

### ***Overview of the Juvenile Detention Alternatives Initiative (JDAI)***

The Juvenile Detention Alternatives Initiative —an initiative of the Annie E. Casey Foundation—is a comprehensive detention reform model that utilizes collaborative and data-driven approaches to reduce reliance on juvenile incarceration and to create a fairer, more effective juvenile system. Juvenile Detention Alternative Initiative (JDAI) is a values-based process that employs (or utilizes) eight-interconnected strategies to drive policy and practice choices about how juveniles are handled before

trial or court disposition of the case. JDAI allows communities to make better decisions in a timely and more culturally appropriate manner with a broader array of options. JDAI is a holistic process driven by a community collaborative that develops goals for improving outcomes for youth involved with the juvenile justice system. One of the reasons why JDAI may be a useful tool for tribal communities is that it is community-based. Therefore, implementation of JDAI can potentially help to ensure that the juvenile justice system reflects unique values of the community, including promoting tribal culture and sovereignty.

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#### **JDAI OBJECTIVES**

- 1. ELIMINATE THE INAPPROPRIATE OR UNNECESSARY USE OF SECURE DETENTION**
  - 2. MINIMIZE RE-ARREST AND FAILURE-TO-APPEAR RATES PENDING ADJUDICATIONS**
  - 3. ENSURE APPROPRIATE CONDITIONS OF CONFINEMENT IN SECURE FACILITIES**
  - 4. REDIRECT PUBLIC FINANCES TO SUSTAIN SUCCESSFUL REFORMS**
  - 5. REDUCTION OF RACIAL AND ETHNIC DISPARITIES**
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### ***Common Problems Indicating a Need for Comprehensive Juvenile Detention Planning***

1. Overcrowding in the detention facility
2. No screening criteria applied at intake
3. Proposed construction of new facility or additional detention capacity
4. High detention rates for status offenders and misdemeanor property/drug cases
5. High rates of disproportionate minority confinement
6. High detention rates for children with failures to appear or technical probation violations
7. Lots of post-disposition youth in custody
8. Detention beds filled with youth that have adult court cases
9. Deteriorating facility/substandard conditions of confinement
10. Children locked down for long periods of time during the day
11. Physical or chemical restraints employed to control children
12. High rates of AWOLs or escapes
13. Few or no alternatives to secure detention available

The purpose of this paper is to summarize the efforts to develop a version of JDAI (“Tribal JDAI”) that would be workable in tribal communities that are interested in promoting alternatives to incarceration for Native American youth.

***The Development of Tribal JDAI***

The process of bringing JDAI to Indian country began with meetings that addressed an array of tribal juvenile justice issues and the potential application of JDAI to tribal communities. The meetings were held in Denver in November 2011 and Albuquerque in April 2012. The meetings were co-sponsored and facilitated by the Association on American Indian Affairs, the National Indian Child Welfare Association and the Annie E. Casey Foundation. Participants at these meetings included tribal leaders, tribal court judges, individuals with knowledge about or experience working with juvenile issues in a tribal context, and individuals working to develop alternatives to detention for juveniles. A number of recommendations were developed, one being that a tribal pilot site should be identified for the implementation of "Tribal JDAI", a version of JDAI which would take into account the unique needs and circumstances of Indian tribes as identified by the tribes.

***Selection of the Mississippi Band of Choctaw Indians as a JDAI Pilot Site***

Following the two working group meetings, information about JDAI was disseminated to tribal nations and tribes were invited to submit applications to serve as the pilot site for "Tribal JDAI." The Mississippi Band of Choctaw Indians was selected through a three-step selection process designed to choose a tribal nation with the readiness, political will, and interest to implement Tribal JDAI. The selection process required the following: (1) submittal of a letter of interest, (2) a document review, and (3) a site visit consultation

***Identified Issues by Choctaw Stakeholders***

Over the course of several meetings, Choctaw stakeholders have consistently identified several problems facing the juvenile justice system and community. Identified problems include:

