

JUDICIAL BRANCH OF THE NAVAJO NATION

CLOSE OUT REPORT



Prepared by

The Judicial Branch of the Navajo Nation

For the Judiciary Committee

Of the 21st Navajo Nation Council

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Introduction

The Judicial Branch of the Navajo Nation had major accomplishments in the past several years, including the addition of a judicial district, a new judicial/public safety complex that incorporates the Diné lifeway in its design, and gaining funding for two more complexes. The branch has also been instrumental in applying for and receiving several grants to assist in efforts for information sharing within the Navajo Nation and for implementing restorative justice initiatives at pilot project sites. This report covers Fiscal Years 2007 through 2010.

The total caseload for the district courts, Probation and Parole, Supreme Court and Peacemaking Program in Fiscal Year 2007 was 79,751. The total number of closed cases was 56,251. For Fiscal Year 2008, the total caseload was 79,451 and the total number of closed cases was 58,188. In Fiscal Year 2009, the total caseload was 73,193 and the total number of closed cases was 54,770. In Fiscal Year 2010, the total caseload was 64,011 and the total number of closed cases was 46,154. More detailed statistics regarding the judicial districts and the judicial programs can be found in the table on page 17 of this report.

I. Peacemaking Program

Peacemaking is “locally sovereign,” meaning that it belongs to the communities of the Navajo Nation. There are many ways of approaching peacemaking, all of them rooted in the communities in which peacemaking is pursued. The sole goal of peacemaking is anáhóót’i’ hasht’ée doolnííł hózhoji k’é náhóodleeł. The process is based on civility and mutual respect and Anáhóót’i’ hasht’ée doolnííł hózhoji k’é náhóodleeł is the responsibility of all participants.

Peacemaking is based on the Diné traditional practice of choosing a Naat’aanii – a leader who will help resolve family disputes and difficulties by trying to reform wrongdoers. This concept of peacemaking – or hózhoji k’é náhóodleeł – goes back to the beginning of time and is embedded in the journey narrative. According to the journey narrative, the Holy People journeyed through four worlds. In the course of their journey, they came upon many problems, which were either caused naturally or caused by the Holy People. The problems had to be addressed and resolved before the journey continued. Hózhoji k’é náhóodleeł is both the process and the goal, involving all participating individuals as decision makers using the method of repairing and mending conflicts and controversies through Hozhoji nahat’a. This process gives the parties in the situation the opportunity to talk out their differences and to reach an agreement to move toward peace and harmony.

Hózhóójíí teachings consists of lifelong planning with wisdom and many spiritual focuses on the well-being of every individual as Sa’áh Naaghái Bik’eh Hózhóón, which means to be physically healthy and emotionally happy. According to the Elders, the songs, prayers and the teachings of hózhóójí, the ultimate goals of Diné life are to seek and establish the state of hózhó and to learn behavior appropriate to the state of hózhó. Hózhó is where peaceful words are spoken and peaceful thoughts exist. These principles can be achieved

by the practice of self-respect.

On April 23, 1982, the rules of procedures were adopted establishing the Navajo Peacemaker Court. Today it is known as the Peacemaking Program of the Navajo Nation. The Navajo Tribal Courts are required to use the customs and traditions of the Navajo people. It is very appropriate that the Navajo courts use peacemaking so that people can have their problems taken care of in their own way.

The Navajo people claim the same rights to laws which fit their own situation, and the right is to exercise the use of customary law in the Navajo Nation Courts. The Navajo Nation Council continued to carry on the tradition and adopted the “Fundamental Laws of the Diné,” through Resolution No. CN-69-02 on November 1, 2002. The Peacemaking Program practices and applies the Fundamental Laws of the Diné.

The purposes of the Navajo Peacemaking Program include: to promote a non-adversarial forum of solving disputes where the parties to the dispute voluntarily agree or are referred to peacemaking; to promote peacemaking counseling services to clients of the Navajo Nation Court; to promote peacemaking support and assistance to Navajo Nation Courts when requested to make recommendations on sentencing; to provide education and training on Navajo culture, traditions and other Navajo accepted beliefs to individuals, organizations, and communities; to provide support and technical assistance to peacemakers; to promote the research, development, and learning of the Navajo culture, traditions, and other Navajo accepted beliefs in support of judicial and community programs; and to provide problem solving assistance to peacemakers, judges, court staff, and others concerning the peacemaking process. Peacemaking is intended to promote healing and reestablish harmony among those persons participating in peacemaking.

Hózhóǫ́jii Naat’aani, or peacemakers, are community leaders, teachers and counselors. They are nominated and certified by chapter resolution by their respective chapters. The person must be known in his or her community for fairness, wisdom, respect, planning and the ability to work with people. The person must have integrity, be honest, and possess the ability to solve problems. Peacemakers are not Navajo Nation employees.

