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Navajo Peacemaking and Māori Restorative Justice: a Comparison of Process and Procedure

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NAVAJO PEACEMAKING AND MĀORI RESTORATIVE JUSTICE:
A COMPARISON OF PROCESS AND PROCEDURE

by

Alethia Z. Fenney

A Research Project Presented in Fulfillment
of the Requirements for the Degree
Masters of Criminology

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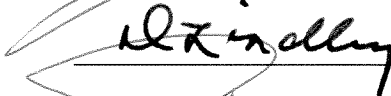

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Abstract

Due to the failure of some crime control approaches in law enforcement alternatives are being examined to determine their applicability in today's society. One of the approaches gaining criminological attention is "Navajo Peacemaking". Another similar style of crime control is the Māori restorative justice process used in New Zealand. The purpose of this research study is to examine and compare these processes to determine their applicability as crime prevention tools in U.S. towns and cities. Walter Miller's Focal Concerns Theory was used to address the difference in motivation between mainstream culture and its subcultures. The results from this study demonstrated that much of the success of these two approaches is a result of the religious and cultural backgrounds of the subcultures that developed them. Both methods rely on communication between victim, offender and members of the tribe to decide the appropriate response to incidents. The Navajo Peacemaking process is better developed to work within their legal framework and is better documented than the Māori restorative process. This difference makes the Navajo approach the better choice for adaptation for modern societal needs. Since there is no single dominant religion or culture in the U.S. there is not currently a stable basis for building a new crime control process employing either of these methodologies. However, these processes provide inspiration for a different, less retribution-oriented method of crime control and are a possible resolution for some criminological issues.

Key words: crime, criminology, Focal Concerns Theory, Māori, Miller, Navajo, peacemaking, restorative justice, subculture, traditional, tribal

Introduction

One of the greatest concerns for criminologists today is the ineffectiveness of some of the current crime control processes being used worldwide. In the United States (U.S.) the trend over the past several years has been in a retributive direction, relying on punishment and incarceration as a method of crime control. Unfortunately many of these approaches have not been effectual and crime continues to be a growing problem for the American people. However, it is not simply crime itself, but the fear of crime that has spurred the public outcry for more and better methods of controlling crime. One methodology has been demonstrated to be an effective means to combat crime in at least one cultural group. The Navajo people use “Peacemaking” on their reservation as a means for crime control, spreading across parts of Arizona, New Mexico, and Utah. Navajo peacemaking is a traditional approach for combating criminal behavior that existed before the culture’s exposure to European influences.

Peacemaking is a form of restorative justice relying on cultural, religious, and community behaviors emphasized by Navajo society. Navajo peacemaking is not the only methodology that relies upon a more traditional tribal foundation. The Māori people of New Zealand practice a similar method of restorative justice. The Family Group Conference Youth Justice is one of the program titles for the Māori restorative justice process in New Zealand, which is used when contending with juvenile problems in that society. Given that two societies on opposite sides of the Earth developed analogous approaches to crime control without interaction between them suggests a common theme that may be of beneficial to more modern cultures in their attempts at crime control.

Purpose

The purpose of this project was to explore alternative methodologies for modern day crime control by examining more traditional approaches. By an analysis and comparison of these two crime control methodologies a more successful approach may become feasible.

Rationale

Global methodologies are not always effective for combating crime; therefore new approaches need to be searched-out to determine if they can benefit in combating criminal behavior. Because crime and the perception of crime are such critical components of society it behooves researchers and law enforcement to develop better techniques for dealing with criminal behaviors. By examining the traditions of other cultures in dealing with crime it may be that an answer to, or at least a direction toward addressing, these concerns may become apparent.

Research Questions

Research questions for this study include:

- R1) How does the Navajo peacemaking model work?
- R2) How does the Māori restorative justice model work?
- R3) How does the Navajo and Māori justice models compare to each other?
- R4) Can these models of restorative justice be beneficial to U.S. society?

The Navajo peacemaking and Māori restorative justice methods appear to be effective within their subcultures due to the cultural and religious teachings of their particular ethnic groups. Is it possible that using these methods as examples a more effective method can be created for U.S. towns and cities? Many factors must be taken into account to answer this question.

Limitations and Delimitations

There are several limitations inherent with this topic. One would be that both of these populations are minorities within their respective nations. This makes the results potentially ungeneralizable. However their racial makeup is not the determining factor for the success of the restorative justice models being used. Another limitation is the lack of documentation on these traditional methods of justice. Both the Māori and the Navajo have an established oral tradition for knowledge transfer between generations. This leaves a researcher with only more recent sources of information. The appropriate response for this limitation is to thoroughly review the available resources. The Navajo peacemaking process records the resolutions in written format, especially if the case is connected to the courts. Unfortunately the Māori practice does not incorporate this step, making comparison of results difficult.

The Māori restorative justice approach has existed throughout their judicial history, with no apparent break in practice whereas the Navajo have a definite delineation between when their traditional processes were relinquished and when they came back into practice (Meyer, 2002). This makes the examination of the arrest numbers for the Navajo more pertinent to this research project. However both populations are currently overrepresented in their country's prisons. Both the Māori and Navajo have religious and cultural contexts to their restorative justice methods that are not common for the U.S. One of the basic principles that the U.S. was founded on was freedom of religion. That principle complicates the incorporation of this idea into mainstream crime control because there is no single dominant religion in today's society. Many of the religions that are followed within the U.S. have similar basic premises as the Navajo and Māori religions, making it possible to find reference points for these concepts to build upon.

Definitions

Diné – Navajo word for people, how they label themselves

Hozho – harmony and balance in Navajo

Hozhooji naat'aanii – peacemaking in Navajo

Hozhoojigo – a process of developing a plan to settle a dispute in Navajo

Hui – a meeting among community members to resolve conflict

Hui whakatika – restorative justice in Māori

K'e – includes the concepts of compassion, cooperation, friendliness, unselfishness, peacefulness and all other positive values which create an intense, diffuse and enduring solidarity in Navajo

K'ei – complex definition including values and beliefs in K'e but also refers to the socialization structure and practices related to the interconnectedness of the clan system and a person's relationship with the universe in Navajo

Karakia – prayers in Māori

Mana tautoko – unwavering support of the communities to those who could not navigate crises on their own in Māori

Māori – New Zealand natives

Mihimihi – greetings in Māori

Naat'aanii – peacemaker or keeper of traditional knowledge in Navajo

Peacemaking – a traditional Navajo restorative justice approach to crime control

Restorative Justice – a crime control methodology focusing on restoring harmony and communication between victims, offenders, and the community

Retributive Justice – a crime control methodology focusing in punishment and incarceration

Tikanga Māori – the general body of knowledge, values, beliefs, and practices held in common by the Māori

Review of Literature

This literature review consists of scholarly, peer reviewed articles and books concerning the Navajo Nation's peacemaking, the Māori restorative justice process and aspects of restorative justice and crime control. This research is being conducted to identify and compare the Navajo peacemaking and Māori restorative justice processes. The literature on this topic is segregated by tribal population. A large amount of information has been published on the Navajo Nation, its peacemaker project, and the ways they deal with crime within the borders of their reservation. There are also numerous articles on restorative justice and its use for juvenile delinquency. The Māori tribal approach is currently used within the educational system of New Zealand. However there does not seem to be much literature comparing the Navajo to the Māori. By researching the two methods individually the actual processes can be detailed, allowing resemblances and differences to be found. This approach also allows the researcher to examine the cases where peacemaking and restorative justice were used to determine effectiveness.