<p><u>Issues with Population &amp; Community Characteristics</u></p> <ul style="list-style-type: none"> <li>• Large youth population in tribe</li> <li>• Youth lack positive activities</li> <li>• Youth troubled at an early age</li> <li>• Youth have lack of respect for culture and have loss tradition</li> <li>• Loss of cultural knowledge with elders passing away</li> <li>• Remote community with limited resources</li> <li>• Not enough personnel to provide alternative services</li> </ul>	<p><u>Data Issues</u></p> <ul style="list-style-type: none"> <li>• Data not being collected</li> <li>• Data not being shared amongst agencies or parties responsible for implementation</li> <li>• No data available explaining reasons for continuances</li> <li>• Lack of accurate and reliable data, (e.g. Inconsistent reporting of crime to police in a timely manner)</li> </ul>
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<u>Parents &amp; Family Issues</u>	<u>Other Issues</u>
<ul style="list-style-type: none"> <li>• Parents lacking responsibility</li> <li>• Lack of parent involvement</li> <li>• Lack of public awareness or knowledge of criminal justice process</li> <li>• Many single parent families in Choctaw</li> <li>• Family often protects the wrongdoing of child</li> <li>• Need to inform parents about JDAI</li> <li>• Need to inform community about juvenile justice system and the purpose of detention</li> </ul>	<ul style="list-style-type: none"> <li>• Possible stigma of “mental health services”</li> <li>• Need for a safe place</li> <li>• Most youth waive right to counsel &amp; need a parent present</li> <li>• Parents are sometimes overburdened by youth behavior</li> <li>• Youth Court is confidential</li> <li>• Youth to adult incarceration pipeline</li> <li>• Youth sometimes do not mind going to jail</li> </ul>

### ***Differences in Tribal JDAI***

As a community implements JDAI, it is presented with challenges and obstacles specific to that community’s population and their particular issues. In one sense, applying JDAI to tribal communities presents similar challenges as in non-Indian communities which can differ from each other significantly. Nonetheless, in some respects, tribal communities are very different than non-Native communities and present unique challenges. The types of issues that may arise in developing “tribal JDAI” include recognition and understanding of cultural differences, including the use of the Native language, tribal sovereignty and its parameters, and the impact of historical trauma upon a community.

Although cultural differences and tribal sovereignty can present unique challenges for implementing JDAI, cultural values in Indian communities are often consistent with JDAI goals. JDAI is based on the value that detention is harmful to youth, and that community-based alternatives to detention are more effective for youth involved with the juvenile justice system. Many tribal values are similar. Youth incarceration is not a traditional way of dealing with youth for many Indian tribes, including the Mississippi Band of Choctaw Indians, and one of the goals of tribal JDAI can be to reaffirm the use of tribal traditions to work with troubled youth involved with the Tribal court system. Additionally, the exercise of tribal sovereignty is enhanced when a tribe is able to effectively—and in a culturally engaged manner—improve its juvenile justice system

Areas of JDAI that can be significantly impacted by cultural differences include: stakeholders to be included in juvenile detention planning and implementation of alternatives to detention. Areas of JDAI that can be significantly impacted by tribal sovereignty include: sources of funding for juvenile detention and disproportionate minority contact.

***Stakeholders***

One important difference in implementing JDAI in Indian country is the stakeholders to be included. In the county and state contexts, stakeholders to be included in the juvenile detention planning include:

1. Police, other law enforcement agencies
2. Probation department
3. Juvenile Court
4. Prosecutor's office
5. Defense attorneys
6. Schools
7. Other public agencies with youth clients (child welfare, health, mental health)
8. Elected local/state officials (e.g. city council)
9. Community-based youth service agencies
10. Private residential care providers
11. Children's advocacy groups

Tribal communities may or may not include all of the stakeholders listed above. Moreover, there are other stakeholders that may be present in tribal communities in addition to those listed. For example, because tribal youth may be involved in both tribal and non-tribal juvenile justice systems, it may be necessary to reach out to both tribal and non-tribal entities and partners. Additionally, tribal communities often have organizations dedicated to promoting and preserving the tribe's culture, language, and traditions. These organizations are vital stakeholders. In the case of the Mississippi Band of Choctaw Indians, the stakeholders included several culturally relevant organizations, such as the Tribal Elderly Activity Center and the Department of Chahta Immi. The Department of Chahta Immi is the tribe's department dedicated to promoting and enhancing the cultural heritage of the Choctaw people and oversees several culturally relevant programs, such as the Tribal Language Program, the Choctaw Museum, and the Cultural Affairs Program.

