



Crossing the Bridge: Tribal-State-Local Collaboration

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I. Introduction

How do we begin? When meeting with people who are looking to establish a collaborative project with a tribal government or a Native group, this question often comes up: “How do we begin?” In some jurisdictions, the question may be more properly “How do we pick it up again?” because previous attempts at collaboration had died on the vine or ended badly.

Why should we collaborate? This is another common question. Is it based in altruism, wanting to help those in need of assistance? Is it because there are mandates that we cannot ignore? Is it because we have experienced some guilt at the exclusion of tribes from collaborative partnerships? Is it because we have been approached or invited and are tempted to join? Collaboration may be part of a larger requirement to consult with tribes on issues that affect them. Most federal agencies have consultation policies, and many require state and local agencies that accept federal funds to consult with tribes on how those funds are used. Many states also have consultation policies. **Consulting and then collaborating to implement the innovations and solutions that are suggested is an indication of meaningful consultation.**

In some cases, the motivation to collaborate is the necessity of finding a solution to a persistent problem. For example, in northern California, a tribal judge wrote a letter to the chief justice of the California Supreme Court about a public safety issue he was facing. That one letter began a process that has created an ongoing relationship between the state and tribal judges in California, which in turn has led to collaboration in a growing number of

How can the collaboration overcome a history of inaction, animosity, and distrust?

Court Appointed Special Advocates (CASA) is a volunteer organization that seeks to provide a voice to children involved in the child welfare system of this country—one child at a time. Resources are rarely enough to meet all the needs and a network of programs have been developed that readily assist and share with other programs. More than a decade ago an effort was made to extend the program reach into Indian country. However, it was not that easy. After several years of attempting to partner with a county-based program, the neighboring tribal program gave up, observing that “they seem to let the bridge, connecting a handful of miles of roadway, prevent many of the non-Indians from coming onto the reservation. Almost like they were afraid.” These people grew up in the same schools and lived close to each other, but the communities had almost nothing to do with each other.

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areas throughout the state. In other situations, jurisdictions have come together to meet a legal requirement that they collaborate. The Adam Walsh Act, for example, gave rise to several jurisdictions working together to implement sex offender registries.

Regardless of the reason, the benefits of collaboration—better services, increased amount or range of resources, increased insight, and regional solutions to problems that do not recognize jurisdictional boundaries—are many. This guide is intended to give those searching for answers on “where to begin” a place to start and to suggest strategies that might be helpful.

The approach discussed in this article requires thoughtful planning. Be mindful of resource issues—you don’t want to exhaust the champions who would be part of the collaboration. The luxury of enough time to undertake a thoughtful effort is of special value if the issue is not currently an emergency or if there have been problematic previous attempts at building a working relationship. This approach might be too time consuming when you’ve got a deadline to meet or when you have a pressing concern that requires a quick solution. This approach may also feel like overkill if you already have an established relationship with the other jurisdiction. In those situations, this approach can still be helpful as a checklist of sorts—a list of considerations and recommendations that may be helpful when you are thinking about how to improve your project. It can be difficult to find the time to plan projects, but thoughtful planning may result in smoother, less traumatic, and more successful efforts to build a collaboration.

In this guide, we lay out a plan that starts with preparing to collaborate by planning internally, continues with planning together as collaborators, and then offers tips for the ongoing collaboration. We look at roadblocks along the way and suggest some alternate routes to reach your common destination.

II. How to Prepare to “Cross the Bridge”—Planning Internally

The following section walks through steps that might serve as a guide for your internal planning conversations and decisions. Before you “cross the bridge” to work with your partner in another jurisdiction, do the necessary internal planning.

Note: These steps are listed sequentially, but that does not necessarily mean they must be accomplished sequentially. You may, for example, decide to include additional team members after you assess your readiness to collaborate. Sometimes being open to revisiting prior steps as the collaboration proceeds is not a waste of valuable time but may be necessary to avoid newly discovered problems or to otherwise improve your collaboration as you move forward.

1. **Set Initial Goals**—In Michigan, when tribal and state courts came together after years of inactivity following a period of previous regular meetings, the goal of the renewed effort was to understand the parallel judicial systems (strengths, limitations, resources,



and financial issues) and to build personal relationships. If you have the luxury of time, consider replicating this model and making relationship building your first goal. After trust has been established, and you understand each other, working with your partners can begin to develop targets for future collaboration. Even if you are facing a deadline because of a legal compliance issue or other crisis, a goal of building relationships and establishing trust can result in unexpected benefits, including avoiding a future crisis and developing innovative solutions to otherwise vexing problems.

2. **Create Your Team**—The initial makeup of your team is ultimately going to depend on the goal of your collaboration, and membership of your teams may change as your relationship builds and new goals are identified. When new problems are tackled, new skill sets may be required. But don't allow the desire to put together the perfect team get in the way of starting the project. Identify people who have a reputation of solving problems or who appreciate new perspectives and invite them to attend, either as a participant or an observer. As you proceed, make sure to periodically ask "who else should be invited to the table?"

Remember to invite people who will set a good tone for the group—people with a demonstrated ability to listen, who disagree without becoming disagreeable, and who are willing, when warranted, to take an intermediate step in the right direction. It is also helpful to include people who have a good insight into the history of the relationship and are willing to work to improve it. It is also important to successful problem solving to have people who are conversant with opposing or differing views.

The makeup of the team should also depend on the skills you need to accomplish your goal. Think about not only who is at the table, but who should also be in the room for the discussions and which perspectives need to be considered before trying to implement any solution.

Often overlooked are the people who work behind the scenes. Some of the most promising collaborations floundered because they did not have support staff to send out meeting announcements, take notes, track assigned roles and responsibilities and basically keep the "trains running."

Without someone to attend to the details, it will prove difficult to keep momentum going. If you and your partners do not have sufficient resources to dedicate to this task, then the collaboration must talk about who is willing to carve out time in their schedule to meet this need. Be pragmatic. If you have a partner that is notorious for overbooking

Collaboration Tip

Support staff can be key in keeping the collaboration on track, organized, and ready to work together.



themselves, recognize that up front and take steps to mitigate their well-meaning but potentially damaging tendency to overcommit.

