

Standard Operating Procedures

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Probation & Parole Services

The Judicial Branch of the Navajo Nation

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Introduction

The Standard Operating Procedures (SOP) of Navajo Nation Probation and Parole Services (PPS) was initially drafted and implemented in 1991. Since that time, the 1997 Judicial Branch Consolidation Policy has had a significant impact on PPS functions. In addition, the January 27, 2000 amendments to the Navajo Nation Criminal Code in Resolution CJA-08-00 decriminalized offenses and substantially changed the sentencing guidelines. The Navajo Nation Sex Offenders Registration Act of 2005 requires additional PPS procedures. These and other changes have prompted revision of the Standard Operating Procedures.

These Standard Operating Procedures supersede all previous PPS policies and procedures. They shall be amended regularly following input from Judicial Branch stakeholders.

You will find many revisions in these Standard Operating Procedures reflecting the past decade of understanding as how PPS can best address the needs of the Navajo people. Among the revisions is a mission statement that builds on the Navajo sense of justice more than from notions of justice in other cultures. Bitsé Siléí are set forth as core principles of our services, as are all relevant portions of Diné bi beenahaz'áanii, the entirety of which is codified at 1 N.N.C. §§ 201-206.

Briefly mentioned in these Standard Operating Procedures is the Tuba City Judicial District Pilot Project. The Pilot Project includes the development of community-based supervision that more heavily relies on family and community involvement. Interagency collaborations will be heavily invested in the Pilot Project and also in other districts.

FRANK Y. BEGAY
Chief Probation Officer

Mission

Probation and Parole Services (“PPS”) is dedicated to positively advancing community wellness and the restoration of *hozho* by ensuring the rehabilitation of the client-offender in community-based supervision, and by ensuring the involvement of families, communities and relevant agencies.

Community wellness, offender accountability, personal responsibility and restoration of *hozho* are core elements of traditional restorative justice.

The term “restorative justice” as used in traditional Navajo justice is used in the literal sense, to “restore” in conformity with justice principles. Wrongdoers, those who are harmed, and their affected communities are engaged in search of solutions that promote repair and rebuilding.

In the Navajo justice context, there is a high level of accountability required by the community of an offender. Because accountability and personal responsibility are emphasized, convictions, detention, and penalties in support of personal responsibility and community safety are not excluded.

Our justice system has a great responsibility to restore *hozho*, which involves ensuring all resources necessary to rehabilitate and bring the offender back into their community according to traditional principles are provided. Communicating with victims and advocates is also part of restoring *hozho*.

PPS shall:

- Provide programming, either directly or through community resources, to assist client-offenders and their traditional family structure and communities attain a crime-free and satisfactory life adjustment.
- In addition to promoting accountability and personal responsibility, use all practical resources to encourage competence, self-worth and self-improvement in client-offenders under PPS jurisdiction and their family units.
- Ensure public safety through appropriate supervision of client-offenders under the jurisdiction of the Navajo Nation courts, including courtesy supervision to transferees from other jurisdictions;
- Place regulations on the client-offender to see that he/she fulfils all sentencing conditions and obligations imposed by the court.

- Promote, enhance and maintain exchange of information and ideas to provide more efficient probation and parole services to the Navajo people.
- Gather and provide useful information in furtherance of this mission, including needs assessments, recommendations, written reports, and verbal testimony.
- Maintain secure, current and accurate case records.
- Generally promote community wellness and *hozho*.

Authority

Probation and Parole Services (“PPS”) has long been the responsibility of the Judicial Branch and is an essential component of judicial services under the Judicial Branch Public Law 93-638 contract.

A. AUTHORITIES, GENERALLY

Probation and Parole Officers derive their power and duties, and also are limited in their authority and duties by the following authorities:

1. All provisions referenced in this section.
2. Uniform Sentencing Policy of the Navajo Nation Courts, eff. Aug. 13, 1994.
3. Rules 50 – 57, Navajo Rules of Criminal Procedure, eff. Nov. 1, 1990.
4. 9 N.N.C. §§ 1001 – 1405 (Navajo Nation Children’s Code).
5. Part II, Navajo Policy on Appointment of Counsel and Indigency, eff. Oct. 2, 1993
6. Standard Operating Procedures, as adopted by the Judiciary Committee.

B. ESTABLISHMENT

Juveniles

9 N.N.C. §§ 1052(C)(1) of the Navajo Nation Children’s Code provides for the establishment of the Probation Office of the Family Court. 9 N.N.C. § 1052(C)(2) provides the authority for juvenile probation officers to carry out their duties and responsibilities.

Adults

The Adult PPS office is necessary to enable judges to sentence adults to probation or parole as provided in various sections of the Navajo Nation Code. Authority is found at 7 N.N.C. § 201(C) (Effective October 24, 2003) which provides:

The Judicial Branch of the Navajo Nation shall also consist of such additional Judicial Branch divisions, departments, offices or programs that further the purposes of the Courts as may be created, subject to amendment or abolishment, by the Judiciary Committee through adoption of their plans of operation.

Adult and juvenile PPS services were combined when PPS field offices were established in the district courts. The Standard Operating procedures drafted by the Chief Probation Officer and approved by the Chief Justice, General Order No. SOP 91-1-AJ0001, effective April 15, 1992 and amended December 21, 1992, provides in part:

IV (B) ... Navajo probation and parole field services shall be established by districts. Each district court of the Navajo Nation will have a combined Adult PPS and Juvenile Probation Office, with assigned personnel to meet the public need.

C. SENTENCING AUTHORITY – DIVERSION, PROBATION AND PAROLE

Juvenile Probation

9 N.N.C. § 1152(A)(3) and 1152(B)(3) respectively provide that an adjudicated delinquent child and a child in need of supervision may be placed “on probation under such conditions and limitations as the Court may prescribe.”

Adult Probation and Parole

Authority to sentence adults to probation and parole, with conditions, is found in various sections of the Code and in the Navajo Rules of Criminal Procedure including those set forth below.

17 N.N.C. § 220(B) provides:

The Court may suspend the imposition of sentence of a person who has been convicted of a crime, may order him or her to be committed in lieu of sentence to a hospital or other institution for medical, psychiatric or other rehabilitative treatment, or may sentence him or her as follows:

1. To pay a fine;
2. To be placed on probation;
3. To imprisonment for a definite period within the term authorized;
4. To fine and probation or fine and imprisonment;
5. To community service;
6. To pay restitution or nályééh.

17 N.N.C. § 224 provides:

The Court shall have the discretion in any case except where prohibited by statute to suspend all or part of an offender’s sentence and release the defendant on probation. The offender shall sign a probationary pledge, the conditions and limitations of which shall be set forth by the court.

17 N.N.C. § 1818 provides:

- A. The Court of the Navajo Nation may in its discretion suspend any sentence imposed and allow the offender his or her freedom on probation upon his or her signing a pledge of good conduct during the period of the sentence upon the form provided therefore.
- B. Any person who shall violate his or her probation pledge shall be required to serve the original sentence.
...
- D. Individuals who are convicted of any offense may be sentenced to a term of probation not to exceed two years and individuals convicted of multiple offenses may be sentenced to a term of probation not to exceed five years.

17 N.N.C. § 1819 provides:

- A. Any person committed by a Court of the Navajo Nation who shall have without misconduct served one-half the sentence imposed by such a court may be eligible to parole. Parole shall be granted only by a judge of the Court of the Navajo Nation where the prisoner was convicted after hearing of the issue and upon the signing of the form provided therefor. The Court shall file findings of fact and conclusions of law stating its reasons for granting or denying parole.
- B. Any person who shall violate any of the provisions of such parole shall be punished by being required to serve the whole of the original sentence.

Rule 52(a) and (b) of the Navajo Rules of Criminal Procedure provides that after conviction, and prior to actual incarceration, the defendant may be placed on probation as provided by law; and after conviction and a period of actual incarceration, a defendant may be placed on parole as provided by law.

Diversion

The Sentencing Policy of the Navajo Nation Courts and the Navajo Rules of Criminal Procedure provides that the Court may issue a diversion order, or the Prosecutor may enter into Deferred Prosecution Agreements with defendants, at any stage prior to a plea or finding of guilt in order for the defendant to fulfill certain terms and conditions, after which the court may dismiss the case without determination of guilt. Such agreements become part of a diversion order.

Reports

Rule 50(a)(2) Navajo Rules of Criminal Procedure permits the court to direct that a presentence report be prepared and submitted to the court by the Probation and Parole Officer.

9 N.N.C. § 1054 authorizes probation officers to make predisposition studies and submit reports and recommendations to the Court.

Provision 2.6 of the Uniform Sentencing Policy permits the sentencing court to receive reports from a probation and parole officer regarding violations of conditions and bring the defendant before the court to address them.

D. MERGING OF PROBATION AND PEACEMAKING FUNCTIONS; PROMOTION OF REHABILITATION; SERVING INTERESTS OF VICTIMS

17 N.N.C. § 1818(C) provides:

The Courts of the Navajo Nation may establish a program to merge the functions of probation and peace making to promote the rehabilitation of offenders and serve the interest of victims and the program may charge participants reasonable fee or assessment for serious services and expend such funds for probation and peace making functions.

Recommending Sentences and Determining Nályééh

Peacemakers may be used by the trial court to make a sentencing recommendation and determine nályééh in criminal cases generally [17 N.N.C. § 221(C)] and in cases involving the sale or possession of controlled substances specifically [17 N.N.C. § 394(D)]. Courts may use peacemakers to obtain recommendations regarding sentences or a diversion plan pursuant to Section 5.4 of the Uniform Sentencing Policy of the Navajo Nation Courts.

Monitoring Peacemaking Agreements

Under Section 5.9(c) of the Uniform Sentencing Policy, compliance with Peacemaker agreements may be done by a probation officer with the consent of the court, or by the peacemaker or any other designated person. Under Section 5.9(d), the court retains the power to suggest additional provisions in a peacemaking agreement and ask the defendant to agree with them. The court may require a probation officer to work with peacemakers to suggest satisfactory agreement provisions.

E. PPS AUTHORITY TO PLACE REGULATIONS TO IMPLEMENT CONDITIONS

Rule 52(c) of the Navajo Rules of Criminal Procedures provides:

The court may impose conditions on probation/parole to promote as a priority, education and rehabilitation. In addition, the probation officer may place regulations on the probation/parole to implement the conditions imposed by the court and not inconsistent with them. All conditions and regulations shall be in writing signed by the probationer/parolee and the probation officer and a copy given to the probationer/parolee.

