Tribal Healing to Wellness Court Series

The Key Components

TRIBAL HEALING TO WELLNESS COURTS: THE KEY COMPONENTS

2nd Edition

May 2014

Bureau of Justice Assistance
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A product of the

Tribal Law and Policy Institute
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TRIBAL HEALING TO WELLNESS COURT SERIES

With support from the Bureau of Justice Assistance (BJA), the Tribal Law and Policy Institute (TLPI) has developed the following additional Tribal Healing to Wellness Court–specific resource publications to assist tribal governments and tribal justice systems in developing, enhancing, and sustaining Tribal Healing to Wellness Courts. These resources are available for free download on the Tribal Court Clearinghouse website (www.tlpi.org) and TLPI's website devoted solely to Healing to Wellness Courts: www.WellnessCourts.org.

Overview of Tribal Healing to Wellness Courts
This publication (*initially published in 1999; second edition in 2002; third edition in 2014)* provides an overview of Tribal Healing to Wellness Courts. This overview discusses the history of the drug court movement and the adaptation of the drug court model for tribal justice systems. It provides an overview of some of the critical issues and challenges faced by Tribal Healing to Wellness Courts, including the challenge of incorporating tribal custom and tradition, addressing the high volume of alcohol abuse cases, and addressing jurisdictional and resource limitations.

Tribal Healing to Wellness Courts: The Judge's Bench Book (*update coming soon)*
For every difficult and demanding journey, one must have a leader. As set forth in *Tribal Healing to Wellness Court: The Judge's Bench Book* (drafted in 2002), that person is the judge. This bench book is designed to provide instruction and practical tools for judges in their efforts to guide those traveling on the road to wellness. It is designed to provide general guidance for judges, examples of court procedure, and tools to assist judges in their Healing to Wellness Court role. This bench book is also useful for Wellness Court team members and community leaders who are interested in designing, creating, and implementing a Wellness Court program.

Tribal Healing to Wellness Courts: Treatment Guidelines for Adults and Juveniles (*update coming soon)*
This publication (*drafted in 2002*) examines guidelines that have been developed to provide tribal communities with an overview of substance abuse treatment strategies as they have been developed by drug court programs. Tribal programs might consider applying these treatment strategies along with traditional healing practices. This publication examines key issues in developing treatment, developing a Tribal Wellness Court treatment program, adapting treatment program components, identifying special considerations regarding treatment services, evaluating strategies for maintaining sobriety (relapse prevention), and looking ahead.

Tribal Healing to Wellness Courts: Program Development Guide
This publication *(drafted in 2002)* provides step-by-step recommendations for the design, development, and implementation of Tribal Healing to Wellness Court programs from a practical standpoint. It is designed to assist steering committees and planning groups as they (1) use team-based approaches; (2) gain knowledge of Healing to Wellness Court concepts; (3) incorporate the ten key components; (4) help establish policies and procedures suitable to the needs of the tribal community; (5) guide the court to integrate available resources; (6) develop interagency agreements; (7) incorporate management information systems to track participants and services; and (8) identify possible problem areas.

Perceptions of Methamphetamine Use in Three Western Tribal Communities: Implications for Child Abuse in Indian Country
This publication (*published in 2007)* explores the increasing concerns raised by the emerging methamphetamine epidemic in Indian country. Professionals from three tribal communities detail their perceptions of meth use and implications for child abuse in the communities in which they work.

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Preface

In 1997, prior to the establishment of any tribal drug court, the National Association of Drug Court Professionals developed a guide for state drug courts, *Defining Drug Courts: The Key Components*.[1] The publication followed a national trend to standardize the drug court model by using key components to prescribe the basic operational characteristics that all drug courts should share as benchmarks for performance. These state key components include integrating alcohol and other drug treatment services with justice system case processing, using a non-adversarial approach, and identifying eligible participants early and promptly. As tribes began to utilize the drug court model in their own communities, it became apparent that standardization may be inappropriate, or at least premature, in the tribal context. Tribes and tribal courts (including Tribal Healing to Wellness Courts) can be radically diverse in their cultures, languages, needs, governance structures, and laws—making it very difficult to generalize or compare them to each other or to state drug courts.