One size doesn't fit all. Depending on the size of the project you have in mind, you might want to consider having a planning core team that meets more frequently to plan, follow up, set agendas, and invite guests for their specific expertise. In other settings, a larger work group may meet less frequently to oversee and assess the ongoing nature of the work while smaller workgroups focus on more specific areas of concern. However you set up the structure, try to be respectful of people's schedules. Balancing busy schedules and setting aside enough time to develop relationships can be a difficult task but developing these relationships has proven to be rewarding and can lead to additional collaborations that weren't part of the initial vision.

In especially problematic situations in which even basic commitment to shared goals is in question, it might be necessary to hire a facilitator. Such a facilitator needs to be especially skilled at diffusing anger and redirecting mistrust. While it is not out of the realm of possibility that this can happen when you are planning internally, this issue more often arises when teams from different jurisdictions meet, and so this point is discussed more at length in section III, part 2, below.

3. **Set Realistic Timelines**—Make sure to consider what other events and activities are impacting the work in your jurisdictions—is domestic violence prevention month coming up and will several of your staff be preoccupied with events? Is it the tail end of an election cycle and will taking a position be risky? Will much staff be gone for training or holidays? Be practical about how long it will take to accomplish your goal. Importantly, build in plenty of time to process ideas and differing points of view. Building consensus takes time and difficult conversations need time to work through and resolve. Don't rush it. Finally, it may be necessary to build in time to develop political support that might be needed to approve and support any agreements.

As your initiative moves forward, periodically track yourselves against your expected timetable. Are there delays that might repeat themselves? Are there workarounds or will you need to adjust future timelines? Are there milestones that might be celebrated? Did you experience "project creep" (a slow movement away from the original purpose of the project that can happen when the project is not well defined) that is now making it difficult to

Collaboration Tip

Define collaboration as it pertains to your own organization internally so that everyone on your team has similar goals or expectations.



reach your initial goal within your initial timeline? Check back as needed to reassess whether the previously established deadlines are still feasible.

4. **Define Collaboration**—Collaboration sounds simple, but anyone who has worked in a group knows that this is usually not the case. Sometimes, the difficulty stems not from working with your new partners in the other jurisdiction but working with the partners *within* your own jurisdiction. A helpful step in any partnering, therefore, might be to define collaboration as it pertains to your own organization internally so that everyone on your team has similar goals or expectations. It might be helpful to clarify the kind of relationship you currently have with your own organizational partners, think about the kind of relationship you would like to have, and come up with a plan to move everyone in that direction. In *Building a Legacy of Hope: Perspectives on Joint Tribal-State Jurisdiction*, the authors suggest that there are five levels of interaction.

Five Levels of Interaction

1. **No cooperation**—Efforts to help the other operate are absent.
2. **Minimal levels of cooperation**—There are some efforts to provide help to the other jurisdiction so that both operate more efficiently.
3. **Full cooperation**—The organizations work together so that they each operate at maximum efficiency, but their operations are completely independent.
4. **Collaboration**—At this level there is interaction whereby the jurisdictions not only operate at maximum efficiency themselves but actively seek to help the other operate better through some interactive efforts.
5. **Cocreation**—At this level the jurisdictions are working together to create systems and tools so that they can maximize the results for each through joint efforts at all possible levels.

Think about how, internally in your own jurisdiction, the partners work together. Then think about how you would prefer to work together. Will your team come to an agreement on policy, then expect each department to draft its own procedures, or will you create procedures as a group? Make sure everyone has the same understanding.

5. **Assess Readiness to Collaborate**—At one point or another, most of us have been involved in unsuccessful collaborations. In hindsight, we can probably identify why it was that the collaboration failed. It might have been that the people sitting at the table did not have the authority to make decisions needed to resolve the situation. Perhaps it was because the parties to the collaboration had different overarching concerns that were not clearly identified and expressed—one partner was most concerned in ensuring a certain law was complied with, while the other partner is most concerned with



ensuring that the services they provide were easily accessible to their clients—and as a result, people talked past each other and were unable to reach a resolution. Prior to reaching out to your state, local, or tribal partner, gather your own team, take a close, clear-eyed look at your circumstances, and make a frank assessment of whether your organization is ready to collaborate. A tool to facilitate this assessment is attached in Appendix B.

- As discussed briefly in the tool, you can use the results of the assessment in many ways. It might be that you decide to address some of your challenges internally before you reach out to the other jurisdiction. You might choose to approach the other jurisdiction with the assessment in hand to begin the work with an honest conversation about where your challenges lie. That kind of frank discussion can go a long way toward developing a trusting relationship and can also pave the way toward making sure everyone's expectations are aligned. And naturally, you may want to do a combination of the two and work internally while you reach out to your partner jurisdiction. And still another option might be to informally plan with your cross-jurisdictional partner as you both assess the readiness of each organization.

6. **Set Internal Ground Rules**—Internal ground rules are especially important if you have team members from different departments or various lines of responsibility and there is no one person on the team who has clear authority to make binding decisions applicable to everyone who needs to be on the team. Commonly established ground rules can include the following subjects:

- **Communication**—How will the internal team communicate? If you have a key team member who prefers phone calls to e-mails, it's important to recognize that up front. It might not be that your new partner is ignoring you, it might be that she only responds to e-mails at the end of the day.
- **What Is the Internal Decision-Making Process?**—You may want to consider using a decision-making framework that helps clarify where sticking points may be. When deciding what to do, instead of voting yes or no, team members are invited to show their level of support for a proposed resolution in a more detailed manner:

Collaboration Tip

Using a more nuanced decision-making framework can unpack the problem, lead to discussion and understanding about the reasoning and values underlying your team member's evaluation of the situation.



1. I can easily support the decision or action.
2. I can support the decision or action, but it may not be my preference.
3. I can support the decision or action with minor changes.
4. I support the will of the group, but I don't necessarily agree with the decision or action.
5. I cannot support the decision or action.

Using a more detailed decision-making framework can unpack the problem and lead to discussion and understanding about the reasoning and values underlying your team member's evaluation of the situation. A thoughtful discussion might lead to a more detailed understanding of different perspectives and possibly a new consensus.

7. **Know the History and the Context**—Especially if you are coming from the state, county, or local jurisdiction,

it is important to

acknowledge the history shared with your tribal partner and how that history has resulted in present-day dynamics. In one situation, a tribe and a county were attempting to come to an agreement about how county service

“Why would we not collaborate with those who were here before us . . . and have an indigenous understanding of this place we now share, to help us make wise decisions for our common future?”