F. AUTHORITY OVER PERSONS

PPS authority to supervise individual offenders flows solely from court orders. It is useful for all PPS Officers to be aware of differences in the prosecutorial treatment of Navajo and non-Navajo offenders, which directly affects whether certain offenders may be sentenced to PPS supervision.

Navajo Offenders

Adult Navajos who commit offenses in Navajo Indian Country, and Adult Navajos who commit an offense against another Navajo anywhere, may be criminally prosecuted in Navajo Nation Courts and may be placed under PPS supervision.

Juvenile Navajos may be proceeded against in delinquency actions in the Family Court for curfew violations and any act that would be an offense under the laws of the Navajo Nation if they were an adult. Any juvenile Navajo over the age of 15 can be prosecuted in the District Court for DUI, reckless driving, or for leaving the scene of an accident causing death or personal injuries.

17 N.N.C. §203 provides:

The Navajo Nation Courts shall have jurisdiction over any person who commits an offense by his or her own conduct ... within the territorial jurisdiction of the Navajo Nation Courts as defined in 7 N.N.C. §254, or such other dependent Indian communities as may hereafter be determined to be under the jurisdiction of the Navajo Nation and the Courts of the Navajo Nation.

The Navajo Nation Courts shall also have jurisdiction over any member of the Navajo Nation who commits an offense against any other member of the Navajo Nation wherever the conduct which constitutes the offense occurs. [Also 7 N.N.C. 253(A)(1)].

(7 N.N.C. § 254(A) provides: "The territorial jurisdiction of the Navajo Nation shall extend to Navajo Indian Country, defined as all land within the exterior boundaries of the Navajo Indian Reservation or of the Eastern Navajo Agency, all land within the limits of dependent Navajo Indian communities, all Navajo Indian allotments, all land owned in fee by the Navajo Nation, and all other land held in trust for, owned in fee by, or leased by the United States to the Navajo Nation or any Band of Navajo Indians.")

Adult Non-Indian Offenders

Adult Non-Indians who are not *Hadane* may not be criminally prosecuted in Navajo Nation Courts. They may be civilly prosecuted for crimes, and the judge may impose a limited set of civil penalties which does not include PPS supervision.

17 N.N.C. §204 provides, in part:

- (A) Any non-Indian alleged to have committed any offense enumerated in (Title 17) may be civilly prosecuted. In no event shall such a civil prosecution permit incarceration of a non-Indian or permit the imposition of a criminal fine against a non-Indian.
- (B) Civil penalties. Upon a finding that a non-Indian has committed any of the offenses enumerated in (Title 17) the Court may impose ... (1) a civil fine ... ; (2) ... civil forfeiture ... ; ... nályééh ... ; (4) Exclusion ...

As probation has not been listed as a civil penalty that may be imposed on non-Indian offenders, PPS presently can play no role in the supervision of adult non-Indian offenders.

Juvenile Non-Indian Offenders

Delinquency Proceedings. The Navajo Nation Supreme Court has determined that as long as detention is not allowed, delinquency jurisdiction over non-Indian juveniles is civil in nature and, therefore, within the jurisdiction of Navajo Nation courts. This means that juvenile non-Indian offenders may be sentenced to probation and, thereby, come under PPS supervision. The Supreme Court has stated:

Our Children's Code, like those of states, classifies juvenile proceedings as civil. 9 N.N.C. § 1157 ... That classification, without more, does not mean it is truly "civil" in nature ... Under general principles of federal Indian law, as interpreted by this Court, we hold that the Navajo Nation has civil jurisdiction to adjudicate non-Indian children in a delinquency proceeding for activity on tribal lands, as long as detention is not a possible disposition ... we hold that under Navajo statutory law, family courts have delinquency jurisdiction over non-Indian children.

In the Matter of A.P., 8 Nav. R. 671 (Nav. Sup. Ct. 2005), pp. 679-680.

Children in Need of Supervision (CHINS). Non-Indian Juveniles may also be proceeded against in the Family Courts for any act described in 9 N.N.C. § 1002(G) and may be placed under PPS supervision.

Courtesy Supervision Over Transferees

The authority for PPS to provide courtesy supervision over transfers of probationers and parolees from one judicial district to another within the Navajo Nation, and from foreign jurisdictions (i.e. state and federal) to Navajo Nation jurisdiction, is based on inter-jurisdictional mutual understanding and SOP No. 91-1-AJ0001, effective April 15, 1992 and amended December 21, 1992.

Tribes and states in the Four Corners are presently pursuing a "Four Corners Compact" that will formalize tribal-state courtesy supervision.

Hadane

17 N.N.C. §204(C) provides:

Nothing in this section shall be deemed to preclude exercise of criminal jurisdiction over any person who, by reason of assuming tribal relations with the Navajo people or being an "in law" or hadane or relative as defined by Navajo common law, custom, or tradition, submits himself or herself to the criminal jurisdiction of the Navajo Nation.

Note: Section 204(C) was enacted following the Navajo Nation Supreme Court's opinion in *Means v. District Court of the Chinle Judicial District*, 7 Nav. R. 382 (1999). In that case, Russell Means, a member of the Oglala Sioux Nation, sought to dismiss criminal offenses allegedly committed by him against Navajo relatives by marriage within the Navajo Nation. The Court held that (1) The Navajo Nation has criminal jurisdiction over all Indians who enter the Navajo Nation under Article II of the United States-Navajo Nation Treaty of 1868 under the "set apart for the use and occupation" language of that article. In addition, the Navajo Nation has criminal jurisdiction over nonmember Indians under

the "bad men" clause of Article I of the treaty; (2) Individuals who "assume tribal relations" with Navajos by intermarriage, residence, and other activities are subject to the criminal jurisdiction of the Navajo Nation. That includes any individual, regardless of racial or ethnic membership, who assumes the status of hadane or in-law; and (3) The assertion of criminal jurisdiction over nonmember Indians violates neither the "Indian preference legislation" or "racial classification" doctrines of equal protection of the law.

G. TRADITIONAL PROBATION OFFICERS

The "traditional probation officer" is a Navajo common law concept provided for in the Uniform Sentencing Policy of the Navajo Nation Courts. It is that when an offender injures another, the offender's clan is responsible to assist with the payment of nályééh and help conclude a plan by consensus. The family and clan then assume responsibility to assure future good conduct by the offender. The Navajo Peacemaking Program can guide parties to enter into a form of peace bond, using the family and clan as the guarantors or "traditional probation officers."

A "peace bond" is a written promise to keep the peace or refrain from specified conduct (e.g. assault on a person or a member of that person's family; having contact with someone) under penalty of forfeiting money or property. A peace bond can consist of money paid into court, property, or the written promise to pay a certain sum of money if the conditions are violated. The court may require sureties to promise to make payment if conditions are violated. Payment can be to the Navajo Nation, a victim, or a program (e.g. a battered woman's shelter).

H. PROBATION SERVICES IN JUDICIAL BRANCH PROGRAMS

PPS shall provide services as requested, pursuant to rules, protocols, and guidelines of Judicial Branch pilot programs and programs established pursuant to 7 NNC 201(C).

Bitsé Siléí

bitsé siléí – foundational essence; *siléí* – foundation;
bizh—its name; *bitsé siléí* – the very beginning, nothing better before it.

Diné bi Beenahaz'áanii, signed into law on November 13, 2002, is the foundation of *Diné bi nahat'á* and Diné sovereignty. Probation and Parole Services, as a component of the Judicial Branch is part of *Diné bi nahat'á*. It is important that PPS Officers apply *Diné bi beenahaz'áanii* in dealings with clients and victims, in programming, in locating treatment and resources, and in dealings with community members. Relevant sections of *Diné bi beenahaz'áanii* are included at the end of this chapter.

In addition to the provisions of *Diné bi beenahaz'áanii*, bear in mind these core principles:

K'É K'é is a basic beenahaz'áanii. The Diné are related to all creation through K'é. Through K'é we are related to one another and to our ancestors. K'é must be observed if we are to continue to exist as Diné. K'é imposes a duty on us to instruct and guide one another. It emphasizes restorative justice, ensuring that individuals living in disharmony are brought back into right relationships and into the community to re-establish order.

BEE K'ÉNDZÍSDLIJ' The offender has the personal responsibility to confront the violation, acknowledge his or her conduct, and make right. The offender must face the consequences of his or her conduct. You may try to hide the truth and may even get away with it now, but will be held accountable, because you will be harmed somehow by your actions.

The Fundamental Laws of the Diné are necessary to maintain an orderly society in the modern world, and it is the duty and responsibility for everyone living and working in Dinétah to learn these laws. There are consequences for violation of these laws.

NAHAT'Á Nahat'á may include preventive measures or planning for solutions. For PPS, Nahat'á means planning for the supervision period with a view toward successful integration into the community. The offender has a responsibility to participate in nahat'á. All interested persons including the offender, victim(s), community, and if so assigned, Social and Behavioral Health Services, or peacemaker may participate in nahat'á.

**SA'AH NAAGHÉÍ
BIK'EH**

Sa'ah Naaghéí Bik'eh Hózhóón Niidlj means the wholistic or holy path of male and female beings. Sa'ah Naaghéí Bik'eh means the balance of our lives with the natural path of the sun. Our human journeys, Oodááł, shall be helped by our human institutions, as we follow the natural path of the sun, Shábik'ehgo, in strength of body, mind, and spirit, Bee yis'ah go oodááł

BÍLA'ASHDLA'II

Bíla'ashdla'ii is an affirmation. We affirm our name, nihízhí', Diné, which means the people, human, or beings with five fingers, Bíla'ashdla'ii. We also have a spiritual name, Diyin Nohookáá Dine'é, or Holy Earth-Surface-People. Through our name, we affirm the human in all tribes and nations, and respect for the individual, all our relatives, and all living beings, ádi'ídlj. Through respect, we affirm there is a proper place and value for all human beings.

Bíla'ashdla'ii may also mean the stories within the five fingered hand and the lines of the hand. A judge might advise an offender that the hand is intended to provide, the fist points the fingers back at the offender. Another example is one's shadow, which is always with you.

