



# Trauma-Informed Tribal Justice System Practices

## A Companion to the Center for Justice Innovation Video Series

Tribal justice systems aim to meet the needs of the individuals and communities they serve while facilitating healing and preventing additional harm. But one type of need that sometimes goes unmet is for trauma-informed care. We know that defendants in criminal cases have twice the prevalence of traumatic experiences than the general population, where the rates are already very high.<sup>[1]</sup> It is therefore likely that most Native individuals who interact with the criminal legal system have experienced trauma, which can affect their physical and mental health and their response to system intervention. For this reason, it is important for tribal justice systems to practice in a ‘trauma-informed’ way.

### **But what exactly does it mean to be trauma-informed?**

Trauma is a psychological and body-based response to an experience that involves the threat of, or actual, serious physical injury, death and/or sexual violence toward oneself or others.<sup>[2]</sup> Examples of potentially trau-

matic experiences include childhood sexual abuse, exposure to war or combat, physical and sexual assault, the violent death of a loved one, exposure to family or community violence, severe accidents and illnesses, natural disasters, and genocide. Unfortunately, these types of experiences are very common in Native communities<sup>[3]</sup>, and especially so among persons involved with the criminal legal system as a defendant, witness, or crime victim.<sup>[4]</sup> In addition, historical and intergenerational trauma continue to affect Native communities. These terms reflect the ways that the impacts of traumatic experiences on individuals and communities can be passed down through generations.<sup>[5]</sup>

Trauma can negatively affect individuals’ physical and mental health, relationships, sexuality, and spirituality, and can be directly related to substance use and criminal behavior.<sup>[6]</sup> It can also affect how the criminal legal system is perceived and experienced, and how individuals and communities respond to individual practitioners and to the system as a whole. This means that when justice system practitioners and service providers don’t respond effectively to individual and community trauma, they

not only miss an opportunity to provide support and healing resources, but they allow community members to continue cycling in and out of the criminal legal and treatment systems.<sup>[7]</sup> Despite the best of intentions, they can even inadvertently contribute to the harm litigants experience.

## **So, what might trauma look like in tribal court?**

Sometimes people have very strong emotional and physical reactions to anything that reminds them of the negative events they experienced or makes them feel out of control, which is called being ‘triggered.’ Individuals who have been traumatized may also appear guarded and have difficulty trusting others and may be constantly looking out for potential danger and unable to relax. Indeed, individuals who have a history of trauma may engage in power struggles or lash out against justice personnel and others as a way of feeling safer and more in control. As well, people who are traumatized often avoid anything that might remind them of the traumatic experience, including thinking or talking about it, and may present as emotionally numb or volatile or use substances to cope.<sup>[8]</sup> They may also have difficulty describing what happened in a complete and chronological way because traumatic memories are stored differently in the brain and are associated with intense pain and fear.<sup>[9]</sup>

Keep in mind that these symptoms and reactions are understandable and self-protective responses to what litigants have been through, but may make an individual seem disengaged, untrustworthy, dangerous, or

difficult to work with. In addition, justice system practitioners can easily misinterpret these effects of trauma as non-compliance or resistance to participating in supportive services, which can have negative consequences in the criminal legal system that in effect punish people for being traumatized. This dynamic can perpetuate a cycle of trauma, harm and distrust that may even contribute to recidivism.<sup>[10]</sup>

## **What can tribal justice practitioners do to respond to trauma safely and effectively?**

Trauma-informed practice requires considering and implementing several important principles into all components of your work, including how you design processes and programs, train, and support staff, and interact with individuals and families. These guiding principles include:

- Physical and emotional safety, which must be present before healing can begin;
- Trustworthiness and transparency;
- Honoring the critical role of peer-to-peer support;
- Working with survivors in a spirit of collaboration and partnership;
- Facilitating empowerment, agency and choice whenever possible; and
- Addressing the cultural, historical and gender issues that the individual and community are experiencing.<sup>[11]</sup>

As well, it is critical that tribal justice systems connect litigants with treatment providers who are equipped to meaningfully address trauma and help those individuals heal. This will increase the likelihood of success and reduce noncompliance with court mandates and continued justice system engagement.<sup>[12]</sup>

Many helpful resources are available to tribal justice practitioners looking to learn more about trauma and implement trauma-informed practices. These include:

- Publications from the Substance Abuse and Mental Health Services Administration (SAMHSA), the Department of Veterans Affairs (the VA), the National Center for State Courts (NCSC), and the Center on Domestic Violence, Trauma and Mental Health.<sup>[13]</sup>
- Assessment tools and training from the National Council of Juvenile and Family Court Judges that support trauma-informed courts.<sup>[14]</sup>
- Culturally-specific resources from the Indian Country Child Trauma Center, the National Native Children's Trauma Center, and the National Indian Child Welfare Association (NICWA).
- Online training on trauma-informed care offered by the Indian Health Service (IHS).<sup>[15]</sup>
- Conferences such as the biannual Indian Nations for Victims of Crime conference and the annual NICWA conference.

Supporting community members affected by trauma is difficult, complex, and sometimes painful work. Participating in ongoing training will assist tribal justice practitioners in better understanding litigants' experiences, behaviors and needs. This will help tribal justice practitioners learn to respond to trauma in a healing, compassionate manner consistent with their professional role and interest in supporting individual and community well-being.

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## FOR MORE INFORMATION

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This project was supported by Grant No. 2019-IC-BX-K003 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile and Delinquency Prevention, the Office for Victims of Crime, and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

## Endnotes

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- [12] Skinner-Osei, Precious, Laura Mangan, Mara Liggett, Michelle Kerrigan, and Jill S Levinson. "Justice-Involved Youth and Trauma-Informed Interventions." *Justice Policy Journal* 16, no. 2 (2019): 1-25.
- [13] Selected resources include: <https://store.samhsa.gov/sites/default/files/d7/priv/sma14-4884.pdf>; <https://www.ptsd.va.gov/professional/treat/care/index.asp>; [https://www.ncsc.org/\\_data/assets/pdf\\_file/0034/77677/Trauma-and-Trauma-Informed-Responses.pdf](https://www.ncsc.org/_data/assets/pdf_file/0034/77677/Trauma-and-Trauma-Informed-Responses.pdf); <http://www.nationalcenterdvtraumamh.org/>.
- [14] <https://www.ncjfcj.org/webcasts/trauma-informed-court-systems-a-webinar-for-tribal-communities/>.
- [15] <https://www.ihs.gov/mentalhealth/tic/>.

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