



TRIBAL ACCESS PROGRAM

**FOR NATIONAL CRIME INFORMATION
ENSURING THE EXCHANGE OF CRITICAL DATA**

Tribal Decisions



Department of Justice
Office of the Chief Information Officer
Office of Tribal Justice

WEB: WWW.JUSTICE.GOV/TRIBAL/TAP
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- Tribes must make decisions that govern the use of TAP
- Tailored to individual Tribes and communities
- Decisions in four major categories:
 1. Participating Agencies and Use
 2. Information to be Entered into National Crime Information Systems
 - a) National Crime Information Center (NCIC) entries
 - b) Arrest Bookings and Disposition
 - c) National Instant Criminal Background Check System (NICS) entries for Firearms Prohibitors
 3. Information Technology Decisions
 4. Other Criminal Information Decisions
 - a) SORNA/Sex Offender Registration
 - b) N-DEx



Participating Agencies and Use



- As part of the application process, Tribes have already decided which agencies will participate in TAP
- Changes to agency participating require a letter from Tribal Leadership
- Tribes are always welcome to “add” agencies post-deployment

Which Agencies Can Participate



Criminal Justice Agencies (CJA)

- Law Enforcement
- Corrections
- Criminal Courts
- Prosecutor's Office
- Probation/Parole
- Pretrial Services

Non-Criminal Justice Agencies (NCJA)

- Sex Offender Registry
- Public Housing
- Child Protective Services
- Social Services (e.g. Foster Care)
- Child Support Enforcement
- Human Resources

