

STRATEGIC PLAN
OF THE NAVAJO NATION
JUDICIAL BRANCH

Revised October 16, 2007



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INTRODUCTION

Yá'át'éełh!

The Judicial Branch is pleased to present the Strategic Plan of the Navajo Nation Judicial Branch.

It is an arduous task to develop a written plan to be used as a guide for the development of the government structure, and the policies, under which the Nation's justice system operates. Yet, the need for a plan has always been recognized because of the People's expectation that all government activity be developed through the exercise of Nitsáhákees, Nahat'á, Iiná, and Sihasin.

The plan is our effort to recognize the demand for services and the desire that the services be provided by a justice system that truly reflects the heart and soul of the Diné.

Our vision is that one day, sooner rather than later, our justice system as a whole will be one that the People can recognize as their own, be proud of, and freely accept as necessary for an orderly society.

With the continued input of the Diné, the Judicial Branch will continue on our journey to develop a justice system that will embody all of the virtues of living a life within the laws of the Diné—Diné bi beenahaz'áanii.

Chief Justice Herb Yazzie

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FOUNDATION

The mission of the Judicial Branch is rooted in the Navajo Nation Code, principally at 7 N.N.C. § 101 et seq. pertaining to “Courts and Procedure,” and the Navajo Nation Council’s recognition of Diné Bi Beenahaz’áanii at 1 N.N.C. §§ 201-206.

The values and principles expressed in Diné bi beenahaz’áanii guide the Judicial Branch in undertaking our mission. The principles in Diné bi beenahaz’áanii most relevant to the judicial system are:

- (a) That the leaders of our judicial system uphold the values and principles of Diné bi beenahaz’áanii in the practice of peace making, obedience, discipline, punishment, interpreting laws and rendering decisions and judgments;
- (b) That Diné bi beenahaz’áanii is the sanctuary for Diné life, culture, government and sovereignty;
- (c) That Diné bi beenahaz’áanii preserves, protects and enhances certain inherent rights, beliefs, practices and freedoms, including individual and collective rights, and the right and freedom of each Diné to be educated as to Diné bi beenahaz’áanii;
- (d) That the participation in government of our elders and teachers of traditional laws, values and principles is needed to ensure growth of the Navajo Nation;
- (e) That spiritual beliefs and practices of any person must be respected, and the input and contribution of any religion is to be allowed;
- (f) That the practices, principles and values of other societies that are not contrary to the values and principles of Diné Bi Beenahaz’áanii can be incorporated;
- (g) That k’é and the Diné language be taught and preserved;
- (h) That the sacred bond of marriage be protected;
- (i) That every child and elder be respected, honored, and protected from abuse; and
- (j) That the written laws of the Navajo Nation be developed and interpreted in harmony with Diné Common Law.

Over the years, Judicial Branch administrative policies and operating procedures have been established in furtherance of Council mandates, including the following:

- Consolidation Policy (September 29, 1997).
- Standard Operating Procedures, Probation and Parole Services (December 21, 1992).
- Peacemaking Guidelines (September 20, 2004).
- Training Policy (March 20, 1997).
- Employee Code of Conduct (May 6, 1991).
- Personnel Rules (June 20, 1996).
- ABA Model Rules of Professional Conduct (adopted May 17, 1993).
- Code of Judicial Conduct (November 1, 1991).
- Rules of Judicial Conduct for Navajo Nation Judges and Justices (January 7, 2003).

The vision and mission of the Judicial Branch are set forth in Part Two of this Strategic Plan.

PART ONE

WHAT IS OUR SITUATION NOW?

Anglo American-style courts have existed in Din4 Bikeyah now for a prolonged period of more than a hundred years, dating from the establishment of the Navajo Courts of Indian Offenses in 1892. Those courts, run by the Bureau of Indian Affairs, institutionalized the displacement of Navajo tribal spiritual values and established Anglo American legal values in their place. When these courts were replaced with the Navajo Nation Court system in 1959, the civil and criminal procedure of what is now commonly known as bilagáana bi nahaz'áanii, or the Anglo American Law Way, have continued to be used.

Meanwhile, our peacemaking system has existed largely outside the court system and functions much as it has since our ancient history—it is community based, with peacemakers or h0zh=ji naat'1ani guiding the people to a resolution of the concerns and issues at the behest of the people themselves, not the Navajo Nation government. Peacemaking Guidelines, recognized by the Navajo Nation Supreme Court in 2004, emphasize the community basis of peacemaking as the original dispute resolution method of the Navajo people.