– Hon. Timothy Connors

providers would deliver services to tribal members that lived in their concurrent jurisdiction—how referrals would be made, what information would flow back and forth, and whether attendance at tribal court hearings would be possible. The history between the county and the tribe, both recent and long past, had been adversarial at best. The main barrier preventing the flow of services was a widely known story that a 20-year-old court order stated that county workers could not provide services if the tribal court had jurisdiction over the issue. Yet, no one could find the court order. County staff researched the issue, only to discover that there in fact was no court order. Tucked away in a file somewhere, was a memo, written by a judge who had been part of that adversarial history, giving his opinion and leaving no room for discussion. County staff, recognizing this dated memo for what it was, immediately contacted their tribal partners to admit that the “story” of the court order was wrong. This admission not only removed a barrier to the parties’ main goal, it began the process of building trust between the parties that led to additional collaboration.



It is also important to know the context of the situation. Have the parties tried to collaborate in the past and failed? Why did that happen? Was the timing simply wrong? Was there a lack of connectivity and/or staff support? Were the right people not at the table? Is there an individual who could be considered a disruptor—someone who is more interested in causing issues than in resolving issues? Familiarize yourself with the context of the situation and be proactive about minimizing the negative effects it may have on your current efforts.

8. **Determine Who from Your Prospective Collaborative Partner You Should**

Contact—If you already have a positive relationship with an individual who works for your partner jurisdiction, figuring out who to contact to begin the larger collaboration will be simple. If you have no relationship with anyone at your tribal or state partner, think outside the box. Ask someone who does have this relationship to not only provide you with contact information but also to perform a warm hand off: Ask them to attend the first few meetings with you and help establish the trust that is so key to developing relationships and reaching agreements. These first few meetings might best take place as an informal breakfast or coffee meeting with the initial goals of developing the relationship. It goes without saying that it is important to always show respect. Remember you are interacting with your peers from another jurisdiction—they are your equal and begin with the assumption that, like you, they are concerned with solving a common problem.

Ask if there are protocols or touchstones that must be dealt with before conversations reach an “official” level. Must higher-ups be consulted or advised about the initial conversations or will informal discussions be sufficient before presenting drafts or ideas for approval? When must “official” approval be sought to authorize government-to-government discussions? Understand that the way things are done in your jurisdiction is not necessarily the way things are done in another.

III. **Initial “Crossing the Bridge”—Planning Together as Collaborators**

Now that you’ve completed your internal planning process, it’s time to “cross the bridge” and begin working with your partner. Most of the steps listed in the following text are going to sound repetitive, but there are different considerations now that we are applying the collaborative process to an interjurisdiction relationship.

1. **Define Collaboration**—In approaching this step, be open to new ideas. Indigenous ideas of collaboration might have much to offer your partnership and help you meet



your goals. Listen to your partners. In some Indigenous communities, the initial goal of collaboration is to share and understand each other's perspective. If a solution is suggested by an Indigenous partner, but not everyone agrees with it, the point of the collaboration might be to help the group understand what specific problem is being addressed and why the proposal may be a necessary element of a larger solution. Try to create an atmosphere where you start from what is agreed upon and then discuss where opinions differ, as opposed to starting from points of disagreement. We call this an atmosphere of “yes, and” instead of “no, but.” In approaching it this way, you create a situation in which you can add pieces to the solution and may end up finding solutions for many problems—not just the problem currently under discussion. In one situation, parents were not receiving information about service providers. Rather than focusing on just developing a seemingly simple fix (hand the parent a notice of the next hearing date and time before they leave the court room) the collaborative went further with their discussions and, based on someone's initial suggestion, created a dually targeted solution where, not only would the parent be given written notice but also the notice would include information about how to contact and where to access the required services. Problems may be susceptible to alternative routes to solutions—keep an open mind.

When building a collaborative effort, review the five levels of interaction:

1. **No cooperation**—Efforts to help the other operate are absent.
2. **Minimal levels of cooperation**—There are some efforts to provide help to the other jurisdiction so that both operate more efficiently.
3. **Full cooperation**—The organizations work together so that they each operate at maximum efficiency, but their operations are completely independent.
4. **Collaboration**—At this level there is interaction whereby the jurisdictions not only operate at maximum efficiency themselves but actively seek to help the other operate better through some interactive efforts.
5. **Cocreation**—At this level the jurisdictions are working together to create systems and tools so that they can maximize the results for each through joint efforts at all possible levels.

If these five levels do not reflect your values or your way of collaborating, talk to your partners and teach them about the values and understandings that inform your ways of collaborating. Make sure everyone has the same understanding of the kind of working



relationship you are trying to develop. As your project proceeds, check during the discussions to determine whether true collaboration is occurring. If repeatedly it is just one side's problems that are being addressed, the collaboration is not likely to last. If, however, joint problems are addressed or at least separate problems for both communities, people are more likely to keep attending the meetings. If everyone at the table plays a part in crafting the solutions, and the solutions benefit the communities that both seek to serve, those actions are more likely to result in a sustainable collaboration. And if everyone owns a part of the solution, each member is more likely to work to implement the solution—because it's *our* solution not "his/her idea of a solution." It is important to create a safe space where people can suggest ideas and approaches and think out loud, even if their idea is not fully formed—utilizing the "yes and" not "no, but" approach. Each new idea sparks a new perspective. Each idea need not be a self-contained solution. Ideas can be discarded after consideration and new or improved approaches developed. It is not about which ideas wins. One size rarely fits all and different solutions might fit best in different circumstances. According to at least one prominent business advisor, different perspectives are essential to finding solutions, noting that if "we" could have solved the problem alone—we already would have done so. Instead, working with diverse perspectives makes complex problem solving more likely.

Out-of-the-Box Thinking...

In one chiefly rural community with a truancy problem, a collaboration solution was developed to utilize the police an education/child welfare problem—not as enforcers of the law, but rather as problem discovered that truancy was worst on Mondays when parents might have had a "hard" weekend. The community had no money to throw at the problem. Instead they considered ways of utilizing current resources in "out-of-the-box" thinking. The solution was for the kids to call the police department if they needed a ride to school. The officers would pull up outside and call the youth on the phone, all while having no contact with the parent. The solution ended up eventually embarrassing the parents into getting the kids to school, and the police and the youth ended up having a much better working relationship based on conversations while driving to school in the mornings.