Therefore, in 2003, the Tribal Law and Policy Institute (TLPI), with the funding and support of the U.S. Department of Justice's Bureau of Justice Assistance (BJA), published *Tribal Healing to Wellness Courts: The Key Components*.[2] This document describes how the 10 operational characteristics of the state drug court process might apply in a tribal context. It explores the issues, challenges, and opportunities that the initial tribal jurisdictions faced as they designed, developed, and operated Tribal Healing to Wellness Courts in their communities. TLPI produced the *Tribal Healing to Wellness Courts: The Key Components* in close collaboration with the Tribal Advisory Committee, a diverse group of Tribal Healing to Wellness Courts, including five primary developers—Cindy Haro, Joseph Flies-Away, Pat Sekaquaptewa, Jerry Gardner, and Janna Walker.

Eleven years later, tribal drug courts, known as Tribal Healing to Wellness Courts, have been implemented in more than 120 tribal communities, many of them quite recently. With the growing adoption of the drug court model within Indian country, the opportunities and challenges facing tribes have evolved. Moreover, tribal-specific research, though limited, is now available and further informs the creative implementation of drug courts in Indian country. Through the lessons learned from operational and formerly operational Tribal Healing to Wellness Courts, this publication serves as a substantial update to the 2003 edition.

Although evidence-based practices are now coming to the fore in the non-tribal drug court field, only limited research has been performed to determine tribally specific evidence-based practices. However, two important works have emerged and were utilized in updating this publication. First, Karen Gottlieb's *Lessons Learned in Implementing the First Four Tribal Wellness Courts*[3] was the first and, as of this

[1] NATIONAL ASSOCIATION OF DRUG COURT PROFESSIONALS DRUG COURT STANDARDS COMMITTEE, DEFINING DRUG COURTS: THE KEY COMPONENTS (U.S. Department of Justice, Drug Courts Program Office, Jan. 1997), *available at* www.ndci.org/sites/default/files/ndci/KeyComponents.pdf.

[2] TRIBAL LAW AND POLICY INSTITUTE, TRIBAL HEALING TO WELLNESS COURTS: THE KEY COMPONENTS (U.S. Department of Justice, Bureau of Justice Assistance, Apr. 2003), *available at* www.ncjrs.gov/pdffiles1/bja/188154.pdf.

[3] KAREN GOTTLIEB, LESSONS LEARNED IN IMPLEMENTING THE FIRST FOUR TRIBAL WELLNESS COURTS, (U.S. Department of Justice, National Institute of Justice, NCJ 231168, 2005), *available*

writing, remains the only study conducted on Tribal Healing to Wellness Courts. Gottlieb's research focused on the first four implemented Tribal Healing to Wellness Courts: the Adult Blackfeet Alternative Court, the Juvenile Fort Peck Community Wellness Court, the Adult and Juvenile Hualapai Wellness Court, and the Adult Poarch Band of Creek Indians Drug Court. She developed a helpful list of "lessons learned" using the 2003 version of the Tribal 10 Key Components as her guide. Although some circumstances have changed since these initial courts were implemented, our work in the field indicates that many of the identified challenges remain for current Tribal Healing to Wellness Courts. These lessons learned are found throughout this report.

Second, as part of a BJA grant to provide training and technical assistance (T/TA) to Tribal Healing to Wellness Courts, TLPI sent out a needs assessment survey in November 2009.[4] The survey was sent to more than 90 tribes that either had an active Tribal Healing to Wellness Court or had a Tribal Healing to Wellness Court in the past. The primary purpose of the survey was to gain insight into the most pressing needs among active Tribal Healing to Wellness Courts, as well as to determine the needs of wellness courts that are no longer functioning, so that TLPI could focus efforts on the most relevant T/TA. This report summarizes the results of this survey and provides an analysis of the implications for T/TA, BJA, and Tribal Healing to Wellness Courts. In addition to Gottlieb's findings, the results from this survey have informed this publication.

Tribal Healing to Wellness Courts: The Key Components is intended to serve as a potential framework for designing and implementing a Tribal Healing to Wellness Court based upon the state drug court model; however, it is not recommended best practices and it should not necessarily be used as a primary benchmark for performance. The tribal key components have been reoriented and generalized from the state key components so that they are relevant to the tribal setting and allow for tailoring in different geographic, demographic, jurisdictional, and cultural tribal contexts. Ultimately, issues such as priority problem areas; available funding; available treatment resources; the structure of the local government institutions and laws; culture, custom, and tradition; and other issues will dictate how each Tribal Healing to Wellness Court is designed and implemented, and thus how each of the key components is met.