Our Navajo Nation courts are both a source of pride and displacement. Navajos have grown used to the system while not embracing it fully. It is not unusual to find elderly Navajos in a courtroom who are bewildered and, later, angry that baa y1ti, or talking out, is not encouraged by the presiding judge. Many Navajos are deeply resentful of courtroom protocols that seem to silence discussion and stifle the introduction of good evidence. Punishment by incarceration, without a community component, is a further anomaly in the court system that adds to a public sense that the court system is removed from the mainstream of Navajo life and does not fully address Navajo needs. The cultural differences between traditional Diné justice and the Anglo-American Law Way are starkly contrasting. It is especially important to note these differences because both law systems co-exist in Din4 Bikeyah. To this day, there is a tension between these systems due to their contrasting substance and procedure.

It is said that the varied manifestations of civil procedure are among the most important documents of mankind's culture. The present laws of the Navajo Nation reflect more than fifty years of reforms aimed at institutionalizing our traditional spiritual values. Our laws and rules of court are struggling to become a single, healthy system that fully reflects the cultural values of Navajos today while recognizing that the large part of our judicial system is rooted in an Anglo American culture that has sought, at different times, to destroy those values. The rules of our courts are an important testament of both Anglo American imposition and the Navajo struggle for pride in the last one hundred

years. A good illustration of what this means to the Navajo spirit is that of the young Navajo military recruit who puts on a United States armed forces uniform and feels great pride in service, while knowing that he or she is, perhaps, wearing some variation of insignia worn by cavalry soldiers that stood guard over our Navajo people during our years of bitterness and deprivation at Fort Sumner.

On November 8, 2002, the Navajo Nation Council formally recognized Diné bi beenahaz'lanii, or the Fundamental Laws of the Diné. These embody Diyin bits33d66' beenahaz'lanii (Traditional Law), Diyin Dine'4 bits33d66' beenahaz'lanii (Customary Law), Nahasdz11n d00 Y1di[hi] bits33d66' beenahaz'lanii (Natural Law), and Diyin Nohook11 Diné bi beenahaz'lanii (Common Law). Diné bi beenahaz'lanii provides sanctuary for Diné life and culture, our relationship with the world beyond the sacred mountains, and the balance we maintain with the natural world. The courts are now required to utilize Diné bi beenahaz'lanii in guiding the interpretation of all Navajo Nation statutes and regulations, or use Diné bi beenahaz'lanii where statutes and regulations are silent.

The Council's recognition of Diné bi beenahaz'lanii has had a far-reaching impact on our judicial system. Peacemakers may now be required to serve in various capacities throughout the court system as counselors, advisors, educators, and traditional probation officers. Our courts have applied Diné Life concepts such as n1bin1z1lago (fairness), h0zh= (harmony), hazh='0go (patience), &shj1n7 1dooln77[(clarity), T'11b7 b0h0ln77h (the right to be heard), and baa y1ti' in interpreting the application of procedural, as well as substantive, law. Due process, the right to jury trials, the treatment of certain technical deficiencies in filed cases, and Anglo American doctrines of res judicata, standing, and mootness have received fresh interpretations based on the Diné Life Way. The principle that delicate matters must be fully considered and explained, is now applicable to judges when sentencing.

In the Diné Life Way, law is the source of healthy, meaningful life. Law, together with our worldview, our language, and our stories, is a primary part of our communal culture focused on the sustainment of the Beauty Way.

As the Judicial Branch of the Navajo Nation, we see the challenges ahead. Diné bi beenahaz'lanii now shapes the way the courts, peacemakers, and probation and parole services does business. Diné bi beenahaz'lanii has brought to the forefront the possibility of integration of services under Navajo values and processes, but it has also highlighted the deep cultural issues that exist in our justice system. If nothing is done, the court system will continue to function according to Anglo-American principles while Diné values and processes will fade. Integration is vital for an effective and culturally stable court system. In rising to this challenge, the Judicial Branch is transforming itself from a culturally divided adjudicative system to a leader in Diné-oriented dispute resolution. We must continue to work with other branches and agencies in order that the changes ahead will be seamlessly understood and accepted by both the Navajo government and the Navajo People.

While we pursue change, everyone who comes into contact with the Branch continues to expect efficient, fair, and respectful provision of judicial services. A substantial part of efficient, fair and respectful services involves transparency and accountability. We have focused on transparency and accountability by creating, with great effort, an online

informational website that provides access to all Judicial Branch operations via the internet. It has been a large task to compile rules, policies, opinions, calendars, vacancies, and other materials for the internet, and furthermore, to maintain current information. However, we have not been able to include on our website Navajo Nation statutes contained in the Navajo Nation Code, due to issues of copyright raised by the Legislative Counsel. Because we have not been able to include our Code provisions on our website, the access of the Navajo People to information they need in order to understand the justice system is highly limited.