Peacemakers may handle matters that are causing conflict or problems from the community which a person or family wishes to resolve. Currently, peacemakers are providing services for matters of probate, validation of marriages, death declaration, correction of record, paternity, child support, counseling for marriage problems and other family issues, and traditional adoptions. The District Courts refer criminal matters to peacemaking for negotiation and agreement to dispositions, restitution and sentencing recommendations. The Family Court may transfer a case to peacemaking anytime during a proceeding, including matters such as problems among husbands and wives and their families; disputes among parents and children; problems between neighbors such as nuisances, animal trespass or annoyance, and conduct which bothers others; problems due to the use or abuse of alcohol by members of the family or neighbors; problems caused by sexual misconduct; and conduct which harms people or property, or causes annoyance or disunity in the family or community.

a. Tribal Youth Program Grant “Navajo Peacemaking Youth Education and Apprentices Program”

The Peacemaking Program was awarded a four year-grant worth \$450,000 from the Department of Justice, Juvenile Justice and Delinquency Prevention Program in October 2009. This project is to provide delinquency prevention services and intervention for at-risk and court-involved youth and their families. The scope of services is to include children between the ages of 11 and 17 and will focus on grades 6 through 12. The Peacemaking Program is focused on providing meaningful services where peacemakers will be able to engage in effective communication and counseling methods. This will be accomplished by training peacemakers to provide direct services to students and their families within their communities and schools.

The first year of this grant was committed to strategic planning, which included establishing a mission statement, vision statement and a grant advisory board. The mission statement is, “*Hoozhoggo Iina’*: Empowering youth and families to be decision makers and problem solvers using traditional methods;” and the vision statement states, “*The Navajo Nation will be a stronger, healthier, happier, more culturally centered people for future generations.*” The Peacemaking Program’s five member grant advisory board includes: a) Josephine Foo, grant administrator, b) Gloria Benally, grant project coordinator, c) Karen Francis, grant liaison, d) Stacie Hansen, American Humane Association to evaluate the project, and e) Tim Benally, assistant superintendent of the Department of Diné Education to provide guidance on school regulations.

During the end of the first year and beginning of the second year, the Peacemaking Program centralized its efforts in project implementation. A seven member training committee has been established. This committee consists of a multicultural counseling and therapy specialist Dr. Larry Emerson, a Western counseling clinical therapist Charles Stacey, and a faith based counseling therapist Johnny Begay. The counseling methods will be enhanced with the assistance of other professionals including school principal Dr. Mark Sorenson, Sylvia Jackson of the Department of Diné Education and four consultants from the Diné Hatahli Association. The Peacemaking Program will provide education on Navajo language and culture by Roger Begay and case management by Gloria Benally. Training in these areas will begin in January 2011 to September 2011. By the time the training is complete, the peacemakers should be prepared to assist schools and communities in the fall of 2011.

During strategic planning meetings, a committee was formed to develop curriculum for traditional counseling certification for the peacemakers and to create educational tools for children in kindergarten through 12th grade focusing on peacemaking processes, values, principals, and standards of character building and empowering youth and families to be decision makers and problem solvers using traditional methods. Also discussed were school regulations for federal, state, and Navajo Nation background and fingerprinting clearance requirements for resources in school facilities. Thirty peacemakers were selected to be trained as traditional counselors from the judicial districts during the third meeting. A

recertification effort was instituted to ensure that the peacemakers who were selected maintained the integrity of their communities. All 30 selected peacemakers have been recertified with their respective community chapters and during this effort a number of new peacemakers were also recruited.

Eleven schools were identified to begin the outreach project. The following chart identifies each of the schools selected within the respective judicial districts.

Judicial District	School
Alamo Court	Alamo High School
To'Hajiilee Court	To'Hajiilee High School
Chinle Judicial District	Pinon Unified Schools
Crownpoint Judicial District	Ft. Wingate High School
Dilkon Judicial District	SebaDelkai School
Window Rock Judicial District	Ganado High School
Ramah Judicial District	Pine Hill School
Kayenta Judicial District	Kayenta Community School
Aneth Judicial District	Whitehorse High School
Shiprock Judicial District	Career Prep School

Lastly, over 100 participants took part in the Family Group Decision Making overview and information session at the Navajo Nation Museum on November 8, 2010. The participants included peacemakers, probation officers, school counselors, residential assistants, parent educators, behavioral health prevention specialists, teachers, case management specialists, chapter officials, security guards, social workers, students and community members. The Peacemaking Program was able to get Stephanie Autumn, the director of the EDC Tribal Youth T/TA Center, to conduct the overview. The Peacemaking Program recognized that Family Group Decision Making is similar to peacemaking and was able to use this to the program's advantage. In this effort the Program is encouraging other programs such as the Division of Social Services and Probation and Parole Services to use Family Group Decision Making/Peacemaking as an alternative to the courts to help Navajo families. The focus is to assist Navajo families in helping them resolve their own problems rather than depending on outside resources. In-depth two day training is scheduled in early December for the Peacemaking Program staff, liaisons, peacemakers, judges, court administrators, staff attorneys and probation officers.

b. Proposed Policies for Compulsory School Attendance Law Amendments

The Peacemaking Program is actively assisting the Navajo Nation Department of Education in its efforts to gain support for the proposed *Compulsory School Attendance Law Amendments*. This ongoing relationship has evolved into a partnership to reduce truancy in Navajo Nation schools. Discussions on how peacemaking services will be an alternative method to enforce truancy regulations have been initiated. The Navajo Nation Board of Education and the Peacemaking Program are working together on a grant project. The Navajo Nation Board of Education is working directly with the schools to support the