**MBCI STAKEHOLDERS:**

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| <b>1. OFFICE OF COURT SERVICES</b>       | <b>9. CHOCTAW CHILDREN &amp; FAMILY SERVICES</b> |
| <b>2. CHOCTAW YOUTH JUSTICE CENTER</b>   | <b>10. CHOCTAW BEHAVIORAL HEALTH</b>             |
| <b>3. CHOCTAW DETENTION FACILITY</b>     | <b>11. DEPARTMENT OF NATURAL RESOURCES</b>       |
| <b>4. OFFICE OF THE ATTORNEY GENERAL</b> | <b>12. ELDERS</b>                                |
| <b>5. CHOCTAW POLICE DEPARTMENT</b>      | <b>13. DEPARTMENT OF CHAHTA IMMI</b>             |
| <b>6. JUVENILE PROBATION OFFICE</b>      | <b>14. TRIBAL COUNCIL MEMBERS</b>                |
| <b>7. DIVERSION COORDINATOR</b>          | <b>15. CHOCTAW SCHOOL SYSTEM</b>                 |
| <b>8. CHOCTAW LEGAL DEFENSE</b>          | <b>16. CHOCTAW BOYS &amp; GIRLS CLUB</b>         |

### ***Alternatives to Detention***

Another difference in implementing JDAI in the tribal context may be the types of alternatives to detention that may be available in tribal communities. The Mississippi Band of Choctaw Indians provide for the following alternatives to detention for court-involved youth: 1) a cultural practice known as *Immannumpuli*; 2) an Informal Process with a Behavior Contract; 3) Teen Court; 4) Healing to Wellness Court; 5) Peacemaking Court; 6) Transitional Living Program Unit; 7) the Green Re-entry program *Osapausi Amasalichi*; and 8) a GPS Monitoring program. The Choctaw tribal court has a variety of other non-ATD programs, such as Boys & Girls Club of MCBI and a community service program.

### ***Sources of Funding for Juvenile Detention***

In the tribal context, funding for juvenile detention facilities and juvenile justice programs is complicated due to the complexities of federal funding sources. One key advantage in implementing JDAI is that cost-savings produced from lower levels of incarceration can be reinvested into the system. However, in the tribal context where detention facilities and programs are largely funded through federal sources, tribal stakeholders do not have the same level of flexibility to move funds around in the event of cost-savings.

### ***Disproportionate Minority Contact***

Disproportionate Minority Contact (DMC) is a condition that exists when a racial/ethnic group's representation in confinement exceeds their representation in the general population. 'Minority' can be defined as an individual who is of a race other than white or who is of Latino ethnicity, regardless of race. Under this definition of minority, standard classifications of minority status in data collection (e.g. White, African American, Latino, Asian American, and Other) can mask a DMC issue in the tribal context. Tribes only have jurisdiction over Native American youth, and, consequently, tribal detention facilities can show a 100% Native American population. However, shifting to an equity lens, may expose disparities within the tribal system context. Possible equity issues in a tribal context might include:

1. Gender
2. Tribal enrollment vs. non-enrollment
3. Enrollment in another tribe
4. Geography
5. Bi-racial youth
6. Family affiliation

### **Conclusion**

Part of the process of bringing JDAI to Indian country is determining how the model might need to be modified to address unique tribal concerns and issues. Tribal JDAI is still a work in progress and the Mississippi Band of Choctaw Indians is still in the implementation stage as the sole Tribal JDAI pilot site. However, feedback from all involved remains hopeful and the experience of the Mississippi Band of Choctaw Indians thus far is positive and encouraging in terms of the potential feasibility of bringing JDAI

to Indian country. The Choctaw's experience will be vital to the development of Tribal JDAI and implementation of a second pilot site to be chosen in the near future.

It should be noted that simultaneously with the development of Tribal JDAI efforts are being made to identify mechanisms to address the disparate and unequal treatment of Native American in state, county and local juvenile justice systems. One of the mechanisms that is being closely scrutinized is tribal notification of juvenile justice proceedings involving their youth. This will also be a priority as this work moves forward.