Other parts of transparency and accountability, including training and evaluation, remain to be updated and addressed fully.

In 1997, a Consolidation Policy was put in place that put the administration of judicial districts, including district courts, peacemaker liaisons, and probation and parole field offices, directly in the hands of District Court Administrators. Concerns have arisen over time regarding duplication of supervision; lack of district understanding of core service priorities; and inefficient services due to lack of core coordination.

Despite the mandate of *Din4 bi beenahaz'lanii* for fundamental changes in how our courts conduct business, the core mission of the Judicial Branch remains – to provide judicial and peacemaking services, to adjudicate cases, resolve disputes, rehabilitate individuals and families, restore harmony, protect persons and property pursuant to Navajo Nation laws, customs, traditions, and applicable federal laws.

We require adequate facilities to perform our mission. The facilities issues of the Judicial Branch are well-known. Courts function out of cramped and aging buildings in disrepair. Judicial Administration and the Supreme Court continue to operate out of 3 dilapidated trailers once used by the Department of Justice. In the District Courts, staff are crammed into every available space, leaving no room to sequester juries, nor for intake and settlement meetings for the peacemaker liaison and meeting rooms for probation and parole officers. Facilities needs have not been met for many years.

Finally, due to the decriminalization of many offenses, the need to provide treatment and support services to offenders, victims, and their families has increased greatly as an alternative to incarceration. Our future depends on collaboration with other branches and agencies in order to maximize these services to the benefit of the Navajo People and for purposes of public safety. Partnership is essential now and into the future to meet our goals, and we are hopeful about the possible collaborations that lie ahead.

The Strategic Goals detailed on the following pages are demanding, and we have a long way to go from our present state to achieve them. The requirements of *Din4 bi beenahaz'lanii* for inclusion of Navajo values and processes in the methods of our court system goes to the foundation of Navajo society. We will work every day toward their full inclusion while ensuring that the judicial system functions efficiently, fairly, and respectfully with full access to the public. This is our mission and our pledge to the Navajo People.

PART TWO

WHAT DO WE WANT TO ACHIEVE?

Vision

It is our vision that the present judicial system, consisting of an adversarial-style tribal court system modeled on Anglo courts, a peacemaking system modeled on Diné original dispute resolution methods, and Probation and Parole Services, will fully embody the values and processes of the Navajo People, including family and clan-centered Navajo values. Our justice system as a whole will truly reflect the heart and soul of the Diné. It will be one that the People can recognize as their own and fully participate in the spirit of nábináhaazláago.

As the Judicial Branch of the Navajo Nation, we are relied on by the Navajo People to resolve conflicts in the furtherance of harmony and public safety. In addition, we preserve Navajo traditions and, thereby, protect the future. The methods we use to resolve conflicts should be the collective heritage of the Navajo Nation.

We will work to fulfill our vision and ensure that all Navajos understand the personal stake they have in the continued formation of their justice system.

Mission

The Judicial Branch will provide stability in the Navajo Nation government by providing court, peacemaking, and probation and parole services, to adjudicate cases, resolve disputes, rehabilitate individuals and families, restore harmony, educate the public, agencies, services and other governments in Diné bi beenahaz' áanii, and protect persons and property pursuant to Navajo Nation laws, customs, traditions, and applicable federal laws. Pursuant to Diné bi beenahaz' áanii, the Judicial Branch will carefully develop a justice system that fully embodies the traditional values and processes of the Navajo People.

Our mission acknowledges our statutory responsibilities. It also acknowledges that our commitment for the efficient, fair, and respectful resolution of conflicts brought before our courts and peacemakers extends well beyond adjudication. Our work extends into the community in the restoration of harmony, rehabilitation of individuals and families, and the protection of the public.

Our mandated work serves the Navajo ideal of participatory democracy, in the ability of the People to have access to a judicial system they can readily recognize and understand, and which they trust to be fair. The judicial system belongs to the People—our mission is to serve them and promote trust and pride in the People.

Strategic Goals

- One:* As the Navajo Nation court, peacemaking, and probation and parole system, we will ensure the continued provision of efficient, fair, and respectful judicial services.
- Two:* We will ensure access to the judicial system by the public.
- Three:* We will address the infrastructure needed to maximize partnerships across branches, agencies, and communities.
- Four:* We will develop a judicial system in accordance with Diné bi beenahaz' áanii that fully incorporates Navajo values and processes.
- Five:* We will address facilities needs.