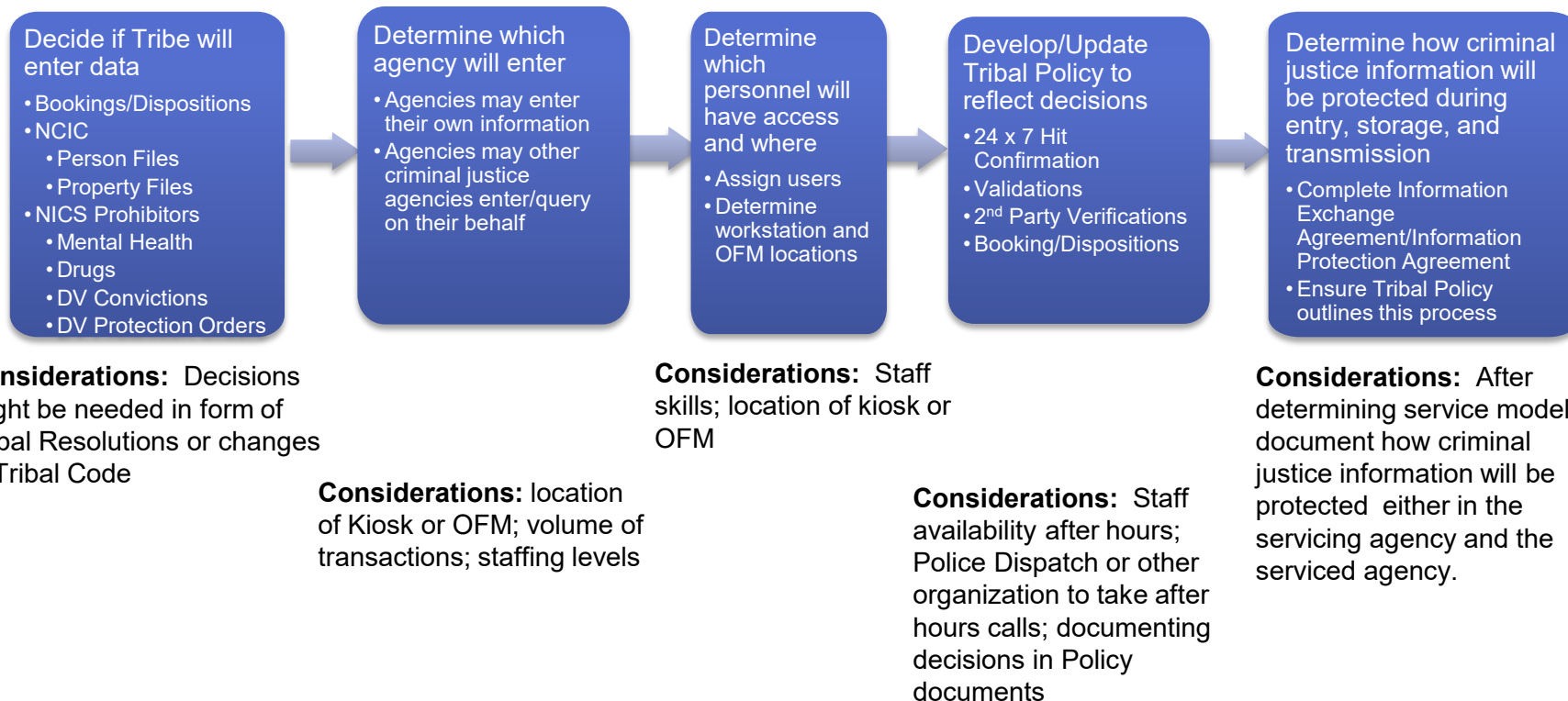


Information to be Entered into National Crime Information Systems

Decision Making Flow



For each data entry decision, the following steps must be taken to ensure proper management and protection of Criminal Justice Information entering CJIS systems



2. Decide what Information to Enter



Tribes need to determine what information will be entered into national crime information databases and which agencies will be responsible for entering:

1. NCIC
 - a) Person Files
 - b) Property Files
2. NICS Firearms Prohibitors
 - a) Drug Addiction
 - b) Mental Health
 - c) Misdemeanor Crimes of Domestic Violence (MCDV)
 - d) DV Protection Orders
3. Arrest Bookings
 - a) Decision on which charges to submit fingerprints to the FBI

1a. NCIC Files – Person Files



a) Wanted Persons

- Will Tribe enter:
 - all felonies or only specific ones?
 - all serious misdemeanors or only specific ones?
- Agency that enters: Courts or Law Enforcement
- Policy documentation:
 - Warrant/Extradition
 - 24x7 hit confirmation
 - Validation and 2nd Party Verification
 - Information Protection Agreement/Information Exchange Agreement

b) Missing Persons

- Will Tribe enter Missing Persons via TAP or via State systems
- Agency that Enters: Law Enforcement
- Policy documentation:
 - 24x7 hit confirmation
 - Validation and 2nd Party Verification
 - Information Protection Agreement/Information Exchange Agreement

1a. NCIC Files – Person Files (cont.)



c) Protection Order Files

- Will Tribe enter:
 - any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence or contact or communication with, or physical proximity to another person?
 - Domestic violence protection orders?
- Agency that enters: Criminal Courts and/or Civil Courts
 - Tribe can decide to have an agency enter on behalf of another agency (e.g. Law Enforcement enters 'No Contact Orders' on behalf of the Tribal Court)
- Policy documentation:
 - Original documentation supporting the court order
 - 24x7 hit confirmation
 - Validation and 2nd Party Verification
 - Information Protection Agreement/Information Exchange Agreement
- Additional Considerations
 - Reasonable notice and opportunity to be heard must be given to the person against whom the order is sought; sufficient to protect the respondent's due process rights.
 - If notice is not provided, then the order must be entered as a Temporary Protection Orders

1a. NCIC Files – Person Files (cont.)



d) Conditions of Early Release

- Will Tribe enter:
 - Records in NCIC for subjects who are put under specific restrictions during their probation, parole, supervised release, or pre-trial release?
- Agency that Enters: Law Enforcement, Court, Probation/Parole
- Policy documentation required:
 - Agencies must have documentation (electronic or hard copy) on file to support a supervised release entry.
 - Information Protection Agreement/Information Exchange Agreement

1b. NCIC Files – Property Files



a) NCIC Property Files

- Will the Tribe enter any of the following:
 - Stolen vehicles?
 - Stolen guns?
 - Stolen articles?
 - Stolen boats?
 - Historical records?
- Agency that Enters: Law Enforcement
- Policy documentation:
 - 24x7 hit confirmation
 - Validation and 2nd Party Verification
 - Information Protection Agreement/Information Exchange Agreement