A win-win for the community.



2. **Create Your Team**—In putting together your larger cross-jurisdictional team, keep in mind the recommendations that were stated previously: include people not only because of the role they play or the skill set that they bring, but also include people who are eager to learn about how other people do things. Include people who are intellectually curious and share a joy at learning new ideas and new ways of doing things. This will help spark the development of trust between parties as they share and move the collaboration forward. Don't forget to include people who may disagree but who are willing to listen and share perspectives. "Preaching to the choir" rarely solves complex disputes.

Longevity is important in your team because many of the issues tackled will take prolonged effort to solve and even longer to institutionalize the changes. If you need to include someone who will be leaving their position soon, ensure they bring in someone they want to mentor so the transition is much smoother. Plan for vacancies as well as leadership transitions. On more than one occasion, the turnover of key staff has ended a successful collaboration. In planning your partnership, decide between the parties who will step into key positions should someone get sick, have a change in job titles, or move on and begin the process of preparing them for succession.

As mentioned in an earlier section, it might be helpful to create more than one team: a core group that meets regularly to plan, implement efforts, and monitor success, as well as a larger team whose members, while important to creating the political support and official sanction, only need to be involved on a more sporadic basis. Think this through carefully.

One Size Does NOT Fit All...

In one jurisdiction, the issue that needed resolution concerned services of process. Outside law enforcement was coming on to the reservation without notice to serve legal papers on people for civil and criminal matters. This approach solved a short-term problem for the non-Indian jurisdiction and created a more fundamental problem for the Indian community. Now, instead of a dispute involving individuals, there was a brewing battle between sovereigns. The solution identified was to create a process in which outside law enforcement and civil process servers would first go to the tribal court where an initial review of the legal papers was conducted and then a decision made on whether tribal officers would complete the service. The parties cooperated—and it was successful. [The papers were properly served, and tribal sovereignty was honored.] It is not always necessary to have a full-fledged collaborative group to solve problems, but it can build for future successes. In this case, the partners didn't need to utilize a process of full cocreation of tools and materials to come to a resolution. Again, one size doesn't fit all. In this instance it worked, and it set the table for future broader collaborations.



- ❖ Who needs to be at the table?
- ❖ Which table, or both?
- ❖ Who has the time and the commitment to follow through?
- ❖ Who understands the practical obstacles to be overcome?
- ❖ Who has the authority to try various solutions and approaches?
- ❖ Who has the contacts to reach out to people and organizations that might be helpful in achieving success?
- ❖ Who will help behind the scenes?
- ❖ Who is able and willing to keep all the members connected?
- ❖ Who is organized enough to keep the threads from tangling?
- ❖ Who can chart and report the progress or identify unforeseen obstacles that may appear?

The most essential person to long-term success of your venture might well be the person on the team who collates and sends out notes and drafts the written agreement. Which of the partner jurisdictions has staff that can devote their time to that? Who can be tasked, and trusted, with doing that behind-the-scenes work? Ensure that you have the right people at the table and the right support staff to perform administrative duties such as arranging meeting space and developing and delivering agendas and meeting notes. If you are extremely fortunate, you might find someone who can serve in both roles. If not, you may have to figure out how to assign or rotate some or all those duties.

If there has been a long or bitter history of interaction, such a profound lack of trust that there is literally no positive relationship between the potential collaborators, or when the parties have reached an impasse, it may be necessary to bring in a mediator/facilitator in an attempt to bridge the chasm between the parties. On troublesome issues or problems, an objective or independent third party might also be helpful. A facilitator who can help each side understand the other side's perspective in a way that is fair may be more useful in the long term than someone who is more focused on simply brokering an agreement. Where there has been a history of animosity, as is often the case between tribes, states, and local entities, taking the step to bring in a trusted and knowledgeable third party will demonstrate your commitment to the process, respect for your partner jurisdiction, and commitment to finding an appropriate, fair, and joint solution.

Collaboration Tip

Where there has been a history of animosity, taking the step to bring in a trusted and knowledgeable third party will demonstrate your commitment to the process, respect for your partner jurisdiction, and commitment to finding an appropriate, fair, and joint solution.



In one instance, a county and tribe had a long history of adversarial and acrimonious relationships. As time passed, things had progressed from all-out animosity to some cooperation, but disagreements and misunderstandings were commonplace. Attempts were made to come together over an important issue, but negotiations dragged on for more than a year with no results. New leadership came in on the county side, and they suggested hiring a facilitator that was widely known and trusted in the Native community. When the county approached the tribe and suggested bringing in this individual, it emphasized its desire to reach a fair solution. In less than a year, the agreement was finalized and adopted by elected leadership on both sides. Since that time, and without the continued assistance of the facilitator, the county and the tribe have continued to build their relationship. They have even expanded into new areas of collaboration.

Last, but not least, make sure that both the membership and the leadership of the collaborative team is approximately equally divided between the tribal and nontribal parties, unless there is both a good reason and an agreement to do something different. It is particularly important that both real and nominal leadership authority be shared between the tribal and nontribal jurisdictions. In all too many situations, an imbalance of power between state, locals, and tribes has led to the failure of collaborative efforts. The wider acceptance in the affected communities may hinge on whether the collaborative is proactive about ensuring that there is a clear and transparent balance of responsibility for decisions and proposed solutions.

In the failure of one of the early efforts toward collaboration of state and tribal courts, one of the root causes can be traced to exclusive leadership by the state and an inadequate number of tribal members participating as members of the collaborative. Of the three original forum efforts, the two efforts that succeeded all had equal and shared leadership and approximately equal membership on the collaborative.

3. **Establish Goals, Timelines, and Expectations**—As you begin meeting with a new partner, attempt to come to agreement about the problem you are attempting to solve. Pushing a particular solution early in the process may prove counterproductive. Remember that success, even with small issues or “low-hanging fruit,” can lead to greater trust. Unless there is a need for urgency, tackling the simpler and easier to solve problems, while postponing the more troublesome issues, may create a sense of accomplishment. Those successes can then be leveraged into more difficult conversations and more troublesome issues.