PART THREE

WHAT MUST WE DO TO GET THERE?

To achieve our strategic goals, we will pursue the strategies outlined below.

Strategic Goal 1: As the Navajo Nation court, peacemaking, and probation and parole system, we will ensure the continued provision of efficient, fair, and respectful judicial services.

Strategic Overview

Since 1959, the Navajo Nation judicial system has been reformed many times. Among other reasons, the changes were intended to increase efficiency and fairness in all judicial programs. In the mid-1990s, we put in place training, sentencing, operational and administrative policies and codes of conduct that we hoped would fully address efficiency and fairness issues. The reforms of the Council, and the policies presently in place are the foundation on which the long-term success of the Judicial Branch depends. Addressing inefficiencies and updating these policies to reflect the challenging legal and cultural environment of today is the first building block to the rest of our Strategic Plan.

The improvement of the overall business climate in the Navajo Nation is of great concern, and the Judicial Branch supports any initiative that creates a positive business climate and reduces the cost of doing business in the Navajo Nation. The business climate directly affects a business's ability to remain productive, profitable, and viable. With a view to assist in improving the conditions under which businesses operate, the Judicial Branch supports the concept of a business court.

It was the vision of late Chief Justice Claudeen Bates-Arthur that the business expertise of the courts of the Navajo Nation be advanced, and case management of business cases be expedited, in order that our judicial system may instill confidence in business communities for swift and fair resolution of business cases.

Navajo courts of general jurisdiction, burdened by limited resources and heavy case loads, do not have the ability to become specialists in business, commercial, and corporate law which have become increasingly complex. The result is lengthy litigation and unpredictability. The subsequent cost impact affects business and also the Navajo economy.

A Business Court may mean long-term savings to businesses through swift litigation and more consistent rulings achieved through specialization of judges. The establishment of

such a court has the support of many members of the Navajo government who are concerned with the growth of the Navajo economy.

Finally, the courts have had a long-standing need for transcription services, needed when advancing a record on appeal. Certain complex cases also require the services of a real-time court reporter, but none have been available. With the establishment of a Business Court, a court reporter would be necessary due to the nature of business litigation. Obtaining court reporters who are bilingual has proven extremely difficult. According to American Association of Electronic Reporters and Transcribers (AAERT), Court transcription services all over the United States have suffered as transcribers have migrated to television close caption services for higher pay.

Specific Strategies

- A. We will update and revise all training, sentencing, operational and administrative policies in order to bring them in line with present legal mandates and to promote efficiency, fairness and respectful provision of services.
- B. We will update and revise our automated case management system to enable central records and report collection, in order to evaluate judicial district performance and maximize public access.
- C. We will fill all judicial vacancies with qualified judges, attorneys and staff.
- D. We will enhance the role of peacemakers.

The Navajo Nation Code addresses peacemaking functions as follows:

17 N.N.C. 1818(c)	Permits the Courts to establish a program to merge the functions of probation and peace making to promote rehabilitation.
7 N.N.C. § 410	Provides for peacemaking counseling services, peacemaking support and assistance to Navajo Nation Courts when requested to make recommendations on sentencing, and for peacemakers to provide education and training on Navajo culture, traditions and other Navajo accepted beliefs to individuals, organizations, and communities.
17 N.N.C. § 221(C)	Permits the trial court to use the services of peacemakers to determine nályééh and make sentencing recommendations.
9 N.N.C. § 1652	Permits the Supreme Court to allocate authority to peacemakers to provide for remedies to address domestic abuse.
7 N.N.C. § 411(D)	Permits peacemakers to enter into funding agreements with the Judicial Branch for mileage and training
7 N.N.C. § 411(E)	Permits the Peacemaking Program to do whatever is needed to promote peacemaking.

- E. We will hire Hearing Officers in judicial districts with high caseloads in order to hear and dispose of traffic violations as permitted by 14 N.N.C. § 102.

- F. We will establish a business court.
- G. We will establish a Drug and Teen Court.
- H. We will ensure that courts, peacemaker liaisons and probation and parole field offices have the vehicles and equipment they need to maximize their functions.
- I. We will establish audio-video arraignments and hearings for remote judicial districts.
(In 2007, Audio-video arraignments were initiated at Dilkon Judicial District.)
- J. We will explore bilingual court reporter and court transcription services.
- K. We will explore fines and fees retention to pay for enhanced judicial services.
- L. We will pursue partnerships across governments, branches, agencies, and the community.