2. NICS Prohibitors: Introduction



- National Instant Criminal Background Check System (NICS) used by federally licensed firearm dealers to determine whether a person is eligible to purchase or possess a firearm based on a number of prohibitors specified by Federal Law.
- A NICS check searches by name and descriptive data for matching records in three databases. These databases are:
 - **National Crime Information Center (NCIC)** which contains information on wanted persons and domestic violence protection orders;
 - **The Interstate Identification Index (III)** which contains criminal history records (including indictments, felony convictions, and Misdemeanor Crimes of Domestic Violence (MCDV))
 - **The NICS Indices** contains information that may not be available in the NCIC or the III of persons prohibited from receiving firearms, such as mental health commitment orders or controlled substance abuse. Tribes are authorized to enter
 - a) Mental Health Related Prohibitors
 - b) Drug Related Prohibitors
 - c) Misdemeanor Crimes of Domestic Violence (MCDV) –if not contained in III via a fingerprint-based arrest charge/conviction

2a. NICS Prohibitors: Mental Health



- Will the Tribe enter:
 - Persons who has been “*adjudicated as a mental defective*”¹ by a court, board, commission, or other lawful authority who has made a determination that a person, as a result of marked subnormal intelligence, mental illness, incompetency, condition, or disease
 - Persons “*committed to a mental institution*”¹
 - Involuntarily, for mental defectiveness or mental illness or other reasons such as drug use
 - Admission to mental institution for observation or by voluntary admission in NOT included as a firearms prohibitor
- Agency that Enters: Law Enforcement, Criminal Courts
- Policy documentation:
 - NCIC/NICS Prohibitors Policy
 - Validation and 2nd Party Verification
 - Information Protection Agreement/Information Exchange Agreement

¹ 18 U.S.C. § § 924(a)(2) and 922(g)(4)

2b. NICS Prohibitors: Controlled Substance Related



- Will the Tribe enter:
 - Persons who are unlawful users of or addicted to any controlled substance “who has lost the power of self-control with reference to the use of a controlled substance; and any person who is a current user of a controlled substance in a manner other than prescribed by a licensed physician.”
- Agency that Enters: Law Enforcement, Criminal Courts
- Policy documentation:
 - NCIC/NICS Prohibitors Policy
 - Validation and 2nd Party Verification
 - Information Protection Agreement/Information Exchange Agreement

2c. NICS Prohibitors: Misdemeanor DV Convictions



- Will the Tribe enter Misdemeanor Crimes of Domestic Violence (MCDV)?
 - Federal law prohibits anyone who has been convicted of a “qualifying” misdemeanor crime of domestic violence (MCDV) from purchasing or possessing firearms or ammunition. Qualifying relationships include:
 - With whom the abuser is married or was married at the time the order issued.
 - With whom the abuser lived at the time the order issued or previously.
 - With whom the abuser had a child at the time the order issued.
 - Who was the abuser’s child at the time the order issued.
 - If fingerprint-based arrest and conviction are submitted to the FBI, then these charges will automatically disqualify the subject from purchasing or possessing firearms.
 - If fingerprint-based arrest and conviction are NOT submitted to the FBI, as part of the booking process then MCDVs can be entered into the NICS Indices with supporting documentation to disqualify the subject from purchasing or possessing firearms.
- Agency that Enters: Law Enforcement, Criminal Courts
- Policy documentation:
 - NCIC/NICS Prohibitors Policy
 - Validation and 2nd Party Verification
 - Information Protection Agreement/Information Exchange Agreement

2d. NICS Prohibitors: DV Protection Orders



- Will the Tribe enter DV Protection Orders?
 - **DV Protective Order** is subject to a court order that
 - (A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
 - (B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
 - (i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
 - (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force
 - **Plaintiff or Petitioner** must be an intimate partner of the Defendant, including
 - A spouse of former spouse of the Defendant
 - A person who cohabitates or who has cohabitated with the Defendant (i.e., who resides/resided together in a sexual/romantic relationship; or
 - A person with whom the Defendant has or had a child in common (regardless of whether they were ever married or cohabitated)
- Agency that Enters: Law Enforcement, Criminal Courts
- Policy documentation:
 - NCIC/NICS Prohibitors Policy
 - Validation and 2nd Party Verification
 - Information Protection Agreement/Information Exchange Agreement