In the 1950s Walter Miller proposed a criminological theory called the Focal Concerns Theory. This theory examined a subculture within a larger dominant culture. It postulated that there was a set of values, or focal concerns, that were prominent within the subculture which had deep emotional importance to its members. Miller labeled these focal concerns as trouble, toughness, smartness, excitement, fate, and autonomy. Two other values, belonging and status were also critical to his theory. Each of the focal concerns listed by Miller resulted from following the values held by the lower class rather than the dominant culture. These concerns built upon and reinforce one another. Belonging meant that the person was part of the 'in-group' and the status position within it became more important. The higher the status the more respect a person had. Status could be raised by demonstrating various focal concerns. Miller's theory was

focused on the subculture being created by single sex adolescent groups within the lower class structure (Berg & Stewart, 2009). However the Focal Concerns Theory can be generalized to other subcultures, in this case the Navajo and Māori tribes. The tribes are the subcultures and the focal concerns are as important to them as they are to street gangs. Belonging and status are major factors in how the subcultures function. Harmony within the tribes is important but the struggle to maintain their separate cultures provides an outlet for the toughness, trouble, smartness, excitement, and autonomy focal concerns. Fate is a recurring and influential theme for both tribes. All of the focal points Miller described are active within both the Navajo and Māori subcultures.

The International Religious Freedom Report of 2005 compiled by the Bureau of Democracy, Human Rights and Labor for the U.S. Department of State examines the nations around the world for religious freedom issues and their impact on human rights. One section details the demographics of religion including the Māori subculture, the legal framework surrounding religion in New Zealand, religion's inclusion in schools, and any restrictions or forced conversions that may be evident therein. According to the Bureau the societal attitude toward the religions in New Zealand is amicable with community leaders working together to mitigate any issues that arise (Bureau of Democracy, Human Rights and Labor, 2005).

The Pew Forum on Religion and Public Life is a project of the Pew Research Center, a non-profit corporation doing surveys, polls and forums to gather information on trends, issues and attitudes in the U.S. and around the world. The religious demographics for Arizona where the majority of the Navajo Reservation is located was referenced for comparison purposes (The Pew Forum on Religion and Public Life, 2010). The prevailing religions in the area near the

Navajo Reservation are noted, helping identify religious trends that have an impact upon the peacemaking process.

One of the resources located was the guide to the peacemaking program for the Navajo Nation distributed in 2004 (Judicial Branch of the Navajo Nation, 2004). It discusses the religious background of the process regarding the journey of the Holy People through the four worlds. How it called for the creation of different methods to resolve problems. These methods included ceremonies, songs and gatherings for discussion and resolution of the conflicts. The guide gives a step by step description of the peacemaking process including: fees, ethics, legal implications, proper paperwork and procedures, and guidelines for both the peacemakers and the participants.

Wearmouth, Mckinney, and Glynn (2007) introduce the Māori restorative justice process regarding juvenile crimes. One case about a young man joyriding in his mother's car crashed into a neighbor's yard causing extensive damage. The victim, offender, and community came together in a step by step process to create a resolution acceptable to everyone. The authors recommend using this process in schools to reduce juvenile delinquency and crime.

These articles establish the foundation of the religions and cultures which created the crime control methods under examination while detailing how to participate.

Religion and Culture

One of the similarities between the Navajo and Māori tribes is their adaptability to the situations surrounding them. Both tribes have been noted for their flexibility in incorporating religious and cultural changes which are beneficial into their societies without compromising their traditional ways (Tamihere, 2007).

Navajo perspective.

Religion is one of the founding principles of the Navajo peacemaking method. It must be examined to have a basic understanding of how the process was created and why it is used in this fashion. The Navajo believe that the current world is the fourth in a series that the spirits and Holy People have traversed, encountering problems requiring resolution. Originally the First World was Black and small, populated by insect people (Air-Spirit People) and various powerful beings. This is where the First Man and First Woman were created and met. It is also where Great Coyote and First Angry (another coyote spirit) were first encountered. When fighting began between the Air-Spirit People the beings exiled them from the First World. First Man, First Woman, Great Coyote, and First Angry climbed into the Second World along with the Air Spirit People. This is the first lesson regarding consequences for intertribal fighting.

The Second World, or Blue World, contained all the blue feathered people, ruled by the Swallow People. The Air-Spirit People were initially welcomed by the Swallow People and for twenty three days all was well. Then one of the Air-Spirit People approached the wife of the Swallow Chief wishing to have sex with her. This caused the Swallow Chief to exile the newcomers from the Second World. First Man created a wand of jet to create a bridge to a split in the sky allowing the Air-Spirit People, First Man, First Woman, both Coyote spirits, and the bluebird people to pass into the Third World. This lesson emphasized not breaking the existing harmony.

The Third World was the Yellow World where the six sacred mountains defined the traditional lands of the *Diné*. Four immortal Holy People, or gods, existed in the Third World. First Man and First Woman were changed from spirit beings into humans in this world and the marriage ceremony was created. They also learned to weave from Spider Man and Spider

Woman here. They had five sets of twins, one male and one female, who grew quickly and found partners among the Mirage People living in the Yellow World. An argument separated the genders for four years however neither gender was happy without the other. Eventually they reconciled and the genders learned to live together peacefully and cooperatively. The actions of First Angry caused a large flood to consume the Third World forcing everyone to flee to the Fourth World.

The Fourth World is the White World where the Navajo are currently living. While fleeing First Man managed to take earth from each of the sacred mountains in the Third World and recreated them in the Fourth World, reestablishing their lands. First Man, First Woman, and Great Coyote created the sun, moon, day and night. First Angry was deliberately shunned which made him angry. He intentionally altered the plan to wreck the perfect world being created by the others. First Angry also introduced death to the people in this world. Changing Woman and her twin sons who later become monster slayers are born here. They remove threats to the people that began during the separation of the genders in the Third World. Eventually First Man, First Woman, all four of the Holy People and both Coyote spirits leave the Fourth World. Through the travails the Navajo experienced they learned about creating and maintaining harmony within the people, using discussion to resolve issues, which is the basis of the peacemaking process they use still.

The Navajo culture includes both genders relatively equally. Women and men played integral parts in their creation story giving both status within the tribe with similar rights and responsibilities. The ceremonies and 'ways' are passed from one generation to the next to maintain the structure of their society. These ways were methods of creating and maintaining community unity for the Navajo (Meyer, 2002). Unfortunately several generations were removed

from the reservation, through the use of boarding schools and other techniques, limiting their knowledge of their traditions and history causing great harm to both the individuals and the society. The Navajo Nation is continuing to recover from these past interferences. The low economic status and high unemployment rate within the reservation make this recovery more difficult.

Clarifying the Navajo belief system provides a basis for understanding the trials they experienced which taught them the lessons they used to create their justice process. Each world provided a different lesson on how life should be lived, how people should be treated, and how communication can resolve problems before they become unmanageable.

Māori perspective.

The Māori are different because their restorative justice practice has a less structured basis. The Māori also have multiple gods that affect and guide their way of life. Io was the creator of Ranginui (Sky Father) and Papatuanuku (Earth Mother). Despite being the original creator there is some debate about Io's actual place in Māori religion. Rangi and Papa were physically very close initially and had many sons but there was no light or room to live between them. This caused their sons to try to separate them. Despite many attempts it was not until Tanemahuta braced himself between the Earth and Sky and pushed them apart that light was allowed into the world. This act, while beneficial to the people, harmed both Rangi and Papa causing them to grieve the loss of the other. Rangi's tears flooded the earth at their separation, creating the ocean surrounding the island nation. Eventually the sons decided to turn their mother over so their parents could not see the grief of the other to hopefully lessen it.

The female form was missing from the world and the sons searched both the earth and sea to locate it. Until Papa helped that they were unable to locate this missing element. A

cooperative effort by the elder and younger siblings created a woman from clay, later known as Hine-ahu-one, or the earth maiden. All Māori are descended from this one woman. Similarities to the Garden of Eden and the story of Eve should be noted, as it was one of areas that allowed the Māori to convert easily to Christianity. Other gods included Rongo, the god of peace and cultivated foods; Tūmataunga, god of warfare, industry, and invention; and Haumia-tiketike, god of wild and uncultivated foods. The conflict between Rongo and Tū reoccurs throughout nature and the Māori culture and one of their main principles in life is to promote the harmony between peace (Rongo) and destruction (Tū).