Peacemaking Program in this project. The Peacemaking Program's Diné Traditional Researcher also provided guidance and education regarding the grant project. This meeting was to revise the Navajo Nation Truancy Regulations and to establish compulsory truancy attendance regulation, and community truancy boards. The Diné Traditional Researcher met with the Navajo Nation Superintendent of Schools regarding the possibilities of providing collaboration and identified problems with Tohatchi schools and wanted to identify resource and services available to students dealing with behavior issues.

c. Navajo Peacemaking and Safe School Project

The Peacemaking Program is currently working with STAR School located on the outskirts of Flagstaff, Arizona. STAR School was awarded a grant to reduce the level of bullying among students in grades pre-K to 12; to reduce the number of students who have been in physical fights on school property; to reduce the number of students carrying weapons on school campus; to reduce the number of students who do not go to school because they feel unsafe; to increase the use of conflict resolution and Navajo "peacemaking" techniques to reduce conflicts, fighting, and violence; to increase the role of peer leadership to promote peacemaking and conflict resolution; to increase involvement of families in at-home and community violence prevention and safe schools activities; and to decrease use of alcohol, tobacco, and other drugs use among all students.

The Peacemaking Program and Safe School Project have developed strategies to have peacemakers provide intervention to students by engaging in after-school programs extending into family and community education, to have peacemakers engage in classroom assessments, to screen for referral to early intervention and to help provide cultural learning for students. The peacemaker liaisons are currently conducting training to the parents and teachers at each respective program sites. The Peacemaking Program has implemented instructional learning and technical assistances in the form of Diné traditional concepts of home teaching aspects and perspectives of traditional discipline in character development. The goal is to reach and immerse each child in need of traditional concepts of home discipline and the importance of individualized character development and learning so that they can apply it to themselves in an appropriate manner in the educational environment.

d. Training provided to Judges, Staff, Liaisons, Peacemakers, and Entities

The Peacemaking Program is required to coordinate trainings and to provide education and training for the Judicial Branch staff and judges, peacemakers and to the communities at large. It has continued to fulfill that goal through education, training, mock sessions and orientation for staff, peacemakers, community members and representatives from the Children's Bureau. The program has also collaborated with the Department of Diné Education to conduct these trainings.

II. Capital Projects

a. Dilkon Court Complex

In July 2009, the new Dilkon court complex was dedicated. The complex was designed to ensure that the building properly reflects Navajo concepts. The courtrooms are hogan-shaped and do not contain a raised judge's bench as in typical Western courtrooms. Judges sit at eye level with case participants and do not wear the ordinary black judges' robes.

The dome of the hogan represents the universe. The hogan is a sanctuary whose shape stands for the philosophical structure on which our laws are based. As used here, it reminds us that our laws must be shaped by principles embedded in our culture which continue to help form and give our society substance. These principles serve to shape and vest our laws.

Assistant Secretary of the Interior Larry Echo Hawk visited the Dilkon court complex and was impressed with the notion of tribal buildings expressing deep-rooted tribal concepts by their architecture and indicated that the BIA would pursue such designs in the upcoming construction of tribal buildings throughout the United States.

The \$4 million complex - the first of its kind on the Navajo Nation - is 14,000 square feet and sits on 2.3 acres of land north of Navajo Route 15 in Dilkon. The facility houses a district and family court, peacemaking program and probation and parole services, and serves chapters in the southwest portion of the Navajo Nation, including Birdsprings, Dilkon, Greasewood Springs, Indian Wells, Leupp, Teesto, Tolani Lake, Whitecone and Jeddito. The construction of the complex was completed through cooperation between the state of Arizona and the Navajo Nation. The state appropriated \$2 million for the facility and the tribe provided matching funds.

b. District Court Additions

The Ramah Judicial District obtained a New Mexico Indian Affairs Department joint powers agreement signed by the Navajo Nation Capital Improvement Office and the Navajo Nation to construct a courthouse modular building addition. The project was completed in mid-June of 2007 and a dedication was held July 20, 2007.

A dedication for the To'Hajiilee District Court additions was held November 18, 2010. The additions include a probation office and judge's chambers. The judge's chambers was dedicated to the elderly and youth and the probation office was dedicated to the fight against drunk driving. The courtroom itself was dedicated to the community of To'Hajiilee. The court facility will be a resource for the community.

Funding for the project had nearly been reverted back to the State of New Mexico in 2009, but district court staff and Navajo Nation leadership were able to save it. The additions to the facility cost approximately \$217,000 and the project was funded by the Navajo Nation and the state of New Mexico. The state contributed \$34,000 and the Navajo Nation authorized up to \$200,000 for the additions.

c. Judicial/Public Safety Facilities

A new justice and public safety facility for Tuba City is being funded with an American Recovery and Reinvestment Act of 2009 grant for \$38.6 million and with monies from a loan taken by the Navajo Nation Council from KeyBank. A traditional groundbreaking was held September 24, 2010. Probation and case management staff must be relocated to a temporary site during construction. Funds from the sales tax have been set aside to pay for the relocation, planning, parking area and utilities connections for two trailers, which are expected to be located at the site established by the Department of Corrections and Department of Law Enforcement. However, attempts to secure \$900,000 for site development, relocation of 16 court personnel and lease of temporary facilities to continue to provide court services within the Tuba City community have been unsuccessful. It must be noted that there are strict construction timelines that are attached to the ARRA funding and the funding could be jeopardized if the Navajo Nation does not abide by these timelines. Also in Tuba City, there remains the issue of the old court building, which requires Council approval and \$113,070 to demolish. A legislation to demolish the old building had been presented to the Navajo Nation Council during its 2010 summer session, but it was not approved. To the knowledge of Judicial Branch staff, no interest has been expressed by any tribal entity or individual to occupy the building.