Tribal Healing to Wellness Courts: The Key Components was developed by TLPI in close collaboration and consultation with Tribal Healing to Wellness Court practitioners. The primary drafters of this publication include Joseph Thomas Flies-Away, former Chief Justice of the Hualapai Court of Appeals; Carrie Garrow, Executive Director of the Center for Indigenous Law, Governance & Citizenship at the Syracuse University College of Law, and Chief Appellate Judge for the Saint Regis Mohawk Tribal Court; and Pat Sekaquaptewa, Executive Director of the Nakwatsvewat Institute—all of whom have extensive experience implementing and enhancing Tribal Healing to Wellness Courts.

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at www.ncjrs.gov/pdffiles1/nij/grants/231168.pdf.

[4] TRIBAL LAW AND POLICY INSTITUTE, TRIBAL WELLNESS COURTS NEEDS ASSESSMENT (U.S. Department of Justice, Bureau of Justice Assistance, 2010), *available at* www.tribal-institute.org/download/BJAReviewWellnessNeedsAssessmentAB.pdf.

Introduction

Tribal Healing to Wellness Courts are tribal adaptations of drug courts. The drug court movement began in the late 1980s in response to the growing number of drug-related court cases and the resulting overcrowded jails and prisons. For many, it became clear that the standard law enforcement and corrections policies did not have the impact on drug supply and demand that the proponents of the "War on Drugs" had hoped. The judicial practice of ordering or sentencing offenders who were addicted to drugs to a treatment program as a condition of their sentence or probation fell short. Consequently, the drug court approach was developed to process substance abuse–related court cases. This approach departed from the then-standard court practice by systematically bringing treatment services to a target population: people charged with alcohol- and drug-related offenses in the criminal, civil, family, and juvenile courts. The drug court approach anchors treatment with the authority of a judge and/or drug court team that holds the participant personally and publicly accountable for treatment participation and progress.

Beginning as a grassroots initiative, drug courts have now spread across all 50 states, with 2,734 active drug courts as of Fall 2012[5] and 72 Tribal Healing to Wellness Courts either operational or about to be operational as of Fall 2013. Teams of judges, prosecutors, public defenders, treatment providers, law enforcement officials, probation officers, case managers, and a host of others now use the coercive power of the court to promote abstinence and alter behavior with a combination of intensive judicial supervision, praise, and other incentives for progress; sanctions for noncompliance; random drug testing; comprehensive and phased treatment; aftercare programs; and other ancillary human services.

After learning about the drug court approach, American Indian and Alaska Native (AI/AN) tribal leaders and judges expressed interest in its potential benefits to their communities. They were particularly interested in how it could help address the severe alcoholism and its associated crime prevalent in Indian country, especially in a non-adversarial process. Tribal and federal advocates realized that if the drug court concept was modified to meet the specific needs of Native nations, it could positively affect tribal communities.

In 1997, the Drug Court Program Office (DCPO), Office of Justice Programs, U.S. Department of Justice,[6] developed a special program to assist Indian nations to plan and implement a drug court within tribal governments. DCPO charged the National Association of Drug Court Professionals (NADCP) with the task of creating a culturally sensitive training program that would meet the needs of the initial 22 Indian nations that had been awarded drug court grants through DCPO. In August 1997, NADCP, in collaboration with DCPO and a group of individuals with tribal court and substance abuse expertise, helped design an adapted curriculum for tribal drug court training sessions. The first of a series of tribal-specific training sessions was held in Stillwater, Oklahoma in September 1997. These tribal drug

[5] National Association of Drug Court Professionals, Types of Drug Courts, www.nadcp.org/learn/what-are-drug-courts/types-drug-courts (last visited April 2014).

[6] The Drug Court Program Office has since merged with the Bureau of Justice Assistance.

court training sessions served a vital role in assisting tribal representatives from each community to adapt the drug court concept to meet the needs of their individual nations. At subsequent training sessions, representatives from tribal courts, tribal council, law enforcement, treatment providers, tribal and community membership, and various human services came together to develop an action plan for drug court development in their individual community.

Tribal Healing to Wellness Court is not simply a tribal criminal or family court that orders individuals to treatment. Rather, it is an innovative and collaborative legal process that adapts the drug court concept and its key components to meet tribal criminal, juvenile, and child welfare needs. The implementation of a Tribal Healing to Wellness Court is likely to require tribal institutional and legal reforms and further development of tribal alcohol and drug treatment (and mental health) services. Although a significant undertaking, the drug court model provides a highly promising approach to tribal communities to begin effectively responding to alcohol and drug abuse treatment. The drug court model promotes a higher level of accountability for alcohol- and drug-abusing individuals and their families through a system of judicially supervised, team-coordinated treatment services; intensive participant supervision (including alcohol and drug testing and the application of judge-backed incentives and sanctions); case management; and other community support.

