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Q&A

Enter your questions into the Q&A box.



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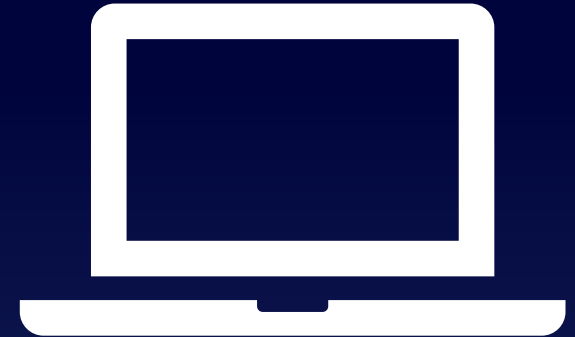


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Developing Policies & Procedures to Support Tribal Probation (Part 2)

August 31, 2023 | Presented by:

Michelle Rivard Parks, Associated Director,
University of North Dakota School of Law Tribal Judicial Institute

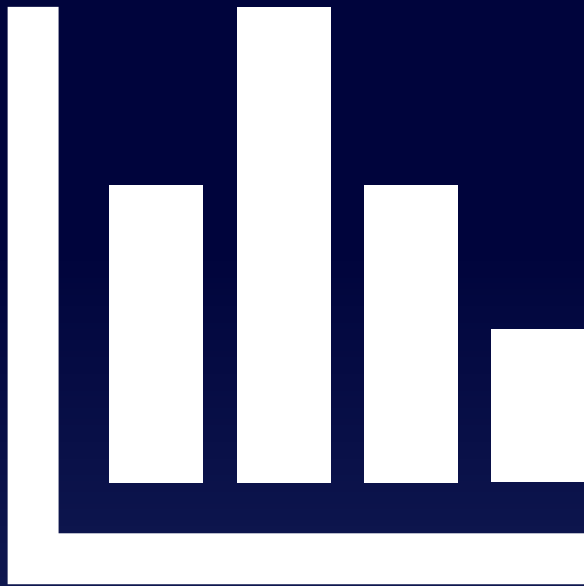
Lea Geurts, Project Coordinator,
National Criminal Justice Training Center of Fox Valley Technical College

Kevin Brennenstuhl, Project Coordinator,
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The opinions expressed by presenters in their oral or written material are theirs alone, and do not necessarily represent those of the National Criminal Justice Training Center of Fox Valley Technical College or (add grantor name here if applicable).



Poll Questions

- Poll questions will be asked during the webinar.
- This is your time to weigh in with your thoughts.
- Please respond promptly; polls are open for a short period of time.

Which of the following best describes your role?



- Probation Officer / Reentry Specialist
- Judge or Attorney
- Court Administrator
- Tribal Leadership
- Other

Today's Presenters



Michelle Rivard Parks
,Associated Director,
University of North
Dakota School of Law
Tribal Judicial Institute



Lea Geurts
Project Coordinator,
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Kevin Brennenstuhl
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Review Part 1

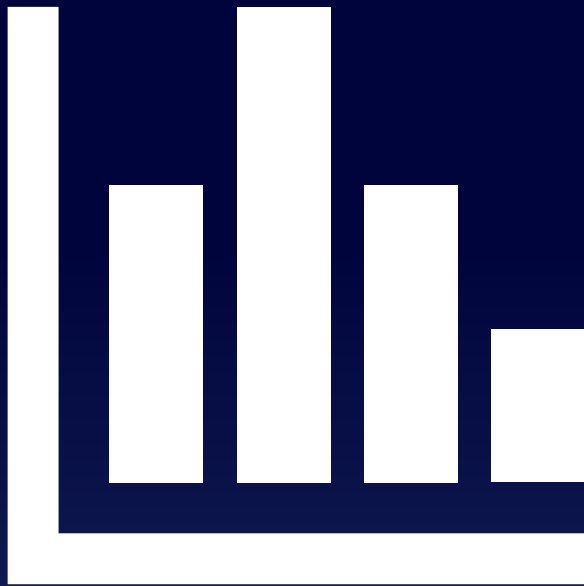
- Describe the difference between codes, ordinances, policies, procedures, and protocols.
- Discuss the importance of vision, mission, and purpose statements.
- Identify the key items to be included in policies and procedures.
- Analyze special considerations and potential challenges.