According to Tamihere (2007) the Māori worldview is holistic and includes connecting with the natural world around them, including the flora, fauna, sea, earth, and sky. This connectivity with the natural world allows for great flexibility to incorporate new concepts, beliefs, and activities into their way of life. Mead describes a phenomenon known as the *tikanga Māori*, it refers to the body of knowledge, values, beliefs, and practices held by the Māori (as cited in Tamihere, 2007, p. 87). The creation and maintenance of harmony between all aspects of their lives is paramount to the tribe. The harmony that exists must be cultivated and nurtured for the benefit of all people according to their beliefs.

This explanation reinforces the concept of harmony that the Māori culture is based on. This forms a crucial foundation for their restorative justice process and the community connection that makes it functional.

Arizona and New Zealand religions.

There is not a single dominant religion in the areas where these two tribes live. According to the Pew Forum for Religion and Public Life (2010) Arizona is split between more than fourteen different denominations. These include Evangelical Protestant and Catholic as the two

greatest proportions (23% and 25% respectively), mainline Protestant (15%), Mormon (4%), Black Protestant (2%), other faiths (2%), Jehovah's Witness (1%), Jewish (1%), Buddhist (1%), other Christian traditions, Orthodox, Muslim, and Hindu (each less than 1%), with other world religions also being less than 1%. Those unaffiliated with a religious faith (22%) and refusals (2%) make up the remainder of the sampling. There was a $\pm 4.5\%$ margin of error for the 578 cases that were examined for the report.

New Zealand has several different Christian denominations. According to the International Religious Freedom Report which used the 2001 census, 55% of New Zealand citizens stated they were members of a Christian denomination (Bureau of Democracy, Human Rights, and Labor, 2005). The religions break down into the following percentiles: Anglican (15.2%), Roman Catholic (12.7%), Presbyterian (10.9%), Christian (5%), Methodist (3.1%), Baptist (1.3%), Ratana (1.3%), Baptist (1.3%), Mormons (1%), and Hindu (1%). The unaffiliated (5.5%) and those claiming no religion (26.8%) make up the majority of the remaining population with the rest being split between various less well known religions. The Māori tend to be Presbyterian, Mormon, or adherents of Ratana and Ringatu which are Māori faiths incorporating Christian tenets.

Many of these religions have principles that are in line with aspects of the Navajo and Māori beliefs; however having no single dominant religion in either mainstream society creating a religious based crime control method becomes difficult. The cultures of the two tribes are also different enough to make a culturally based control method problematic. However similar underlying principles can be found in today's society so potential exists for a crime control methodology based on their processes being effective outside the tribes.

Detailing the religions in the areas where these two crime control methods are used allows researchers to select one or more religions to examine for compatibility. Knowing the percentages allows for the selection of larger or smaller denominations depending upon the relevant factors. It also allows for the examination of compatible religions located in another area or nation to see if a new process can be effective there.

Crime Control

Crime is a part of human society that will never truly be ended. One of the binding forces for society is the consensus on what is acceptable to the majority of people within a group. This consensus defines deviancy and allows for the creation of laws to control that deviancy. Until a law is created and a punishment decided upon a crime is truly established. Then it becomes the responsibility of the law enforcement groups within society to handle those who commit crime.

What is crime control? For the U.S. and many other nations it has been a movement towards the reduction of crime through the increase of police and prosecutorial power. Policy makers and politicians have made being 'tough on crime' a pundit from which to advance their careers. The public, through either ignorance or fear, has accepted the idea that more governmental control is necessary to provide them with protection from criminals and deviants. However academic research has shown that it is not the level of punishment, which reduces crime. In fact there is no single process or factor that will accomplish that aim. It requires a combination of approaches and multiple levels of control to create a system that deals with the numerous crimes and levels of seriousness currently established. Different approaches being tested at this time include community policing and other restorative justice techniques. Examining the Navajo peacemaking and Māori restorative justice methods is an experiment to see if they function in a more modern culture.

Relying solely on an administrative approach to crime control has not been working so law enforcement agencies worldwide have been looking for other alternatives. Community policing was one attempt at involving the communities through input and cooperative responsibility in the neighborhoods. While well intentioned and successful on small scales the result was monthly meetings where law enforcement disbursed crime statistics rather than an integrated approach to crime control. Restorative justice also has problems due to the misperception that it is a method 'easy' on crime. Punishment and retribution has been the focus for so long that breaking the mindset is difficult; any processes which do not fit within those confines are deemed too lenient. This creates a resistance to their use by those who do not understand the basic concepts behind the approach.

Navajo.

Currently the Navajo ascribe to the European style of crime control imposed upon them by the U.S. government through the Bureau of Indian Affairs (BIA) (Meyer, 2002). Originally the Navajo courts were established in 1882, with white BIA agents in charge until 1935. The Navajo Tribal Council accepted full responsibility for the cost and direction of the tribal courts in 1959 in response to risk to their law enforcement organizations from the states of Arizona, New Mexico, and Utah (Shepardson, 1963). The Navajo Nation gave up their traditional methods for establishing *hozho* in an attempt to safeguard their sovereignty (Meyer, 2002). Once they decided that the European style of justice did not work for them steps were taken to reinstate their traditional justice methods. According to Shepardson (1963) there are at least five different legal systems that have jurisdiction within the reservation depending on the person(s) involved and the incident in question. There are 55 criminal offenses detailed in the Courts of Indian Offenses and Law and Order code that must be handled by the Navajo law enforcement agencies

(Indians, 1993). In 1982 the Peacemaker Court was created by Navajo Supreme Court Chief Justice Nelson McCabe to give legitimacy to a practice that never died out among the Navajo (Meyer, 2002). The Navajo managed to incorporate this traditional method into their current court system in a manner that allows both the restorative and retributive aspects to be available for conflict resolution. However the officers enforcing the laws have issues deciding which style of crime control to use. Larry A. Gould (2002, p. 177) described two phenomenon where the officers were labeled as either “too Navajo” or “not Navajo enough” depending on how they performed their jobs and which law enforcement style they used. Being “too Navajo” became connected to being too lenient and using the peacemaking process too much, while being “not Navajo enough” depended too much on the European retributive style of crime control.

Jon’a Meyer (2002) seeks to define the separation of Alternative Dispute Resolution (ADR) from Original Dispute Resolution (ODR) when discussing past resolution processes. Due to the resurgence of restorative justice in criminology many people are classifying the Navajo peacemaking approach as an ADR. However Meyer argues that because it was created and used before interaction with European settlers it is ODR instead. Meyer further details the community aspect of the Navajo ODR and how each individual was expected to redress any harm they caused. Meyer also addresses why the Navajo stopped using their ODR process (to preserve their sovereignty) and how they brought it back. A list of techniques that ADR can borrow from ODR to increase its effectiveness was created. These techniques include: ensuring both sides of a dispute are heard, including outsiders, not setting a time limit on justice, allowing emotional expression, having strong mediation, acknowledging that the disputants are capable of working through the problem, creating a solution with the proper guidance, and using traditional or religious teachings. The article states that ADR can be useful with more serious criminal cases.

Meyer's conclusion claims that ODR places a higher importance on healing, total restoration of both victim and offender, and the protection of other victims than ADR. By removing the blame factor it becomes possible for the victims and offenders to meet with less conflict and discuss possible restoration.

Māori.