In other situations, in which there may already be some established trust to build upon, it may be helpful to identify all the vexing issues, putting everything on the table in a nonvolatile manner. This list can be added to as the collaborative continues. The list will also serve as a yardstick to gauge progress. Once the list is created, it may be helpful to divide the challenges into categories depending upon either the time or the amount of effort that will be required to solve each of them. Categories such as “short term,” “medium term,” and “long term” may work but are not the only approaches. Then, within each category, the list can be sorted into priorities. How you establish priorities may depend upon importance (political, community, or practical interest or need), ease of accomplishing, readily available resources, and so forth. Each collaborative should attempt to reach this prioritization by consensus when possible. Shared goals, even in the absence of shared solutions, can sustain a collaborative while trust is being built and small victories are achieved.

As you enter the planning stage be sure to have honest conversations about workloads, other initiatives that are going to take the time and energy of the partners, and events that might interfere with forward momentum of the project. Then set realistic timelines

Collaboration Tip

Take the time to learn about your partner, their family and the community they represent. Always keep in mind that learning the processes involved in solving problems can be more important than timeliness and reaching a solution. Most times, “The process is the message and the relationship is the key.”

for assessing effort, progress, and success. Community context for these efforts is an important consideration. In many Native communities, summertime is the most active social time of year, when many are busy with additional family and community obligations. In other communities, projects and initiatives often stall during preparation for Feast Days and ceremonies, or at the end of the year because of holidays and community events. Be ready to plan around those. Upcoming elections, both

tribal and local, can also cause a delay. Will a new county commission or executive come in and want to be involved in decisions? Will positions of authority or decision-making change? It is possible to work around that by addressing issues that will not require the input of elected officials? Or, will there always be distractions and “now is as good a time as any”? Make these kinds of assessments jointly, not unilaterally. Take the time to learn about your partner, their family, and the community they represent. This simple step can build trust into your relationship. Finally, especially if negotiating complicated, difficult issues, your timelines should be flexible. You will hit unexpected snags and may



need to take a breath at some point. Always keep in mind that learning the processes involved in solving problems can be more important than timeliness and reaching a solution. Most times, *“The process is the message and the relationship is the key.”*

4. **Establish Ground Rules and Common Values**—Establishing ground rules and common values when working with new partners can be especially important. It is also important that these rules be created out of respect. Building relationships in Native communities is often about learning a person’s interests, who their family is, and how each is doing, as well as sharing meals and joking. This often involves conversations before meetings start, during breaks, during meals, and any other time when it is just “people,” not roles, that are sharing and learning about each other. Approaching meetings in this way can really improve the character and the tone in the room and can make disagreements seem less of a chasm or a challenge. That is, differing opinions become various perspectives and not a threat or an insurmountable impasse. Consider adopting rules and value statements similar to these:

- Respect each other as equals. Nothing will doom the discussion faster than an attitude that reflects a perspective of big brother–little brother, more experienced–less experienced, professional–untrained.
- Listen to understand, not to prepare, an argument to overcome or counter another idea—it is too easy to derail a search for solutions when people aren’t listening but are biding their time waiting and rehearsing their own pearls of wisdom. Or worse, interrupting—not for clarification but to argue. It is so much more important to listen and learn about other perspectives than it is to persuade someone that you were right all along. Some communities teach that the Creator gave you two eyes and two ears and only one mouth for a reason. It is more important to listen and observe than it is to talk—you should watch and listen twice as much as you speak.
- Majority vote is a difficult way to operate a collaborative that requires the voluntary assent of the partners where there is always present an option to simply leave the collaborative. A better approach may be to operate by consensus. Consensus may help build respect; where everyone’s opinion and perspective matters. Consensus says that when we agree it is *all* of us who endorse this action. It may not always be possible, but consensus shouldn’t be abandoned lightly. You may have many people on the team from multiple sectors. In one collaborative, the members of the team could not agree on *why* the problem was happening, but they could agree that it

Collaboration Tip

Some communities teach that the Creator gave you two eyes and two ears and only one mouth for a reason. It is more important to listen and observe than it is to talk.



was happening. (Sometimes the “why” isn’t as important as the “what are we going to do about it?”) At one point, the team was so divided about the root cause of the problem (was racism responsible for the conduct?) they thought they would have to issue minority reports because people couldn’t agree. Because they operated by consensus, however, they took the time and worked to find something they could agree upon. While they disagreed about why the problem existed, they were convinced that the problematic conduct was indeed happening. The collaborative ended up being able to craft a remedial measure and a statement of principle announcing a joint determination that the conduct was unacceptable. Instead of focusing on the why, they chose to focus on what might be done to correct the problem. An oft-repeated piece of advice is that we shouldn’t make the perfect the enemy of the good. In this situation, few thought it was optimal from their own

point of view, but all agreed that it was a joint step in the right direction.

“With open minds, we can learn much from each other. The wisdom of collaboration becomes apparent as the common ground is uncovered and explored.”

- Hon. Michael Petoskey

When driving toward consensus there are a few strategies that might be helpful. Identify the elements of the problem that the team can agree upon and focus on those. Don’t discount ideas. There is a noted business consultant that teaches the use of diversity, but not as a step

toward political correctness. Rather, he is convinced that the more perspectives that are shared, the more likely solutions will reveal themselves. You might have ten different people with ten different perspectives. All of them are valuable—use all of them to identify the scope and nuances of the problem. The goal is not to seek uniformity and agreement, but instead to identify all the aspects of the problem and then to weigh possible approaches. When there is one person on the team who can’t agree, it is usually not a good strategy to overrule them with a majority vote simply to move on. Instead, have a conversation about their sticking point and unpack that with the rest of the team listening—not trying to convince the person they are wrong, but instead trying to understand why this is so important to that person. Value the dissenting perspective and try to build that into the solution proposed by the collaboration. In doing so, you will create a stronger relationship. Diverse viewpoints are valuable tools because they help identify troublesome aspects of problems. To effectively problem solve we need perspectives different from our own. Be mindful of the fact that, if you were able to solve the problem



based on just your own perspective, you would have. You will need different perspectives to help create a solution to problems you can't solve alone.

It is sometimes helpful to let people discuss the issue at length rather than forcing a vote on a single approach or solution. Asking questions can sometimes spark new

Collaboration Tip

Finding and building upon small successes builds relationships of trust that allow for ongoing work, as well as permitting an opportunity to circle back at some future time to take another look at a vexing problem.

ideas. What might part of a solution look like if indeed "A" is correct that some aspect of the problem is affecting their community? Does this piece of an approach cause difficulties somewhere else? Must there be a single uniform solution? Could different approaches in various locations or situations be acceptable? Has this problem been confronted somewhere else? What did they do, learn, or try?