Learning Objectives

- ✓ Identify key inclusions, templates, and design elements to be considered when developing policy.
- ✓ Explain strategies to reduce legal liability.
- ✓ Describe the implementation process and the importance of community involvement.
- ✓ Discuss ongoing evaluation of policy and importance of updates.



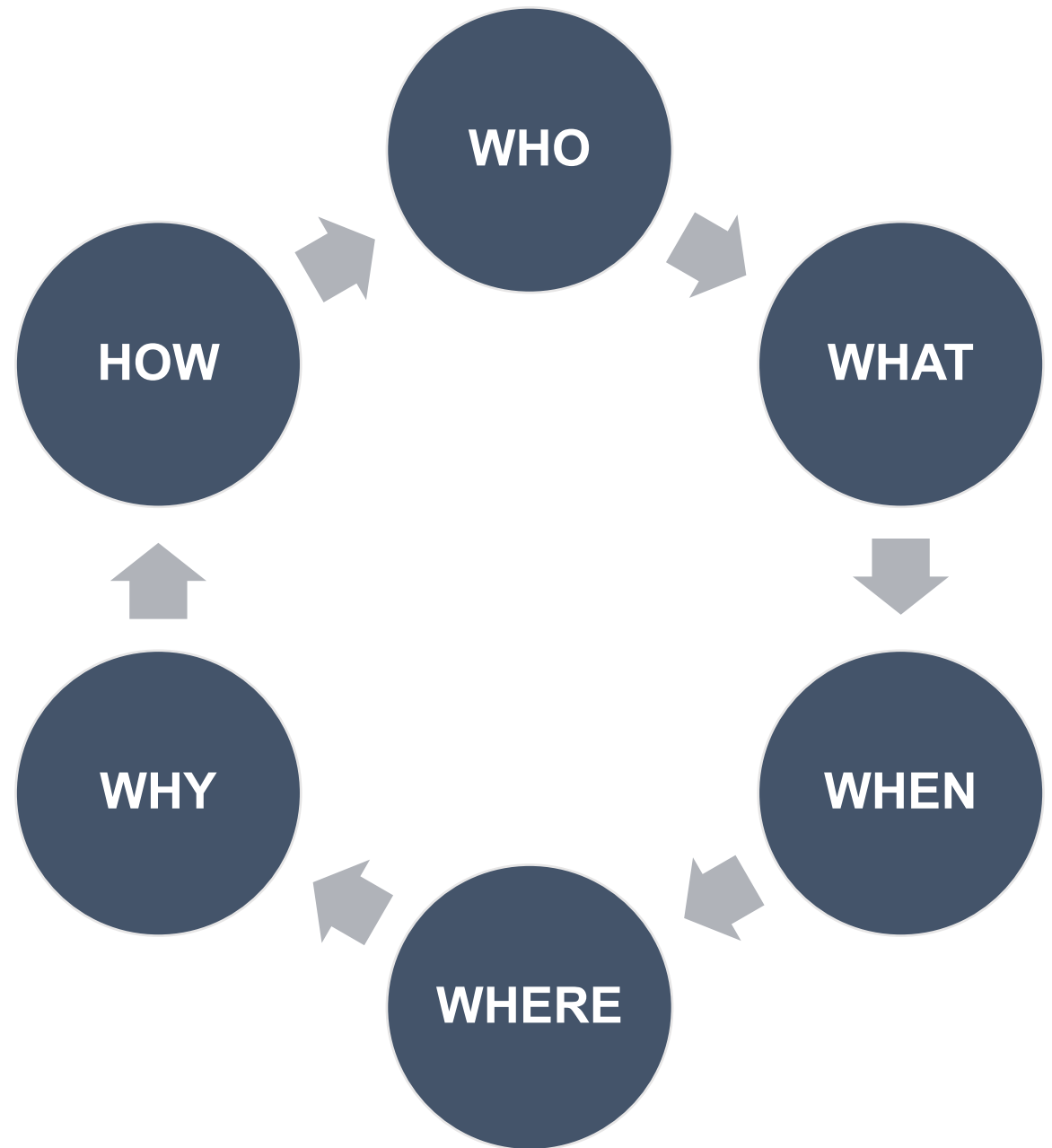
Does your department currently have policies and procedures to support Tribal Probation?