Early in the AI/AN development of their drug court programs, many preferred to use a term other than "drug court" to describe their rendition of the drug court approach. Tribal representatives felt the term needed to (1) clearly incorporate alcohol abuse cases since alcohol is the predominant substance abuse problem in Indian country, and (2) culturally connect to the tribal community to allow drug court team members and participants to take ownership of the drug court concept. Tribal courts have since adopted various terms meeting these criteria for their drug courts. Tribal names include "Wellness Court," "Healing Court," "Treatment Court," "Substance Abuse Court," "Alternative Court," and many others in their tribal language.

The name "Tribal Healing to Wellness Court" was coined by a tribal advisory group convened to develop publications specifically concerning tribal drug courts. Initially, tribal drug courts were referred to generally as "Tribal Wellness Courts." However, members of the advisory group learned that some tribal drug court personnel were concerned that the term "wellness" might imply that the participants had achieved wellness instead of continuing to strive to achieve it. Ultimately, the term "Healing to Wellness Courts" was adopted to (1) incorporate two important Native concepts–both healing and wellness and (2) emphasize the program's efforts to promote wellness as an ongoing journey for program participants. However, given the continuing widespread use of the term "Wellness Court," this publication uses "Healing to Wellness Court" and "Wellness Court" interchangeably.

Since their inception in 1997, Tribal Healing to Wellness Courts have spawned a new generation of drug courts and, more importantly, a new beacon of hope for the continually devastating effects of alcohol and drug abuse in Indian country. Currently, there are estimated to be 72 operational or planned Tribal Healing to Wellness Courts throughout the country. In 2011, the Department of Justice and Department of the Interior released *Tribal Law and Order Act (TLOA) Long Term Plan to*

Build and Enhance Tribal Justice Systems, which identified Tribal Healing to Wellness Courts as a model alternative to incarceration.[7] Tribal Healing to Wellness Courts were specifically recognized as an effective tool that permits tribal nations to employ culturally based strategies.[8] This sentiment was reiterated in 2013 in the Indian Law and Order Commission's report, *A Roadmap for Making Native America Safer*.[9]

This publication is organized according to the Tribal 10 Key Components adapted for Indian country from the operational components developed for state drug courts. Each section discusses one key component in detail, including various models and approaches that tribes have used to implement the component. Each section then discusses the BJA Program Design Feature(s) (described below) that best correspond to that key component, followed by discussion of findings, lessons learned, and suggested practices garnered from Karen Gottlieb's *Lessons Learned in Implementing the First Four Tribal Wellness Courts.*[10]

Finally, each key component discussion concludes with a tribal story. The tribal stories are intended to provide tangible examples of how the components can be effectively and diversely realized in actual Healing to Wellness Court settings. They are based on the observations of TLPI Healing to Wellness Court consultants during trainings and onsite visits. Note that the Healing to Wellness Court tribal stories were identified by the consultants as successfully realizing a key component through their own cultural lens; however, no outcome evaluations were conducted, so these stories are not intended to be best or model practices. Rather, each story is one example among many possibilities, and they are meant to foster your own personal introspection.

As one Wellness Court judge stated, "Wellness Court can significantly contribute to the ongoing nation-building process of the indigenous tribal government. Each Native nation is only as strong as its people. Wellness Court[s] can put court-involved, substance-abusing individuals and their families on a path to healing and wellness. Each Native nation must define the nature of this healing journey. The paths to be taken should reflect each Native nation's culture, tradition, and vision."

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[7] TRIBAL LAW AND ORDER ACT (TLOA) LONG TERM PLAN TO BUILD AND ENHANCE TRIBAL JUSTICE SYSTEMS, 18, 38 (U.S. Department of Interior & U.S. Department of Justice, Aug. 2011), *available at* www.justice.gov/tribal/docs/tloa-tsp-aug2011.pdf.

[8] Ibid. at 15.

[9] A ROADMAP FOR MAKING NATIVE AMERICA SAFER, Recommendation 5.1 (Indian Law and Order Commission, 2013), *available at* http://www.aisc.ucla.edu/iloc/report/ .

[10] KAREN GOTTLIEB, LESSONS LEARNED IN IMPLEMENTING THE FIRST FOUR TRIBAL WELLNESS COURTS, (U.S. Department of Justice, National Institute of Justice, NCJ 231168, 2005), *available at* www.ncjrs.gov/pdffiles1/nij/grants/231168.pdf.

