersect with tradition or spiritual practices
- Ceremony/ritual are part of the process
 - × Adoption
 - × Marriage
 - × Rights of passage
 - × Banishment
 - × Others...

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Justice Systems & Heritage



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Why is integration important?



TRIBAL COURT

- Address community needs
- Address court needs
- Reaffirm inherent sovereignty
- Laws reflect and respond to community

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Laws based in tradition...

- Define substantive laws of the tribe
- Create legal procedure and process
- Help shape remedies



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Getting Started: reviewing and amending tribal laws


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Step One:

Assessing Needs

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Assessing Needs



- What are the problems and issues in the community?
- What services are needed for court-involved persons
- Is the tribal justice system working?

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Step Two:

Brainstorming

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Brainstorming

- What laws exist or were part of our history?
- What are our community values, traditional practices, tribal teachings, etc.?
- What is the **historical purpose** of our values, customs and traditions?



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Brainstorming

Issue/ Obstacle/ Challenge	Relevant Customary Law or Practice	Purpose of Customary Law or Practice	Code Amendment Needed? (Y/N)
High number of children in long-term foster care placements	Traditional adoption by community or family members... name of ceremony	To ensure children were raised in stable home environments and felt loved/nurtured	Yes - review adoption laws

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Step Three: Preliminary Legal Review

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Preliminary Legal Review



- Customary laws or traditional practices ... are they reflected in your written laws today?
- Identify ways to incorporate values, customs and traditions into your tribal justice system

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Create a Chart to Organize your Thoughts

Issue/ Challenge/ Obstacle/ Need	Applicable existing code provisions	Revisions, amendments, or updates needed? (Y/N)	New code needed? (Y/N)
Ex. Need for stable homes for children	Traditional adoption is in the code	No- current code works for children not in foster care	Yes- code needs to be developed to assist with placement of children in foster care

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Step Four: Legal Amendment

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Legal Amendment



- Review existing Constitution, Codes and Ordinances
- Consider service based providers that offer cultural services rooted in custom and tradition

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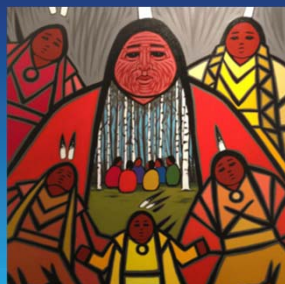
Legal Amendment

- Amend existing law to reflect values, customs and traditions
 - Procedural laws
 - Substantive laws
 - Remedies



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Legal Amendment – Self Determination



- Incorporating customs, traditions, and values reaffirms sovereignty
- Tribal laws that reflect norms and culture allows for integration of indigenous remedies

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