Tribal State Cooperation for Parole/Probation Supervision

Majel M. Russell
Elk River Law Office, P.L.L.P
Attorney at Law
Indian Reservations in Montana
Montana Tribes

- 11 federally recognized Tribes
  - Blackfeet –
  - Crow
  - Northern Cheyenne
  - Gros Ventre and Assiniboine of Fort Belknap
  - Assiniboine and Sioux of Fort Peck
  - Salish and Kootenai of Flathead Reservation
  - Chippewa Cree of Rocky Boy’s Reservation
  - Little Shell (State Recognized)
Montana’s Indian Population

- 54,000 enrolled Tribal members;
- 6.4% of total Montana population;
- 8 million acres of Tribal lands;
- 8.6% of total Montana landbase.
Tribal Jurisdiction

• Tribal governments are separate sovereigns from the State;

• Six Tribal governments have exclusive criminal misdemeanor and civil jurisdiction within Reservation boundaries – federal courts have jurisdiction over major crimes

• CSKT has exclusive misdemeanor jurisdiction but concurrent jurisdiction with the State over felony crimes
State Indian Inmate Population

- American Indians comprise approximately 22% of Montana’s incarcerated population – 2010 Census data;
- All crimes committed off-reservations within State jurisdiction;
- Assumption that Montana Indian population faces challenges to comply with probation/parole requirements
Probation/Release Challenges

• Consistent contact with Probation Officer – often reservations are a great distance from State probation officers;
• Financial burden of obtaining any required Chemical Dependency Assessments; Treatment; Mental Health Evaluations;
• Desire of Tribal members to return to reservation communities.
Options for Tribal/State Coordination to Reduce Recidivism

• Tribal/State Cooperative Agreements to utilize reservation based services to satisfy State probation requirements;
• Tribal services to provide probation monitoring;
• Acceptance of Reservation based evaluations, treatment, urinalysis;
• Re-entry efforts to focus on reservation community.
Reservation Based Services

• All enrolled members of federally recognized Tribes entitled to receive services from the Tribal Government – generally programs and services are funded by the federal Government.

• All Montana Reservations have Tribal Courts which offer probation/parole supervision;

• All Montana Reservations offer various types of medical care through the Indian Health Service.
Reservation Based Services

• Crow Tribe
• Out patient treatment on Reservation, contracted in-patient treatment
• Psychological evaluations
• Relapse Prevention
• Prevention Education
• Adult and Juvenile Probation Services including local urinalysis testing
Fort Peck Tribes

• Tribal Court Probation/Parole Program
• Tribal Wellness Court (Specialty Court)
• Spotted Bull Recovery Program: in-patient and outpatient chemical dependency evaluations, treatment, contracted intensive outpatient treatment, relapse prevention
• Mobile drug testing, urinalysis services
Blackfeet Tribe

• Tribal Court Probation/Parole Services
• Crystal Creek Treatment Center for in-patient and outpatient services, evaluations, relapse prevention
• Local urinalysis, drug testing
• Currently seeking funding for specialty courts – wellness court
Prospective Process

• Tribe/State Cooperative Agreement
  • Identify services to refer to Tribe/Tribal Programs;
  • Identify which State offenses would be appropriate for referral;

• Address funding issues – prospective increase in reservation caseload may create funding challenges; State could experience some savings with transfer of supervision to Tribes.