Risk-Need Assessments in Tribal Justice

Developing a Tribal RNR Tool

Center for Court Innovation

Use of Risk Need Tools in Indian Country

Lay of the Land

Who is currently using a risk need responsivity assessment in their tribal courts?

Which assessments do you use?

How well are they working for your community?

Tribal Justice Tools Survey

Tribal Courts Technology and Risk/Need Tools

Survey Logistics

80 varied format questions

45 minutes to complete

Open for 10 months

Results Are In!

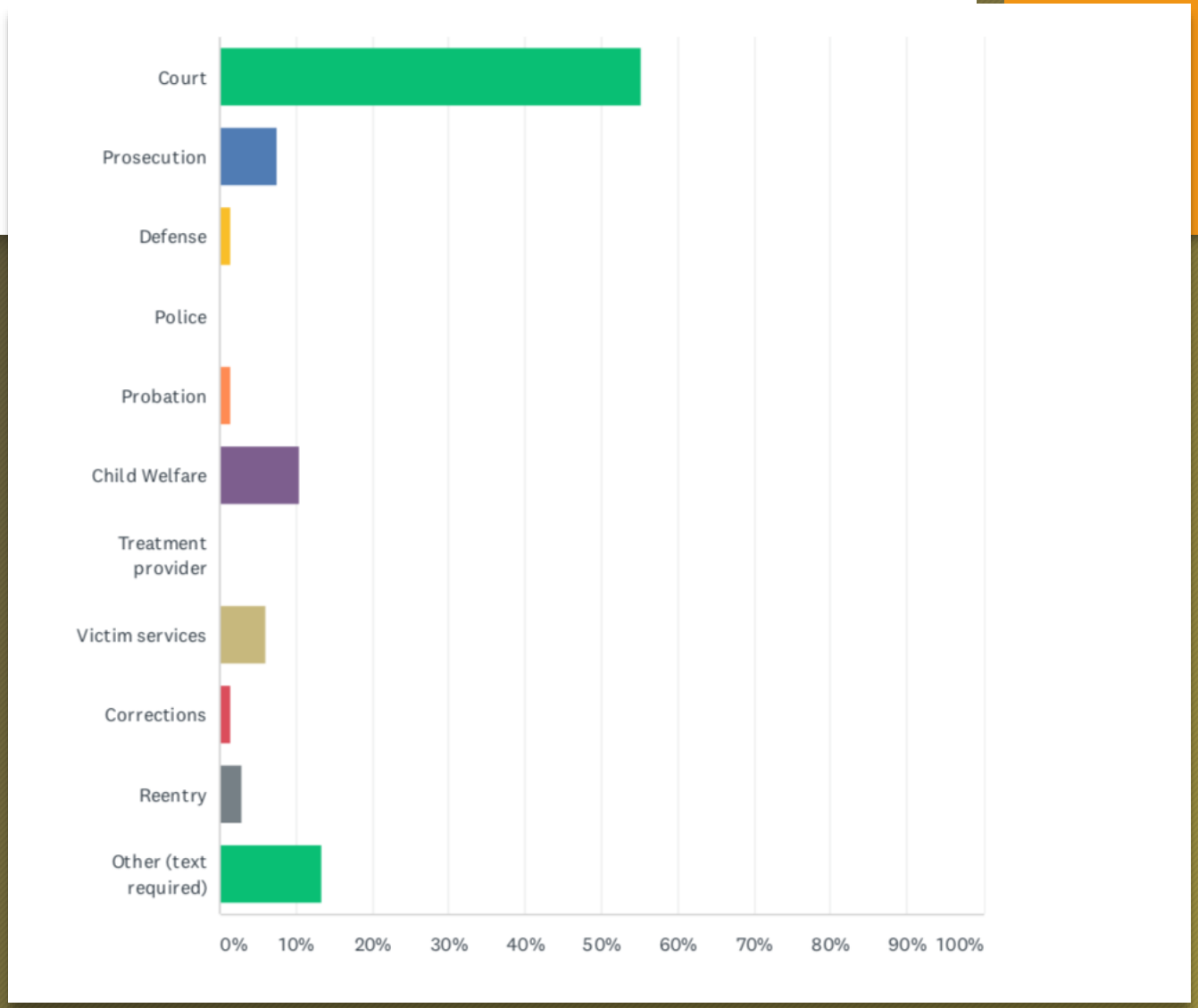
- 66 total responses
- Representing 32 tribes
- 44% completion

