

Risk-Need Assessments in Tribal Justice

Concepts, Principles, Challenges, and Developments

The logo for the Center for Court Innovation, featuring four horizontal black bars of varying lengths to the left of the text.

Center
for
Court
Innovation

RNR Tools & Healing to Wellness Courts

Tribal 10 Key Components

recognize community involvement, family relationships and involvement, culture and tradition, and exercise of tribal sovereignty.

Key Component 1) Individual and Community Healing Focus

Key Component 2) Target Population: High Risk/High Need

Key Component 3) Screening and Assessment: High Risk/High Need

Key Component 4) Incorporating Culture and Tradition

Contents

Defining Risk & the Risk Principle

Survey on Tribal Justice RNR Tools

Project to Develop a Tribal RNR Tool

Inside the Tribal RNR Tool: Domains
and Unique Considerations

Next Steps for Developing the Tool

Risk-Need-Responsivity Theory: The Three Core Principles

Risk Principle: Who to target.

- Intervention is most effective with higher-risk individuals (**risk of re-offending**).

Need Principle: What to target.

- Assess and target “criminogenic” needs (**needs that contribute to criminal behavior**).

Responsivity Principle: How to intervene.

- Tailor intervention to the characteristics and learning styles of the individual.

Disregarding the Risk Principle...

Here's the risk:

Best Case Scenario:

- Depletion of scarce resources.

Worst Case Scenario:

- Inappropriate treatments and/or increased risk of recidivism for previously low-risk offenders.

The Risk Principle



Vary the intensity of intervention (treatment & supervision) by risk level.

Higher-Risk

- Provide more intensive intervention.

Lower-Risk

- Intervention can be harmful: *Why?*
 - Interferes with work or school.
 - Increases contact with higher-risk peers.
 - Can stigmatize and produce psychologically damaging effects.

Supported
by close to
400
studies!

Legal Need			
		High Needs	Low Needs
Risk of Re-Offense	High	<p>High Risk & High Needs</p> <ul style="list-style-type: none"> Menu of mid-length interventions: <ul style="list-style-type: none"> ➤ Cognitive-behavioral therapy (CBT) models, e.g., T4C, MRT; ➤ Social services (e.g., employment, GED, etc.); ➤ Trauma-focused models (e.g., Seeking Safety); and/or ➤ Intensive supervision (e.g., HOPE) Treatment court programs, e.g., healing to wellness court, mental health court, hybrid models Voluntary social & clinical services 	<p>High Risk & Low Needs</p> <ul style="list-style-type: none"> Brief interventions (e.g., Restorative Justice, a 3- or 5-session intervention based on procedural justice principles, CBT, and trauma-informed practices) Menu of rolling interventions, 6 Sessions+ <ul style="list-style-type: none"> ➤ Exact # of mandated sessions responsive to “going rates”/legal proportionality; ➤ Approximates the mid-length intervention models available for high risk & high leverage (e.g., MRT) Voluntary social & clinical services
	Low	<p>Low Risk & High Needs</p> <ul style="list-style-type: none"> Evidence-informed community-supervision model (e.g., the NYC supervised release model): <ul style="list-style-type: none"> ➤ Individual sessions (to avoid peer contagion effects); ➤ Incorporates a range of practices (e.g., procedural justice principles, Motivational Interviewing) Voluntary social & clinical services 	<p>Low Risk & Low Needs</p> <ul style="list-style-type: none"> Meaningful community service, with sites selected in collaboration with community-based organizations Brief educational groups (1- or 2-session models) Voluntary social & clinical services

Risk-Need Based Interventions

High Risk/High Need

- Intensive intervention or incarceration

Low Risk/Low Need

- *Off-ramp* ASAP (e.g. pretrial release, fine/short community service, conditional discharge)

Low Risk/High Need

- BRIEF intervention with voluntary referral to services

High Risk/Low Need

- Address criminogenic thinking and behavior

Risk Factors

Static risk factors

- ▶ **Criminal history**
 - ▶ # of arrests
 - ▶ # of convictions
 - ▶ type of offenses
- ▶ Current charges
- ▶ Age at first arrest
- ▶ Current age
- ▶ Gender

Dynamic risk factors/needs

- ▶ **Antisocial attitudes**
- ▶ **Antisocial friends & peers**
- ▶ **Criminal Thinking**
- ▶ Family/marital factors
- ▶ Education/poor employment history
- ▶ Pro-social leisure activities
- ▶ Substance use and misuse

What's missing from this list?

