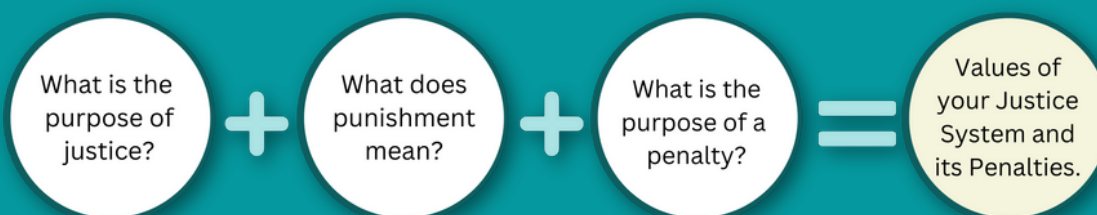




# POLICY GUIDE ON COLLATERAL CONSEQUENCES

This publication can guide tribes in shaping policy to address collateral consequences facing individuals involved in the tribal justice system. Collateral consequences are legal and regulatory restrictions that limit or prohibit people arrested or convicted of crimes. Hoping their punishment has ended, these individuals face barriers in seeking employment, business and occupational licensing, housing, voting, education, access to culture, and other rights, benefits, and opportunities.

## THE PURPOSE OF YOUR JUSTICE SYSTEM



By understanding the foundation of your justice system, you can align the punishment and penalties to your tribal values.

## ADDRESSING COLLATERAL CONSEQUENCES



### ACKNOWLEDGE COLLATERAL CONSEQUENCES EXIST

- National Inventory of Collateral Consequences contains a list of state and federal laws and regulations.
- Over 45,000 collateral consequences exist in state and federal laws and regulations alone.
- See *NAICJA Publication on Collateral Consequences*, posted on April 1, 2018 at [www.naicja.org](http://www.naicja.org).



### EXAMINE AND UNDERSTAND YOUR LAW AND POLICIES

- Laws governing your justice system, housing, human resources, social services, voting, and holding public office can all contain collateral consequences.
- Policies within your departments and programs may contain collateral consequences.
- Look for words like arrest, conviction, misdemeanor, felony, and background check.