If ultimately you can't agree on any solution, don't let it become an impasse. Instead, use that experience and learn from it. Ask:

- What did you agree on?
- How can we make progress, even if we can't completely solve the problem today?
- How can we apply what we've learned to another problem?
- Is there a different sort of problem that might be addressed?

Some groups have disbanded because they couldn't resolve "the ultimate issue." Other groups persisted, tackled smaller problems, and built upon their successes. They agreed that it might be opportune to confront the nagging issue at a later time. Much like the U.S. approach in the Pacific during World War II, an island-hopping strategy allowed skipping problems that were too tough to solve initially, laying the groundwork to come back at a later time when the indicators of success were more favorable. They didn't let an insoluble problem of the moment halt an otherwise successful effort. If you have a problem that defies solution, don't let it derail the effort. Simply agree to disagree about "this one" and begin work on "that other one." There is usually not a shortage of problems that need solutions. Finding and building upon small successes builds relationships of trust that allow for ongoing work, as well as permitting an opportunity to circle back at some future time to take another look at a vexing problem.



5. **Gather Information and, as a Group, Explore the Problem in Depth**—Having put together a collaborative team, set a goal, and explored how the group would go about developing solutions, now is a good time to put more thought into the particular issue you are attempting to resolve. As a group, you may want to consider the following questions:
- Can we, as a collaborative, agree on what is at the root of the problem we are trying to resolve? What is the context of the problem? When did the problem appear? How long have things been this way? What has been the fallout from this problem not being solved? The issue might be persistent truancy in community, but what is at the source of that issue? Gather many perspectives and learn about each of them. Consider them all, but as recommended previously, do not let disagreements about why something is occurring prevent you from developing solutions to remedy the problem.
 - Where are the landmines buried in the issue? Coming to a clearer understanding of the challenges the group will face may help avoid an impasse. Have people attempted to resolve this issue in the past and failed—and did hard feelings result on either side? Try to gain an understanding of the obstacles you may have to overcome.
 - Think about what you are hoping to accomplish—in a best-case scenario, what would things look like if you resolved this issue? This is an opportunity for the group to dream big. Take time to think in detail about how things would be if the group were able to develop a solution and the solution was successful. For example, if the partners were able find a way to share information about domestic violence convictions so that the partner criminal justice systems could take them into consideration when charging and sentencing, or coordinate protective activities, what would that look like? Would information be shared automatically? Would those conversations be part of a standing meeting about the dynamics of domestic violence in the community generally? What is that bigger picture?
 - What resources does each partner bring to the table that can help resolve this issue? What resources are needed? Can they be obtained or, in the short term, will the parties have to make do without them? Consider resource mapping to identify previously unknown sources of help. Who else has faced similar issues? What have they tried? What is there to learn from their activities?
 - Who is going to be impacted by this work and how? Consider both positive and negative impacts. If information on domestic violence convictions is shared between courts, how will victims be impacted? Their families? Service providers? And, when you have created that list, review it from the perspectives of your entire collaborative team. Should anyone else be at the table for these discussions?



- What needs to change for the vision to be realized? After the team has taken the time to come to a fuller understanding of the context and history of the current situation and has developed a vision of what things might look like after a successful resolution has been implemented—connect the dots. What needs to be done to get from there to here? Prioritize your efforts, be pragmatic, and acknowledge the circumstances and limitations. The team needs to be thoughtful about what change is realistic. But don't be afraid to think and dream big. Temper your pragmatism with long-range thinking—what may not be possible today, might be possible in the future. Think in both the short term and the long term.
- Don't reinvent the wheel: Have other groups found a solution or an approach to the problem that you might be able to adapt (not copy) to fit your situation? There have been an increasing number of success stories around the country, and there is considerable effort being made to disseminate that information. There are numerous models, promising practices, and studies of common problems faced by tribes, states, counties, and local jurisdictions. Explore these successes with the team. Once the team can firmly grasp that success is possible, it is easier to continue the collaborative journey. One of those solutions might even fit your circumstances.

“Build on success by focusing on quickly achievable solutions. And find opportunities to celebrate and sustain the changes you make together so that they don't rely on the individuals who championed the changes.”

– Jennifer Walter

IV. Continuing to “Cross the Bridge”—Working Together As a Group

1. **Agree on Specific Changes**—When deciding what changes should be implemented, consider both short-term and long-term implications of the change.
 - What are the steps that must be accomplished to implement the desired change?
 - Who must approve the changes?
 - Who must be informed of the changes?
 - How long should they have to get ready for the change?
 - What might be the unexpected consequences of the change?



Be realistic about the changes you suggest. Although the partners may agree that more funding should be dispensed to resolve the problem—for example, more prevention activities should be funded—that might not be a realistic solution because of budget cuts. Acknowledge the difficulties, but don't be afraid to call them out. If roadblocks are highlighted, others may be willing to help solve a piece of the problem.

Focus on what the group needs to do to support the changes as well. Discuss the roles and responsibilities of individual members of the collaborative in facilitating that change. Some changes require a specific sequence of actions. If a specific sequence is required, how will you ensure necessary prerequisites are accomplished before launching the next step? Deadlines are not always essential, but if they are make sure to spell out who is responsible for leading the effort and who might be called upon to support the effort. Make sure the entire group participates in that conversation.

Importantly, when the group is developing resolutions to common problems, don't just think about the changes that need to occur but also consider the kinds of training that are needed to implement the agreement and to sustain the change. In one case, a county and a tribe were able to successfully negotiate an agreement between their law enforcement agencies that included topics such as hot pursuit, notice, and resource sharing. Unfortunately, they did not consider the fact that, as time went on, new officers and supervisors would need to be trained on the agreement to implement the agreement effectively over time. Despite the fact that a good solution had been put in place, after some time the problem began to reappear. The agencies began to face the same problem when responding to calls because the people on the ground were unaware of the agreement or how to implement it. Build in ongoing training between jurisdictions if needed.

2. **Incorporate Continuous Quality Improvement**—Working together as a group to bring about change is not enough. The very ideas and perceptions that helped create the change will be necessary to ensure that the change is accomplishing the desired goal. How will you know that the change is working the way you want it to? Look back to how the group envisioned the details of successful change and consider whether those details are coming to fruition. Are the effects on people, communities, and entities that you envisioned being realized? If not, why not? Are there unanticipated consequences resulting from the change? Can the unwelcome impacts be mitigated? From the perspectives of the various collaborative members, is the targeted change accomplishing the desired results? If not, what needs to be adjusted or recalibrated? Are we moving toward a better result?