Region	Responses
Alaska	4
Great Lakes	9
Great Plains	3
Northeast	3
Pacific NW	10
Southeast	13
Southwest	11
West	7

Findings

54% of respondents work in court system

No police or law enforcement respondents



Findings

58% respondents are NOT currently using a tool

- 38% of those that are, doing so to fulfill grant requirement

ANSWER CHOICES	RESPONSES	
No specific use/Not used	0.00%	0
To satisfy grant requirements	37.50%	6
Determine bail/bond decisions	12.50%	2
Determine sentence	25.00%	4
Determine eligibility for a program	50.00%	8
Determine the treatment plan and modality (residential, outpatient, etc.)	56.25%	9
Determine specific community-based treatment providers	43.75%	7
Determine mental health service needs	56.25%	9
Determine need for criminal thinking treatment	18.75%	3
Determine other ancillary service needs (education, employment, housing etc.)	31.25%	5
Determine client-identified needs or goals	43.75%	7
Determine frequency of judicial status hearings	12.50%	2
Determine frequency of case management	37.50%	6
Determine community supervision modality	37.50%	6
Determine reentry plan	12.50%	2
drop	0.00%	0
No specific use	0.00%	0
Unsure	0.00%	0
Other (text required)	6.25%	1
Total Respondents: 16		

Assessments Currently Being Used:

- **COMPAS**
- **LSI-R:SV**
- **LSI-R**
- **PSA**
- **ORAS**
- **GAIN**
- **Statewide Assessment**
- Other: Maltreatment Risk, Inhouse Created, PYPAS, Signs of Safety, TCU, VPRAI

How useful is the tool for understanding your population?

Quotes from participants:

"Not sure. Sometimes we are surprised by level of criminogenic risk and so we change our level of supervision based on that."

"Somewhat useful"

"Not all that helpful"

"I feel that it could be altered to better suit the Native American population."

What does a Tribal RNR Tool need?

Respondents asked what features would make a tool relevant to the NA/AN population?

- Community connection
- Historical trauma and loss
- Cultural beliefs and connection
- Indigenous or Native language knowledge, and
- Spiritual or traditional beliefs and practices

QUESTIONS?

Developing a Tribal RNR Tool

From Beginning to End

Project: Team

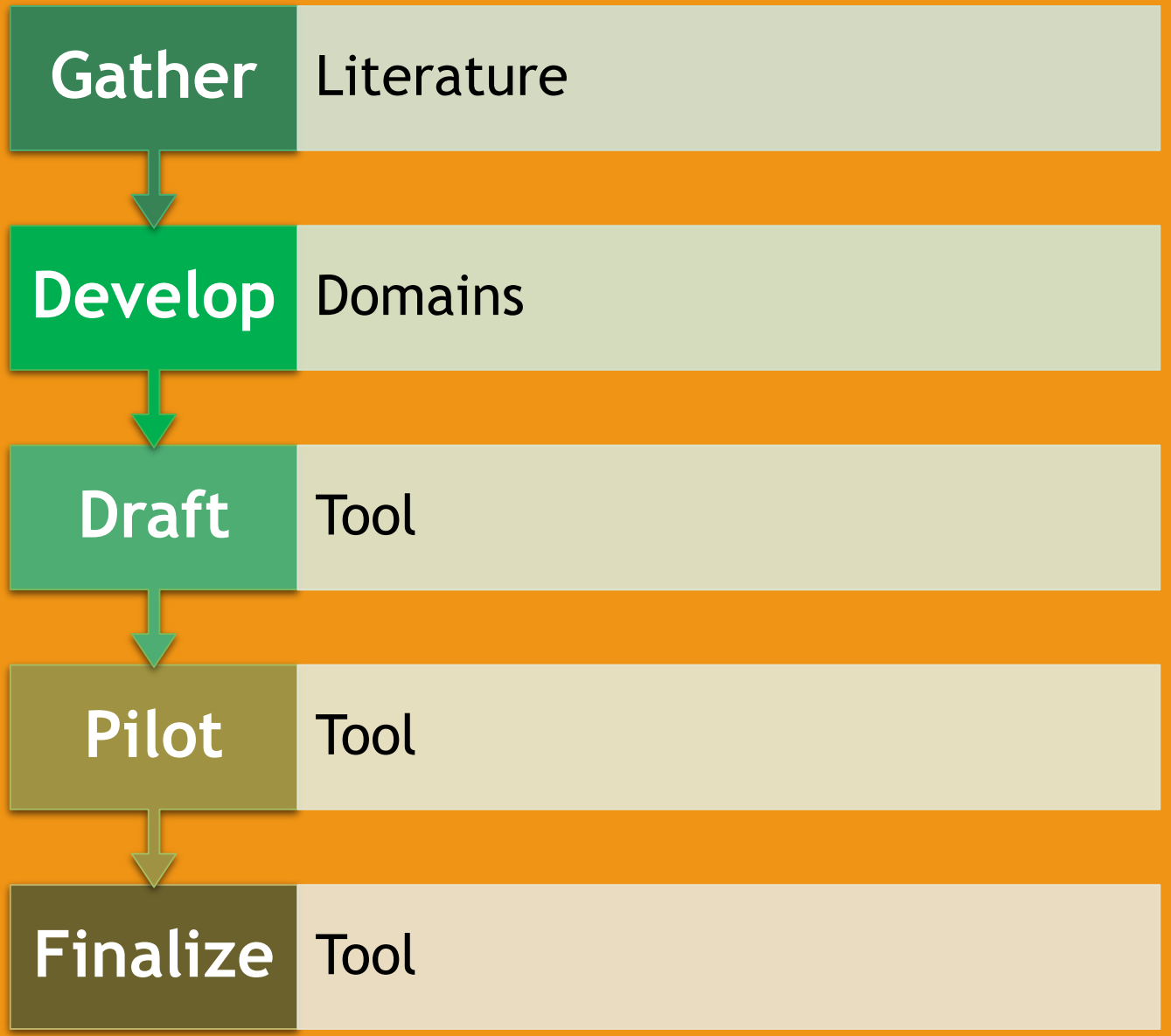
Team consists of:

- Tribal Justice Exchange team
- Researchers at the Center for Court Innovation
- Desiree Fox, PhD in Clinical Psychology &
- Ann Miller, Managing Attorney at Tribal Defenders (CSKT)

Informed by:

- RIAT (Reentry Intake and Assessment Tool)
- CCAT (Criminal Court Assessment Tool)
- Findings of Literature Review

Project: Overview



Literature Review

Researching the use of RNR tools on Tribal Populations

Literature Review

Reviewed 50+ publications

Including publications from Canada and Australia

Research Included Studies On:

- Validated Risk Need Assessment Tools with Indigenous Populations
- Actuarial Tools with Minorities
- Culturally Informed Practices

Focused On:

- Existing tools that are used with Native offenders
- Cultural responses
- Low predictive validity
- Considerations for an RNR Tool for Tribal Courts

Frequently Studied Existing Tools

- LSI (and it's variations)
- COMPAS
- Austin Risk
- Offender Screening Tool
- Static 99

Findings Among Current Tools

- Inequalities inherent (designed in historical and social vacuum)
- Not Inclusive Design (Existing tools not designed for indigenous offenders)
- Protective factors are often not considered
- Unsuitable phrasing (negative)

QUESTIONS?

Conceptualizing the Tool

Identifying Tool Domains and Questions

Risk Factors

Static risk factors

- Criminal history
  - # of arrests
  - # of convictions
  - type of offenses
- Current charges
- Age at first arrest
- Current age
- Gender

Dynamic risk factors/needs

- Antisocial attitudes
- Antisocial friends & peers
- Criminal Thinking
- **Family/marital factors**
- Education/employment history
- Pro-social leisure activities
- Substance use and misuse

What's missing from this list?

Residential Instability: Homelessness and mobility.

Younger Age (STATIC): Crime peaks in late teens.

Male Sex (STATIC): Men are higher risk than women

Other Risk Factors with Strong Empirical Support

Overview of Domains

Common Domains

- Demographics
- Past justice involvement
- Education
- Leisure
- Substance use
- Employment
- Housing

Highlighted Domains

- Family Structure
- Community and sense of identity
- Perception and relation to authorities
- Historical trauma
- Personal trauma and mental health

Family Structure & Childhood

Questions focus on:

- Relationship status/stability
- Dependents and family living situation
- Foster care involvement
- Experience with school and education

Education

Questions Focus on:

- Highest level of education
- Identifying personal knowledge and skillsets
- Identifying where their knowledge came from
- Ask if they have skills they can teach others
- Are there areas they want to learn and grow in?