RELEVANT PROVISIONS OF *DINÉ BI BEENAHAZ'ÁANII*

1 N.N.C. § 201 *Diné Bi Beehaz'áanii Bitsi Siléí*

Diyin Dine'é
Sin dóó sodizin
Bee
Nahaszdáán dóó yádihit nitsáhákees yit hadeidiilaa,
Tó dóó dził diyinii nahat'á yit hadediilaa,
Nítch'i dóó nanse' altaas'éi iiná yit hadediilaa,
Ko', adinídíin dóó nt'iz náadahanihjj' sihasin yit hadeidiilaa.
Díí ts'ídá aláají nihi beehaz'áanii bitse siléí nihá' ályaa.
Nitsáhákees éí nahat'á bitsé silá.
liná éí sihasin bitsé silá.
Hanihi' diilyaadi díí nihiihdaahya' dóó bee hadínít'é.
Binahjí' nihéého'díłzingí éí:
Nihízhí',
Ádóone'é niidliinii,
Nihinéí',
Nihee ó'ool íít,
Nihi chaha'oh,
Nihi kék'ehashchíin.
Díí bik'ehgo Diyin Nohookáá Diné nihi'doo'niid.
Kodóó dah'adiníísá dóó dah'adiidéél.
Áko dííshjíggi nitsáhákees, nahat'á, iiná, saad, oodlq',
Dóó beehaz'áanii at'qq ádaat'éego nihitah nihwiileeh,
Ndi nihi beehaz'áanii bitsé siléí nhá ndaahya'áá t'ahdii doo łahgo ánééhda.
Éí biniinaa t'áá nanihi'deelyáhqq doo nítch'i divin hinááh nihiihdaahya'qq ge'át éigo,
T'áá Diné niidljigo náásgóó ahoól'á.

The Holy People ordained,
Through songs and prayers,
That
Earth and universe embody thinking,
Water and the sacred mountains embody planning,
Air and variegated vegetation embody life,
Fire, light, and offering sites of variegated sacred stones embody wisdom.
These are the fundamental tenets established.
Thinking is the foundation of planning.
Life is the foundation of wisdom.
Upon our creation, these were instituted within us and we embody them.
Accordingly, we are identified by:
Our Diné name,
Our clan,
Our language,
Our life way,
Our shadow,
Our footprints.
Therefore, we were called the Holy Earth-Surface-People.
From here growth began and the journey proceeds.
Different thinking, planning, life ways, languages, beliefs, and laws appear among us,
But the fundamental laws placed by the Holy People remain unchanged.
Hence, as we were created with living soul, we remain Diné forever.

§ 202 Diné bi beenahaz'áanii embodies Diyin bitsąądeę beenahaz'áanii (Traditional Law), Diyin Dine'é bitsąądeę beenahaz'áanii (Customary Law), Nahasdzáán dóó Yádiithił bitsąądeę beenahaz'áanii (Natural Law), and Diyin Nohookáá Diné bi beenahaz'áanii (Common Law).

These laws provide sanctuary for the Diné life and culture, our relationship with the world beyond the sacred mountains, and the balance we maintain with the natural world.

These laws provide the foundation of Diné bi nahat'á (providing leadership through developing and administering policies and plans utilizing these laws as guiding principles) and Diné sovereignty. In turn, Diné bi nahat'a is the foundation of the Diné bi naat'á (government). Hence, the respect for, honor, belief and trust in the Diné bi beenahaz'áanii preserves, protects and enhances the following inherent rights, beliefs, practices and freedoms:

- A.** The individual rights and freedoms of each Diné (from the beautiful child who will be born tonight to the dear elder who will pass on tonight from old age) as they are declared in these laws; and
- B.** The collective rights and freedoms of the Diyin Nohookáá Diné as a distinct people as they are declared in these laws; and
- C.** The fundamental values and principles of Diné Life Way as declared in these laws; and
- D.** Self-governance; and
- E.** A government structure consisting of Hózhóójí Nahat'á (Executive Branch), Naat'ájí Nahat'á (Legislative Branch), Hashkééjí Nahat'á (Judicial Branch), and the Naayee'jí Nahat'á (National Security Branch); and
- F.** That the practice of Diné bi nahat'a through the values and life way embodied in the Diné bi beenahaz'áanii provides the foundation for all laws proclaimed by the Navajo Nation government and the faithful adherence to Diné Bi Nahat'á will ensure the survival of the Navajo Nation; and
- G.** That Diné bi beenahaz'áanii provides for the future development and growth of a thriving Navajo Nation regardless of the many different thinking, planning, life ways, languages, beliefs, and laws that may appear within the Nation; and
- H.** The right and freedom of the Diné to be educated as to Diné Bi beenahaz'áanii; and
- I.** That Diné Bi beenahaz'áanii provides for the establishment of governmental relationships and agreements with other nations; that the Diné shall respect and honor such relationships and agreements and that the Diné can expect reciprocal respect and honor from such other nations.

§ 203 **Diyin Bitsąądeę Beenahaz'áanii**—The Diné Traditional Law declares and teaches that:

- A.** It is the right and freedom of the Diné to choose leaders of their choice; leaders who will communicate with the people for guidance; leaders who will use their experience and wisdom to always act in the best interest of the people; and leaders who will also ensure the rights and freedoms of generations yet to come; and

- B. All leaders chosen by the Diné are to carry out their duties and responsibilities in a moral and legal manner in representing the people and the government; the people's trust and confidence in the leaders and the continued status as a leader are dependent upon adherence to the values and principles of Dine bi beenahaz'áanii; and ...
 - E. The leader(s) of the Judicial Branch (Alqajji' Hashkééjii Nahat'á) shall uphold the values and principles of Diné bi beenahaz'áanii in the practice of peace making, obedience, discipline, punishment, interpreting laws and rendering decisions and judgments; and ...
 - G. Our elders and our medicine people, the teachers of traditional laws, values and principles must always be respected and honored if the people and the government are to persevere and thrive; the teachings of the elders and medicine people, their participation in government and their contributions of the traditional values and principles of Diné life way will ensure growth of the Navajo Nation; and from time to time, the elders and medicine people must be requested to provide the cleansing, protection prayers, and blessing ceremonies necessary for securing healthy leadership and the operation of the government in harmony with traditional law; and
 - H. The various spiritual healings through worship, song and prayer (Nahaghá) must be preserved, taught, maintained and performed in their original forms; and
 - I. The Diné and the government must always respect the spiritual beliefs and practices of any person and allow for the input and contribution of any religion to the maintenance of a moral society and government; and
 - J. The Diné and the government can incorporate those practices, principles and values of other societies that are not contrary to the values and principles of Diné Bi Beenahaz'aanii and that they deem is in their best interest and is necessary to provide for the physical and mental well-being for every individual.
- § 204 Diyin Dine'é Bitsaqdeq Beenahaz'áanii—Diné Customary Law declares and teaches that:**
- A. It is the right and freedom of the people that there always be holistic education of the values and principles underlying the purpose of living in balance with all creation, walking in beauty and making a living; and
 - B. It is the right and freedom of the people that the sacred system of k'é, based on the four clans of Kiiyaa'áanii, Todíh'iínii, Honagháahnii and Hashtl'ishnii and all the descendent clans be taught and preserved; and
 - C. It is the right and freedom of the people that the sacred Diné language (nihiinei') be taught and preserved; and
 - D. It is the right and freedom of the people that the sacred bonding in marriage and the unity of each family be protected; and
 - E. It is the right and freedom of the people that every child and every elder be respected, honored and protected with a healthy physical and mental environment, free from all abuse.
 - F. It is the right and freedom of the people that our children are provided with education to absorb wisdom, self-knowledge, and knowledge to empower them to make a living and participate in the growth of the Navajo Nation.

§205 Nahasdzáán dóó Yádiłhił Bitsq̄q̄deę Beenahaz'áanii--Diné Natural Law declares and teaches that:

- A. The four sacred elements of life, air, light/fire, water and earth/pollen in all their forms must be respected, honored and protected for they sustain life; and
- B. The six sacred mountains, Sisañini, Tsoodził, Dook'o'osliíd, Dibé Nitsaa, Dził Na'oodiłii, Dził Ch'ool'í'í, and all the attendant mountains must be respected, honored and protected for they, as leaders, are the foundation of the Navajo Nation; and
- C. All creation, from Mother Earth and Father Sky to the animals, those who live in water, those who fly and plant life have their own laws, and have rights and freedom to exist; and
- D. The Diné have a sacred obligation and duty to respect, preserve and protect all that was provided for we were designated as the steward of these relatives through our use of the sacred gifts of language and thinking; and
- E. Mother Earth and Father Sky is part of us as the Diné and the Diné is part of Mother Earth and Father Sky; The Diné must treat this sacred bond with love and respect without exerting dominance for we do not own our mother or father.
- F. The rights and freedoms of the people to the use of the sacred elements of life as mentioned above and to the use of the land, natural resources, sacred sites and other living beings must be accomplished through the proper protocol of respect and offering and these practices must be protected and preserved for they are the foundation of our spiritual ceremonies and the Diné life way; and
- G. It is the duty and responsibility of the Diné to protect and preserve the beauty of the natural world for future generations.

§ 206 Diyin Nohookáá Diné bi beenahaz'áanii--Diné Common Law declares and teaches that:

- A. The knowledge, wisdom, and practices of the people must be developed and exercised in harmony with the values and principles of the Diné Bi Beenahaz'aanii; and in turn, the written laws of the Navajo Nation must be developed and interpreted in harmony with Diné Common Law; and
- B. The values and principles of Diné Common Law must be recognized, respected, honored and trusted as the motivational guidance for the people and their leaders in order to cope with the complexities of the changing world, the need to compete in business to make a living and the establishment and maintenance of decent standards of living; and
- C. The values and principles of Diné Common Law must be used to harness and utilize the unlimited interwoven Diné knowledge, with our absorbed knowledge from other peoples. This knowledge is our tool in exercising and exhibiting self-assurance and self-reliance in enjoying the beauty of happiness and harmony.

Organization

ULTIMATE AUTHORITY

The Chief Justice has ultimate authority over Probation and Parole Service matters, and may delegate authority pursuant to these Standard Operating Procedures.

In addition, the Chief Justice has authority and responsibilities over juvenile probation offices pursuant to the Children's Code.

9 N.N.C. § 1053 provides:

- A. The Chief Justice of the Navajo Nation may establish juvenile probation offices at each of the agencies comprising the Navajo Nation. The Chief Justice of the Navajo Nation shall be the appointing authority for all probation office personnel. If probation officers are established by the Chief Justice of the Navajo Nation, he or she shall also establish a classification and compensation plan for all positions in the service in accordance with the personnel rules of the Courts of the Navajo Nation.
- B. The Probation Offices shall provide the Chief Justice of the Navajo Nation and the Judiciary Committee of the Navajo Nation Council such information as is requested about children coming into contact with the probation offices or the court under the provisions of the Children's Code.