- Yes, they are adequate
- Yes, but they need refreshed
- Yes, are very limited
- No, there are no P&P'S
- I'm unsure

Key Inclusions, Templates & Design Elements

Key Inclusions



Key Inclusions

- Vision
- Mission
- Purpose of policy
- Governing law:
 - Overview of tribal codes applicable to victims/crimes/safety
- Definitions
- Personnel roles and responsibilities

Key Inclusions (Continued)

- Services:
 - Overview of agency services, eligibility for services, and process for delivery of services
- Intake and referral process
- Record maintenance and retention
- Confidentiality
 - Records and communications
- Collaboration
 - MOU's, MOA's or other collaborative agreements applicable to provision of agency services
- Forms
- Safety planning for personnel

Probation Services

- Look to your tribal code for some guidance on services probation is expected to provide within the justice system
- Some crime categories have presumed or optional probation
- Check tribal codes to determine if the Judge has discretion to prescribe probationary terms and conditions or whether such terms and conditions are mandated by law
- Probation sentences receive custody time meaning they still may face jail/prison
 - If probation is violated, custody is a possible consequence

Probation Roles & Responsibilities

- Read, understand and help to enforce Court Orders
 - Specifically, probation terms and conditions
 - Through monitoring, supervision & record keeping
 - Through evidence collection (if applicable)
- Understand the community
 - Foster professional and community relationship
- Conduct probation checks/supervision
 - In office
 - At homes, schools or places of employment
- Report to the prosecutor or the courts

Reading and Understanding Probation Terms and Conditions

Policies should provide some guidance to personnel on how to read, understand and apply codes and orders to the supervisory work they will be doing

- How long may a term of probation be imposed?
- When does probationary term commence?
 - From date of order imposing probation
 - Upon defendant's release from incarceration
- Define Supervised Probation/ Unsupervised Probation
 - Home visits/frequency of contact with PO
 - Also consider where the PO can make contact
 - In office; at home; at place of employment; at educational institution; other?

Supervision Conditions of Supervision

What conditions may be included as part of probation... Should conditions be reasonably necessary to ensure offender abides by the law

- Alcohol and substance abuse evaluations/ treatment
- House arrest/ electronic monitoring/ halfway house
- Abstinence from alcohol and/ or controlled substances
- Employment
- Counseling or traditional healing services
- Payment of fines/ fees/ restitution
- Firearms disqualifications
- Sex offender registration requirement

Reporting to the Court

The Probation officer is responsible for reporting to the Tribal Court on the following:

- Any assessment or evaluation results
- Compliance or non-compliance with terms and condition of probation
 - Urinalysis/ drug testing
 - Employment/ education
 - Meeting with probation officer or service providers
- Probation office may also have to make recommendations to the Court
 - Extend probationary period
 - Alter or amend probationary terms or conditions
 - End probationary status

Continuance/Modification of Probationary Terms

Can probationary term be continued, or the conditions of probation be modified?

- For good cause/ upon a violation
- On whose authority?
 - Judge
 - Probation Officer

Probation Revocation Provisions

What if there is a violation of the terms and conditions of probation... Grounds for Revocation

- Revocation Procedures
- Violation Hearings/ Legal Standard for revocation
 - Clear and convincing evidence
 - Beyond a reasonable doubt
- Violation Hearings/ Sanctions
 - If a violation has occurred and a revocation is sought what sanctions can court impose?
 - Revoke probation and send offender to jail/ Partially revoke suspension
 - Reinstate probation on same terms and conditions/ extended terms
 - Change terms and conditions of probation
- Appellate process

Termination of Probation

- Termination generally occurs when time has expired, and all terms and conditions have been satisfied
 - May require a discharge order
- Early Termination
 - Is it permitted?
 - On what grounds?
 - What is the procedure?
 - Does it require a motion be filed?
 - An Order from the court?

Transfers

Can supervisory authority be transferred to another jurisdiction?

- Offender commits a crime on a reservation in North Dakota but lives on a reservation in South Dakota. Can the ND Tribe transfer supervisory and enforcement jurisdiction to the SD Tribe?
 - Will a transfer of such authority include the authority to enforce the original order or otherwise impose a sanction in the event of a violation?