The \$60 million KeyBank loan will also be used on construction of a facility for corrections, law enforcement, district court, probation, peacemaking, prosecutors and public defenders in Crownpoint. The Bureau of Indian Affairs has further approved funding in the amount of \$21 million for that facility and an additional \$2.5 million for staff and judges' housing. The one-stop-shop justice center for Crownpoint is nearing the construction phase. Court staff members are preparing for groundbreaking activities

The Tuba City and Crownpoint sites were at the top of the Judiciary Committee's priority listing for new facilities and those are on their way to beginning construction. Next on the list is a new facility for Chinle. Any money left over from the KeyBank loan is expected to be designated for a facility in Chinle. Currently, the Administrative Office of the Courts has allocated \$111,679 of indirect cost funds to replace a leaking roof at the Chinle District Court building.

d. Supreme Court Facility

On April 1, 2010, Chief Justice Yazzie met with Scott House from Design and Engineering Services regarding plans for a Supreme Court/Judicial Complex. The proposed facility would house the Navajo Nation Supreme Court, Window Rock Judicial District, Peacemaking Program, and the Administrative Office of the Courts. After evaluating proposals and interviewing several architectural firms, the selection committee chose VCBO Architecture from Salt Lake City, Utah, to design the proposed Supreme Court Judicial Complex using funds previously allocated by the Council for the planning and design for such a facility. On June 3, 2010, Supreme Court Associate Justices met with the selected contractor to discuss planning for the Supreme Court's portion of the complex project. Justice Shirley has been working with Mr. House to get the contract in place for the architectural firm. The contract with VCBO Architecture has been reviewed by the

Department of Justice and was signed by President Joe Shirley on December 8, 2010. The contract is at Contract Accounting for assignment of an account number.

III. Navajo Nation Integrated Justice Information Sharing Project

For several decades, the Navajo Nation Council made the automation and sharing of justice data a priority goal. Navajo Nation Council Resolution ACS-157-83, codified at 2 N.N.C. §1986, requires the Office of the Chief Prosecutor to establish a central records keeping system (September 22, 1983). CAP-30-02 supports the development of an integrated criminal justice information system and mandates cooperation and coordination in its development (April 19, 2002). CAP-20-06 contains a directive to all branches to cooperate in developing an integrated justice information system (April 26, 2006). The Navajo Nation Sex Offender Registry Act, enacted in May 2006 requires that a sex offender registry be maintained by the Chief of Police while the Adam Walsh Child Protection and Safety Act of 2006 enacted by the Federal Government requires Indian Tribes to post sex offender data on the Internet for public view.

All of the above requires uniform automation capability among Navajo Nation judicial and justice components; stable and secure Internet connectivity; and teamwork between the components operating in unison in the best interest of the Navajo Nation. In October 2007, the Judicial Branch took the lead in gathering together a team of Navajo Nation judicial and justice components under the Navajo Nation Integrated Justice Information Sharing Project (NNIJISP). Over the past two years, this team has been solid in its cooperative spirit. The integrated justice project has shown unified commitment in obtaining both Navajo Nation and grant funding for justice automation and information sharing; in exploring wide-ranging solutions; and in discussing and compromising on measures to be taken in the expense of funds.

NNIJISP is an initiative of the Judicial Branch in partnership with the Division of Public Safety and the Office of the Chief Prosecutor. The goals are to expand automated case management support to the courts (district, family and appellate), probation, peacemaking, prosecutors and public defenders; and implement NIEM and SOA based information exchanges between criminal justice entities.

The first grant that the Judicial Branch obtained for the NNIJISP initiative came from the U.S. Office of Justice Programs on March 1, 2007 in the amount of \$300,000 for purchase of software and professional services in regard to an integrated and automated case management and records keeping system (CMS) for judicial and justice programs and agencies that did not have such systems or whose systems are obsolete. The agencies involved are all trial courts, the Supreme Court, Peacemaking Program, probation services, prosecutor's office, and public defender. The grant, originally supposed to end September 30, 2010, has been extended to September 30, 2011.

The design of NNIJISP follows a Needs Assessment Report generated by the National Center for State Courts following a site visit on March 20-23, 2007. The overall strategic plan consists of modernizing to new technologies and integrating agency systems to foster

collaboration and effective communication and sharing of information within and across agency and jurisdictional boundaries. The Technology Oversight Committee (TOC) is responsible for development of NNIJISP. On August 27, 2009, the IJIS Institute released its technical assistance report following its May 12-15, 2009 data gathering visit to the Navajo Nation justice community.