It is important to allow enough time to gauge results. Some results may be catastrophic and require immediate action. Others may be much more subtle and nuanced, and you need to allow the dust to settle to make an informed observation about whether you have been successful. If we declare victory for the targeted problem, what comes next? Come back and reassess after the passage of some time to ensure the solution has “stuck” or whether more training is needed to reinforce the change in how things are done?

3. **Move on to Other Goals/Revisit Unresolved Issues**—Often when a successful partnership has been created across jurisdictions, this step happens naturally. Unfortunately, it is the nature of the work to always have another issue that can be resolved. On a positive note, having built a successful collaboration, the trusting relationship is now stronger and may be better situated to tackle previously insoluble problems. As new issues are undertaken it may be necessary to reconstitute some of the membership. Interest in a particular issue may have kept some at the table who no longer have the time or interest in the next task. Or people with different backgrounds and experience may be necessary to better understand the context for the next round. In either case, try to ensure that the sense of accomplishment, as well as the strategies for overcoming disputes, is transitioned to the new leadership and membership. Of course, it wouldn’t hurt to have some of the previous members “hold over” to the new set of tasks.

4. **Celebrate Successes, Share Credit and Accept Blame—Always, Always,**

ALWAYS—Share credit for things that have gone well and acknowledge your agencies’ part in things that have not gone well. This is a necessary element of building and maintaining a trusting, effective collaboration. Respect is hard earned and even more valuable. Remember to celebrate your successes. The work that you

are doing is difficult and can be trying to the sunniest of dispositions. Taking the time to look at the progress you have made and acknowledging your accomplishments as a group is an important part of maintaining the partnership and moving forward.

Collaboration Tip

Look back to how the group envisioned the details of successful change and consider whether those details are coming to fruition. Are the effects on people, communities, and entities that you envisioned being realized? If not, why not?



V. Conclusion

Developing and maintaining a collaborative relationship across jurisdictions can result in creative solutions and better results for the entire community. The path toward that solution might be a challenge. Be prepared to answer hard questions such as: **“Why now?”** Good faith and trust are not automatic, even with the best of intentions. It may be that the first step in building an effective collaborative is an honest answer to a hard question. In a national effort to create a collaboration among state and tribal judges one of the most profound moments of the first meeting was when a tribal judge asked, **“Why now?”** The question strongly implied that there must be some newly discovered benefit to the organization motivating it for the first time to invite tribal judges to collaborate or even to participate. The honest and heartfelt response from a leader of the state judges that the invitation was too long overdue, and it was past time to take the first step went a long way to easing the mistrust in the room. It didn’t solve everything, but it was a beginning. A beginning that has resulted in a multiyear strong and ongoing collaboration. The goal of thoughtful planning is to ensure that you are approaching the collaboration with clear-eyed view of where the challenges and strengths lie.



Appendix A

Suggested Further Reading/Additional Resources on Tribal-State-Local Collaboration

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National Center for State Courts, *Building on Common Ground: A National Agenda to Reduce Jurisdictional Disputes Between Tribal, State, and Federal Courts* (1993). Available at: <http://www.tribal-institute.org/articles/common.htm>.



National Sheriff's Association, *Cross-Deputization in Indian Country* (2018). Available at: <https://ric-zai-inc.com/Publications/cops-p363-pub.pdf>.

H. Ted Rubin, *Tribal Courts and State Courts: Disputed Civil Jurisdiction Concerns and Steps Toward Resolution*, 14 *State Court Journal* 2 (1990), pages 9-15. Available at: [http://www.walkingoncommonground.org/files/Background%201%20TCSC Disputed%20Civil%20Jurisdiction%20Concerns%20and%20Resolution SCJ%20Vol14No2 1990\(2\).pdf](http://www.walkingoncommonground.org/files/Background%201%20TCSC%20Disputed%20Civil%20Jurisdiction%20Concerns%20and%20Resolution%20SCJ%20Vol14No2%201990(2).pdf)

H. Ted Rubin, *Tribal Courts and State Courts: Working Together to Resolve Jurisdictional Conflicts*, 15 *State Court Journal* 2 (1991), pages 36-40. Available at: <http://www.walkingoncommonground.org/files/Background%202%20TCSC Working%20Toget her%20to%20Prevent%20Jurisdictional%20Conflicts Vol15No2 1991.pdf>

H. Ted Rubin, *Tribal Courts and State Courts: From Conflicts to Common Ground*, *State Court Journal*, (Winter 1992) pages 17-20. Available at: [http://www.walkingoncommonground.org/files/Background%203%20TCSC From%20Conflicts %20to%20Common%20Ground SCJ%20Vol16No1 1992%20\(3\).pdf](http://www.walkingoncommonground.org/files/Background%203%20TCSC From%20Conflicts %20to%20Common%20Ground SCJ%20Vol16No1 1992%20(3).pdf)

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Tribal Law and Policy Institute, *Promising Strategies: Tribal State Court Relations* (2013). Available at: <https://www.walkingoncommonground.org/files/TLPI%20Promising%20Strategies%20Tribal-State%20Court%20Relations FINAL Updated%208-15-13.pdf>.



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Websites

National Child Welfare Association: <https://www.nicwa.org/>

National Congress of American Indians, Tribal-State Relations: <http://www.ncai.org/policy-issues/tribal-governance/state-tribal-relations>

National Criminal Justice Association: <http://www.ncjp.org/tribal-sovereignty/joint-jurisdiction-courts>

Walking on Common Ground: www.WalkingOnCommonGround.org



Appendix B

Assessing Readiness to Collaborate Worksheet

“Readiness” describes the degree to which an individual, group, organization, or community is both prepared and motivated to commit resources toward entering a collaborative relationship. The checklist included in this attachment is intended to help you determine your level of readiness. It’s easy to overlook this step given the long list of tasks on our to-do lists but assessing readiness can be an important step toward creating a more successful collaboration. A failed collaboration can be difficult to restart. It is frustrating for everyone involved to begin a collaboration only to see it flounder because of an unanticipated challenge. Frustration can lead to a loss of momentum, which may lead to the ultimate collapse of the initiative. Getting people and partners reengaged can feel impossible because “we tried that before and it didn’t work.” For these reasons, it is better to begin the initiative with a clear understanding of where the challenges are up front and to minimize their impact on the overall goal of the project.