Moving Forward With Written Policies

Where Can You Find Resources to Support Your Policy Development

Templates

Consider existing resources:

- Look for examples of current templates within other tribal agencies
- Reach out to other probation programs
 - Note: if you are using policies from another agency be sure NOT to simply cut & paste.
- Consider including visual aides such as charts or checklists
 - Ease reference and promote understanding of policies and procedure
- Include job descriptions

Design Elements

- Clear title, purpose and scope
- Well-defined Table of Contents
 - Helps reader to navigate the policy and procedures
 - Should be in a logical/organized sequence
- Clear definitions section
 - Helps reader to interpret and understand various sections of policy
 - Also be sure to define acronyms
- Clear and organized title and sections
 - Helps reader to navigate and reference

Additional Considerations

- Active links
 - If you incorporate any web-based links, make sure those links are active
- Approval reference
 - Authorizing resolution/act
- Approval and implementation date(s)

Tracking Comments and Changes

When multiple people are drafting, reviewing and commenting on draft policies and procedures, tracking changes and amendments is important. This can be done by using the “track changes” and “enable comments” feature.

- Identify authorship
- Identify issues or concerns considered
- Ensure that people know their concerns or comments are being taken into account/addressed
- Establish a history for the development of the policy

Strategies to Reduce Liability

Liability Concerns

- Employees
- Dissatisfied clients
 - Inconsistent/unfair treatment
 - Breach of confidentiality
- Misinformation
- Injuries

Mitigating Risk

- **ESTABLISH** policies and procedures that reflect best practices and provide guidance on how things should be done in various situations.
- **EDUCATE** employees on policies and procedures to ensure policies are understood and properly implemented.

Addressing Liability Concerns in Written Policies and Procedures

- Include disclaimers
- Write safety nets/waivers into procedures or forms
- Avoid discriminatory language
- Verify the validity of content
 - Ensure policies and procedures are up to date and based upon credible/reliable sources

Implementation & Community Engagement

Implementation Process

- Identify and understand the approval process in your community
- Develop a process to introduce and implement formal policies
- Educate the community to prevent resistance to policy implementation & manage expectations
- Orient staff to formal policies and procedures
 - Set expectations that policies are to be followed
- Plan for publishing procedures

Importance of Community Engagement

- Be sure that the community is informed about your agency to manage expectations:
 - DO inform about the important services you are able to provide
 - DO clarify what your agency is NOT able to do
- Offer opportunities for community feedback
 - Helpful for self assessment
 - Provides feedback on what you are doing well
 - Helps you identify areas where you might need to improve.

Engaging the Community

- Education
 - Community meetings, websites, and published resources
- When Soliciting Community Input/Feedback
 - Consider community forums, trainings, or survey instruments
 - Non-identifying instruments
 - Engage different perspectives such as past client's, victims, etc.



Thinking about your community, which method below do you believe is the best way to engage the community in providing feedback?