Strategic Goal 2: We will ensure access to the judicial system by the public.

Strategic Overview

In order for the judicial system to be useful to the People, there should be full access to the physical courts and its processes and also access to information on how to use the system, its rules and laws, and to records of particular cases. After rules and policies are established, the Judicial Branch gathers, preserves, and publishes them in hard copy and on the internet. The branch is unable to provide the same for Navajo Nation Code provision due to copyright issues asserted by the Legislative Counsel. As for particular case records, the judicial districts should gather, store, process and preserve them in a form that is immediately retrievable by parties, and capable of being reduced to detailed reports by Judicial Administration for purposes of data collection and performance evaluation. However, at this time, limitations of the outmoded case management system being used by the courts prevent the generation of certain detailed reports; collection of certain data; and sharing of data across judicial districts.

Specific Strategies

- A. We will continue careful development of, and diligent publication of useful public information on the courts website at <http://www.navajocourts.org>.
- B. We will update and revise our automated case management system.
- C. We will publish the Navajo Reporter, Volume VIII, containing Supreme Court opinions from 2000-2005.
- D. We will simplify and revise court rules and procedures.
- E. We will pursue standardization of court forms and make them available to the public at the physical court and on the website.

- F. We will educate the public on court procedures and Diné bi beenahaz' áanii through community education.
(Pursuant to 7 N.N.C. § 410, the Peacemaking Program of the Judicial Branch is responsible for providing community education to individuals, organizations and communities.)
- G. We will train judicial staff in the respectful provision of services and accurate and timely maintenance of records.
- H. We will provide adequate and secure facilities.

Strategic Goal 3: We will address the infrastructure needed to maximize partnerships across branches, agencies, and the Navajo People.

Strategic Overview

The infrastructure necessary to support partnerships that are vital for the Judicial Branch to pursue its mission and fulfill its goals includes coordinating efforts, open communications, and information sharing across governments, branches, agencies, and the community. The supportive oversight of the Judiciary Committee is a vital component of this overall partnership infrastructure.

There have been long-standing difficulties in coordinating efforts and information between branches and agencies. In addition, the sharing actual data across branches and agencies is presently impossible due to infrastructure issues.

In a resolution passed in 1992 and amended in 1999, the Council mandated the creation of an Open Information Environment among the governing entities of the Navajo Nation government. The resolution, as amended, calls for the assignment of responsible parties to coordinate the use and development of computer technology to accomplish an open information-sharing environment. The resolution specifies that all data and information that is gathered, processed, created and manipulated in support of Navajo Nation government operations or during the course of conducting Navajo Nation Government business "...belongs to the Navajo Nation Government, and shall be shared throughout the government system." On April 20, 2006, the Council directed all branches to cooperate in developing an integrated criminal justice information system.

On March 19-21, 2001 a Criminal Justice Summit was held in Kayenta, at which government entities promised to work on a comprehensive strategic plan. There was no substantial movement following the Summit toward open information-sharing. At present, Public Safety's information network is quite far into development, other justice entities remain either without automated access or must urgently upgrade an existing system. As a result, Public Safety is able to access docket information at individual court sites, but the information is not transportable for automated interface. Meanwhile, the Judicial Branch's automated case management system (CMS) was obtained from the Maricopa County Superior Court system in the mid-1980s for no fee. Software licensing fees continue to be paid for its use. The CMS is now obsolete. Designing a new CMS

with information interface capacity is essential in establishing the Judicial branch component of a Navajo Nation criminal justice system information interface.

On March 20 – 23, 2007, the Judicial Branch brought in a consultant from the National Center for State Courts at a cost of \$10,000. The consultant, Jim McMillan, and Judicial Branch IT personnel met with DIT, Court Administrators, Public Safety, Office of the Prosecutor, Public Defender and Criminal Records. McMillan has recommended the creation of an integrated CMS and RMS (record management system) which is centrally designed by a virtual consultant at a 5-year cost of \$2.5 million. He advocates that the Judicial Branch further hire at least 2 more IT technicians due to the great distances across 10 districts that must now be serviced by 2 IT staff. He further recommends the establishment of an Information Policy Committee made up of branch, division, and agency leaders.

The Branch has begun pursuing technology grants in partnership with other Navajo Nation justice providers. In September, 2007, we were notified that we have been awarded a \$300,000 Edward Byrne Memorial Discretionary Grant for purposes of establishing a Navajo Nation Integrated Justice Information Sharing System. Indirect costs of \$64,800 remain pending with the grantor. Spearheaded by the Branch, a Technology Oversight Committee has been established consisting of the chiefs and directors of the Supreme Court, Public Safety, Corrections, Probation and Parole, Prosecutor, Public Defender, Judicial Branch IT and the Department of Information Technology.