New Dawn Technologies was selected by the NNIJISP Technology Oversight Committee on September 11, 2009, to supply an integrated case management system for the courts, probation, peacemaking, prosecutor, and defender in the Shiprock Police and Judicial District on a Proof of Concept basis. The contract with New Dawn was signed on November 13, 2010, for the procurement and implementation of JustWare, an object-based integrated case management system. Like most other case management systems, the system is flexible to tribal justice needs and enables changes and modifications to be made by in-house administrators on-site rather than requiring expensive support from off-site external experts. This system will permit expansion to other governmental agencies in the future. The system was funded through a combination of Navajo Nation, federal and state grants obtained by the Judicial Branch and a federal grant obtained by the Navajo Nation Office of the Prosecutor.

In order to limit the “risk” or investment of the Navajo Nation into this new system that may present issues due to the IT infrastructure, suitability for use by all agencies, and other issues, the new system will be tested as a "Proof of Concept" in the Shiprock Judicial and Police District, as noted. Following a successful test phase, the system will be rolled out district-by-district to the Navajo Nation. The vendor has agreed to also roll in support costs over time according to our schedule and user needs.

The Judicial Branch has also received a federal ARRA formula pass-through grant through the State of Utah, Commission on Criminal and Juvenile Justice, in the amount of \$177,023 to fund a Database and Business Systems Administrator position for two years. The grant was accepted through Intergovernmental Relations Committee Resolution No. IGRD-247-09 on December 21, 2009. This person will coordinate with the CMS vendor in developing and maintaining the database and business applications in the NNIJISP covered courts and programs and plan trainings in the new system. The position will also coordinate and plan trainings with Division of Public Safety’s CODY RMS managers, all of whom are Navajo Nation law enforcement officers serving part-time as CODY managers.

The Judicial Branch was notified on September 15, 2010, of a \$495,832 grant award from U.S. Department of Justice Office Justice Programs under the Tribal courts Assistance Program. The funding will go toward enhancement of cabling including network fiber optic cabling for the various judicial and police districts. Funds are also designated for support services, personnel training and video conferencing equipment.

The Department of Information Technology is stepping up its role in the Navajo Nation Integrated Justice Information Sharing Project, as per the plan of the Judicial Branch since the inception of the project. Elnora Mitchell of the Department of Information Technology was chosen as the project manager for the NNIJISP by the Technology Oversight

Committee on September 28, 2010. Ms. Mitchell is supported by a project management team which consists of Gwen Williams of the Office of the Chief Prosecutor, Ben Mariano of the Judicial Branch Information Technology Section, Orlando Bowman of the Information Management Services, and former project manager and Supreme Court associate attorney Josephine Foo. Paul Spruhan of the Department of Justice is drafting enabling legislation to approve a plan of operation for the project to become its own program within the Executive Branch. The Judicial Branch will continue to work with all partners in this multi-agency project, particularly in seeking more funds.

IV. Nabinahaazlaago Initiative

In 1999, the Navajo Supreme Court required assessments by Probation Services of all children taken into protective custody; humane conditions; and “the care, protection and wholesome mental and physical development” of detained children. On January 27, 2000, the Council in CJA-08-00 authorized the merging of probation and peacemaking functions to promote rehabilitation of offenders. The Children’s Code authorizes the Office of the Chief Justice, with Social Services, to develop a Navajo Nation-wide plan for detention, shelter care facilities, or alternatives. A memorandum of agreement for detention programs was signed by Public Safety and Social Services on June 21, 2004, and on November 21, 2008, Probation Services was authorized to perform reentry services, outreach and form cross-program partnerships, perform assessments of juvenile and family needs, serve as case managers, partner with Navajo peacemakers and share facilities.

The Judicial Branch obtained a two-year grant for \$1,362,906 through the American Recovery and Reinvestment Act Assistance to Rural Law Enforcement to Combat Crime and Drugs Program in 2009. With that grant, the Nabinahaazlaago Initiative – Services to Youth in Detention Centers was established in November 2009. The purpose of the Nabinahaazlaago Initiative is to provide case management services for youth in detention. The goals include ensuring assessments services and treatment are provided for juveniles in detention; establishing a steering commission to guide the work of the Initiative; formulating agreements and detailed plans for inter-agency collaboration; devising and implementing a data collection plan; and reducing recidivism rates.

The grant enabled the Judicial Branch to hire an operations analyst, a liaison officer, two case management supervisors, case management officers and office technicians to fulfill the goals of the Nabinahaazlaago Initiative. Staff members are stationed at the Administrative Office of the Courts in Window Rock and at pilot project sites at the Tohatchi Youth Correction Center and the Tuba City Juvenile Detention Center. The case management officers provide intake, conduct interviews, develop case plans, facilitate case staffing and provide aftercare services for those whom choose to utilize the service.

Case management staff members in Tuba City and Tohatchi have served more than 300 youth at the detention sites during the last three quarters of Fiscal Year 2010. The Nabinahaazlaago Initiative staff members are also working on data collection to have statistics on youth in detention where none had previously been collected. This data will be able to help the Navajo Nation in addressing the problems of why youth are in detention and what type of services are needed for them and systemic issues within the juvenile

justice system. Youth detained are between the ages of 12 and 18 years old. Of those detained, 69 percent were male and 31 percent were female; 13 percent were repeat offenders; 34 percent of all offenses by detainees involved public intoxication; 19 percent involved disorderly conduct; and 15 percent involved curfew violations and loitering. The average number of offenses per detainee was 2.5.