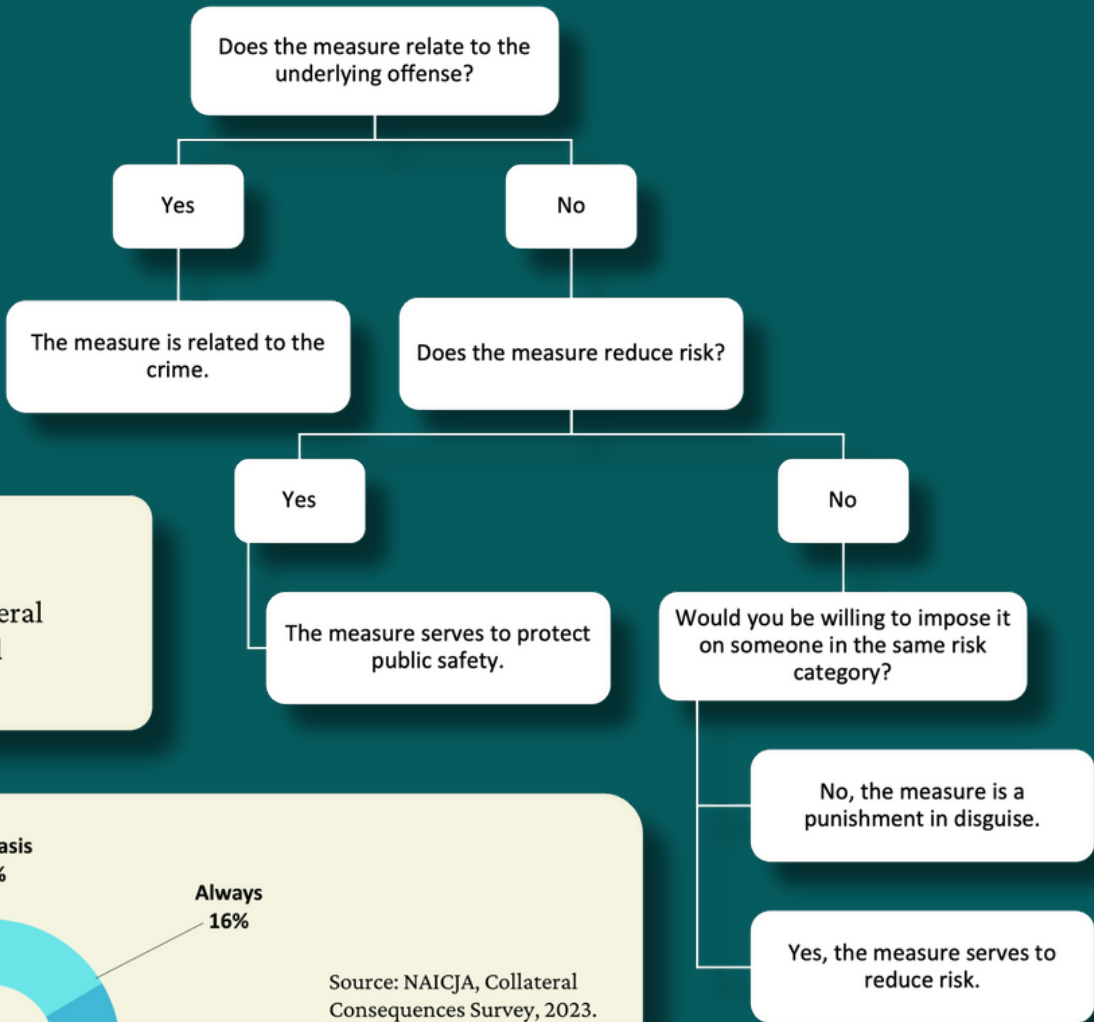


### FIND SOLUTIONS

- Once you've examined your laws and policies, rethink how you want your system to address collateral consequences and those impacted by them through revised or new laws and policies.
- Solutions can include: deferred adjudication, mandating consideration of collateral consequences in court, automatic clean slate, expungement, and pardons.
- Utilize research, resources, and knowledgeable partners, such as NAICJA, when creating solutions.

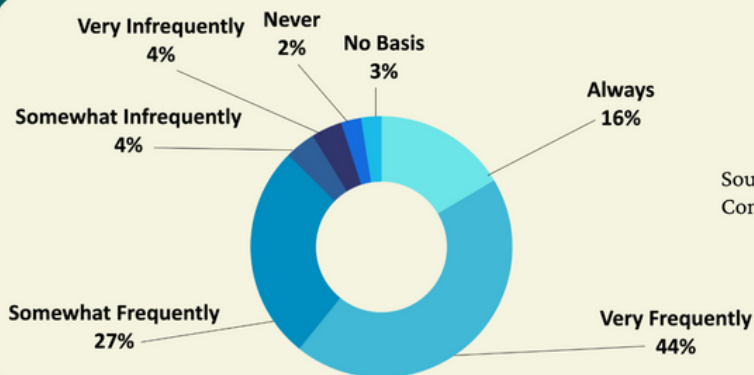
## IS A MEASURE A PUNISHMENT ?

A measure should be related to the crime, protect public safety, or reduce risk. If the measure does none of these, it is a punishment and should be included as part of a person's sentence.



### REAL WORLD IMPACT

In a survey of tribal courts, child welfare was identified as the collateral consequence that individuals faced with the most frequency.



Source: NAICJA, Collateral Consequences Survey, 2023.

## COLLATERAL CONSEQUENCES UNIQUE TO INDIAN COUNTRY AND THEIR IMPACT

There are collateral consequences that exist only in Indian Country. They can have a harsh impact on individuals if they are not crafted to serve a purpose related to your justice system.