**Residential
Instability:**
Homelessness and
mobility.

Younger Age
(STATIC): Crime peaks
in late teens.

Male Sex (STATIC):
Men are higher risk
than women

Other Risk Factors with Strong
Empirical Support

Risk Assessment 201

Actuarial Risk Assessment

- Involves the retrospective use of statistics to create evidence-based classifications (e.g., low-, moderate-, and high-risk).
- Specific algorithms can vary significantly across risk assessment instruments.

There are good tools!


And not-so-good tools!

Use of Risk Need Tools in Indian Country

Bringing it all back home

Lay of the Land

Who is currently using a risk need
responsivity assessment in their tribal
courts?



Which assessments do you use?



On a scale of 1 to 5 how much do you like
your assessment?

1 = It's garbage

5 = It's AWESOME

Tribal Justice Tools Survey



Tribal Courts Technology and Risk/Need Tools

Survey Logistics

80 varied
format
questions

45 minutes
to complete

Open for 10
months

Results Are In!

- 66 total responses
- Representing 32 tribes
- 44% completion

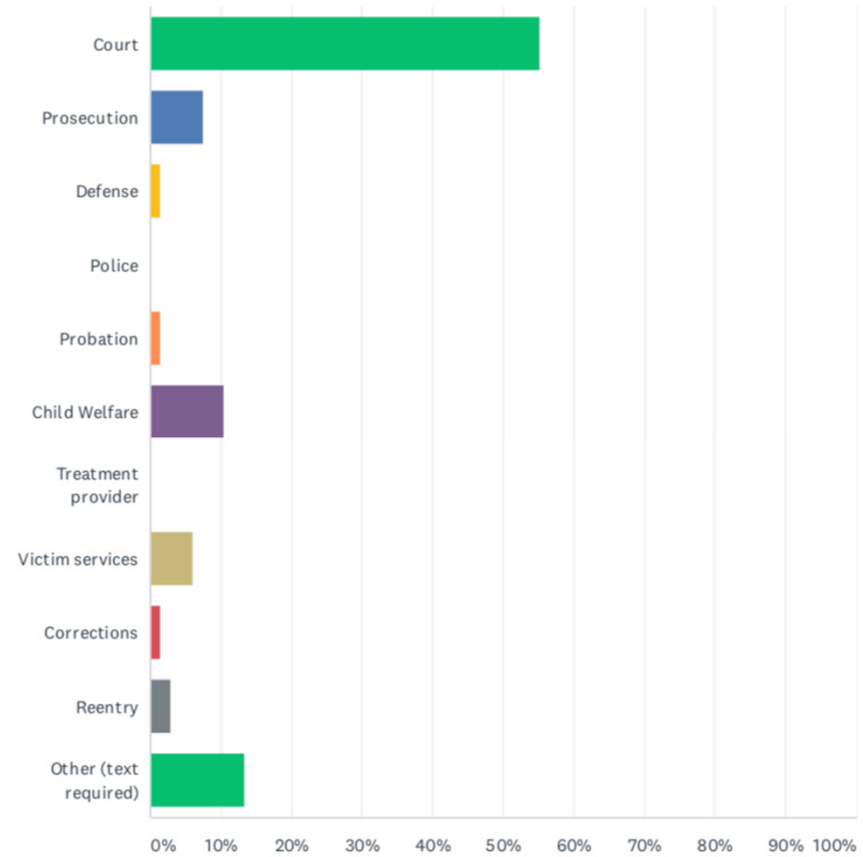


Region	Responses
Alaska	4
Great Lakes	9
Great Plains	3
Northeast	3
Pacific NW	10
Southeast	13
Southwest	11
West	7