The Māori also had the European style of crime control imposed upon them, this time through the British during the colonization of Australia and the surrounding areas. The Māori did not create their own legal system. Because their own justice methods were deemed too lenient the Māori delinquents were processed through the same Courts and system as the *Pāheka*. These courts had little to no understanding of Māori culture, disregarding *mana tautoko* - the unwavering support of the communities to those who could not navigate crises on their own. The British were unable to understand the Māori concept of harmony compelling their cooperation with their more retributive justice style. The Māori never had the same deliberate loss of tradition evident with the Navajo tribe but they are also not a sovereign nation within New Zealand's borders. This may be why their tradition never died out.

Rev. Donald S Tamihere is a Māori Anglican priest and a biblical scholar. He focuses on the intersection between Māori and biblical concepts of peace and how they are applied to church and community life. He is also an executive member of the Christian Conference of Asia's Forum for Theological Education and the founding director of the Anglican Center for Youth Ministry Studies.

Tamihere's (2007) *The struggle for peace* is a commentary on the Māori tradition of peace and nonviolence. He discusses *tikanga Māori*, the Māori way of life which includes knowledge, values, beliefs, and practices. Several principles and ideals are defined to make them

more understandable for non-Māori individuals. Tamihere (2007) states that the traditional Māori view of the world is holistic and that an interdependency exists between humans and the flora, fauna, earth, sea, and sky. He details the Māori history with the British and New Zealand governments. Examples of the peaceful resistance that the Māori people ascribed to during the colonization efforts of the British are given. Despite the many challenges confronting the Māori people including poverty, disease, unemployment, lack of education, and other factors they held onto the peaceful foundations of their culture. Tamihere feels that the Māori people have the ability to subvert the hatred they are exposed to using the peaceful concepts contained within *tikanga Māori*.

The religious and historical backgrounds for both restorative justice methodologies being examined have been introduced. Due to the reliance on religious foundations within the respective tribes it was necessary to establish a basic understanding of where the ideas originated and how the processes were refined. The idea of harmony is so ingrained in both tribes that an audience used to a retributive or European style of crime control may not comprehend why these techniques are functional for these tribes. Any researchers or policy makers looking to this project for guidance or inspiration now know what the basic foundations are so they can create equivalent methods. The differences between the European style of crime control and the restorative justice methods being examined needed better definition for others looking to these subcultures for justice models. With this background established, at least partially, the assessment of the two processes will be more meaningful and the differences and similarities between them more obvious.

Methods

Methodology

The research design of this project was both descriptive and evaluative in type. Babbie (2010) defines descriptive research design as answering the questions of what, where, when, and how of a topic. This research project focused on the Navajo peacemaking and Māori restorative justice methods, answering critical questions regarding how they work and why. This research project described the procedures involved in the Navajo peacemaking and Māori restorative justice processes. Once these are described a comparison can be made meeting the evaluative criteria of this study.

Research Design

This study was qualitative. The examination and description of the religious and cultural aspects of the two tribes used only descriptive research. The comparison is non-quantitative in nature due to the lack of available data to accurately assess the effect of these methods on crime in their areas.

Sample

The sampling used for this research was purposive in nature. Because the Māori and Navajo tribes are currently using the styles of crime control being examined they were selected for sampling. These tribes are large enough in population size to make any findings potentially generalizable to cities of similar population size within the U.S. The minority status of both tribes may be a factor for consideration in another research project.

Procedure

This research paper approached from two directions, the Navajo and the Māori, to gather basic information for comparison. Examining the religious and cultural aspects was necessary to

give a foundational view of why these methods grew from these two subcultures and how they are effective. A detailed description of each process is necessary for comparison purposes.

Finally, determining where and how within the cultures these methods are used, will provide a better idea of the functionality and potential for generalization to modern society.

Results

The four research questions posed at the beginning of this research project are answered in the following section. These questions were:

- R1) How does the Navajo peacemaking process work?
- R2) How does the Māori restorative justice model work?
- R3) How do the Navajo and Māori justice models compare to each other?
- R4) Can these models of restorative justice be beneficial to U.S. society?

In answer to R1 and R2 step by step descriptions the Navajo and Māori processes can be found in Appendices A and B. Appendix C contains a table with both processes listed and sorted into semi-equivalent rows for easier comparison to answer R3. A more detailed comparison follows. R4 will be addressed in the conclusion section of this research project.

Comparison of Processes

When comparing the Navajo peacemaking process (*hozhooji naat'aanii*) and the Māori restorative justice process (*hui whakatika*) the similarities between them must be noted. These similarities are curious considering the enormous distance separating the subcultures that created them. Both tribes established these processes as ceremonies within the traditions of their peoples to help address conflicts and restore harmony to their people. The Navajo tell stories about the many trials and difficulties that the Holy People encountered on their journeys through the four worlds (Judicial Branch of the Navajo Nation, 2004, p. 3). In response they created a process that was based on discussion and problem resolution rather than punishment. The Māori, having a more holistic approach to life, also felt that harmony was a necessary part of their lives that must be cultivated and encouraged (Tamihere, 2007). While different approaches to the concept of

harmony both are based upon the same ideal, that harmony between people within the tribe is paramount for the benefit of all.

The role of religion is important for both processes. The Māori begin all restorative justice meetings with *karakia* and *mihimihi* acknowledging the role of the gods and the tribal roles of those involved. This reminds everyone that they are a member of the group and that it is in their best interest to work the issues out cooperatively. The Navajo have prayers at the beginning of the *hozhooji naat'aanii* however this is optional and only occurs when agreed to by the participants. Whether this option is detrimental to the peacemaking process can only be determined on a case by case basis. Prayers also close each meeting for both tribes. This practice allows the reconciled groups to connect as a single group with a common belief and reinforce the bonds between them. However since the Navajo peacemaking process is legalized it is treated in a business like manner than the *hui* of the Māori. The Māori meetings are concluded with food, a common practice for people to reestablish their connections to one another.

Both styles tout the inclusion of the victim, offender and any pertinent individuals within a safe and open discourse to allow all perceptions to be expressed and evaluated. Both the *hui* and the *hozhooji naat'aanii* are voluntary for the victim and other concerned individuals. Both ceremonies allow all parties who attend to talk about the issue and participate in the creation of the solution. They rely on the sense of community duty, harmony, and belonging within the tribal groups to connect the offender and victim. Belonging is one of the focal concerns that Miller talked about in his Focal Concerns Theory that helps define a subculture and affects how it functions (Berg & Stewart, 2009).

While the phrasing of the goals for each process is different the basic methods are quite similar. Both the Navajo and the Māori require that the reason for the gathering be expressed so

that all attendees understand the issue and the underlying desire to resolve it. The participants are allowed to state and discuss their own views. Each person is treated equally and new information can be presented and examined. Both the *naat'aanii* and the Māori facilitator must maintain control of the meeting to minimize any negative words or actions. They help guide the discussion in a positive manner while ensuring that a resolution is reached if possible.

There are also many differences between the processes. One of the differences between the two styles is the level of inclusion that exists for the Navajo process in their justice system. The Navajo are able to incorporate it within their legal framework and make its resolutions legally binding. Peacemaking can be requested or court ordered by the Navajo courts if the judge feels that it is a better alternative for restoring *hozho*. This means that the participation of the offender becomes non-voluntary but the involvement of the other participants remains of their own volition. The Māori kept the *hui whakatika* more informal and community based with the gathering of a *hui* only being organized by elders or leaders of the community. Participation cannot be dictated by outside sources, such as a judge or other law enforcement personnel. Thus participation of the offender is strictly voluntary.