From 2005 to 2009, the average number of juveniles who committed offenses was 2,090 per year, according to the Division of Public Safety Information Management Services. From 2005 to 2009, three of every ten juveniles who commit offenses had court cases filed against them. From 2005 to 2009, 48 percent of court cases filed were for delinquency; 36 percent for children in need of supervision or CHINS; and 16 percent for dependency. From 2005 to 2009, the average short term juvenile probation cases filed was 189 per year.

The Initiative involves the participation of major Navajo Nation justice agencies and service providers, puts in place a central authority management structure and provides staffing to ensure collaboration and continued participation by partners. As part of the Initiative, the Judicial Branch entered into a memorandum of understanding with the Department of Corrections to establish a partnership for the Nabinahaazlaago Initiative staff to be stationed at the juvenile detention facilities at Tuba City and Tohatchi and to work with correctional staff to ensure that the youth are provided with necessary assessments and services. The MOU was signed by Chief Justice Herb Yazzie and Navajo Division of Public Safety Director Samson Cowboy on November 24, 2009.

More recently, the Nabinahaazlaago Initiative has entered into a memorandum of understanding with the Department of Diné Education to be able to refer youth to utilize its services and address alternative educational opportunities. With cooperation from the agency Offices of Diné Youth, the Nabinahaazlaago Initiative is further seeking individual MOUs with those agency offices. Each of the agency ODY offers different services and the MOUs may be tailored to each agency. The Nabinahaazlaago Initiative is working with other programs and entities such as the Office of the Chief Prosecutor, Department of Behavioral Health Services and Big Brothers Big Sisters on developing MOUs with those programs. The Nabinahaazlaago Initiative staff is also seeking to work with state and county agencies so that the Navajo Nation will be able to offer services to Navajo youth whom are in those detention systems. Discussions are in the beginning stages and research is currently being conducted.

V. Community Court Innovation Program

The Community Court Innovation Program is a pilot project at the Aneth District Court in which the court is seeking to offer a coordinated approach to its cases. A coordinated approach entails participation from the community and from local resources and services.

On May 26 - 29, 2009, Chief Justice Yazzie, Judge Genevieve Woody, Judge Irene Black, and associate attorney Josephine Foo traveled to New York at the invitation of the Center for Court Innovation (CCI) to visit the Red Hook Community Justice Center in Brooklyn, New York. CCI has partnered with the Judicial Branch on its grants for a community court.

Red Hook has become in recent years a world-renowned restorative court model that appears to rely on principles that follow tribal emphasis on restorative justice. It combines restorative tools in a single court rather than having a separate criminal court, drug court, domestic violence court, etc. The Bureau of Justice Assistance at the U.S. Department of Justice, the American Bar Association, the National Conference of State Court Judges, and State Court Administration of New York have each endorsed or are actively adopting the Red Hook model. It is a type of problem-solving court that addresses punishment and services at a single hearing, reducing need for report writing, increasing judicial oversight and engaging judges in communities at an unprecedented level, speeding up dispositions, and very much increasing restorative tools judges have at their disposal.

There are 30 such courts in the United States – most in New York City and State – and up to 10 international models based on the Red Hook or Midtown Manhattan Community Courts. Through this project, the community gets involved and individuals are made to feel they are productive citizens of the community. A committee at the Aneth Judicial District has been appointed and has been meeting every two weeks and teleconferencing with the Community Court Innovation representatives from New York.

Brett Taylor and Aaron Arnold from Court Innovation visited Aneth District Court in mid-May 2010 to meet with chapters and stakeholders for feedback and information. District Court Judge Irene S. Black has visited local chapters to promote and gain the support of the Aneth district chapters for the implementation of the community court innovation pilot project, including Red Mesa, Mexican Water and Aneth regular and planning meetings. The Aneth Judicial District has completed community resource mapping to get contact information and basic descriptions of services provided and population served of all the various programs, agencies and stakeholders within the Aneth Judicial District. It also held service provider meetings about every two months with discussions concerning this project.

VI. District Court Judges

There are currently 14 district court judges serving 10 judicial districts of the Navajo Nation. There are three judge positions that are currently not filled. Those positions are at Tuba City, Kayenta and Window Rock Judicial Districts. All but one of the district court judges have received confirmation as permanent judges by the Navajo Nation Council. Judge Cynthia Thompson began her probationary period in September 2009.