Findings

54% of
respondents
work in court
system

No police or
law
enforcement
respondents



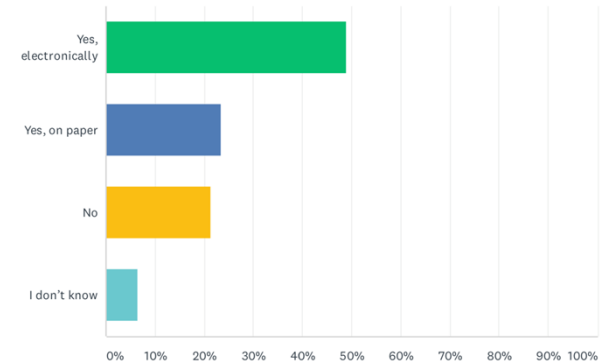
Findings

49% of
respondents
gather data
electronically

65% use paper
files

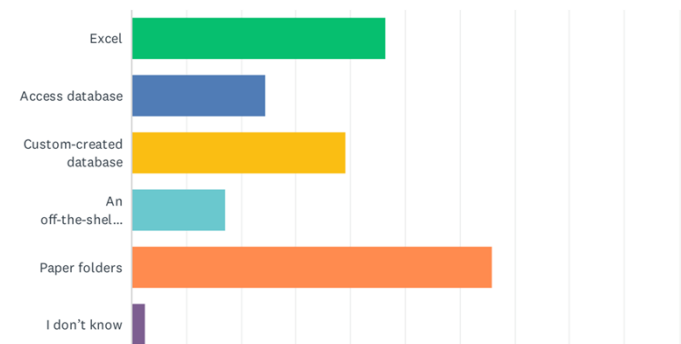
Q16 Do you collect any data on the people who are coming through your program? (check all that apply)

Answered: 47 Skipped: 20



Q37 What tools or systems do you use to keep track of your cases/clients? (check all that apply)

Answered: 41 Skipped: 26



Findings

58% respondents are NOT currently using a tool

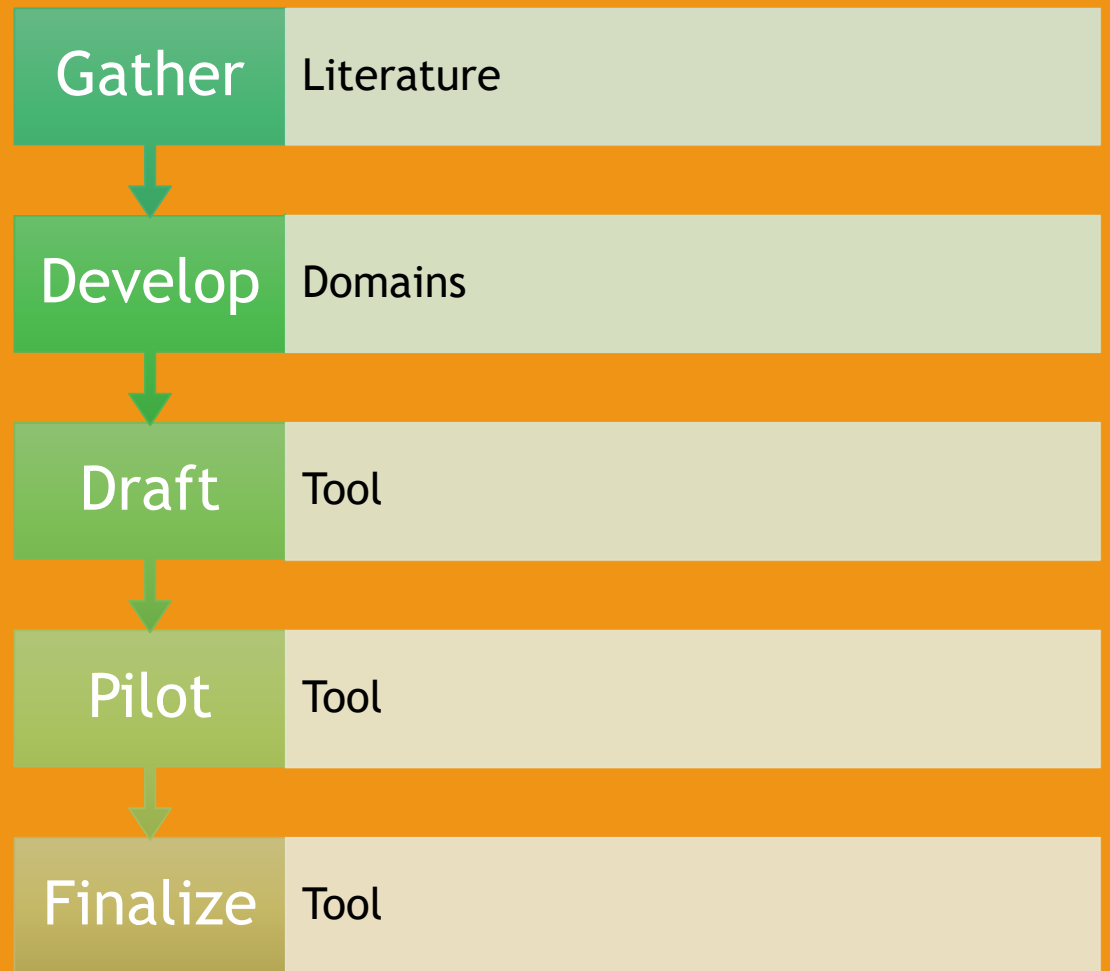
- 38% of those that are, doing so to fulfill grant requirement