Navajo peacemakers are nominated, certified, well respected, and learned community members who either volunteer or are selected by the requesters to supervise the peacemaking process. The Māori have designated people who have been trained specifically for the restorative justice process. The Māori require a more modern and formal education rather than any respected individual in the tribe considered knowledgeable in the area of concern. Some training is provided for the Navajo through the Courts rather than a community based class or by non-government organization and it is not a requirement for a *naat'aanii* to supervise a peacemaking session. The Navajo do not have to include an elder in the process as the *naat'aanii* is expected

to maintain control of the meeting and keep the concepts of *k'e* and *k'ei* at the forefront of the discussion. A Māori elder must be present as either leader or member of the interested observers group. These differences do not negate the similarity of the justice styles or their functionality within the confines of their subcultures.

The legalized aspect of the Navajo peacemaking process requires that their resolutions be recorded in written format for filing with their court system. The Māori are not required to do this and many of their decisions are made in an oral fashion. This makes the tracking of resolutions within the Māori process difficult, if not impossible. The tribe must monitor the offender closely to ensure that the details of the agreement are met and any follow up done appropriately. There is the potential for legal action in the Navajo courts if the conditions are not met in a timely and acceptable manner. As the Māori integrate more fully into modern society it is possible that changes will be made but currently the traditional ways are still taking precedence. Written records may become a requirement for proof of its effectiveness in combating crime if the Māori way is found to be beneficial.

Comparison of Subcultures

Both tribes are a distinct minority of the population of their respective areas however they make up a disproportionate number of the people arrested and prosecuted for crimes. Both methodologies being examined, Navajo peacemaking and restorative justice Māori -style, are normally used on less serious crimes, misdemeanors and civil issues. The Navajo have many issues with alcohol related crimes. Generally these crimes are classified as misdemeanors which would make them prime candidates for using peacemaking to resolve. The Māori are using their process mostly within the educational system. It is effective in addressing truancy and minor deviant acts by adolescents, a way of punishing the crime, teaching appropriate behavior and

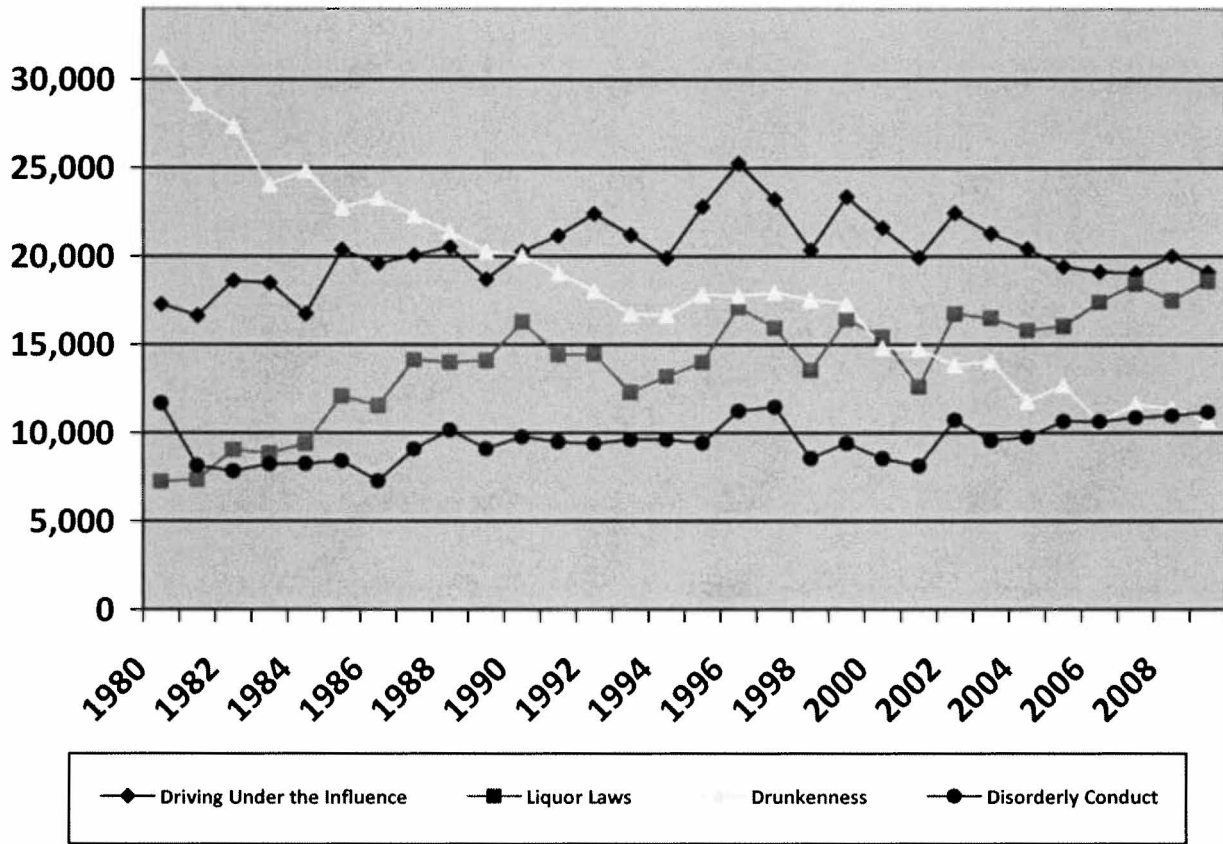
including the young person in the tribal processes. The Māori also have issues with alcohol related crimes which also fall within the less serious crime categories in their jurisdictions.

Navajo.

The Bureau of Justice Statistics report *American Indians and Crime* stated that the arrest rate for Native Americans in 1997 for alcohol related crimes was more than double all the other races (Greenfeld & Smith, 1999). The number of American Indians under the jurisdiction of the criminal justice system in the U.S. at 1 in 25 was 2.4 times the per capita rate of Caucasians and 9.3 times that of Asians in the 1999 report. Only African Americans had a higher per capita rating than Native Americans (Greenfeld & Smith, 1999).

The arrest numbers for American Indians and Alaskan Natives was compiled between 1980 and 2009 in an attempt to gather data from both before and after the resumption of using the peacemaking process (Snyder & Mulako-Wangota, 2011). The Navajo are included within this overall group but not specifically broken out. Figure 1 below shows the alcohol related offense arrest numbers because this is an area that is a known problem for the Navajo people. The number of arrests for driving under the influence (DUI) remains relatively stable with a slight increase over time which coincides with the increase in the Native American population. The arrests for disorderly conduct drop initially then rise back towards the levels noted in 1980. The arrest numbers for liquor law violations have a larger increase than the previous two crimes, what this increase can be attributed to is unknown at this time. However, the drop in drunkenness arrests during this time period was surprising. Because this data is not specific to the Navajo it is unknown whether or not the peacemaking methodology had any significant effect on this trend but determining whether or not there is a causal relationship between them specifically for the Navajo people would be a topic for future research.

Figure 1: U.S. Arrest Estimates of American Indian and Alaskan Natives 1980-2009



(Snyder & Mulako-Wangota, 2011).

Considering that the Navajo Police department had, as of 2005, 393 sworn personnel trying to police almost 200,000 residents within a 22,174 square mile area, handling the multitude of minor crimes and issues becomes problematic (Reeves, 2008). Using the peacemaking process to resolve some of these issues is beneficial by allowing law enforcement to concentrate on the more serious crimes and criminal investigations.

Gloria Benally (personal communication, November 11, 2011), program coordinator with the Navajo Peacemaking Program indicated that there were not currently any numbers published on how often peacemaking is being used inside and outside the legal system on the Navajo reservation. She said that it is being used on a constant basis with most of the cases being of a

consultative nature for people walking in. She mentioned that the number of cases began at a high rate in the 1980's due to tribal control by older generations which emphasized using traditional processes. However as the generation shift hit and the younger generation, which was educated by and familiar with the Anglo law processes, came into positions of power the levels dropped. Over time the number of cases using peacemaking rose again with the peaks being between 1994 and 1996 when she estimated cases being around 7,000 per year. This was attributed to generational shift again as the younger generations became 'hungry' for their traditional processes and culture. Another drop occurred after that until 2004 when the Fundamental Law was established in the Navajo Nation requiring judges, court officials, lawyers and law enforcement to use their traditional methods. Since then the case numbers have again risen with Ms. Benally estimating 7,000 – 8,000 in 2011.

