

## CHAPTER 3.4: SPECIFIC JUSTICE SYSTEMS AND VICTIMS' RIGHTS, TRIBAL JUSTICE

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### INSTRUCTOR GUIDELINES

#### *Key Concepts/Objectives to Emphasize in Instruction and Learning Activities:*

1. Key components of the history of tribal justice systems (with an emphasis on the three jurisdictions that often overlap: personal, territorial, and subject matter jurisdiction). (3.4-3 to 3.4-4)
2. Key differences between the tribal and federal/state justice systems. (3.4-5)
3. Three specific concerns and/or problems of Native American victims and their families. (3.4-13 to 3.4-20)

#### *Objectives:*

1. Identify the differences and similarities (if any) between traditional and indigenous justice paradigms.
2. Analyze what the implications of such differences are for Native American victims of crime.

#### *Description of Activity and Faculty Guidelines:*

The tribal justice system in America differs significantly from all other justice systems, as evidenced in the table on page 3.4-12 of the NVAA Text.

For this exercise, provide students with the Learning Exercise worksheet, and ask them to pick *three topics* in each of the two columns. Then, give them *five minutes* to write down brief thoughts on what the differences or implications are for victims of crime between the traditional American justice paradigm and the indigenous justice paradigm.

Process out their responses on a tear sheet, and note that much of restorative justice is based upon the indigenous justice paradigm.

#### *Can Be Utilized As:*

Individual Activity     Small Group Activity     Large Group Activity

***Anticipated Amount of Time Required: 15 Minutes***

- 05 minutes for student worksheet activity.
- 10 minutes for processing in the full group.

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**RESOURCES NEEDED** *(Please check all that apply:)*

- Tear sheets and felt pens  
 VCR/monitor  
 Overhead projector and screen/LCD and laptop  
 Blank overhead transparencies and overhead pens  
 Masking tape  
 Index cards  
 Individual or group worksheets  
 Timer  
 Other *(please describe):*
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## STUDENT WORKSHEET

Please choose *three* topics in the following chart,  
and briefly describe the implication or difference for victims for each topic.

AMERICAN JUSTICE PARADIGM	INDIGENOUS JUSTICE PARADIGM	IMPLICATIONS OR DIFFERENCES FOR VICTIMS?
Vertical.	Holistic.	
Communication is rehearsed.	Communication is fluid.	
English language is used.	Native/tribal language is used.	
Written statutory law learned from rules and procedure, written record.	Oral customary law learned as a way of life by example.	
Separation of powers.	Law and justice are part of a whole.	
Separation of church and state.	The spiritual realm is invoked in ceremonies and prayer.	
Adversarial and conflict oriented.	Builds trusting relationships to promote resolution and healing.	
Communication largely defined by adversarial procedures.	Talk and discussion are essential.	
Isolate behavior, freeze-frame acts.	Reviews problem in its entirety, contributing factors are examined.	
Fragmented approach to process and solutions	Comprehensive problem solving.	
Time oriented process.	No time limits on the process; long silences, patience are valued.	
Exclusive and limits participants in the process and solutions.	Inclusive of all affected individuals in the process and solving problems.	
Representation by strangers.	Representation by extended family members.	
Focus on individual rights.	Focus on victim and communal rights.	
Punitive and removes offender.	Corrective, offenders are accountable and responsible for change.	
Prescribed penalties by and for the state.	Customary sanctions used to restore victim-offender relationship.	
Right of accused especially against self-incrimination.	Obligation of accused to verbalize accountability.	
Vindication to society.	Reparative obligation to victims and community, apology, and forgiveness.	