Judges are assigned to the following Judicial Districts:

Tuba City Judicial District	Allen Sloan
Kayenta Judicial District	Jennifer D. Benally
Aneth Judicial District	Irene S. Black
Chinle Judicial District	Leroy S. Bedonie
	Cynthia Thompson
Dilkon Judicial District	Rudy I. Bedonie

Window Rock Judicial District	Thomas J. Holgate
	Carol K. Perry
Shiprock Judicial District	Geraldine V. Benally
	Genevieve Woody
Crownpoint Judicial District	LaVerne A. Johnson
	Irene M. Toledo
Ramah Judicial District	Wilson Yellowhair
Alamo/To'Hajiilee Judicial District	William J.J. Platero

VII. Judicial Branch Employee Policies and Procedures

The Judicial Branch personnel rules have been revised and approved effective November 11, 2010, to ensure the policies substantially reflect the values and principles of Diné bi beenahaz'áanii. The manual has been re-named Judicial Branch Employee Policies and Procedures, Beehaz'aanii Bik'ehgo Da'iniish (JBEPP). The first introduction of official policies for Judicial Branch was in 1977 and was known as the Judicial Branch Personnel Rules. Revisions to these rules were made in 1979, 1986 and 1996. The Navajo Nation Council Judiciary Committee approved the latest policies and procedures through Resolution No. JCN-10-10 on November 5, 2010.

The Judiciary Committee of the Navajo Nation Council is authorized to approve and adopt policies and procedures at 7 N.N.C. § 401. Pursuant to 7 N.N.C. § 371, the Chief Justice of the Navajo Nation has both the sole responsibility and the duty to administer the Judicial Branch, in accordance with law and the approved Judicial Branch Employee Policies and Procedures. The application of the policies applies to all employees and positions within the Judicial Branch with the exception of justices and judges, whom abide by the Judicial Branch of the Navajo Nation Personnel Rules for Judges and Justices by Resolution No. JCJA-02-03, as amended.

The policies and procedures received substantial input from Branch personnel. Employees within the branch and at all judicial districts have been orientated to the contents of the new manual by the Human Resources Office and have signed acknowledgment forms.

Amendments to the Policies and Procedures may be conducted every four years or when otherwise directed by the Chief Justice. At such time, a review of the Policies and Procedures will be conducted to receive comments and proposals from administrators and staff. Recommended changes will then be made to the Judiciary Committee, which has the sole authority to amend the Judicial Branch Employee Policies and Procedures.

VIII. Truancy Protocol at To'Hajiilee Court

In November, 2009, the To'Hajiilee Family Court through the Peacemaking Division in collaboration with the To'Hajiilee Community School established a local truancy protocol. The protocol sets forth standard procedures in processing truancy court cases that are referred to the To'Hajiilee Prosecutor's Office for prosecution.

This collaborative effort came to the forefront during a community resources meeting sponsored by the To'Hajiilee Court. Among the participants of the community resources team are the To'Hajiilee Court, To'Hajiilee Peacemaking Division, To'Hajiilee Prosecutor's Office, To'Hajiilee Community School, To'Hajiilee Behavioral Health Services, To'Hajiilee Social Services and the Navajo Housing Authority – To'Hajiilee Sub-Office. These entities played a major role in the establishment of the protocol to fight truancy within the community.

The To'Hajiilee community resources team found that the student attendance rate was at an all-time low of 73 percent during the 2008-2009 school year. During this time, there were more cases referred or identified for truancy than any other time in the previous five years. The truancy rate among students at the To'Hajiilee Community School was considered the highest priority for the school because of its effects on school funding. It was understood by the resources team that if the truancy remained high at the community school, there would be a serious reduction in funding for the school which would ultimately affect the school's overall operation. In response, the community resources team established the truancy protocol to help alleviate the problem.

The protocol established a system of response which involved the prosecutor's office, Peacemaking Program and the court. A case for truancy would be referred to the prosecutor and a truancy case would be filed with the court. At the initial hearing, the court would transfer the case to the Peacemaking Program upon the request of the prosecutor. Then the Peacemaking Program would hold a peacemaking session in an effort to resolve the truancy problem between the student, the parents and the school. The Peacemaking Program would report back to the court on its resolution and recommendations. The peacemaking participants would all play a major role in the rehabilitation efforts of the truancy problem and the parents and student were equally held responsible for any further truancy.

Penalties for violating the peacemaking agreement include community service work for the student and parents and possible contempt of court proceedings. As a reward for following through on all the conditions of the peacemaking agreement, the case is dismissed by the prosecutor and no further action is taken against the student and parents.

The truancy protocol has been very successful and a recent report from the To'Hajiilee Community School indicated an increase in student attendance to 94 percent for 2010-2011 school year which started in August 2010. The truancy rate has decreased significantly and the resources team is continuing its efforts to fight truancy through continued community education.

IX. New Judicial Districts

The Aneth Judicial District was officially declared a judicial district on August 10, 2007. The boundaries were created by the Judiciary Committee and include the chapters of Aneth, Red Mesa, Mexican Water, Sweetwater, a portion of Rock Point and a majority of Teecnospos. Since then, the Aneth Judicial District had a caseload of 308 in Fiscal Year

2007; 1,446 in FY 2008; 1,536 in FY 2009; and 1,734 in FY 2010.

There are initiatives occurring to create two new judicial districts – for Pinon and for Tse’gaili. The Judicial Branch has set aside \$200,000 to assist with designing a justice complex for Pinon to serve the area and surrounding chapters which must now travel a great distance for services in Chinle. The branch has also set aside \$200,000 to assist Tse’gaili to establish court services in the Eastern Agency. Those constituents must currently seek services in the Crownpoint Judicial District.