ORGANIZATION UNDER THE JUDICIAL BRANCH CONSOLIDATION POLICY

Effective 10, 1997, the Consolidation Policy provides:

The function of the Chief Probation Officer is separate from the Administrative Office of the Courts but under the direct supervision of the Chief Justice. By delegation of the Chief Justice, the Chief Probation Officer provides technical assistance to the judicial districts by coordinating the planning and implementation of a uniform probation program, recommends workload allocations, assures position description compliance of probation officers with standard operation procedures by performing periodic case reviews, compiles statistics and reports, assists court administrators with performance evaluations of probation officers, and performs other assignments as directed by the Chief Justice.

Probation officers help restore stability to individuals, families and communities through client supervision, education, rehabilitation and coordination of treatment services as ordered by the courts. There is only one classification, title and level of probation officer.

Court administrators shall exercise overall management responsibility for daily administration of probation officers, facilities and property. Court administrators shall supervise probation officers for enforcement of workplace regulations for attendance, approve leave, initiate and finalize disciplinary actions. provide program support (e.g.

authorize and approve expenses for travel, training, vehicles, equipment, supplies, clerical services) within the constraint of appropriations and budgets, and other administrative purposes not inconsistent with the technical assistance functions of the Chief Probation Officer. The court administrator may delegate supervisory authority only in his or her absence.

Judicial Branch Consolidation Policy, p. 4.

Under the Consolidation Policy, programming and supervision of district PPS offices and personnel is split between the Chief Probation Officer and Court Administrators.

It is expected that the Consolidation Policy will be revised. Any revisions of the above provisions shall be incorporated into these Standard Operating Procedures upon approval by the Judiciary Committee of the Navajo Nation Council.

Applicable Administrative Policies

The following rules, policies and procedures apply to all personnel in Navajo Nation Probation and Parole Services. They are set forth in alphabetical order:

- Fleet Management Tribal Vehicle Operator's Handbook
- Judicial Branch Administrative Leave Policy, effective Feb 14, 2008;
- Judicial Branch Case Management Policy, effective August 18, 1999;
- Judicial Branch Consolidation Policy, effective September 10, 1997 (waived in the Pilot Project);
- Judicial Branch Court Automation Policy, effective October 10, 1996;
- Judicial Branch Employee Code of Conduct, effective April 29, 1991;
- Judicial Branch Grievance Board, Rules of Procedure, revised January 6, 1997;
- Judicial Branch Personnel Rules, revised June 20, 1997;
- Judicial Branch Training Policy, effective March 20, 1997;
- Navajo Nation Privacy Act, 2 N.N.C. §§81-92;
- Navajo Nation Travel Policy;
- Probation and Parole Services Standard Operating Procedures, as updated and revised;
- Other policies of general application to Navajo Nation employees.

FIELD ACTIVITY POLICY

PPOs may spend much of their time meeting with adult clients, juvenile clients, parents, school authorities, social services and behavioral health staff; attending chapter or other

meetings at night or on weekends. Because neighborhoods on the Navajo Nation are largely rural and far-between, frequent travel and field work is expected.

1. PPOs shall log out for field activity. The log shall contain a description and location of the field activity, and beginning and expected end time for the field activity (excluding travel).
2. PPOs shall log in when field activity is completed and indicate in the log the persons contacted.
3. The log shall be maintained by the Office Technician.
4. Field activity travel shall be pursuant to the Navajo Nation Travel Policy.

WORK HOURS POLICY

1. Regular office/work hours apply with some flexibility as set forth below.
2. The PPO is permitted to be absent from the district office for properly logged field work.
3. If not otherwise scheduled to appear in court or meet with clients, the PPO may report for work an hour later than normal if he/she was not able to complete field work before 7:00 p.m. the previous evening. The PPO must (a) call in and leave a message for the Office Technician the night before; and (b) otherwise, be reachable during that hour via phone.
4. The PPO shall update the field work log immediately upon reporting to work.

STAFF MEETING POLICY

PPS staff meetings may be called by the Chief Justice and Chief Probation Officer. District-level meetings may be called by the Court Administrator. In the Pilot Project, district level meetings may also be called by the Senior District Probation Officer.

Regular meetings are as follows:

1. Quarterly Meetings – called by the Chief Probation Officer and held in the first week of every third month with one week's advance notice by written memorandum. These meetings shall include an overview of the previous quarter, verbal district status reports, discussion of policy/program changes and directives and any other item that facilitates operations. Once a year, a quarterly meeting shall address review of the Standard Operating Procedures and generally, review of PPS operations. Minutes shall be kept. Abstract minutes may be distributed. Meeting is mandatory.
2. Monthly District-Level Meetings – scheduled by the Office Technician and attended by district PPS staff to monitor and evaluate district level PPS activities and address immediate needs. Judges, CA, the Peacemaker Liaison, and the Chief Probation Officer may be invited to attend.
3. Pilot Project Planning and Coordination Meetings—may be scheduled weekly, biweekly, or otherwise according to the Pilot Project's current revised plan.

STAFF DEVELOPMENT

In coordination with PPS field offices, the Chief Probation Officer shall provide the leadership to identify staff development needs, identify and secure staff development opportunities, and promote and support the continuous professional growth of PPS personnel.

OPERATIONS DEVELOPMENT

By the delegated authority of the Chief Justice, the Chief Probation Officer shall develop and implement the Standard Operating Procedures. All PPS personnel are encouraged to participate actively in its development and review. There shall be annual review of operations, generally.

ANNUAL REPORT

The Chief Probation Officer shall submit an annual report to the Chief Justice on PPS operations. The annual report shall contain data on sentencing options being recommended by Navajo Nation Probation and Parole Services in all districts.

TREATMENT OF ELDERS UNDER SUPERVISION

An elder is any person 55 years of age and over. Elder Navajos are required by law to be distinctly treated with respect. The treatment of elders under PPS supervision shall be no different.

9 N.N.C. § 1802 provides:

It is the policy of the Navajo Nation to continue the traditional respect which members of the Navajo Nation have for Diné elders. Elders are valuable resources to the Nation because they are repositories and custodians of Navajo history, culture, language, and tradition; vested in Diné elders is the hope of the Navajo Nation to retain its tribal history, culture, language and tradition.

PEPPER SPRAY POLICY

Subject to defensive training and certification of proper use as arranged with the Navajo Nation Police Academy by the Chief Probation Officer, PPOs may carry pepper spray (oleoresin capsicum). The pepper spray can be used only while on-duty and only for self-defense, following which the PPO is required to file a police report. Non-violent alternatives, including withdrawal from the aggressor, shall be considered before use. The pepper spray canister is to be concealed and not drawn or displayed unless there is a reasonable belief of a threat of immediate injury. When not carried, the canister must be securely stored away from children and unauthorized persons.

Look to the wellbeing of any person on which you have used this spray as follows:

1. After you have ensured you are safe, contact medical personnel.
2. Make sure the person has fresh air. If the person displays any breathing problems or has a history of breathing/heart problems, notify medical personnel immediately.
3. Instruct the person to remove contact lenses, if any.
4. Reassure the person the pepper spray effects are temporary.
5. Flush the person's face with cool water or apply a wet towel to hasten recovery.
6. Advise the person he/she may be charged with assault.
7. Immediately contact the Chief Probation Officer and submit a written report within 24 hours.
8. If the person is also a PPS client, file it as an incident in the clients' progress report.

Pilot Project

On March 5, 2008, the Tuba City Judicial District Pilot Project commenced. Rules and procedures for the Pilot Project were established at that time and revised on April 2, 2008. There will be continuing discussions and revisions of the Pilot Project rules and regulations during the project period.

All current rules and regulations of the Pilot Project are incorporated by reference in these Standard Operating procedures and are immediately applicable in the judicial district(s) covered by the Pilot Project.

Upon completion, the Pilot Project model may be applied in all judicial districts pursuant to appropriate procedures without need for further amendment of these Standard Operating Procedures.

PURPOSE

In 2007, the Department of Corrections approached the Judicial Branch with a request that, where permitted by law, courts pursue alternative sentencing due to the crisis in jail space on the Navajo Nation. This request was conveyed to the Chief Probation Officer in order to ensure that PPOs responsible for preparing pre-sentence reports were aware of the need.

Alternative sentencing thus far includes Anglo-style supervised and unsupervised probation with searches, testing, walk-in treatment, and/or community service. Judges in all judicial districts reported that incarceration remained the best, if not the only option given a lack of alternative sentencing resources. Long-term residential treatment for serious alcohol and substance abuse-related offenders is a non-option in most cases due to limited bed space, lengthy wait periods, and distant location. Traditional ceremonies and teachings are not

addressed in most districts. The referral and partnership role of PPS with service providers has also been under-developed. The involvement of family and community participation other than agencies overseeing community service is also under-developed. Finally, PPS field offices reported administrative difficulties in performing field work and securing service provider resources and traditional culture training.

The Pilot Project is intended to address the reported administrative difficulties and maximize the functions of PPS field offices in performing field work, involving community participation, securing partnerships, maximizing knowledge of traditional Diné culture practitioners and practices, pursuing grants, and effectuating a regimen of community-based supervision that works toward restorative justice in every respect.

Family Case Management

The involvement of family and community in holding the offender accountable and restoring *hozho* is a traditional justice concept toward a comprehensive solution. The concept is gaining use in the American justice system, specifically, involving family and community in supervision plans and addressing family dysfunction that may impede the offender's successful completion of a probation or parole period.

Family Case Management (FCM) in the Navajo Nation is presently being tested and developed as part of the Pilot Project. At this time, FCM applies only in the Pilot Project.

The Chief Probation Officer may expand FCM testing and development to other district PPS offices at any time prior to completion of the Pilot Project without need for further amendment of these Standard Operating procedures.

DEVELOPING FAMILY CASE MANAGEMENT

Family Case Management will involve adult and juvenile supervision planning for probation and reentry; and assistance to families for financial, educational, vocational, and health needs.

The Chief Probation Officer, Senior Probation Officer, and Peacemaker Liaison are responsible for developing FCM as follows:

1. **Locate and list all services and resources by priority need.** Identify the services and resources available to take care of a family's financial, educational, vocational and health needs. Prioritize services and resources that would best serve the offender and his/her family in order to ensure successful completion of probation, successful reentry, and restoration of *hozho*.