A project has been established to create an archive for these cases with information on what process was used and the resolution but this project is still in its beginning stages with the lack of funding and equipment hindering its completion. Ms. Benally also stated that the use of peacemaking is being used extensively in the education system on the reservation which is part of the reason for the large jump in the last year of the number of cases for peacemaking use. She expects that truancy, school disciplinary processes and bullying will push the number of cases even higher in years to come. There has been an educational curriculum created for tribe members that from kindergarten on for determining what should be taught at which times and locating the traditional stories and songs that address those lessons The Navajo are looking to videotape their elders giving these lessons to be used in the classrooms as a way of meeting this need.

A library of stories, songs and ceremonies is also in the beginning stages of creation with many of these items having been tape recorded. The need for transcription into a database or onto paper is high but due to the fact that these stories are in the Navajo language makes outside help difficult. If cultures outside of the Navajo Nation are looking to peacemaking as a method for addressing crime it would be beneficial to funnel some funding and attention toward establishing how effective the process is on the reservation. During the completion or progression of these projects it can be discovered how they may be incorporated into other legal and cultural systems.

Māori.

According to the Policy, Strategy and Research Group (2007) report the Māori make up 42% of all the criminal apprehensions despite being only 14% of the population of New Zealand. Approximately 50% of the people in prison in New Zealand identify themselves as Māori, although this number is problematic considering that there are three ways to define Māori descent. Examination of the rate of imprisonment indicates the incidence of Māori incarceration is more than six times the rate of non-Māori persons. These numbers resemble the data for Native Americans in the U.S. There are some who use these numbers to indicate that the Māori people are criminally inclined. This is reminiscent of the opinion the American people had of Native Americans for many years.

However startling these statistics are there are mitigating factors, such as the fact that in 2004 a quarter (25%) of the male Māori population was between 15 and 29 years of age. This age range contains the most victims and offenders in any race. In New Zealand the male non-Māori individuals in that age range make up only 20% of the population (Policy, Strategy and Research Group, 2007). According to the Policy (2007) report between 1981 and 1999 only

20.4% of all charges against Māori defendants ended in acquittals, this figure is closer to 24.6% for charges against those of European descent. Table 1 below shows the distribution of law enforcement interaction and resolutions for various crimes for Māori in New Zealand for 2009 and 2010.

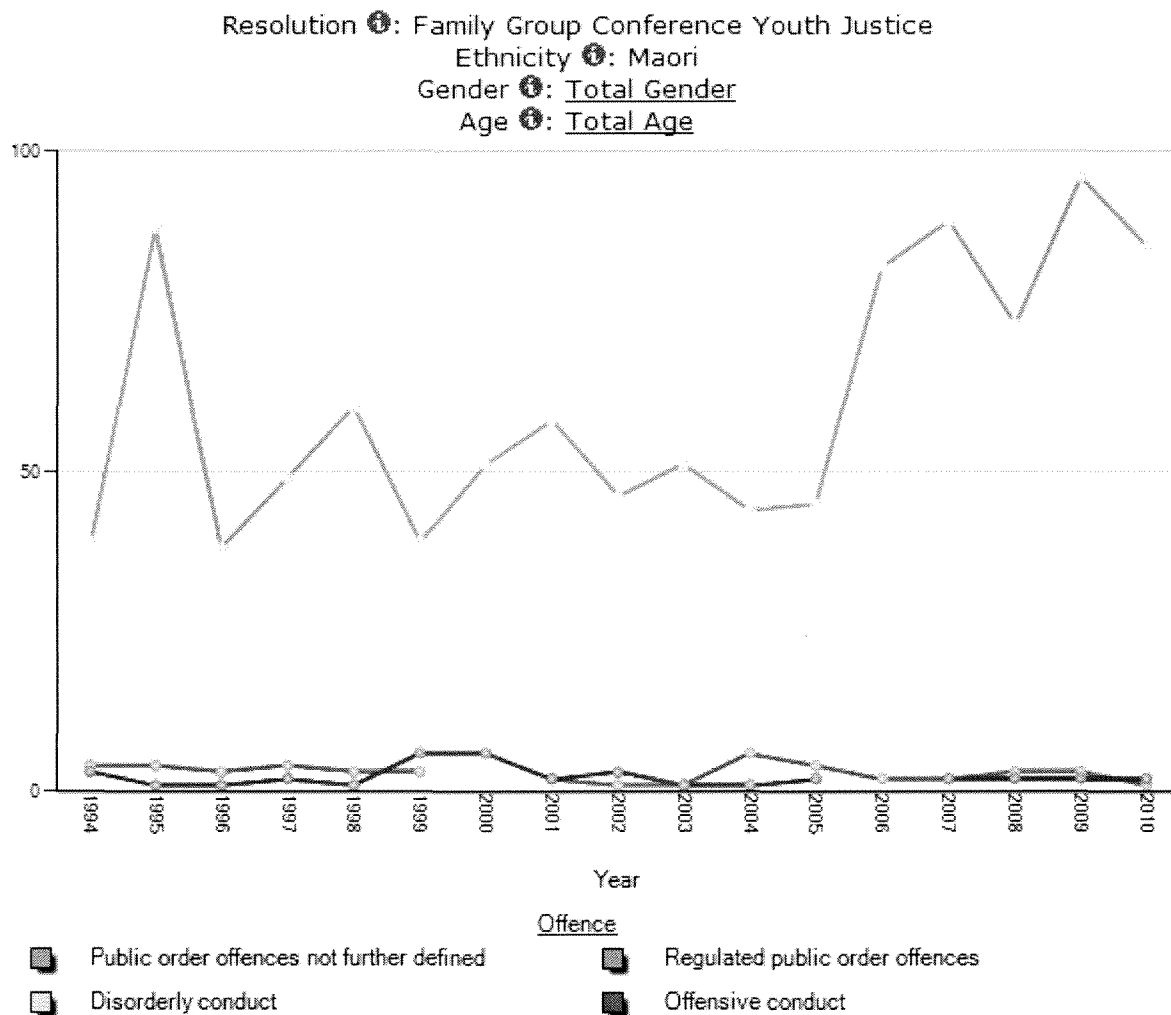
Table 1: National Apprehensions for the latest 24 calendar months

Ethnicity ①	Maori									
	Family Group Conference Youth Justice		Other ①		Prosecution ①		Warned / Cautioned		Youth Aid Section	
Resolution ①										
Year ①	2009 ①	2010 ①	2009 ①	2010 ①	2009 ①	2010 ①	2009 ①	2010 ①	2009 ①	2010 ①
Offence ①	↑↓	↑↓	↑↓	↑↓	↑↓	↑↓	↑↓	↑↓	↑↓	↑↓
Public order offences not further defined	-	-	-	-	-	-	-	1	-	-
Disorderly conduct	96	85	401	397	8,594	7,547	2,797	4,329	776	778
Regulated public order offences	3	1	68	57	3,530	2,483	716	1,160	103	68
Offensive conduct	2	2	21	12	235	210	167	180	20	25

(Statistics New Zealand, 2010)

Figure 2 below shows the Family Group Conference Youth Justice as a resolution for the years between 1994 and 2010. Looking specifically at the disorderly conduct line shows the trend over the sixteen year period on how often this process was used as a way to resolve issues dealing with, but not restricted to, alcohol for the Māori people. Unfortunately the data presented does not show a particularly long lasting trend in either direction. Determining the factors for why the use of the Family Group Conference Youth Justice system fluctuates so radically would help in determining the usefulness of this process within the Māori tribe and potentially outside that subculture.