Employment

Questions:

- Current or seasonal employment
- Employment vs Income vs Leisure

Considerations:

- Avoid shaming questions
- Strengths-based approach to identifying skills
- Highlight areas for support or growth
- Separate concepts of employment with income – ie; per capita

Housing

Questions:

- Stability of housing
- Identification of housing needs

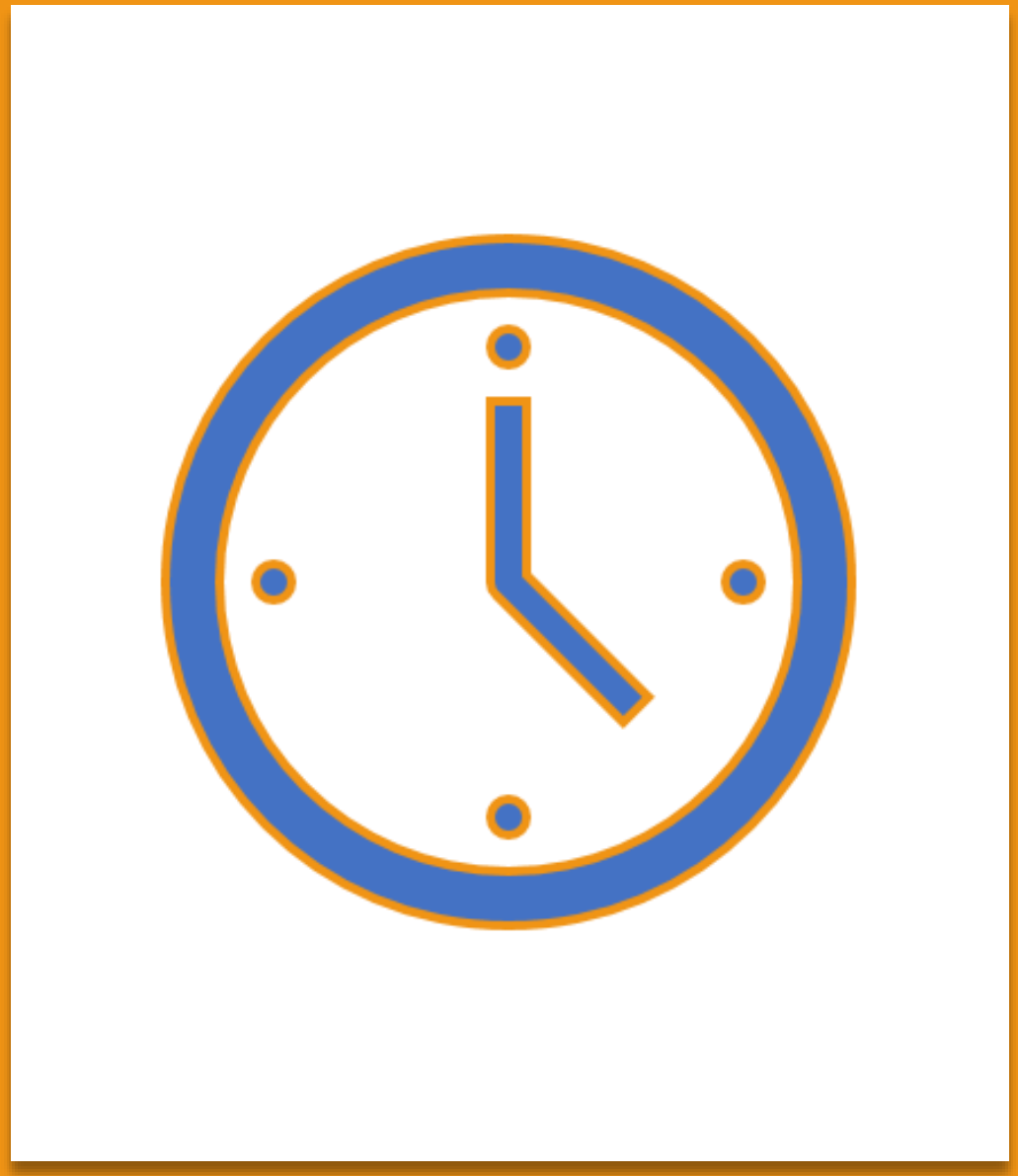
Considerations:

- Does homelessness look different in tribal communities?
- Access to HUD or tribal housing
- Flag needs for stable housing

Time Structure

Replaces the concept of Leisure:

- How does a person structure their time?
- Do they have free time?
- How would they like to fill that free time?



