

## A WORD FROM THE EXECUTIVE EDITORS

This special issue of the *Journal of Court Innovation* is devoted to tribal justice. The articles and interviews in this issue examine some of the pressing challenges facing tribal courts as well as the changing relationships of federal, state, and tribal justice systems. Innovation is a common thread running through this issue, as tribal communities across the country are exploring new ways to balance traditional values and practices with new thinking and contemporary needs.

Recent events confirm that we are in the midst of a critical period for tribal justice systems. In October 2009, the United States Department of Justice convened a Tribal Nations Listening Session in St. Paul, Minnesota. This gathering was attended by nearly 400 tribal leaders and close to 100 Department of Justice officials. In his official remarks, U.S. Attorney General Eric Holder lamented that “crime statistics in Indian Country are staggering,” and he vowed to work with tribal leaders to find “immediate solutions” and “long term answers to the problems facing tribal communities.”

Interest in tribal justice issues is not entirely new in either the federal or state realms. Over the past decade, the federal government has created several new programs designed to support tribal justice systems including the Tribal Courts Assistance Program, the Indian Alcohol & Substance Abuse Program, the Correctional Facilities on Tribal Lands Program and the Tribal Youth Program, which have distributed tens of millions of dollars to tribal communities across the country. Although more funds are needed, these programs reflect an unprecedented degree of federal support.

A number of state initiatives have been developed as well, including the creation over the last decade or so of state-tribal courts forums, which focus on the relationships between state and tribal justice systems. In 2006, for example, New York's Federal-State-Tribal Courts Forum (along with the New York State Judicial Institute; the Center for Indigenous Law, Governance & Citizenship at the Syracuse University College of Law; and the New York Tribal Courts Committee) convened the First New York Listening Conference. The Listening Conference brought together more than 140 state, federal, and tribal judges and other tribal leaders from across New York to engage in a dialogue that continues today, as evidenced by Paul Stenzel's article in this issue.

As this issue goes to press, Congress is considering passage of the Tribal Law & Order Act, a bill that would address several long-standing barriers to the administration of tribal justice. The law would empower tribal courts to imprison Native offenders for up to three years (up from the current maximum of one year). In addition, the law would expand the power of tribal police to arrest non-Native offenders on tribal land, strengthen the federal government's efforts to prosecute serious crimes that occur in Indian Country, and expand funding for many of the programs that support tribal justice systems.

Against this backdrop, we are pleased to present this special issue, which features articles written by some of the country's foremost experts on tribal justice. Carey Vicenti, Associate Professor of Sociology at Fort Lewis College, presents his views on the inherent difficulties of grafting non-Indian institutions, such as "western" courts, on Indian societies with different cultural values and goals. The author provides a "guided tour" through the troubled history of the federal government's treatment of Native American tribes and asks, amid the government's nascent efforts to support tribal justice systems, whether tribal justice is possible without returning to traditional values and practices.

Carrie Garrow, Executive Director of the Center for Indigenous Law, Governance & Citizenship, offers a provocative and timely article arguing that, notwithstanding the Supreme

2009]

A WORD FROM THE EXECUTIVE EDITORS

Court's controversial decision that Native American tribes and nations lack criminal jurisdiction over non-Indians, their treaty powers may support the exercise of such jurisdiction.

Paul Stenzel, a practicing attorney who also serves as court attorney for the Forest County Potawatomi Community, located in northern Wisconsin, investigates the current state of collaboration between tribal and state court systems, including the establishment of tribal-state court forums.

John Clark, staff attorney with the Pretrial Justice Institute in Washington, D.C., offers a survey of pretrial justice programs in Indian Country. Kimberly Cobb and Tracey Mullins, of the American Probation & Parole Association, offer an assessment of the use of probation supervision in tribal justice systems.

In addition to these articles, this issue includes a series of interviews with tribal justice leaders from across the country. Throughout 2009, Center for Court Innovation staff interviewed tribal court judges about the state of tribal justice in their communities. These judges offered the collected wisdom of decades of experience as tribal justice leaders. We offer special thanks to these leaders, who each gave generously of their time and expertise.

Finally, we included several book reviews we thought you might be interested in.

We are very pleased to present this issue and contribute in a small way to the ongoing dialogue about the state of tribal justice in the United States. We hope you find it as enlightening to read as we have in putting it together.

*Greg Berman, Juanita Bing Newton, Michelle S. Simon*