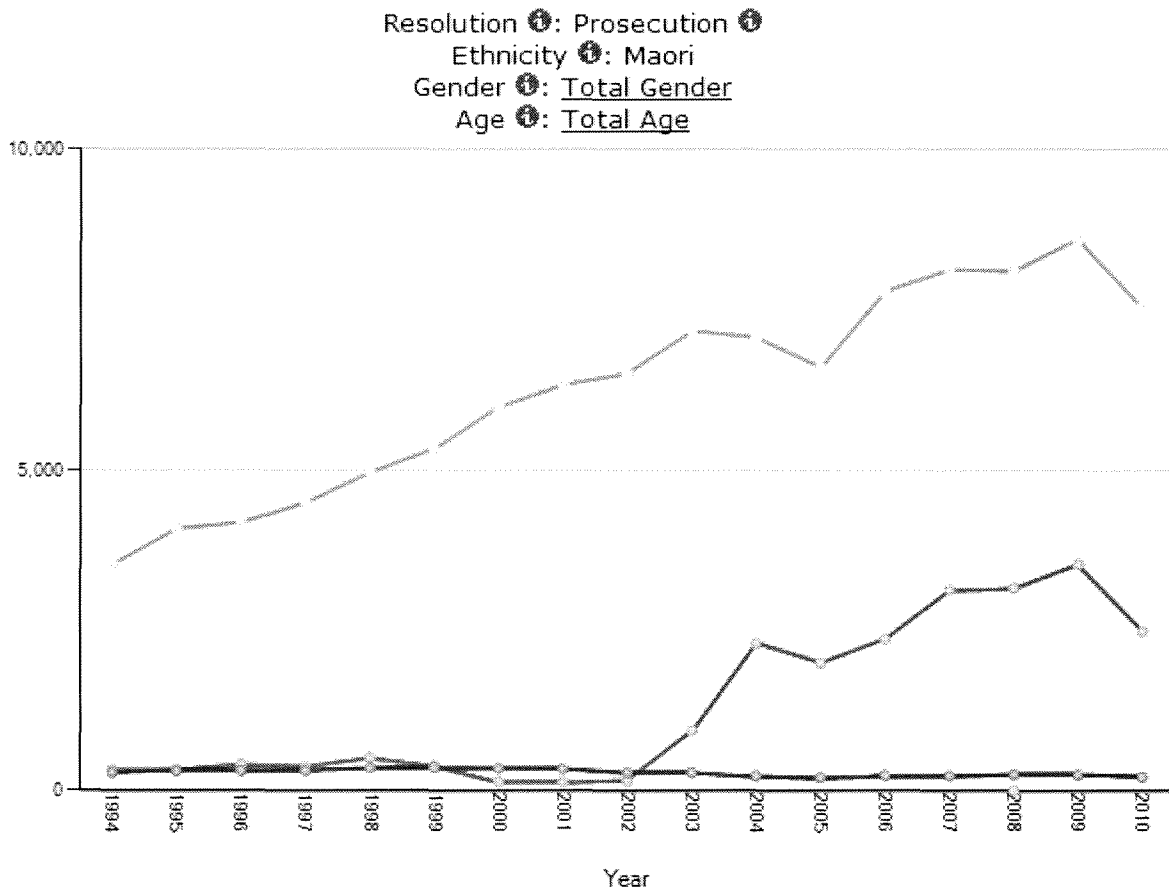
Figure 2: Family Group Conference Youth Justice 1994 – 2010



(Statistics New Zealand, 2010)

Figure 3 below shows the total number of prosecutions for the same sixteen year time period, specific to the Māori race, dealing with the same criminal offenses. Overall there has been a steady climb in prosecutions for disorderly conduct for Māori with only two areas of decline. These declines happened in the 2004/2005 years and again in 2010.

Figure 3: Prosecutions 1994 - 2010



- Year
- Offence
- Public order offences not further defined
 - Disorderly conduct
 - Regulated public order offences
 - Offensive conduct

(Statistics New Zealand, 2010)

Discussion/Conclusion

By using their traditional processes both tribes are reinforcing the bond between tribal members and endorsing their historical processes, claiming they are still effective and relevant within modern times. Their determination kept these traditional methods available as alternatives for law enforcement agencies worldwide. Determining whether they can be tailored to work within society as a whole rather than in these specific subcultures is still required.

After examining both methods the Navajo peacemaking process seems better adapted to modern society. Its inclusion in their legal system demonstrates that it can be incorporated into a modern law enforcement setting without losing its efficacy. While both processes are being used within greater society the Navajo peacemaking has more legitimacy due to its more structured guidelines. The requirement for documentation of the process and resolution allow for it to be examined in more detail and promotes the gathering of numerical data to support its effectiveness. The support of the Navajo court system also allows for the possibility of using peacemaking with more serious crimes. This legitimacy makes the Navajo the more recognized subculture, garnering respect, interest and potentially more assistance in expanding the capabilities of their peacemaking process.

The Navajo peacemaking and Māori restorative justice approaches to crime control are similar in their basic premises but the actual implementation and utilization are different. Both rely upon the community and religious aspects of their respective cultures to involve their people in non-retributive methodologies. The lack of these unifying characteristics in a typical U.S. city or town makes these approaches unsuitable until modifications are made. More than one process may need to be utilized to meet the needs of the cultures and religions that exist in modern

nations. A better approach would be to create a process that relies upon an established law enforcement practice instead, one compatible with these styles of crime control.

The research questions on how the Navajo peacemaking and Māori restorative justice processes work and what they are based upon have been answered. This information allowed a comparison and the similarities and differences were better defined. By identifying these areas it is possible for typical U.S. law enforcement agencies to use this information to improve their current crime control methods.

Miller's Focal Concerns Theory was useful in understanding what aspects of the subcultures are important to focus upon within the tribes. The belonging focal concern provides an idea of why these community justice techniques are more effective for the tribes, rather than the retributive styles used by the majorities surrounding them. This theory can help identify issues being confronted by communities when dealing with delinquents and criminals.

A future research project could go into more detail on exactly how these focal concerns impact or direct the peacemaking and restorative justice practices. Other areas for future research would include examining these approaches using specific crimes, resolutions and their outcomes. Doing a comparison between the traditional and modern solutions and the recidivism rates for each could be beneficial to criminology. It would be interesting to see if the traditional styles would be effective for more serious crimes, either separate from or in conjunction with the current retributive processes.

This research project was important because it expanded the available literature about both of these restorative justice methodologies. It brought two traditional processes together into a single paper focused on identifying their similarities and differences. This makes it possible to examine other justice models and determine how justice was served in the past, how it may be

useful in the future, and how it can be incorporated into the present to make a positive difference in the fight against crime.