X. Inter-branch Taskforces

The Judicial Branch participated in several inter-branch task forces and consultation groups addressing Navajo Nation Code or rule adoption, clarifications, or revisions, including the Children’s Code, The Sex Offender Registry Act, Garnishment Act, Arbitration Act, Pro Bono Service Rules, Judicial Conduct Commission, service of process rules, and Adult Civil Traffic Infraction (ACTI) procedures. Many of these meetings were attended by Chief Justice Yazzie. The branch has continued to participate in several inter-branch taskforces and consultation groups addressing Navajo Nation Code or rule adoption. None of these taskforces have reached the end of their efforts as of this past year.

XI. Tribal Law and Order Act

On July 29, 2010, President Obama signed into law the Tribal Law and Order Act of 2010. The law passed as part of amendment SA4391 to HR725: The Indian Arts and Crafts Amendment Act of 2010.

The Senate Committee on Indian Affairs chaired by Sen. Byron Dorgan had been drafting the Indian Country crime bill since December, 2007. To assist the Committee in arriving at a bill that fully and effectively addresses Indian Country crime, a workgroup spearheaded by Chief Justice Herb Yazzie and composed of Southwest tribes was formed following a Senate Committee on Indian Affairs-convened listening session in Phoenix in January 2008.

The workgroup consisted of governmental leaders, justices and judges, behavioral health experts, and law enforcement and corrections managers from the Navajo Nation, Hopi Tribe, Ft. McDowell Yavapai Nation, Salt River Pima Maricopa Indian Community, and the BIA Office of Justice Services. Part of the workgroup's efforts was to explain the unique core responsibilities of Indian justice that must be acknowledged and funded. The central concept of Indian justice is restoration or restorative justice. The TLOA contains a number of workgroup recommendations.

XII. Judicial Hearing Officers

A new civil traffic infraction program based on traditional Diné principles was implemented in the first quarter of Fiscal Year 2009 by the Judicial Branch after extensive discussions with the Attorney General and Chief Prosecutor. A number of considerations

went into the design of the new program. Chief among these considerations was the Navajo Nation Council's mandate that the values and principles of Diné bi beenahaz'áanii be upheld in the interpretation of our laws and in rendering decisions and judgments. The new program ceased, however, when the four judicial hearing officers that had been hired were laid off from employment because of a budget deficit. The trial judges then had to resume hearing traffic cases. The rules and procedures that had been developed for the program though are still available for the judges' use.

XIII. Harmonization Project

The Harmonization Project explores methods of conforming Navajo rules of court toward Diné bi beenahaz'áanii principles. Begun in December 2006, the "Harmonization Project" is so named due to an acknowledgement that Diné culture and Western-style dispute resolution methods rely often on deeply opposing principles. In international law, the word "harmonization" means the process by which such opposing principles may be addressed and conformed in such a manner that there can be a smooth relationship between two sovereign states, especially in the important area of cross-border dispute resolution. The project is modeled on a nine-year American Law Institute/European Institute for the Unification of Private Law (ALI/UNIDROIT) effort to establish model principles and rules of civil procedure for use in international commercial and other litigation. The ALI/UNIDROIT effort strived to harmonize differences in the legal procedures of common law (United States, Canada, United Kingdom and former British colonies) and civil law (Europe, Latin America, and parts of Africa and Asia) jurisdictions. It was successful in emphasizing mutual principles while protecting the spirit of individual cultures. Geoffrey C. Hazard, Jr., Director Emeritus of ALI and Reporter in the ALI/UNIDROIT effort, is consultant in the Harmonization Project.

The project includes addressing harmonization in policies and rules, and also the inclusion of concepts and values of fundamental law in legal education of Staff Attorneys in the Judicial Branch. After several meetings over the course of one year, the project is on hold pending structural review

Judicial Branch of the Navajo Nation
Court Statistics for FY 2007 to FY 2010

Case Statistics	FY 2007		FY 2008		FY 2009		FY 2010	
	Caseload	Closed	Caseload	Closed	Caseload	Closed	Caseload	Closed
Tuba City	10,789	8,450	7,791	6,484	5,191	4,320	3,567	2,652
Kayenta	5,233	4,404	4,532	3,786	4,788	3,758	3,668	2,903
Aneth	308	131	1,446	1,222	1,536	1,122	1,734	1,373
Chinle	12,903	7,292	14,075	9,097	15,333	11,468	10,408	8,060
Dilkon	4,392	3,380	6,976	5,890	4,022	3,274	2,971	2,137
Window Rock	8,809	6,301	10,104	7,470	10,353	8,346	8,513	6,163
Shiprock	12,200	8,997	10,256	6,556	10,619	7,226	9,346	6,096
Crownpoint	11,863	7,424	10,783	7,311	8,357	5,429	7,976	4,730
Ramah	1,555	1,073	1,943	1,184	1,931	1,221	2,394	1,443
Alamo	467	355	504	301	532	385	755	498
To'Hajiilee	987	575	858	404	935	631	1,005	586
Probation / Parole	8,895	6,792	9,029	7,642	8,463	6,778	10,291	8,478
Supreme Court	161	94	207	115	221	165	167	102
Peacemaking	1,189	983	947	726	912	647	1,216	933
DANA	-	-	-	-	-	-	-	-
Total:	79,751	56,251	79,451	58,188	73,193	54,770	64,011	46,154