Having worked to gain a clear-eyed understanding of where you and your organization stand, you have a couple of choices. One option is to work internally to strengthen key areas before engaging with your partner. Another option is to approach your partner with the results of the assessment and begin your conversation in the spirit of working together to shore up weaknesses and gather the resources necessary to make your collaboration successful.

This assessment tool can also be used as a check-in for ongoing collaborative relationships. As mentioned previously, it can be difficult to resurrect a failed or failing collaboration but having a clear understanding of the challenges it faced gives you something to work with to build momentum. For successful collaborations, doing the assessment can help you celebrate your successes as well as identify areas that can be improved.

(See next page for assessment tool.)



Directions: Have members of the team complete this checklist individually, then review the list collectively and check the statements that apply to the group.

- ☐ We are supportive of collaboration and think it's a good idea.
- ☐ We understand what is involved in collaboration (e.g., recognize that collaboration will mean a change in the status quo).
- ☐ We understand the added value of collaboration (e.g., additional knowledge and expertise, additional resources, and comprehensive solutions).
- ☐ Our leadership supports our desire to collaborate (e.g., is willing to provide necessary resources, such as staff time and meeting space).
- ☐ We have the right people on board to foster and maintain collaboration (e.g., individuals with facilitation and consensus-building skills).
- ☐ We are motivated for partners to join, and we can articulate our motivation in a clear and positive way.
- ☐ We have a clear purpose to present to partners.
- ☐ We are willing to listen and learn about our partner's systems, values, strengths, and challenges, and understand how that might limit their ability to do what we want them to do.
- ☐ We are willing to share control and work for the mutual benefits of all.
- ☐ We are prepared to engage in genuine, respectful dialogue; use active listening skills; and participate in open and transparent sharing of information.
- ☐ We are willing to have hard conversations and try to work through them.
- ☐ We are willing to bring in people that our partners trust to facilitate the conversations.
- ☐ We have the organizational capacity to enable partnering (e.g., administrative support and technology tools).
- ☐ We have a good record to share with partners (e.g., are fiscally sound and have a good reputation in the community).
- ☐ We are committed to continuous quality improvement and are ready for the long haul.

_____ Total number of attributes checked

If you check at least half of the statements, there is a good chance your team is ready to move forward. If you check fewer than half, don't give up. Instead, choose one or two items to work on—either alone or with your partner—and then reassess your readiness after doing so.



Appendix C

Tribal-State-Local Collaboration Dos and Don'ts

Membership

- ✓ DO select team members from diverse perspectives who have demonstrated interest, expertise, or experience in addressing Indian law issues.
- ✓ DON'T select forum members based only on their position within a particular department or elsewhere.

Mutual Respect

- ✓ DO acknowledge differences between tribal and state systems and seek ways of cooperating consistent with those differences.
- ✓ DON'T characterize either system as better or worse or more or less sophisticated than the other.

Scope

- ✓ DO proceed in phases with predetermined time frames, including a study phase in which issues are identified, before implementing recommendations.
- ✓ DON'T devote resources to implementation until a consensus is reached concerning priority issues and recommendations.

Persistence

- ✓ DO design a process that invites broad-based participation in identifying issues and making recommendations.
- ✓ DON'T be discouraged by lack of participation or lack of progress.

Performance

- ✓ DO assign manageable tasks to team members or subcommittees to be accomplished within established time frames.
- ✓ DON'T delay too long before dividing the work of the team into tasks that can be accomplished within the time frames established.

Solutions

- ✓ DO emphasize creative solutions to issues that are consistent with the rights of the parties, sovereignty, and judicial independence.
- ✓ DON'T emphasize jurisdictional limitations.

Communications

- ✓ DO emphasize person-to-person communication and education to address issues.
- ✓ DON'T seek to address issues solely through large-scale change in the law or legal systems.



Appendix D

Author Biographies



William A. Thorne, Jr. is a Pomo/Coast Miwok Indian from northern California and is enrolled at the Confederated Tribes of the Graton Rancheria. He received his Bachelor of Arts from the University of Santa Clara in 1974. He received his juris doctorate from Stanford Law School in 1977. Judge Thorne has served as a tribal judge in Utah, Idaho, Colorado, New Mexico, Arizona, Nevada, Montana, Wisconsin, Washington, Michigan, and California for numerous tribes on a part-time basis for more than thirty years. In 1986

Thorne was appointed by the governor as a trial judge for the state of Utah. After fourteen years as a state trial judge he was appointed in 2000 as a judge of the Utah Court of Appeals. He is now retired. Judge Thorne has served on a number of national and local boards/committees including serving as faculty and using his judicial leadership for child welfare system improvement as he participates in many projects and committees. He continues to speak and teach around the country, chiefly on issues related to children including child welfare reform efforts, disproportionality affecting minority children, and the Indian Child Welfare Act.



Suzanne Garcia works with the Capacity Building Center for Tribes as the Child Welfare Specialist. She provides training and technical assistance for tribal child welfare agencies, with special expertise on Tribal Title IV-E access. Most recently, she served as the Assistant General Counsel for the Washoe Tribe of Nevada and California for over seven years. In that role, she worked extensively with child welfare issues, including negotiating tribal-county agreements, developing policies and procedures, and extensive work with the Tribal Title IV-E development grant, Tribal Court Improvement grant, and

Children's Justice Act grant. Suzanne represented the Tribe in ICWA child welfare proceedings in state courts and child dependency cases in Washoe tribal court. She also developed and delivered both written and oral testimony in response to requests for consultation from ACF, IHS, BIA, and the DOJ. As a representative of the Washoe Tribe, Suzanne provided excellent peer-to-peer information sharing with tribes throughout the country about 'lessons learned,' and offering insight to the Washoe tribal experience in developing Tribal IV-E plans. Suzanne has worked numerous times over the past four years with the National Resource Center for Tribes in coordinating several tribal gatherings focused on tribal access to Title IV-E direct funding. Suzanne holds a Jurisprudence Doctor degree from the University of Arizona College of Law and an Applied Baccalaureate degree in Philosophy from the University of California, Davis.