2. **Begin outreach to services.** Perform outreach and establish partnerships with programs providing the services and resources by order of priority.
3. **Memoranda of Agreement.** With the assistance of Judicial Branch administration and attorneys, draft Memoranda of Agreements to cement cross-program partnerships.
4. **Share facilities.** Allocate facilities space where needed by services to perform their functions pursuant to the MOAs.
5. **Present and listen to the Public.** Listen to public needs by making presentations on Family Case Management at chapters and agency meetings, make suggestions, and obtain feedback as to how communities can participate.
6. **Establish FCM procedures.**
7. **Plan FCMs.** Create Family Case Management plans that are tailored to the judicial district with input from court, PPS and Peacemaking Program judicial district staff and other programs, services, and resources. Assist the Court Administrator in their annual budget and strategic planning for FCM needs.
8. **Juvenile needs assessment.** Pending formal FCM plans and procedures, the PPO shall do a needs assessment of the juvenile's family, including listing what programs are presently assisting the family. The needs assessment shall include the juvenile's clan, chapter, number and occupations of family members and a family history of recidivism and dependency.
9. **Adult questionnaire.** The Probation Officer shall note down the client-offender's answers to the following:
 - (a) A narrative of his/her clan, chapter, family and relationships since childhood, including where the offender has resided, with whom, and for how long.
 - (b) What the offender thinks about clans, communities and families.
 - (c) Whether he/she would prefer to obtain justice in the court system or face the clan and family.
 - (d) What he/she thinks would restore *hozho*.
10. **Monthly reports.** A copy of the needs assessment shall be given to the Chief Probation Officer on a monthly basis for foundational purposes. A copy of the adult questionnaires shall be given to the Chief Probation Officer on a monthly basis.
11. **Partnering with Peacemaker Liaison.** The Probation Officer may partner with the Peacemaker Liaison whenever necessary to facilitate family conferences to discuss the juvenile's needs. In addition, the Probation Officer may partner with the Peacemaker Liaison to facilitate family conferences to discuss an adult offender's needs where the offender has consented.
12. **Family input.** Family input into the supervision plan should be sought whenever possible.

Merged Probation and Peacemaking Functions

17 N.N.C. § 1818(C) provides:

The Courts of the Navajo Nation may establish a program to merge the functions of probation and peace making to promote the rehabilitation of offenders and serve the interest of victims and the program may charge participants reasonable fee or assessment for serious services and expend such funds for probation and peace making functions.

PEACEMAKER AGREEMENTS

Under Section 5.9(c) of the Uniform Sentencing Policy, ensuring compliance with Peacemaker agreements may be done by a probation officer with the consent of the court. Under Section 5.9(d), the court retains the power to suggest additional provisions in a peacemaking agreement and ask the defendant to agree with them. The court may require a probation officer to work with peacemakers to suggest satisfactory agreement provisions.

JOINT RESPONSIBILITIES

Ná bináhaazláo means providing parties with a sense of completeness or comprehensiveness. It also means fairness and doing whatever is necessary in coming to a comprehensive solution. Ná bináhaazláo is present through restorative justice as defined in our Mission.

There is a continuum between punishment and restoration, especially in view of the inescapable link between addiction, mental illness and crime. This continuum creates joint responsibility. The judge that performs sentencing also oversees the healing and return phases of justice. Navajo Nation courts have jurisdiction over the offender until all PPS supervision conditions are met. PPS and Peacemaking may both ensure offender (and family) access to social service and healthcare resources. For restoration of *hozho*, they may ensure open communications with victims and/or victims services. The Peacemaking Program further ensures that Diné bi beenahaz'áanii is followed and proper methods are used in ensuring community wellness, offender accountability, personal responsibility and restoration of *hozho*.

MERGED FUNCTIONS

PPS and Peacemaking Program functions are merged in the following areas:

- Knowledge and application of traditional principles pursuant to Diné bi beenahaz'áanii;
- Goal of community wellness, personal responsibility, accountability, and restoration of *hozho*;

- Use of traditional methods to achieve the above goals whenever community conditions support these methods;
- Counsel offenders that a failure to comply with conditions or cooperate with monitoring pursuant to Peacemaking agreements will result in a report to the court and the maximum penalties allowed by law;
- Lead community education days;
- Conduct client-offender and family education and substance abuse awareness days;
- Provide resource lists to communities.

OTHER FUNCTIONS

In addition, Peacemakers may be utilized as follows:

- Assist in communicating with client-offenders and families, e.g. elders;
- Assist in obtaining family input for juvenile supervision plans where permitted by court order;
- Assist in obtaining family input for adult supervision plans where permitted by court order (offender consent may be required);
- Assist in resolving offender-family and community issues that impact rehabilitation and restoration, where appropriate;
- Provide traditional culture education or counseling to adults and/or juveniles under PPS supervision, individually or in groups;
- With the agreement of the Director of Corrections, provide traditional culture education or counseling to adults and/or juveniles in detention, individually or in groups.

HOW PROBATION OFFICERS MAY ASSIST PEACEMAKERS

- Assist Peacemakers when a trial court uses them to make recommendations on sentences or a diversion plan, or to determine nályééh.

HOZHOKI BAHAZAHNI

The conciliation function of peacemaking, hozhoji bahazahni, is not compatible with the policing function, hash kai ji bahazahni.

REIMBURSEMENT AND PAYMENT

Peacemakers who perform the above functions shall be reimbursed mileage. Any fees required for their services shall be paid by participants which include offenders, victims, and/or families, or by PPS if the services have been requested by PPS and it is determined that the participants are unable to pay.

Record Keeping

A. ACCURACY

Each district office shall work with the District/Family Courts to ensure that information in PPS files and the court master files are conformed and developed to accurately reflect the client-offender's updated case record. Each PPO is responsible to ensure an updated master file is secured with the District Court Clerk.

B. SECURITY

Case records shall be maintained in a secure area safeguarded from unauthorized or improper access. Records not in use shall be stored in a locked fireproof file cabinet. Information shall only be released to persons authorized to receive the information. See also Navajo Nation Privacy Act, 2 N.N.C. §§ 81 - 92.

Check-Out Log for PPS Files – All removed file documents shall be entered in a check-out log including the name (and affiliation) of the person removing the document or file, and reason for the removal.

C. CONFIDENTIALITY

The following may not be disclosed to the public under any circumstances: memoranda submitted to a judge by the probation officer to be used in decision-making, personal notes and correspondence used for the preparation of such memoranda, and other information protected under the Navajo Nation Privacy Act.

In addition, the Chief Probation Officer in consultation with the Staff Attorney of the judicial district in which the PPS office is located may authorize the protection of any information and correspondence that would be potentially harmful to PPS personnel and other persons if made known to the public.

Client-offender Access – Contents of files may be released to the adult client-offender, a juvenile's parent or guardian or their advocate upon the signing of the proper consent form, subject to the above protections. In addition, the Chief Probation Officer in consultation with the Staff Attorney of the judicial district in which the PPS office is located may authorize the protection of any information and correspondence that would be potentially harmful to PPS personnel and other persons if made known to the client-offender.

D. CASELOADS

For an individual caseload that is manageable, reasonable, efficient and effective, the optimum number, as recommended by the American Probation and Parole Association, is 32 cases. The average caseload in Navajo PPS is 50 cases. When a PPO's caseload reaches 80 active cases, he/she shall inform the Chief Probation Officer. The PPO's caseload shall be evaluated to determine which cases could be discharged early, and recommendations shall be made to the court so that a reasonable caseload is maintained.

E. CASE NUMBERING

A uniform case file numbering system shall be used in all districts to identify PPS district, client, year, month, and other essential case file information at a glance. The individual number facilitates chronological control and easy retrieval. The case file number shall be styled as in the below sample:

KY-07-A001
 | | | |__ Chrono-Number
 | | |__ A = Adult; J = Juvenile
 | |__ Year
 |__ Kayenta District

PPS District Abbreviations:

AL.....	Alamo Dist/Fam Ct	RM.....	Ramah Dist/Fam Ct
AN.....	Aneth Dist/Fam Ct	SR.....	Shiprock Dist/Fam Ct
CH.....	Chinle Dist/Fam Ct	TC.....	Tuba City Dist/Fam Ct
CP.....	Crownpoint Dist/Fam Ct	TH.....	Tohajiilee Dist/Fam Ct
DK.....	Dilkon Dist/Fam Ct	WR.....	Window Rock Dist/Fam Ct
KY.....	Kayenta Dist/Fam Ct		

F. CASE FILE LABEL FORMAT

Case file labels shall be in the following format:

Sample Adult File Label:

WR-07-A001	GOODGUY, Bill	SS# _____
		CN# _____

Sample Juvenile File Label:

WR-07-J001	GOODGIRL, Joy	SS# _____
		CN# _____

G. FILE-KEEPING UNIFORMITY, GENERALLY

The goal is uniformity in all district PPS record keeping. To this end, district PPS offices shall develop uniformity by folder color or other coding system, maintenance of folders alphabetically, etc.

H. CONTENT OF CASE FILES

Case files shall be organized as follows:

LEFT SECTION

1. Offender Activity Entry Log containing chronological entries;
2. List of contact persons, including relatives or significant others, place of employment or school and direction on how personal contact can be made;
3. Commitment papers, most recent on top;
4. Correspondences from/to probationer/ parolee by PPO;
5. PPS Correspondence (CONFIDENTIAL)
6. All other non-court related documents in chronological order.

RIGHT SECTION

1. ADULT: Photo/Fingerprint card—most recent on top;
2. JUVENILE: Photo/ Fingerprint card ONLY BY COURT ORDER;
3. Pre and Post Sentence Reports;
4. Pre-Dispositional Report (juvenile);
5. Chronological Arrest Record;
6. Judgment and Mittimus;
7. Psychological or mental evaluation;
8. Probation or Parole Agreements;
9. Anticipated Discharge Information.

I. CASE FILE UPDATES

The PPO is responsible for updating case files and documenting the client's compliance with the terms of a probation / parole order. The PPO shall update client case files as events unfold. Regular updates provide for continuity of service if cases are transferred to a different PPO. The PPO's in-house record of a client's compliance may also be presented to the court as evidence at a modification, extension, or revocation hearing. Therefore, the updates must be regularly and properly maintained.

J. CASE FILE REVIEW

A case file review shall be conducted annually by the Chief Probation Officer and other appropriately designated Judicial Branch authorities.

Active files shall be reviewed and updated as frequently as needed. Active files shall also be timely reviewed well before the expiration of the client-offender's supervision period. The recommended period for review is 30 – 90 days before expiration of the supervision period.

Review of case files shall also be conducted at the time of transfer or release. Documents no longer appropriate or relevant shall be removed and returned to the Court Clerk.

K. ACTIVE & INACTIVE FILES

Files are designated "active" or "inactive." An example of an inactive file is when a client fails to comply with a judge's order to appear in court and a bench warrant is issued. The case is not discharged from probation, but becomes inactive while waiting for the client to be returned to court on the bench warrant.

L. CLOSED FILE PROTOCOL

Originals to Court. Upon completion of PPS supervision, the PPS field office shall make a duplicate copy of all information and hand carry all originals to the District or Family Court where the originals are placed in the closed court files that are stored and destroyed in accordance with Judicial Branch Uniform Case Management Policy.