Substance Use

IDENTIFY HISTORY OF TREATMENT

HISTORY OF SUBSTANCE USE

GENERATE FLAGS -- > NOT TO DIAGNOSE

Community and Cultural Connectedness

- Culture and community as a protective or resilience factor
  - NOT a Risk Factor
- Identify their level of engagement, knowledge, desire, and access to community and culture
- Ask about their perception of their identity as a source of meaning and strength
- Other forms of culture are also important!
  - Culture with a little 'c'

Ongoing consequences of Colonialism

Experiences of discrimination

Method of coping or processing

Resilience

Trauma and Mental Health

Mental Health

- Previously Diagnosed
- Flag for treatment assessment

Trauma

- Identifying/flagging trauma

Case Management Questions

- Connect Individuals to supportive services

Perception and Relation to Authority

Association with Risk:

Distrust of Authority:

- Relates to criminal thinking
- Relates to anti-social thinking
- Historically increases risks

Tribal RNR Tool

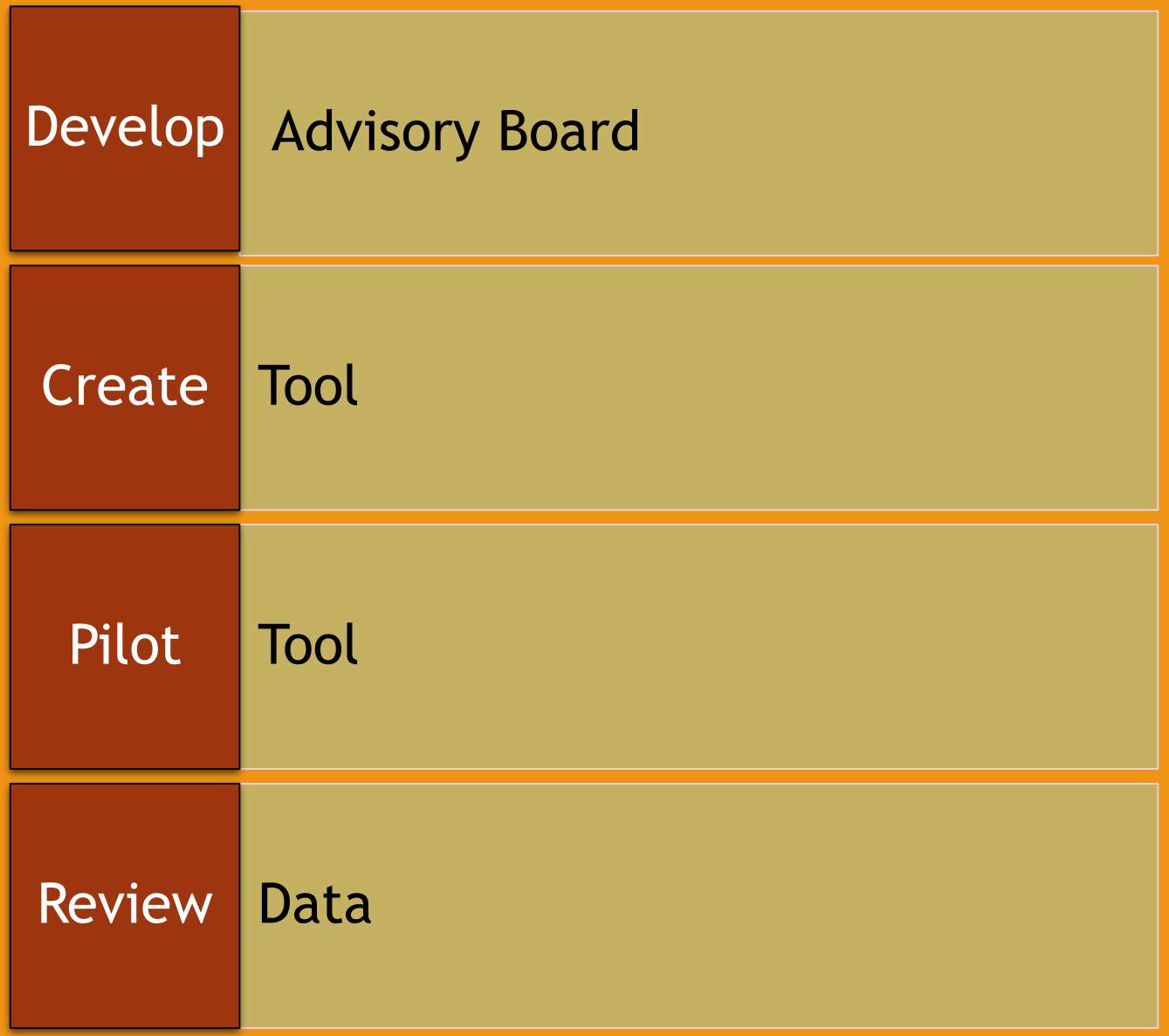
Distrust of Authority may be Legitimate:

- And based on:
  - Personal experiences of discrimination
  - Historical experiences of discrimination
- Reframed questions to acknowledge this

Building the Tool

Guiding the Process

Project: Process

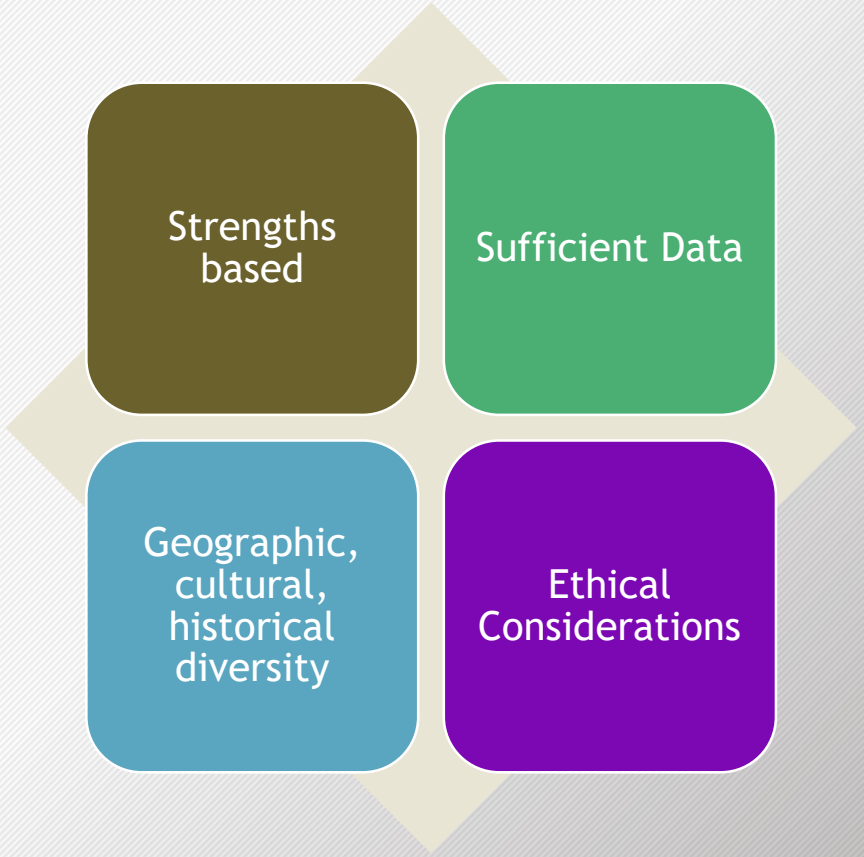


Advisory Board

15 members + consultants

Law enforcement, probation, judges, prosecutors, public defenders, Clinical Psychologist, reentry, researchers and TA providers

Tool Considerations and Challenges



Ethical Considerations

- RNR Tool Racial Bias
- Reducing Incarceration
- Do we Assign Risk to Trauma?
- Risk vs. Resilience
- How to Avoid Harm

Process of Drafting the Tool

- Team Values
- Initial draft
- Team reviewed question by question
- Advisory Board review section by section
- Culture and community review

Tools we were informed by

RIAT
LSI-R
CCAT
Culturally-Relevant Factors
Post Traumatic Growth
Historical Loss Scale
Criminal Thinking Scale

Finalizing the Draft Tool

Revise with Advisory Board feedback

Question by Question Final Review

Strengths-based final review\

Split the Tool

QUESTIONS?

Piloting the Tool

Testing the Effectiveness

Center for Court Innovation

Pilot Process

Identify Sites

- Site A
- Site B

Implement Tool

- Train staff to administer the tool
- Ensuring data sharing protocols
- Collect Data

Review Data and Build Tool

- Collect 1-2 years of data
- Identify correlations with risk, need, and resilience
- Finalize tool questions

Pilot Sites:

PILOT SITE A

PILOT SITE B

Pilot Sites Needed!

- Use tool at Pre-trial
- Preferably a tribe with a larger caseload
- Ability to collect data and share data with researchers
- Access to local criminal databases to research risk of recidivism

Beyond Piloting

Review the data and finalize the tool

- Identify which questions were correlative with risk of recidivism
- Remove questions that were not
- Shorten tool

Next Step – Validation!

- Gather additional data
- Identify how accurate the tool is
- Distribute the tool and resources

QUESTIONS?

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