Specific Strategies

- A. We will assist in the establishment of protocols for the inter-branch and inter-agency Technology Oversight Committee comprising heads and directors of Navajo Nation justice providers.
- B. We will work together with justice providers in establishing an integrated case and records management system capable of accurate real-time information sharing and which will end redundant data entry.
- C. We will jointly pursue grant and Navajo Nation Council funding for the above integrated case and records management system.
- D. We will advocate resumption of regular inter-branch chiefs meetings.
- E. We will emphasize communication and cooperation between all justice and service providers, and between the branch and the Judiciary Committee.
- F. We will work together in establishing an integrated information network.
- G. We will share information technology and personnel.

Strategic Goal 4: We will develop a judicial system in accordance with Diné bi beenahaz' áanii that fully incorporates Navajo values and processes.

Strategic Overview

Navajo Nation laws include our rules of court procedure. Until 2007, the course was not clear as to how court procedures themselves might be reformed. With the publication of the American Law Institute's Principles of Transnational Civil Procedure in 2006, a method for pursuing a reform of court procedure became evident.

The Office of the Chief Justice began corresponding with Geoffrey Hazard, the principal reporter of the Transnational effort, and secured him as a consultant. Hazard is graciously volunteering his services. In August, 2007, the Rules Harmonization Project was formally formed with an open call for participation. The project will be led by Judge Allen Sloan of the Window Rock Judicial District. As of September 12, 2007, the project's working group is fully convened, sub-committees have been formed, and all information on the project is current and available on the internet.

The Rules Harmonization Project is modeled on the nine-year American Law Institute (ALI) and UNIDROIT¹ 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.

The ALI/UNIDROIT design was informal and participatory, comprising of the drafting of principles and rules and rigorous review of those principles and rules by a number of professional bodies. The design of our project differs in several respects. While the method of drafting and review is nearly identical, this project is more transparent, more accessible to the public, and adds the requirement of reports on various subjects for purposes of education, transparency and explanation.

While the ALI/UNIDROIT effort addressed two separate and well-established legal systems grown out of distinct individual cultures, no distinct and culturally-based trial court system presently exists on the Navajo Nation. The Navajo Courts of Indian Offenses, established in 1892 and run by the Bureau of Indian Affairs, had applied the common law legal system of the United States without including Navajo values and processes. The system continued to be used when the Navajo Tribal Courts were established in 1959 and continues to be used today.

There are constraints -- both legal and financial -- which need to be considered in changing the way our Navajo Courts "do law" that were not similarly faced by the ALI/UNIDROIT drafters. Tribal courts receive substantial federal funding through PL93-638 self determination contracts under the Indian Self-Determination and Education Assistance Act and are, therefore, subject to limited federal oversight. Our reforms are constrained by some federal laws, including ICRA. There are comity concerns with state and federal courts in Arizona, New Mexico and Utah.

¹ The International Institute for the Unification of Private Law (UNIDROIT) is an independent intergovernmental organisation with its seat in the Villa Aldobrandini in Rome. Its purpose is to study needs and methods for modernising, harmonising and co-ordinating private and, in particular, commercial law as between States and groups of States.

Specific Strategies

- A. We will define a distinct set of legal procedures for the Navajo Nation Courts, drawing on Navajo values and processes.
- B. We will harmonize our tribal court procedures in order to maximize cooperation between governments.
- C. We will simplify and revise court rules and procedures.
- D. We will encourage the participation of all stakeholders and experts in the field of comparative, federal, Navajo and Native American laws.
- E. We will keep the People informed of the progress of these efforts and encourage their participation.

Strategic Goal 5: We will address facilities needs.

Strategic Overview

In 2006 the Council authorized an increase in the Navajo Nation Sales Tax that may be applied to the construction of a permanent Judicial/Public Safety Complex. In the meantime, in FY 2008, the Council has allocated \$810,000 for an urgently needed modular Supreme Court hearing room and offices for staff in the Administrative Offices of the Courts. The United States Congress has been repeatedly approached for funding for the Judicial Complex by the Navajo Nation Washington Office, but has so far not allocated funding. In 2007, Congress commissioned a needs report on the Judicial Complex.

With branch and Judiciary Committee support, in 2007 the Dilkon Court, which operates out of a severely space-limited trailer, approached the Arizona State Legislature for funding assistance. The Arizona Legislature has appropriated \$2 million. An additional \$2 million is to be obtained from the Navajo Nation Transportation and Community Development Committee (TCDC).