ANSWER CHOICES	RESPONSES	
No specific use/Not used	0.00%	0
To satisfy grant requirements	37.50%	6
Determine bail/bond decisions	12.50%	2
Determine sentence	25.00%	4
Determine eligibility for a program	50.00%	8
Determine the treatment plan and modality (residential, outpatient, etc.)	56.25%	9
Determine specific community-based treatment providers	43.75%	7
Determine mental health service needs	56.25%	9
Determine need for criminal thinking treatment	18.75%	3
Determine other ancillary service needs (education, employment, housing etc.)	31.25%	5
Determine client-identified needs or goals	43.75%	7
Determine frequency of judicial status hearings	12.50%	2
Determine frequency of case management	37.50%	6
Determine community supervision modality	37.50%	6
Determine reentry plan	12.50%	2
drop	0.00%	0
No specific use	0.00%	0
Unsure	0.00%	0
Other (text required)	6.25%	1
Total Respondents: 16		

Assessments Currently Being Used:

- COMPAS
- LSI-R:SV
- LSI-R
- PSA
- ORAS
- GAIN
- Statewide Assessment
- Other: Maltreatment Risk, Inhouse Created, PYPAS, Signs of Safety, TCU, VPRAI

Project: Overview



Project: Team

- Team consists of Tribal Justice Exchange team, researchers from CCI, and consultants:

Desiree Fox, PhD in Clinical Psychology & Ann Miller, Managing Attorney at Tribal Defenders (CSKT)

- RIAT (Reentry Intake and Assessment Tool) evidence-based tools were selected and included in order to gather validation data within in a NA population to find if these measures are accurate predictors of risk for recidivism.

Literature Review

The Predictive Validity of the LS/CMI with Aboriginal Offenders in Canada.

Exploring the validity of the Level of Service Inventory-Revised with Native American offenders.

Exploring the role of responsivity and assessment with Hispanic and American Indian offenders.

Exploring the Validity of the Level of Service Inventory-Revised with Native American Offenders.

Risk Assessment of Male Aboriginal Offenders: A 2006 Perspective.

Review of the literature on risk and protective factors of offending among Native Americans.

The LSI-R and the COMPAS: Validation data on two risk-needs tools

The prediction of recidivism with Aboriginal offenders: A theoretically-informed meta-analysis.