References

- Babbie, E. (2010). *The practice of social research* (12th Ed.). Belmont, CA: Wadsworth.
- Berg, M.T. & Stewart, E.A. (2009) Cultural transmission theory. In Miller, J.M. (Ed.). *21st century criminology: A reference handbook (volume 1)* (pp. 230). Thousand Oaks, CA: SAGE Publications.
- Bureau of Democracy, Human Rights, and Labor (2005). International religious freedom report 2005. Retrieved from <http://www.state.gov/g/drl/rls/irf/2005/51524.htm>
- Gould, L. A. (2002). Indigenous people policing indigenous people: the potential psychological and cultural costs. *The Social Science Journal*, 39, 171-188.
- Greenfeld, L.A. & Smith, S.K. (1999). American Indians and Crime. Retrieved from <http://bjs.ojp.usdoj.gov/content/pub/pdf/aic.pdf>
- Indians – Courts of Indian offenses and law and order code – criminal offenses, 58 FR 54411 (1993). Retrieved from http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=328526b59feefe8ad42f229318fddd79&tpl=/ecfrbrowse/Title25/25cfr11_main_02.tpl
- Judicial Branch of the Navajo Nation (2004). *Peacemaking: A guide to the peacemaking program of the Navajo Nation*. Retrieved from <http://www.navajocourts.org/indexpeaceguide.htm>
- Meyer, J.F. (2002). “It is a gift from the creator to keep us in harmony:” Original (vs. alternative) dispute resolution on the Navajo nation. *International Journal of Public Administration*, 25 (11), 1379-1401. doi: 10.1081/PAD-120013351
- Policy, Strategy and Research Group, Department of Corrections (2007). Over-representation of Māori in the criminal justice system: An exploratory report. Retrieved from

<http://74.6.117.48/search/srpcache?ei=UTF-8&p=over-representation+Māori &fr=ush-mail&u=http://cc.bingj.com/cache.aspx?q=over-representation+Māori&d=5029853690725225&mkt=en-US&setlang=en-US&w=ae85e170,7d3fb537&icp=1&.intl=us&sig=w6.2yjSVn8p4E8S8cZXV1A-->

Reeves, B. (2008). Compendium of tribal crime data, 2011. Bureau of Justice Statistics, Washington D.C. Retrieved from <http://bjs.gov/index.cfm?ty=pbdetail&iid=1599>

Shepardson, M. (1963). Problems of the Navajo tribal courts in transition. *Human Organization*, 250-253.

Snyder, H. & Mulako-Wangota, J. (2011). Arrest Data Analysis Tool at www.bjs.gov. Bureau of Justice Statistics, Washington, D.C.

Statistics New Zealand (2010). National Apprehensions for the latest 24 calendar months. Retrieved from <http://wdmzpub01.stats.govt.nz/wds/TableViewer/tableView.aspx>

The Pew Forum on Religion and Public Life (2010). U.S. religious landscape survey: Religious composition of Arizona. Retrieved from <http://religions.pewforum.org.maps>

Tamihere, D.S. (2007). The struggle for peace: Subverting hatred in a Māori context. In Smith-Christopher, D.L. (Ed.), *Subverting Hatred: the challenge of nonviolence in religious traditions* (pp.86-106). Maryknoll, NY: Orbis Books.

Wearmouth, J., McKinney, R. & Glynn, T. (2007). Restorative justice: Two examples from New Zealand schools. *British Journal of Special Education*, 34(4), 196-203.

Appendices

Appendix A

Navajo Peacemaking Meeting Process

1. A written request is submitted by a person for peacemaking or a referral is made by a governmental or private agency, or court ordered in a criminal, civil or juvenile case.
2. Once accepted the time, location, selection of the peacemaker, and notification of involved parties are set up.
3. When all the parties have arrived the peacemaker should introduce everyone and explain the cannons of conduct governing the session.
4. The peacemaker, or *naat'aanii*, may conduct an opening prayer if the parties allow.
5. Each party makes an opening statement which should include their view of the controversy and what they desire as a resolution.
6. The peacemaker should make certain everyone understands the situation and desired outcome using questions to clarify uncertain areas.
7. Once the problem and desired resolution have been clearly defined the peacemaker opens up the floor for discussion.
8. The peacemaker ensures that the principal parties are allowed to address any comments that are presented by others attending the session.
9. The discussions continue until everyone who wants to has had a chance to comment on the issue.
10. When the discussion has been completed the peacemaker then directs the discussion toward resolution matters and the discussion process is repeated.

11. Whenever the discussion of both the problem and the resolution options are complete the peacemaker points the parties toward a specific resolution, allowing full opportunity for discussion and input.
12. If the parties reach an agreement the peacemaker summarizes it and puts it into writing. It can be deferred for up to 10 days after the session.
13. The session then closes with a prayer.

(Judicial Branch of the Navajo Nation, 2004)

Appendix B

Māori Restorative Justice Conference Process (a *hui*)

1. A conference, as appropriate, begins with *karakia* (prayers) and *mihimihi* (greetings) that acknowledge the presence and dignity of all in attendance.
2. ‘The problem is the problem, the person is not the problem’ goes on the board or is spoken about.
3. What is hoped to happen in the *hui* (meeting)? Each person has a chance to speak.
4. What is the problem that has brought those present to this meeting? Each person will tell their own version.
5. What are the effects of that problem on all present at the meeting (and others)?
6. What times, places and relationships are known where the problem is not present?
7. What new description of the people involved becomes clear as those times and places are looked at where the problem is not present?
8. If people/things have suffered harm by the problem, what is it that needs to happen for amends to be made?
9. How do the factors that have been spoken about and recognized in the alternative descriptions help planning to overcome the problem? People will contribute ideas and offer resources that will help to overcome the problem.
10. Does the plan meet the needs of those harmed by the problem?
11. People are granted responsibility to carry forward each part of the plan. Any follow-up is planned.
12. *Karakia* (prayers) and thanks and hospitality may be offered.

Restorative Practices Development Team, 2003 (as cited in Wearmouth et al., 2007)

Appendix C

Side by Side Process Comparison		
Navajo Peacemaking Meeting Process	Māori Restorative Justice Conference Process	
1. A written request is submitted by a person for peacemaking or a referral is made by a governmental or private agency, or court ordered in a criminal, civil or juvenile case.		Navajo
2. Once accepted the time, location, selection of the peacemaker, and notification of involved parties are set up.		Navajo
3. When all the parties have arrived the peacemaker should introduce everyone and explain the cannons of conduct governing the session.		Navajo
4. The peacemaker may conduct an opening prayer if the parties allow.	1. As appropriate, a conference will begin with karakia and mihimihi which acknowledge the presence and dignity of all in attendance.	Both
5. Each party makes an opening statement which should include their view of the controversy and what they desire as a resolution.		Navajo
6. The peacemaker should make certain everyone understands the situation and desired outcome using questions to clarify uncertain areas.	2. ‘The problem is the problem, the person is not the problem’ is written on a board or spoken about.	Both
7. Once the problem and desired resolution have been clearly defined the peacemaker opens up the floor for discussion.	3. ‘What are you hoping to see happen in this hui?’ Each person is allowed to speak.	Both
	4. ‘What is the problem that has brought us here?’ People tell their own versions.	Both
8. The peacemaker ensures that the principal parties are allowed to address any comments that are presented by others attending the session.	5. ‘What are the effects of that problem on all present (and others)?’	Both

<p>9. The discussions continue until everyone who wants to has had a chance to comment on the issue.</p>	<p>6. 'What times, places, and relationships do we know of where the problem is not present?'</p>	<p>Both</p>
	<p>7. 'What new description of the people involved becomes clear as we look at the times and places where the problem is not present?'</p>	<p>Both</p>
	<p>8. 'If there have been people/things harmed by the problem, what is needed to have happen to see amends being made?'</p>	<p>Both</p>
<p>10. When the discussion has been completed the peacemaker then directs the discussion toward resolution matters and the discussion process is repeated.</p>	<p>9. 'How does what we have spoken about and seen in the alternative descriptions help us plan to overcome the problem?' People contribute ideas and offers of resources that help overcome the problem.</p>	<p>Both</p>
<p>11. Whenever the discussion of both the problem and the resolution options are complete the peacemaker points the parties toward a specific resolution, allowing full opportunity for discussion and input.</p>	<p>10. 'Does the plan meet the needs of anyone who was harmed by the problem?'</p>	<p>Both</p>
<p>12. If the parties reach an agreement the peacemaker summarizes it and puts it into writing. It can be deferred for up to 10 days after the session.</p>	<p>11. People are given responsibility to carry each part of the plan forward. Any follow up is planned for.</p>	<p>Both</p>
<p>13. The session then closes with a prayer.</p>	<p>12. Karakia and thanks, perhaps food/hospitality, are offered.</p>	<p>Both</p>