3. Booking of Prisoners/Entry of Dispositions



- Fingerprint-based arrest booking that are submitted to NGI/III through TAP are available to criminal justice agencies nation-wide. Tribes determine which charges will be submitted to the FBI and which charges will remain solely in Tribal records.
- Shared Criminal Justice Information about serious crimes helps both law enforcement and courts in other jurisdictions make more informed decisions regarding Tribal members arrested in other jurisdictions.
- Many Tribes make decisions to submit serious misdemeanor arrest charges (such as Domestic Violence, Assault, or Crimes involving a weapon)
- Non-serious offenses such as public intoxication, disorderly conduct, or traffic offenses should not be submitted to the FBI
- Tribal Leadership should make decisions (possibly via Tribal Resolutions) on:
 - Which charges will be submitted to FBI and which will not
 - Who is responsible for entering final disposition. This must be complete within 120 days of arrest
 - How to document charges for which fingerprints are not submitted (e.g. inquiries)

3. Booking of Prisoners/Entry of Dispositions



- Will the Tribe:
 - Submit bookings on all felonies or only specific ones?
 - Submit bookings on all serious misdemeanors or just specific ones?
- Agencies that conduct bookings: Law Enforcement, Corrections
- Agencies that conduct dispositions: Law Enforcement or Courts
- Policy documentation:
 - Booking Policy/Procedure
 - Disposition Policy/Procedure (must be entered 120 days after the arrest booking)
 - Validation and 2nd Party Verification
 - Information Protection Agreement/Information Exchange Agreement



Will agencies query or enter information on other agencies' behalf

- Agencies may query/enter information on behalf of another agency
- Decisions based on volume, workload, staffing resources, and expertise
- Does not always have to be law enforcement
- Service Models
 - **Self-Service**
 - Agency performs fingerprint-based background checks; name-based record check for themselves
 - **Serviced Agency**
 - Servicing Agency performs fingerprint-based background checks; name based record checks, or transaction for the Serviced Agency and transfers CJI to the Serviced Agency

DOJ and FBI CJIS are currently investigating the Service Models and they may be subject to change