The predictive validity of the level of service inventory - Ontario Revision (LSI-OR) with Aboriginal offenders.

Level of Service Inventory - Revised: Assessing the risk and need characteristics of Australian Indigenous offenders

Establishing the needs of Aboriginal Offenders using the Level of Service Inventory - Ontario Revision.

Indigenous perspectives on violence risk assessment: A thematic analysis.

The structural and predictive properties of the Psychopathy Checklist-Revised in Canadian Aboriginal and non-Aboriginal offenders.

Culturally Relevant Assessment of Indigenous Offenders: A Literature Review

Reviewed Available Literature

Reviewed 50
publications

Including
publications
from Canada
and Australia

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graph TD; A[Validated Risk Need Assessment Tools with Indigenous Populations] --> B[Actuarial Tools with Minorities]; B --> C[Culturally Informed Practices];
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Validated Risk Need Assessment Tools with Indigenous Populations

Actuarial Tools with Minorities

Culturally Informed Practices

Research Included Studies On:

Focused On:



Existing tools that are used with Native offenders



Cultural responses



Low predictive validity



Considerations for an RNR Tool for Tribal Courts

Frequently Studied Existing Tools

- LSI (and it's variations)
- COMPAS
- Austin Risk
- Offender Screening Tool
- Static 99

Findings Among Current Tools

- Inequalities inherent (designed in historical and social vacuum)
- Not Inclusive Design (Existing tools not designed for indigenous offenders)
- Protective factors are often not considered
- Unsuitable phrasing (negative)

Overview of Domains

Common Domains

- ▶ Demographics
- ▶ Past justice involvement
- ▶ Education
- ▶ Leisure
- ▶ Substance use
- ▶ **Employment**
- ▶ **Housing**

Highlighted Domains

- ▶ **Family Structure**
- ▶ **Community and sense of identify**
- ▶ **Perception and relation to authorities**
- ▶ **Historical trauma**
- ▶ **Personal trauma and mental health**

Family Structure

- This criminogenic risk factor *does* seem to be statistically significant for this population.(LSI-R)
- This could be because generally, Native American belief systems are associated with a "collectivist" worldview, centering on maintaining balance and reciprocity .
- Improved family relationships could be a *protective factor* with regard to recidivism.
- Risk factors for this domain include:
 - dissatisfaction with marital (or equivalent) partnership relationship
 - non-rewarding relationships with parents and other relatives
 - criminal involvement of spouse or family

Community and Sense of Identity

- Similar effect of family structure but in a broader sense.
- Protective factor, potentially a risk factor as well.
- Directly related-poorer relationships with immediate family could be indicative of a sense of loss in communal identity.
- Active participation in traditional cultural activities serves as a protective factor from recidivism risk.
 - Has been difficult data to collect, as one's perception of "participation" may differ, so we have framed our questions differently.
 - Humility

Perception and relation to authority

General considerations

- **Key idea:** any justice-related intervention must produce a change in the offender's fundamental worldview, especially their perception of authority, rules, and accountability.
- Most offenders are accustomed to feeling unfairly treated.
- Relates to anti-social thinking.

Cultural considerations

- **Key idea:** historical and social context highlight the need to tailor this domain for Native communities.
- US-Tribal relations throughout history has shown little respect to and for Native Nations, communities, and individuals.
- Relations with “outsiders” (e.g. Non-native researchers, agents) have exacerbated mistrust and misrepresentation.

Historical Loss and Trauma

- Whitbeck, Adams, Hoyt & Chen, 2004
- Conceptualize and measure historical trauma and unresolved grief.