- Community meetings / forums
- Website form
- Survey form
- Some other method

Updating & Amending

Reviewing and Amending Policies

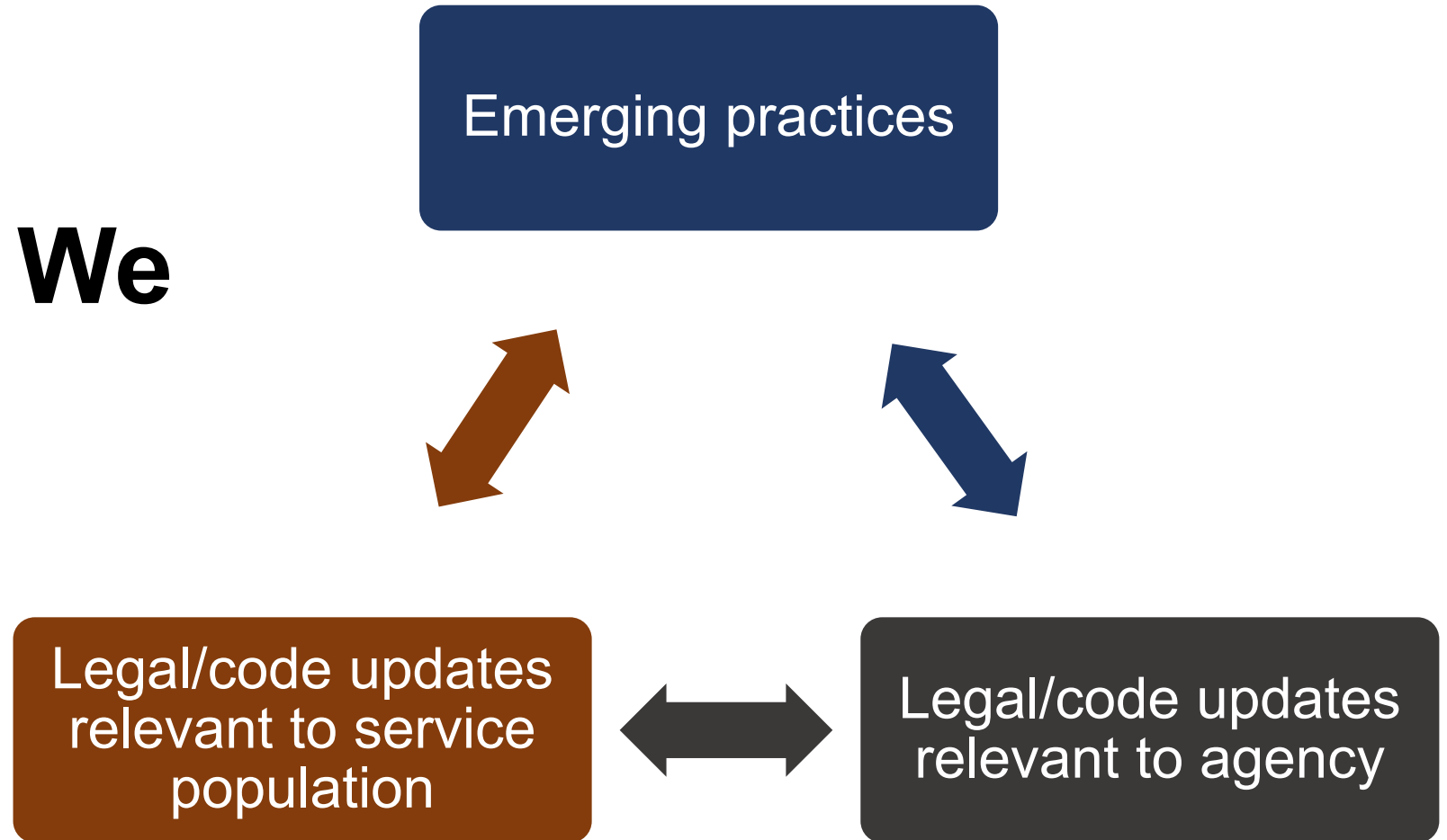


Future changes:
Anticipate future changes in laws, services, client's needs

Best practices:
New and emerging services/
practices

Incorporate necessary amendments:
What is working? What is NOT working?
Check sites, sources, links to be sure
they are current and active

What Should We Review?