FY 2008 Council allocations for urgently needed modular facilities in the districts are as follows:

<u>Allocation</u>	<u>Judicial District</u>	<u>Building</u>
\$300,000	Crownpoint	Modular building for a meeting space and office spaces for the probation department and peacemaker liaison office. The modular building may be attached to courthouse, depending on available land; or may be free-standing. (5 staff members).
\$131,000	Shiprock	Modular building, as above. (6 staff members).

\$50,000	Alamo, Chinle, Crownpoint, Kayenta and Tuba City	Ceremonial Hogan for peacemaking purposes, with office / file storage space. Hogan may be attached to courthouse, depending on available land; or may be free-standing.
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Specific Strategies

- A. We will assist in the establishment of procedures for use of the Navajo Nation Sales Tax pursuant to the Fund Management Plan. We will build modular buildings—including offices, meeting rooms, hearing rooms, and hogans that are as culturally-based as possible.
- B. We will continue efforts to obtain Congressional funding for the Judicial Complex.
- C. We will continue efforts to construct permanent buildings for courts, offices, meeting rooms, hearing rooms, and hogans that are as culturally-based as possible.
- D. We will ensure that all facilities are safe, adequate as to space, and in good repair.

PART FOUR

HOW WILL WE KNOW WE HAVE SUCCEEDED?

In previous sections of this Strategic Plan, we have indicated where we want to go and what we must do to get there. This section provides more detail on our planned accomplishments. Within each strategic goal, we list the few long-range performance targets that we will use to measure our success.

Our annual performance plans will track additional measures and milestones to gauge our short-term progress. At the strategic level, the long-range performance targets below will tell us and the public whether we are on track to accomplish the goals of this plan. The targets are organized by strategic goal for ease of reference.

Strategic Goal 1:	As the Navajo Nation court, peacemaking, and probation and parole system, we will ensure the continued provision of efficient, fair, and respectful judicial services.
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Specific Strategies

- A. By 2009, all training, sentencing, operational and administrative policies have been updated and revised in line with present legal mandates and to promote efficiency, fairness and respectful provision of services.
- B. By 2013, our automated case management system has been updated in order to enable central records and report collection, to evaluate judicial district performance and to maximize public access.
- C. 85% of judicial vacancies with qualified judges, attorneys and staff are filled at any time.
- D. By 2008, procedures and regulations are in place to guide Hearing Officers in judicial districts with high caseloads who will hear and dispose of traffic violations as permitted by 14 N.N.C. § 102.
- E. By 2010, at least 2 targeted judicial districts have a Drug and Teen Court.
- F. By 2010, facilities and vehicle needs of courts, peacemaker liaisons and probation and parole field offices have been reported by the districts as satisfactorily addressed.
- G. By 2008, audio-video arraignments and hearings have been established at the Dilkon, Alamo, Tohajülee and Ramah judicial districts.

- H. By 2011, a business court is established.
- I. By 2010, bilingual court reporter and court transcription services, whether performed by reporters, transcribers, specially trained clerks or off-site consultants, have been satisfactorily established in judicial districts who express need for them.
- J. By 2010, a schedule of fines and fees retention to pay for enhanced judicial services shall be established.
- K. By 2010, 85% of judicial districts report satisfactory partnerships across governments, branches, agencies, and the community.
- L. By 2010, peacemaking functions are smoothly coordinated into the courts and probation and parole services.
- M. By 2010, probation and parole services are smoothly integrated into communities in furtherance of Navajo family and clan values.

Strategic Goal 2: We will ensure access to the judicial system by the public.

Specific Strategies

- A. 95% of public feedback report satisfaction with the website of the Navajo courts in terms of provision of information.
- B. 85% of the public report satisfaction with court services.
- C. By 2013, our automated case management system has been updated in order to maximize public access.
- D. By 2013, 100% of court records are appropriately stored in automated archives.
- E. By 2008, the Navajo Reporter, Volume VIII, containing Supreme Court opinions from 2000-2005 is published.
- F. By 2013, court rules and procedures are simplified in accordance with the Rules Harmonization Project recommendations.
- G. By 2011, court forms are standardized and made available to the public at the physical court and on the website.
- H. By 2008, community education on court procedures and Diné bi beenahaz' áanii commences in at least 2 judicial districts.
- I. By 2009, 85% of public feedback report satisfaction with the respectful provision of services by judicial staff and timely maintenance of records.
- J. By 2010, 100% of immediate facilities needs will be met through modular or temporary buildings.