APPENDIX

Table A1. Historical Losses Scale

		Several times a day	Daily	Weekly	Monthly	Yearly or only at special times	Never	DK/REF
A	The loss of our land	1	2	3	4	5	6	9
B	The loss of our language	1	2	3	4	5	6	9
C	Losing our traditional spiritual ways	1	2	3	4	5	6	9
D	The loss of our family ties because of boarding schools	1	2	3	4	5	6	9
E	The loss of families from the reservation to government relocation	1	2	3	4	5	6	9
F	The loss of self respect from poor treatment by government officials	1	2	3	4	5	6	9
G	The loss of trust in whites from broken treaties	1	2	3	4	5	6	9
H	Losing our culture	1	2	3	4	5	6	9
I	The losses from the effects of alcoholism on our people	1	2	3	4	5	6	9
J	Loss of respect by our children and grandchildren for elders	1	2	3	4	5	6	9
K	Loss of our people through early death	1	2	3	4	5	6	9
L	Loss of respect by our children for traditional ways	1	2	3	4	5	6	9

APPENDIX

Table A2. Historical Losses Associated Symptoms Scale^a

	Feeling	Never	Seldom	Sometimes	Often	Always	DK/REF
A	Sadness or depression	1	2	3	4	5	9
B	Anger	1	2	3	4	5	9
C	Anxiety or nervousness	1	2	3	4	5	9
D	Uncomfortable around white people when you think of these losses	1	2	3	4	5	9
E	Shame when you think of these losses	1	2	3	4	5	9
F	A loss of concentration	1	2	3	4	5	9
G	Feel isolated or distant from other people when you think of these losses	1	2	3	4	5	9
H	A loss of sleep	1	2	3	4	5	9
I	Rage	1	2	3	4	5	9
J	Fearful or distrust the intention of white people	1	2	3	4	5	9
K	Feel like it is happening again	1	2	3	4	5	9
L	Feel like avoiding places or people that remind you of these losses	1	2	3	4	5	9

^aFive items are not included in the historical loss associated symptom scale because of the low factor loadings in exploratory factor analysis. These five items include: like you are remembering these losses when you don't want to, a sense of weakness or helplessness, bad dream or nightmares, feel the need to drink or take drugs when you think of these losses, and there is no point in thinking about the future.

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Tribal RNR Domain: Historical Loss and Trauma

	Yes	No	What do you feel?			
The loss of "our" land			Not much	Sadness	anger	Helplessness
The loss of "our" language			Not much	Sadness	anger	Helplessness
The loss of our traditional spiritual ways			Not much	Sadness	anger	Helplessness
The loss of "our" family ties because of boarding/residential schools			Not much	Sadness	anger	Helplessness
The loss of families from the reservation to government relocation			Not much	Sadness	anger	Helplessness
The loss of trust in whites from broken treaties			Not much	Sadness	anger	Helplessness
Losing our culture			Not much	Sadness	anger	Helplessness
The losses from the effects of alcoholism on our people			Not much	Sadness	anger	Helplessness
The loss of respect by our children and grandchildren for elders			Not much	Sadness	anger	Helplessness
The loss of our people through early deaths			Not much	Sadness	anger	Helplessness

Trauma and Mental Health

- How do we promote mental health and general wellbeing?



Employment

Questions:

- Highest level of education
- Interest in continuing education

Considerations:

- Avoid shaming questions
- Strengths-based approach to identifying skills
- Highlight areas for support or growth
- How does the history of boarding schools change this dynamic?

Housing

Questions:

- Stability of housing
- Identification of housing needs

Considerations:

- Does homelessness look different in tribal communities?
- Access to HUD or tribal housing
- Flag needs for stable housing

Project: Process

Develop

Advisory Board

Create

Tool

Pilot

Tool

Review

Data

Advisory Board

15 members + consultants



Law enforcement, probation, judges,
prosecutors, public defenders,
Clinical Psychologist, reentry,
researchers and TA providers

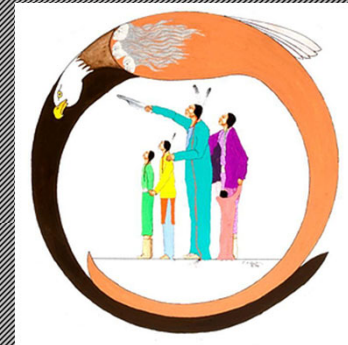
Questions?!

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