Individual Closed Case Files. An individual closed case file is established for each adult and juvenile by name and stored alphabetically in a locked fireproof file cabinet. The case folder shall contain the individual's Social Security Number, Census Number and/or Birth Date. The duplicate copies of all case information are put into the folder and an index listing is secured on the left side of the case file for easy reference. The individual case files are very helpful in assessing each individual's supervision level at initial contact, and in completing Pre-Sentence Reports in a timely and efficient manner.

Removal/Destruction of Files. Juvenile closed case files shall be stored for two (2) years or until the juvenile turns eighteen (18) years of age, upon which PPS returns the case file to the court to be destroyed or expunged. There is no time limit for storage of adult closed case files.

If an individual has deceased, PPS shall obtain verification through funeral notice, death certificate, Navajo Nation Police Department or Criminal Investigations. Upon verification, the closed case file is put into a box labeled "deceased." Upon archiving, the case file may be destroyed. The office may retain a CD-ROM of the case file information and store it in a secured fireproof cabinet.

Access to Closed Files. Records shall be directly controlled by PPS personnel only. No unauthorized person(s) shall access a record.

M. SEALING OF JUVENILE FILES

Pursuant to procedures set forth in 9 N.N.C. § 1119, PPOs may petition the Family Court to seal the file of a minor or a person who was a minor when the file was created.

Supervision

A. CLIENT-OFFENDERS

Clients referred to PPS include the following:

1. Juveniles placed under a Consent Decree and other defendants for whom the court has issued a Diversion Order prior to a plea or finding of guilt and referred to PPS for fulfillment of conditions, after which charges may be dismissed.

2. Defendants placed on probation after conviction, and prior to or without actual incarceration.
3. Defendants placed on parole after conviction and a period of actual incarceration.

B. VERBAL AND WRITTEN CONDITIONS

Each client-offender received for supervision is to be given written conditions of probation / parole. In addition, the PPO shall read out loud to him or her the conditions and have the client-offender sign that he/she understands the conditions.

Special Conditions – The PPO shall emphasize that “special conditions” imposed by the court are to be strictly enforced during the period of supervision. The PPO has no option but to recommend revocation if a client violates a special condition.

C. DRUG USE

If included in written conditions of probation/parole, the PPO may refer a client-offender for substance abuse assessment at any time during a supervision period. The PPO should be on special lookout when an inmate is released to PPS parole supervision in which case the PPO may determine whether the new parolee should be assessed as to whether he/she might benefit from an alcohol and drug dependency treatment program.

D. LEVEL OF SUPERVISION

Under the authority given to PPOs by Nav. R. Cr. P. Rule 52(c) to set regulations of supervision, the PPO shall assign an appropriate level of supervision that takes into account the severity of the offense, and the circumstances and risk level of each client.

There are 4 levels:

1. **INTENSIVE:** This level is appropriate for client-offenders who pose the highest risk to public safety, but are still eligible for probation/parole. To be given this level of supervision, the offense must have been against multiple victims or involve property damage in excess of two thousand dollars. In addition, the offender shall have had one or more other prior convictions for offenses against persons within the preceding two years. If the offender has a history of alcohol/substance abuse, the offender shall submit to Random Alcohol Testing (RAT) if provided for in written conditions of probation/parole. If the offender has a history of dysfunctional or emotionally debilitating illness, he/she should be placed on a structured weekly form of counseling.
2. **MAXIMUM:** This level is appropriate for a client-offender who is convicted of or pleads guilty to a crime of violence, DUI or any offense which carries a sentence of one (1) year. This level requires one (1) personal contact in the form of a home visit or other field contact per week for the first three months of supervision; thereafter, depending upon the client-offender’s progress, modification of the level of supervision shall be reduced or enhanced.

3. **MEDIUM**: This level of supervision is for those offenders convicted of offenses less than DUI or crime of violence and whom the PPO determines that more active supervision is required. This level requires one (1) contact with the client every other week in the PPS office, via home visit or other field contact.
4. **MINIMUM**: This is the least restrictive level of supervision. This level is for those clients convicted of offenses less than DUI or crime of violence and whom the PPO determines need minimum supervision. Offenders convicted of offenses which require community service or a sentence other than payment of a fine, or traffic offenses, are presumed to require this minimum level of supervision, unless the PPO has reason to believe otherwise based on his/her personal interaction with the client and knowledge of the client's circumstances. This level requires one (1) contact with the client every month in the PPS office, via home visit or other field contact, or by phone or mail. The client may be required simply to call or mail their particulars to the PPO once a month. The particulars include reporting as to where they are working and living, who they are living with, and how they are doing.

E. REGULATIONS TO IMPLEMENT CONDITIONS

Nav. R. Cr. P. Rule 52(c) authorizes the PPO to place regulations on the client-offender to implement supervision conditions. Such regulations include, but are not limited to, the following:

1. Assign supervision level.
2. Make referrals to community service or Diné traditional cultural education.
3. Require the client-offender to attend scheduled appointments and alcohol/substance abuse awareness and education days. Appointments scheduled shall be noted in the client-offender's file. If an appointment is cancelled or postponed, this fact shall be recorded in the case file along with a notation whether the client-offender or PPO required the action.
4. Conduct random searches pursuant to court order. The PPO may conduct random searches respectfully and as reasonably required.
5. Conduct random drug and alcohol testing pursuant to court order. Random tests may be conducted by a properly trained PPO at any time during the supervision period pursuant to established protocols.
6. Require verification of residence. Both probationers and parolees are required to verify their place of residence at PPS intake, and to apprise their PPO immediately of any changes.
7. Visit client-offender's home for assessment purposes. A home visit may be conducted at the discretion of the PPO if the PPO considers it is necessary in order to adequately assess a client-offender's needs specifically in relation to progress and compliance with supervision conditions.
8. Engage family and clan as traditional probation officers to assist the client-offender in completing supervision conditions.

F. PARTNER, MONITOR AND ASSIST

The PPO shall regularly monitor and help the client-offender progress and comply with all terms of supervision as written in a court order and as set forth in a supervision or reentry plan.

Restoration of *hozho* and community wellness with the involvement of community resources are important PPS goals. Community resources and networks shall be utilized in helping a parolee reenter the community, in helping with alcohol or substance abuse issues, etc. Such resources include social service, treatment, educational, training, and community service programs.

Resource List. The PPS district office should maintain a resource referral list. The list should note whether a collaborative agreement or partnership exists. Some examples:

- a. Peacemaker counseling and teaching.
- b. Traditional healing.
- c. Substance Abuse Treatment Programs – inpatient, intensive inpatient, outpatient counseling, traditional healing, educational.
- d. Support Groups – e.g. Alcoholic Anonymous (AA), Narcotics Anonymous (NA), support groups for e.g. loss of job, divorce, death of loved one, etc.
- e. Mental Health Agencies.
- f. Employment and training programs.
- g. Adult education/High School completion programs.
- h. Treatment facilities or programs for batterers and abused spouses/partners.
- i. Shelters for the homeless and for abused families and children.

G. PERSONAL RISK SITUATIONS

There are situations where PPOs, while performing their duties, may be at risk of being hurt, injured, threatened and stressed. You may encounter “acting-out” behavior and family violence in office or home visits; a client-offender who is at-risk for suicide or self-harm; or encountering a potentially communicable disease e.g. T.B.

Self-Defense Training. The Chief Probation Officer shall ensure self-defense training with the Police Training Academy for all PPOs within their first year of employment.

Volatile Homes. PPOs going to volatile homes should consider requesting back-up assistance from another PPO or the police. The field itinerary shall be given to the PPS district office in case emergency help is needed. Do not go alone especially at night. PPOs should weigh out the "need" to go, and consider consultation with the Chief Probation Officer. Cell phones should be turned on. When the visit ends safely, the PPO should call in to let the office know the visit has ended without incident. If appropriately trained, carry pepper spray. Stand back from the door giving the other person space and giving you opportunity to move quickly if necessary. Identify yourself clearly. Avoid bedrooms; sit down at the same time as the other person and be prepared to terminate the visit at any time.

In-Office Interviews. Designate secure areas in the office. Carry out escape and evacuation drills.

Communicable Diseases. PPOs may be at risk of infection through contact with their clients while perceiving disease control as outside their scope of responsibility. It is in the best interest of PPO staff who work closely with offenders to be aware of TB cases and to be able to work toward protecting their own health as well as the health of client-offenders and their families. The Chief Probation Officer will develop interagency protocols with Navajo Nation DBHS, IHS, and/or other agencies in order to train PPOs to identify clients with TB infection and disease and encourage compliance with prophylactic and treatment regimens.

H. CASE FILE REVIEW

The PPO shall regularly review a client's compliance and chart the client's progress.

I. REPORT VIOLATIONS TO COURT

The client remains under the Court's jurisdiction while under supervision. Pursuant to provision 2.6 of the Uniform Sentencing Policy, the PPO shall submit reports to the Court regarding violations of conditions and the court may bring the defendant before it to address them.

J. STATUS REPORTS

PPOs may submit status or progress reports on adult client-offenders to the court, and on juvenile offenders to the juvenile presenting officer. Such reports may include requests for a hearing and recommendations for modification, extension, early termination of probation or parole, lowering nályééh pursuant to changed circumstances of the client-offender or due to mutual agreement by the victim, recommendation for referral to post-sentencing peacemaking, etc. and revocation in adult probation/parole cases.

K. JUVENILE PROBATION

The conduct of juvenile probation is set forth in great detail in the Navajo Nation Children's Code, which shall be strictly followed. All PPOs should have a hard copy. Additionally, a summary of the Children's Code is available on the Probation Services webpage. Unfortunately, copyright issues with the Legislative Counsel do not permit the Children's Code itself to be web-posted.

In addition, the following policies apply:

1. Activities related to gang membership, identification or association with known gang members will not be tolerated and will be immediately reported to the Juvenile Presenting Officer.
2. Juvenile offenders are to be encouraged to participate in supervised after school activities that foster positive behavior changes.

L. JUVENILE CONSENT DECREE

9 N.N.C. § 1154 provides that before the entry of a judgment in delinquency and CHINS cases, the Court may, on motion of the presenting officer or counsel for the child, suspend the proceedings and continue the child under supervision in his own home under terms and conditions negotiated with probation services. The Court order continuing the child under supervision is called a "consent decree".

The period of a consent decree is six months unless the decree is discharged sooner by probation services. Prior to the expiration of the six months period, and upon the application of probation services or any other agency supervising the child under a consent decree, the Court may extend the decree for an additional six months in the absence of objection to extension by the child.