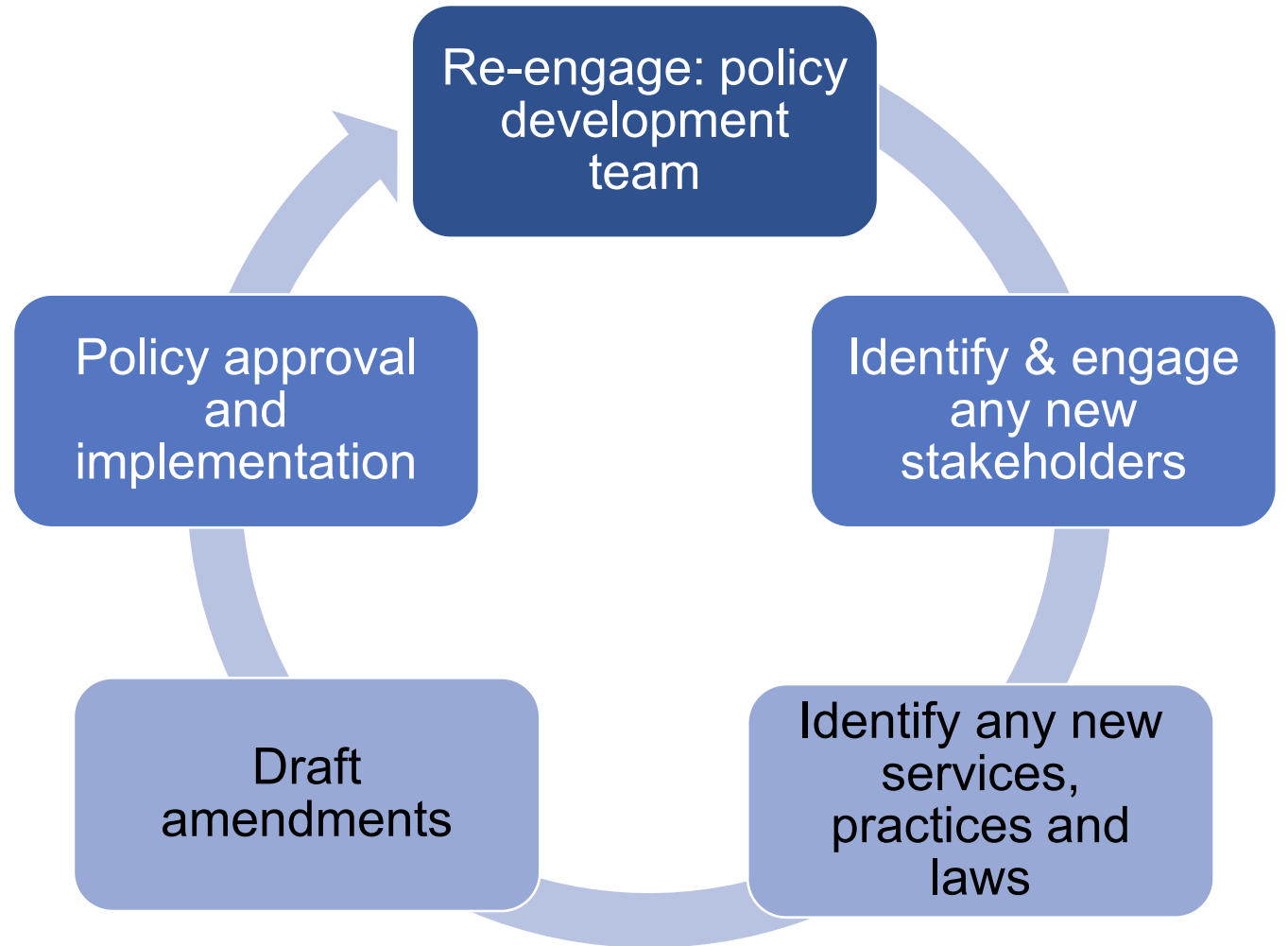


Revisit Vision, Mission & Purpose

Reflect on any changes to:

- agency role within larger justice system
- applicable laws and regulations (policy should reinforce laws)
- overall direction for program and program personnel
- day-to-day operations to support the fair and equitable delivery of services (very important in a victim-centered approach)
- guide personnel to aide in understanding their role, fulfill their responsibilities, make decisions and work with other. Service providers

How Should We Approach Review and Amendments?



Contact Information & Final Q&A



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September 21, 2023 | 1:30 – 2:30 PM CT

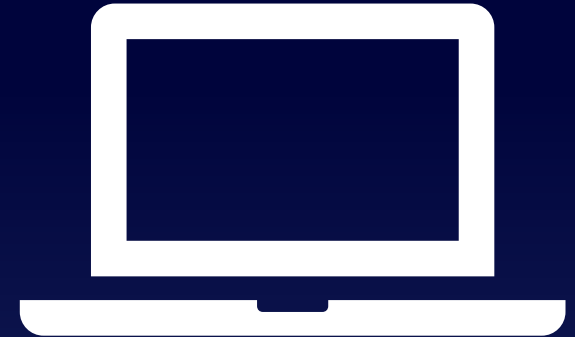
✓ *Tribal Corrections Community of Practice*

October 19, 2023 | 1:30 – 2:30 PM CT

✓ *Tribal Corrections Community of Practice*

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