

# **NATIVE BAIL REFORM INITIATIVE**

Informational and Progress Update

April 21, 2016

Isaac White, Clerk, St. Regis Mohawk Tribal Court



# PROJECT ISSUE REVIEW

- Residents of Native American Reservations in New York are faced with an unequal opportunity to secure pre-trial release from incarceration as procuring a commercial bail/bond (using land owned on the reservation as collateral) is not possible.
- Because of this inequality for the opportunity of pre-trial release for Native American defendants, a proposed pre-trial bail/bond alternative pilot program, to be spearheaded by the St. Regis Mohawk Tribal Court and the Town of Bombay Court, was planned.
- Following this proposal, the NYS Office of Court Administration approved the planning of a pilot project, with committee members consisting of state and tribal court judges, Forum representatives, and Office of Court Administration officials.



# INITIAL MEETING WITH STAKEHOLDERS

- In December 2015, a meeting was held at the Franklin County Courthouse with various stakeholders for the Native Bail Reform Initiative Pilot Program (NBRIPP). Representatives from the Center for Court Innovation, St. Regis Mohawk Tribal Court, Town of Bombay Court, Franklin County Court, and the NYS Office of Court Administration met.
- The initial meeting included discussions regarding the unique geographic and jurisdictional challenges that accompany the territory of Akwesasne. The bisection of the territory by the international boundary was discussed in detail and how it could potentially affect the pilot program.
- The latter half of the initial meeting consisted of brainstorming potential ideas for the design of the project with the goal of developing a flowchart to be reviewed at the next scheduled meeting of the committee.



# **BROOKLYN JUSTICE INITIATIVES MEETING/OBSERVATION OF PROGRAM**

- On January 12, 2016 St. Regis Mohawk Tribal Court Chief Judge Herne met with representatives of the Center for Court Innovation to observe an alternatives to incarceration bail/bond program, at Brooklyn Justice Initiatives (BJI) based in Brooklyn, New York.
- Following the observation of the Brooklyn Justice Initiatives, it became clear that the operation of the Native Bail Reform Initiative Pilot Program could 'borrow' from the already well established procedures that are utilized by the BJI.



# **FOLLOW UP MEETING WITH STAKEHOLDERS**

- On January 19, 2016 a follow up meeting was held at the Franklin County Courthouse with the stakeholders from the initial meeting, along with representatives from the Franklin County Probation Department, the Franklin County Public Defender's Office, Franklin County District Attorney, and the Franklin County Sheriff's Department.
- The subsequent meeting regarding the Native Bail Reform Initiative Pilot Program was a discussion to review the points discussed at the initial meeting and to develop more detailed plans for the design and operation of the program.



# PROPOSED ELEMENTS OF THE NATIVE BAIL REFORM INITIATIVE PILOT PROGRAM

- Through collaboration between the Town of Bombay Court and its justices, an immediate notification to the Native Bail Reform Program coordinator will be made once it has been determined that the defendant before them is Native American, that either bail/bond will be determined, or that the defendant will be released under supervision (RUS). This will be the opportunity to provide an alternative to bail/bond that is nearly always unavailable to residents of Native American Reservations in New York.
- The notification to the pilot program coordinator for RUS defendant's will provide an alternative for the Town of Bombay Court to divert defendant's who would normally be released under the supervision of the Franklin County Probation Department to the supervision of the pilot program and its coordinator on the reservation.
- The determination to set bail/bond by the local court's justices will not be affected by the pilot program. This program is an **ALTERNATIVE** to the traditional forms of commercial bail/bond, not a relinquishment of the authorities of any local justice.



# **PROPOSED ELEMENTS OF THE NATIVE BAIL REFORM INITIATIVE PILOT PROGRAM, CONT.**

- Upon notification by the Town of Bombay Court to the program coordinator of a potential client for the pilot program, an evaluation of the suitability of the individual for the program will be done by the program coordinator or an assistant to the coordinator, with a screening tool which is currently being developed by the committee and the Center for Court Innovation. The screening tool is being designed to be culturally competent with respect to Native American individuals.
- Acceptance into the pilot program will mean supervision conducted by an entity which can be more responsive and culturally sensitive to the Native American people who will be served by it, and which will be located on the St. Regis Mohawk Indian Reservation.
- Problems with compliance will be promptly noticed to the Court of original jurisdiction, potential response recommendations will be provided, and as is currently the case, the participant (defendant) will be brought back before the court with original jurisdiction to make a new release determination.



# CURRENT STATUS OF PROGRAM

- The St. Regis Mohawk Tribal Court submitted a U.S. Department of Justice Coordinated Tribal Assistance Solicitation Grant Application to obtain funding for a 3 year period in which to get the Native Bail Reform Initiative Pilot Program off the ground. It is expected that awards will be announced sometime in September 2016.