If, prior to discharge by probation services or the expiration of the consent decree, the child allegedly fails to fulfill the terms of the decree, the presenting officer may file a petition to revoke the consent decree. PPS may submit a recommendation for revocation to the Juvenile Presenting Officer, who must initiate and sign the revocation petition.

M. DIVERSION

A Court may order diversion in both adult and juvenile delinquency and CHINS cases at any stage prior to a plea or finding of guilt in order for the defendant to fulfill certain terms and conditions, after which the court may dismiss the case without determination of guilt. In adult cases, the Prosecutor may enter into Deferred Prosecution Agreements with defendants. Such agreements become part of a diversion order.

A Diversion Order is good for a definite time period with a “not guilty” plea put on the record for future disposition.

N. COURTESY SUPERVISION

Courtesy supervision applies to transfers of probationers and parolees from one judicial district to another within the Navajo Nation, and from foreign jurisdictions (i.e. state and federal) to Navajo Nation jurisdiction.

The procedures below are intended to maintain a uniform method of transfers of probationers and parolees from one judicial district to another within the Navajo Nation; and to facilitate the return of offenders under probation or parole or incarcerated in states across the United States or in federal institutions who desire to return to the Navajo Nation. In addition, these procedures ensure that special conditions ordered by the sending court are addressed in order that transferees are able to be given appropriate services by Navajo Nation programs.

Transfer within the Navajo Nation

The sending court shall notify the receiving court of the request for transfer of supervision. If the receiving court accepts supervision, the PPS district office shall open an appropriate file. Information from the sending court and PPS shall be made part of this file.

Transfer from Foreign Jurisdictions

1. Upon receiving a request for courtesy supervision transfer from a foreign jurisdiction, the receiving court shall notify the Chief Probation Officer in writing.
2. The matter will be referred to the PPS district office of the receiving court for verification.
3. The PPS district office of the receiving court shall verify the transferee probationer / parolee’s information contained in the request, such as employment, school, residency and other pertinent information.
4. Upon verification of the pertinent information, an initial assessment shall be made by the PPS district office to verify whether there are resources available within the community to meet any special conditions.

5. Upon verification of available resources, the receiving court's PPS district office shall assign the case to a PPO who shall evaluate his/her caseload to determine whether courtesy supervision by him or her would be effective.
6. Upon receipt of PPS's verification, the receiving court shall notify the Chief Probation Officer whether courtesy supervision will be accepted. If the court declines courtesy supervision, a written reason for declining shall be provided to the sending court of the foreign jurisdiction.
7. If the accepting court accepts supervision, the PPS district office shall open an appropriate casefile. Information from the sending court and/or the foreign jurisdiction's probation / parole services shall be made part of this file.
8. The PPO shall make note of any special conditions ordered by the sending court, such as rehabilitation or treatment and arrange for Navajo Nation services and programs in the district of the receiving court.

O. PAYMENTS OF FINES AND NÁLYÉÉH

PPOs are forbidden to receive any payments from client-offenders, including payments of court fines and nályééh normally intended for victims. Payments of fines are to be made to the court clerk. Payments of nályééh are to be made to the Prosecutor's office. The PPO is responsible to arrange for notification of such payments by the Prosecutor and/or client-offender in order to track and record the payments in the case file.

P. MODIFYING, EXTENDING, REVOKING, AND TERMINATING SUPERVISION

Modification or Extension.

Status Report. Pursuant to the Uniform Sentencing Policy Section 2.6, the court may receive reports from a PPO regarding violations of conditions and bring the defendant before the court to address them. The court may enter orders of temporary release to suspend or modify the execution of sentence to provide for treatment or rehabilitation. This is pursuant to the rule of necessity, given limited jail space.

In the status report, the PPO may recommend modification or extension as circumstances require or in cases of violation of general terms. If a victim of a serious crime is involved, the PPO shall confer with the victim. The PPO shall also discuss the situation with the client-offender and client's advocate, if any. If the client-offender agrees to the change, it shall be so noted in the report to the court. Prior to filing the recommendation, the PPO shall obtain a current Criminal History in order to confirm there were no new arrests and/or convictions during the supervision period.

Changes as Circumstances May Require. There are many reasons other than a violation why modifying or extending an order may be necessary during the supervision period. The court may extend the probation period as circumstances may require as long as the maximum period of probation is not exceeded. Terms of supervision may also be modified as circumstances may require.

NOTE THAT PAROLE PERIODS May Not Be Extended. While probation periods may be extended, parole periods may not be extended for any reason.

Revocation

Juvenile Probation. Revocation proceedings must be commenced within the probation period. Pursuant to 9 N.N.C. § 1161, revocation of juvenile probations shall be according to the procedures for filing petitions in delinquency proceedings, which require petitions to be initiated and signed by the Juvenile Presenting Officer. The PPO shall submit a recommendation to the Juvenile Presenting Officer, with copies to the client-offender, advocates, and/or parents or guardians. The Juvenile Presenting Officer may then file a revocation petition.

Adult Probation/Parole. Revocation proceedings must be commenced within the probation/parole period. Nav. R. Cr. P. Rule 53 permits the PPO to recommend revocation to the Prosecutor upon violation of a condition or regulation. The PPO shall submit a recommendation to the Prosecutor with copies to the client-offender and/or offender's advocate. The Prosecutor may then file a revocation petition. At the same time, the PPO may submit a report to the Court regarding violations of conditions pursuant to the Uniform Sentencing Policy Section 2.6.

It is recommended for all PPS district field offices that both the above recommendation to the Prosecutor and report to the Court be submitted concurrently at least 30 days prior to the end of the probation/parole period.

If there is no action either from the Court or from the Prosecutor two (2) weeks prior to the end of the probation/parole period, it is recommended that the PPO file a report with the Court informing the Court when a recommendation had been filed with the Prosecutor, when a report had been filed with the Court, and when the probation/parole period ends.

Pursuant to the Uniform Sentencing Policy Section 2.6, the Court may bring the defendant before the Court to address the violations.

Violation of Special Conditions. The PPO has no option but to recommend revocation when a client violates a special condition of probation / parole. The special condition must have been specifically identified as such by the court in the sentencing order.

Termination

Due to Successful Completion. Supervision may be terminated upon successful completion simply by filing a Notice of Termination with the court at the expiration of a supervision period. Prior to filing the Notice of Termination, the PPO shall obtain a current Criminal History in order to confirm there were no new arrests and/or convictions during the supervision period.

Due to Other Reasons. If the PPO recommends termination for the following reasons, a Notice of Termination is not sufficient. The PPO must submit a report including an explanation of the reason for recommending termination in the following situations:

1. Early discharge – client has fulfilled all conditions before the time limit.

2. Client has passed away. The PPO must attach a death certificate to the Supervision Progress Report.
3. Client has disappeared for a lengthy period of time, and has reappeared in satisfactory circumstances, i.e. has maintained a job and supported his/her family for a lengthy period, has maintained sobriety, and has not re-offended. In such cases, the PPO may recommend that the court discharge him/her without punitive action.
4. Client is indigent and unable to fulfill monetary conditions of probation. He/she appears incapable of improving his/her life circumstances due to health or lack of employment opportunities, and is not considered at risk of committing serious crimes.
5. Client is unable to meet the full obligations of the order but has made a "good faith" effort to meet those terms which were possible.
6. Although client technically complied with the terms of supervision, he/she has shown no improvement in attitude and remains at risk for further legal offense. The PPO may note this in the Supervision Progress Report and may still recommend discharge.
7. Client has paid nályééh but court costs and fines remain unpaid. While nályééh must be fully paid before discharge, court costs and fines may continue to be outstanding after discharge.
8. A child has reached the age of 18 and probation automatically terminates.

Q. EVIDENCE

Acts or omissions of the client-offender must be established by evidence collected by the PPO and presented to the court. The evidence may include:

1. Court records of new arrests and/or convictions. (Arrests are carefully reviewed on a case-by-case basis to determine if there is a violation.)
2. Police reports or police officer's testimony.
3. In-house records (including Monthly Written Reports) reflecting the client's failure to report to supervision.
4. Records indicating the client failed to pay nályééh or other fines and costs.
5. Drug tests indicating the client has used drugs or alcohol.

R. SEX OFFENDER REGISTRY

As amended by the Navajo Nation Council on April 21, 2006, the Navajo Nation Sex Offender Registry Act at 17 N.N.C. § 220 mandates that all court sentences for convictions, guilty pleas, pleas of nolo contendere, and all conditions of probation and parole violations for sexual offenses shall require that the offender register and maintain registration as a sex offender with the Navajo Nation Chief of Police. The Sex Offender Registry has not yet been established by the Navajo Nation Chief of Police.

In addition, the Adam Walsh Child Protection and Safety Act (Pub. L. 109-248) that was signed into law on July 27, 2006 requires all state and territorial registries be made available to the public through the internet for all sexual offenses against minors and severe sexual offenses such as trafficking, conspiracy, transportation, and aggravated contact and abuse. There is a July 27, 2009 deadline for compliance.

PPS Filekeeping. Those convicted of sexual offenses who are supervised by PPS are in a special reporting category. Files of such client-offenders should be marked "Sexual Offender Registrant" pending establishment of the Registry.

Life-Long Sex-Offender Reporting Requirement. If instructed to do so by the court, the PPO shall make sure these client-offenders are aware that while their PPS reporting requirements may end at the end of the supervision period, the Navajo Nation requirement to register their address with the registry, once the registry is established, will be life-long.

Assisting the Client-Offender. Treatment, counseling, and supervision for such client-offenders shall be a priority.

S. PROGRESSIVE SANCTIONS AND ALTERNATIVE SENTENCING

17 N.N.C. § 1818(B) provides that "Any person who shall violate his or her probation pledge shall be required to serve the original sentence." This means that the court has no alternative but to require detention upon non-compliance if the original sentence was incarceration.

However, the Department of Corrections has urgently requested that the district and family courts consider alternative sentencing due to a dangerous and critical lack of detention space. Pursuant to the Uniform Sentencing Policy Section 2.6,

the court may receive reports from a PPO regarding violations of conditions and bring the defendant before the court to address them. The court may enter orders of temporary release to suspend or modify the execution of sentence to provide for treatment or rehabilitation. This is pursuant to the rule of necessity, given limited jail space . . .

Courts have used their criminal contempt power under the Uniform Sentencing Policy Section 1.10 to impose an appropriate punishment on a defendant when he/she disobeys a condition of a sentence. Criminal contempt is a new and separate criminal proceeding. Section 1.11 further permits a court to charge a defendant with the offense of obstructing justice where he/she disobeys an order entered as part of a criminal sentence.