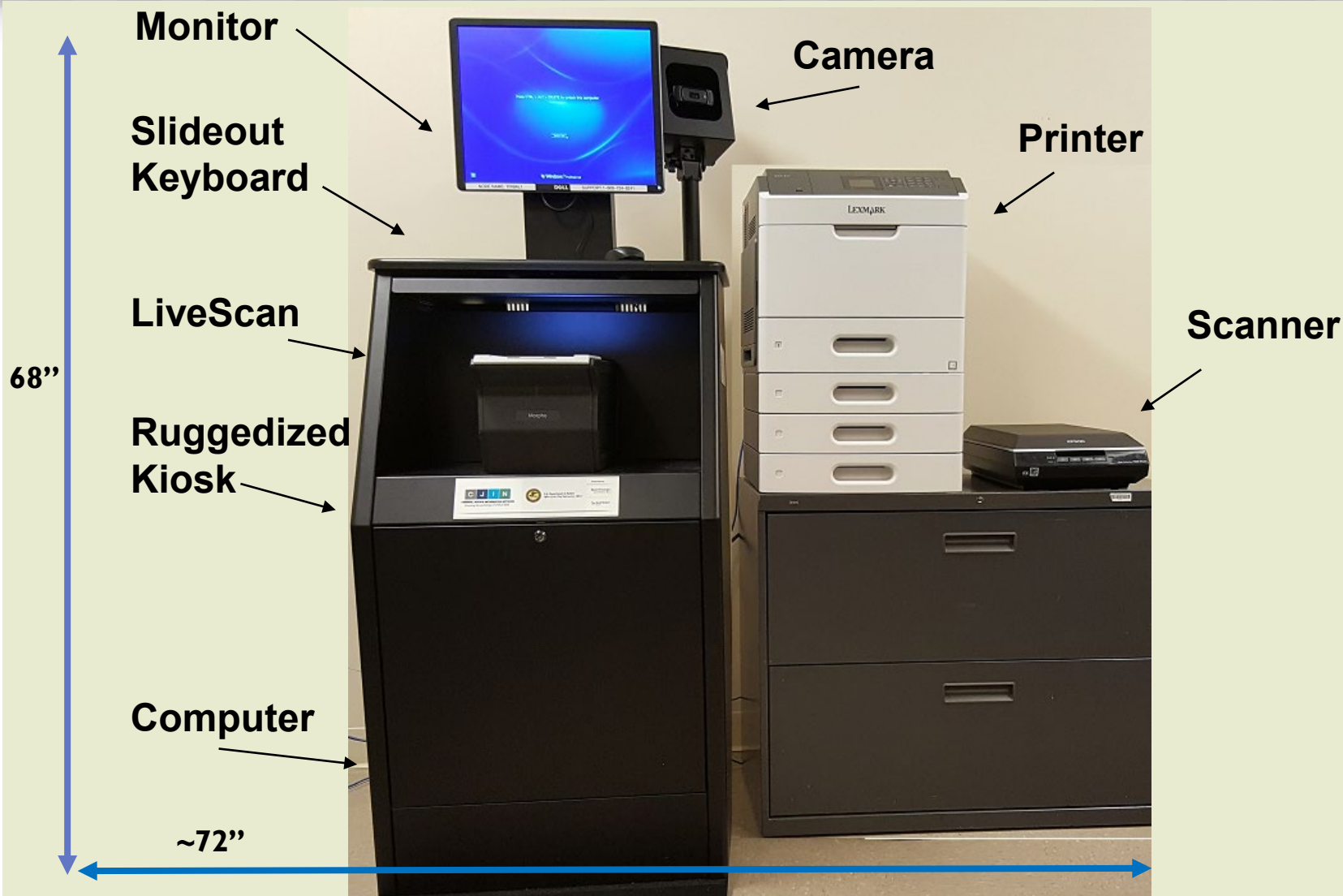
IT Decisions

3. IT Decisions



- **Determine where to place the TAP Workstation**
- Must be in a physically secure location
 - See *Physically Secure Location Checklist*
 - <https://www.justice.gov/tribal/onboarding-and-vetting> Password - tribal2019
- Ensure hard-line internet connectivity is available for the workstation
- Consider a location for the TAP workstation that will service the greatest number of agencies and users with the need to take fingerprints
- Consider location for safety and comfort of staff and bystanders (e.g. booking prisoners versus background checks for foster care volunteers)
- **Determine where to place 3 copies of OpenFox Messenger (software that accesses NCIC)**
 - Must be in a physically secure location
 - Provide tribally owned PC that meets specifications
 - One copy may be co-located on TAP workstation, but not mandatory
 - One copy must be provided to the SORNA Officer
- **Technical Specifications**
 - Additional information and specifications will be covered in the *TAP Workstation and IT Requirements Webinar* as well as during *Site Survey Teleconferences*

3. IT Decisions - Hardware





Other Decisions

4. Other Decisions



- SORNA/Sex Offender Registration through TAP
 - SORNA Tribes must enter their sex offenders into the National Sex Offender Registry (NSOR)
 - SORNA Tribes who have a kiosk, must also complete the fingerprint/palm print submissions

- National Data Exchange (N-DEx)
 - N-DEx provides access to records shared by more than 6,300 criminal justice agencies and includes incident reports, arrest reports, service calls, bookings, citations/tickets, prison and jail records, field contact, photographs, interviews, and other information.
 - Tribes can choose to only search data in N-DEx and/or contribute their data



- Every Tribe is assigned a Business Relationship Manager (BRM)
- When emailing BRM, always cc: tribalaccess@usdoj.gov
 - Please use the title in the subject line "Tribe Name: Subject"
- TAP Onboarding and Vetting Documentation Site :
www.justice.gov/tribal/onboarding-and-vetting and password is tribal2019
- JCIS Training and Learning Center:
<https://nextest.just.jmd.usdoj.gov/cjin/index.php>