Strategic Goal 3: We will address the infrastructure needed to maximize partnerships across branches, agencies, and communities.

Specific Strategies

- A. By 2008, a Technology Oversight Committee is formed and regularly meeting.
- B. By 2010, there are regular joint grant applications and requests for Navajo Nation Council allocations by justice providers for an integrated information management system.
- C. By 2010, a joint inter-branch and inter-agency policy is in place to address justice provider needs for an information sharing infrastructure.
- D. By 2008, there is regular communication between the Chief Justice and other branch chiefs.
- E. By 2010, justice providers report 85% satisfaction with Judicial branch response to asserted needs and issues.
- F. By 2010, probation and parole services enters into partnerships with 85% of targeted service and treatment providers deemed necessary for a complete resource environment for rehabilitation, successful reentry, and public safety.

Strategic Goal 4: We will develop a judicial system in accordance with Diné bi beenahaz' áanii that fully incorporates Navajo values and processes.

Specific Strategies

- A. By 2008, a Rules Harmonization Project is established, with a working group comprised on stakeholders and experts in comparative, federal, Navajo and Native American laws.
- B. By 2008, a project website is established.
- C. By 2010, a preliminary set of legal procedures for the Navajo Nation Courts, drawing on Navajo values and processes, is ready for pilot program application.
- D. By 2010, state and federal courts are fully informed of our project and are invited to submit feedback.
- E. By 2013, new simplified legal procedures based on Navajo values and process are adopted.

Strategic Goal 5: We will address facilities needs.

Specific Strategies

- A. By 2009, modular buildings are built and ready for use.
- B. By 2009, procedures for application of Navajo Nation Sales Tax revenues to courts and detention centers are established.
- C. By 2010, Congressional funding for the Judicial Complex is obtained.
- D. By 2010, 100% of judicial districts report that facilities are safe, adequate as to space, and in good repair.
- E. By 2011, a permanent judicial building housing the court, peacemaking liaison, and probation and parole services is constructed at Dilkon.
- F. By 2013, there will be substantial progress in the attainment of permanent judicial buildings serving our courts, peacemaking, and probation and parole services.

PART FIVE

WHAT HAVE WE ACCOMPLISHED?

This section is reserved to highlight key successes for subsequent Strategic Plans.

PART SIX

ASSESSING OUR RESULTS

Periodic assessment of the results we achieve is necessary for successful strategic management. Decision makers need to know what worked, what did not, and why, and explore ideas of what should be done next. Each year we further refine our performance management program. The evaluation process described below provides the information we need to improve performance, ensure accountability, and inform the planning process.

PERFORMANCE MEASUREMENT

We hope to be able to upgrade our case management system sufficiently in order to collect our performance data from all judicial districts in real time. In the meantime, data is collected district to district and delivered to Judicial Administration, where the data is re-generated and reports are run.

PUBLIC ASSESSMENT

Public feedback to measure how we are performing is key to strategic management success. Bar members and the public are surveyed regularly to help us align our standards of performance with their expectations. By repeating surveys at frequent, systematic intervals, changes in our performance are measured and appropriate management actions are taken. In addition to the surveys, easy-to-use electronic input forms are available for public feedback via <http://www.navajocourts.org>.

PROGRAM EVALUATION

Our performance measurement and evaluation methods comply with the requirements of the Office of Management and Budget (OMB).

PART SEVEN

CONCLUSION

This document lays out the Strategic Plan of the Judicial Branch of the Navajo Nation. It is a new plan covering the next 5 years that continues our efforts to ensure that the Navajo Nation courts, peacemaking, and probation and parole services continue providing efficient, fair and respectful services today and well into the future.

This plan also takes us into exciting new directions, focusing our attention on continuing formation of our judicial system, partnerships, enhancement of peacemaker services, and focus on Navajo values and processes.

It is a living plan, not a mechanical and linear plan set in stone. It will be re-visited many times within the next 5 years. It has been recommended that the plan may be revisited as often as developments unfold.

The plan serves as our guidepost in documenting future progress. We will re-examine it at least each year to see what has happened to the assumptions on which it is based, what unanticipated challenges have subsequently arisen, and what unexpected opportunities have come to hand. As often as necessary, we will incorporate that knowledge into a revised plan that reflects the current state of our progress in achieving our goals, adjusting goals as needed, and adding new or revised targets.

We look at this plan as the long-range direction in which we will steer our course, leading us to a future in which the Navajo People will recognize, accept, and be proud of an integrated justice system, based on Navajo values and processes.