The Judicial Branch is exploring effective progressive sanctions and alternative sentencing to address the Navajo Nation jail space crisis while preserving community safety and well-being.

To this end, PPS shall assist the Judicial Branch in establishing guidelines for recommendations of progressive sanctions, and for pursuing resources to support alternative sentencing. These guidelines and resources will be developed by the Chief Probation Officer with the participation of PPOs.

District PPS offices and the Chief Probation Officer shall have the authority to pursue grants and partnerships for the above purposes with guidance and technical assistance as assigned by the Chief Justice.

Progressive sanctions recognizes that resources, including detention and probation services, are limited and to allocate them according to their expense, availability, and in accordance with the long term goals of probation. It further ensures that similarly situated offenders are treated

consistently. The purpose is to provide a framework for imposing graduated interventions and sanctions for violation behavior based on the violation's

- (a) seriousness,
- (b) frequency, and
- (c) duration (that is, the period of time over which the violation(s) have occurred).

In order for progressive sanctions to be effective, the resources for graduated interventions and sanctions must be developed. This is a priority for PPS.

T. INMATE TRACKING

A practice formerly routine in PPS but discontinued in recent years is inmate tracking. Tracking began when an offender sentenced to incarceration was received and processed into the detention center by Correction Services. Corrections Services would notify PPS and PPS would open an Inmate Tracking File immediately for each received inmate. An Inmate Tracking Form would be immediately completed and put into the file. The inmate would be tracked until released.

The importance of inmate tracking was due substantially to the difficulty in accessing justice system information across components in real time. The PPO would also be able to identify client-offender issues and prepare for them in advance of parole.

Some form of inmate tracking may be revived at the discretion of the Chief Probation Officer including, but not limited to, regular meetings between PPS and Corrections staff focusing on the long-term goal of successful prisoner reentry.

Reports

A. QUARTERLY REPORTS

Informational data, including accomplishments, shall be gathered on a quarterly basis for a public report on PPS field activities. The quarterly report shall be submitted by each PPO to the Chief Probation Officer who shall gather and analyze the reports for submission to the Chief Justice.

The quarterly narrative shall include—

1. District name, name of person submitting the report, and date.
2. Summary of cases handled including supervision level assigned to each case; cases brought forward; new cases assigned; supervision plans for conclusion/referral for each case; and plans actually provided.

3. Summary of field activities which directly benefited assigned client-offenders, described in sufficient summary detail in order to give a clear idea of the activity, including:
 - a. number of home visits completed per client-offender;
 - b. community oriented meetings attended;
 - c. Chapter Meetings attended, and what was discussed;
 - d. number of school visits, including the purpose, subject matter discussed, persons contacted, etc.;
 - e. educational services rendered, including topic, number of attendees; and
 - f. local and community requests for services responded to.
4. Synopsis of staff development improvements and training, including:
 - a. Self-initiated district projects;
 - b. Training attendance;
 - c. In-service trainings;
 - d. Facility problems and recommendations;
 - e. Training needs and requests.
5. Any other data required by the Chief Probation Officer.

B. PRE-SENTENCE REPORTS

Adult Pre-Sentence Reports are permitted by the Nav. R. Cr. P. Rule 50(a)(2) and the Uniform Sentencing Policy Section 4.4(a).

If an defendant is sentenced to PPS supervision, the Pre-Sentence Report will be used by a PPO to make an initial assessment of case needs and risks. The report will provide the court with timely, relevant and accurate data to identify the most appropriate sentencing options. A further purpose is to serve the needs of the detention facility, or PPO, with future responsibility over the offender.

Procedure

1. Pre-Sentence Reports are customarily required for more serious offenses involving a likelihood of incarceration, but may be ordered by a court for any offense.
2. The Court may order a Pre-Sentence Report on a defendant after a finding or plea of guilt in order for the Court to receive PPS' sentencing recommendation prior to sentencing.
3. The court's order is logged, the investigation is assigned, and a Pre-Sentence Report Investigation File is opened. A log is kept reflecting:
 - i. date investigation orders were received;
 - ii. date PPO was assigned;
 - iii. report due dates;
 - iv. report completion dates, and
 - v. dates reports were delivered to the court.

4. The PPO notes down whether the defendant is or is not in custody, any scheduled hearings, and the deadline for report submission. The time period for PPS to generate a report is usually is no longer than 20 days if the defendant is not in custody, and no longer than 10 days if the defendant is in custody. In exceptional circumstances, the PPO may be required by the presiding judge to produce the report even sooner where circumstances require immediate sentencing.
5. PPO interviews the defendant. Offender statements shall be included in the report.
6. PPO obtains defendant's criminal history.
7. PPO interviews the victim(s), defendant's family, friends, employer, teachers, (juvenile) protective service worker, etc.
8. PPO conducts further investigations as needed.
9. PPO prepares report and files it with the court within the required time limit with copies to the Prosecutor and defendant and defendant's advocate, if any.
10. PPO attends the sentencing hearing and gives an oral report referencing the submitted written report.
11. The Pre-Sentence Report is preserved and copied into any file opened for defendant in future.

Contents

The Report shall include the following basic information:

1. a summary profile of the defendant on the Fact Sheet;
2. defendant's criminal history;
3. description of the offense and circumstances surrounding it;
4. defendant's vocational background and work history, including military record and present employment status;
5. brief social history of the defendant, including marital status, financial status, length of residence in the community, chapter affiliation, educational background, and other data;
6. defendant's medical history, substance abuse history (if any), and if PPO believes necessary, a psychological or psychiatric report or questionnaire;
7. the victim(s)' financial, social, psychological or physical harm suffered, including nályééh needs;
8. written impact statement of victim(s), if provided;
9. any statement defendant wishes to make;
10. any statement from the Prosecutor / Presenting Officer, Social Services, or protective services;
11. any agreement pursuant to peacemaking;
12. any other information that may help the court in sentencing.

Furthermore, the Report shall include the following assessments:

1. An evaluation and a prognosis for the defendant's adjustment in the community based on factual information contained in the report;
2. A specific recommendation for disposition based on the evaluation and sentencing guidelines;
3. Diagnostic opinions.

Peacemaker Referrals

Peacemakers may recommend sentencing and/or nályééh in any case referred to them by the Court and may recommend sentences pursuant to Section 5.4 of the Uniform Sentencing Policy.

If the PPO's investigation leads to a conclusion that a peacemaker rather than PPO should be utilized for the above purposes, the PPO shall so inform the court.

Quarterly Review

The Chief Probation Officer shall review, quarterly, a sampling of Pre-sentence Reports from all district PPS offices for the purpose of maintaining an updated list of sentencing options being recommended by Navajo Nation PPS.

Spot Review

At any given time, the Chief Probation Officer may request, from any district PPS office, 5% of Pre-sentence Reports completed during that quarter. Selected districts shall be notified when and what reports to submit. This review is intended to keep the Chief Probation Officer abreast of the preparation and submission of reports, not to check on individual PPOs.

Annual Review

The District PPOs shall meet at least annually with sentencing judges in their district to evaluate pre-sentence investigations and reports for timely, relevant and accurate information.

Reports Concerning Serious Crimes Against Minors

In order to assist in tracking PPS recommendations in such cases for purposes of assessing effectiveness and use of resources, District PPS offices shall maintain a separate file of district pre-sentence reports which involve serious crimes against a minor victim.

C. JUVENILE PRE-DISPOSITION REPORT AND STUDY

The preparation of a Pre-Disposition Study and Report for juveniles charged with offenses is specifically authorized by 9 N.N.C. §1054(A) of the Navajo Nation Children's Code.

Procedure

If a Pre-Disposition Study and Report ordered by the court, Section 1115 of the Children's Code provides that evaluations, assessments, dispositional reports and other material shall be submitted to the Court no later than 5 days before a scheduled juvenile hearing date. A copy of the Predisposition Report shall be provided to counsel for all parties at least 5 days before the dispositional hearing.

If the report cannot be completed in time, the PPO shall file an affidavit including reasons why the report has not been completed, also no later than 5 days before the scheduled hearing date. Otherwise, the Court may dismiss a petition.

The Court may continue a hearing on the petition for a reasonable time to receive reports and other evidence bearing on the need for care or rehabilitation or in connection with disposition.

Confidentiality

Pursuant to 9 N.N.C. § 1118, All or part of predisposition studies and reports, as well as all social, medical, psychiatric and psychological records of the court concerning a child and produced by authority of the Children's Code may be inspected only by the following:

1. The judge, caseworkers, probation officers and court personnel;
2. Representatives of any agency providing supervision and having legal custody of the child;
3. Representatives of the Division of Health;
4. Any other person, by order of the Court, having a legitimate interest in the particular case or the work of the Court.

The court may withhold identify of informants after a finding that disclosure would place him/her in danger or would not be in the child's best interests.

D. PRE-DISPOSITIONAL REPORT FOR TRANSFER OF JUVENILES FOR ADULT PROSECUTION

If a child was 16 years of age or older at the time of the alleged delinquent act, and the act would be a crime if committed by an adult, the court may transfer the matter for prosecution in the District Court before a hearing on the merits, pursuant to 9 N.N.C. §1114.

A Pre-Dispositional Report must be prepared by the Juvenile Representative and a transfer hearing must be held before the case may be transferred. The report is submitted to the court, to the child, his/her counsel, or his parents, guardian or custodian. Pursuant to 2 N.N.C. §1988, the Juvenile Representative is under the supervision of the Juvenile Justice Administrator in the Office of the Chief Prosecutor. However, to date no such position presently exists in the OCP. For practical purposes, some district courts have requested assistance from the district PPS in preparing Transfer Pre-Dispositional Reports.

Pursuant to 9 N.N.C. § 1114, the Juvenile Representative shall make specific findings in regards to the following:

- a. Whether or not the child is amenable to treatment or rehabilitation as a child through available facilities;
- b. Whether or not the child is committable to an institution for the mentally retarded or mentally ill; and
- c. Whether the interests of the Navajo Nation require that the child be placed under legal restraint or detention.

E. STATUS AND VIOLATION REPORTS

Reports and recommendations in juvenile cases are authorized by 9 N.N.C. §1054(A)(2). Pursuant to the Uniform Sentencing Policy Section 2.6, the court may receive reports from a PPO regarding violations of conditions and bring the defendant (adult and juvenile) before the court to address them.

The preparation, format, and procedures for submission of status and violation reports in both adult and juvenile cases are presently on a district by district basis.

The Chief Probation Officer will develop a single format, and procedures for preparation and submission of these reports with the participation of PPOs.