Evidence-Based Programs or Practices

The Office of Justice Programs (OJP) places strong emphasis on the use of data and evidence in policy making and program development in criminal justice. OJP is committed to:

- Improving the quantity and quality of evidence OJP generates;
- Integrating evidence into program, practice, and policy decisions within OJP and the field; and
- Improving the translation of evidence into practice.

OJP considers programs and practices to be evidence-based when their effectiveness has been demonstrated by causal evidence, generally obtained through one or more outcome evaluations. Causal evidence documents a relationship between an activity or intervention (including technology) and its intended outcome, including measuring the direction and size of a change and the extent to which a change may be attributed to the activity or intervention. Causal evidence depends on the use of scientific methods to rule out, to the extent possible, alternative explanations for the documented change. The strength of causal evidence, based on the factors above, will influence the degree to which OJP considers a program or practice to be evidence-based. OJP's CrimeSolutions.gov website is one resource that applicants may use to find information about evidence-based programs in criminal justice, juvenile justice, and victim services.

Information on evidence-based treatment practices can also be found in the Substance Abuse and Mental Health Services Administration's (SAMHSA) *Guide to Evidence-Based Practices* (available at www.samhsa.gov/ebpwebguide/appendixB.asp). The guide provides links to dozens of websites with relevant evidence-based practices information—either specific interventions or comprehensive reviews of research findings. Note that SAMHSA's *Guide to Evidence-Based Practices* also references the National Registry of Evidence-Based Programs and Practices (NREPP), a searchable database of interventions for the prevention and treatment of mental and substance use disorders. NREPP is intended to serve as a decision support tool, not as an authoritative list of effective interventions. *Being included in NREPP, or in any other resource listed in* SAMHSA's *guide, does not mean that an intervention is "recommended" or that it has been demonstrated to achieve positive results in all circumstances.*

The Bureau of Justice Assistance has partnered with the National Institute of Justice (NIJ) to identify recommended policies and practices to yield effective interventions that maximize the return on investment for Adult Drug Court Program funding. Findings from NIJ's Multisite Adult Drug Court Evaluation are available at www.ojp.usdoj.gov/nij/topics/courts/drug-courts/madce.htm.

Indian Country-Specific Evidence-Based Practices

Unfortunately, little research has been conducted on evidence-based practices specific to Indian country. What works in a non-tribal community may not work in Indian country. Cultural differences, jurisdictional complexities, and a host of other differences could potentially alter outcomes.

"Research is limited on the effectiveness of culturally based strategies to address the needs of tribal members. Tribal nations should be given the flexibility to employ culturally based strategies to address the needs of each tribal justice system, especially where no evidence based practices exist. At the same time, additional research on the effectiveness of promising practices and tools being employed in tribal nations, including Healing to Wellness Courts, would address this gap in knowledge."*

* TRIBAL LAW AND ORDER ACT (TLOA) LONG TERM PLAN TO BUILD AND ENHANCE TRIBAL JUSTICE SYSTEMS, 15 (U.S. Department of Interior & U.S. Department of Justice, Aug. 2011), *available at* www.justice.gov/tribal/docs/tloa-tsp-aug2011.pdf.

Bureau of Justice Assistance (BJA) Seven Program Design Features

The Bureau of Justice Assistance (BJA) and the National Institute of Justice (NIJ) have identified seven evidence-based program design features that effective drug courts should utilize. Beginning in 2011, BJA began evaluating drug court grant funding using these seven design features and providing priority consideration for applicants who propose designs and strategies consistent with these design features.

Please keep these BJA Seven Program Design Features in mind as you review each Tribal Key Component. Most of these design features apply to more than one of the Tribal 10 Key Components. For purposes of brevity, however, we have only listed the design features under the key components that are most applicable.

- ***Screening and Assessment*** (Key Components #2 and #3)
  Referral Sources and other stakeholders should be clear on program eligibility criteria, which must be consistent with targeted population needs and available program resources. Applicants should demonstrate an ability to screen promptly and systematically for all offenders potentially eligible for the drug court, identify the agency that will conduct this screening, and detail the procedures that will be used for screening.

  Applicants should further demonstrate how those offenders determined to be eligible for the drug court as a result of screening will then be assessed to identify their risk for relapse and recidivism, as well as the nature of treatment and other rehabilitation needs. Assessments should be conducted using instruments that have been validated* for the targeted population and updated periodically. Treatment and other service assessments should be reviewed and adjusted to gauge offender needs that may change over time.

Bureau of Justice Assistance (BJA) Seven Program Design Features (Continued)

* "Validated" means that the instrument has been demonstrated to measure the intended characteristic; for example, the Beck Depression Inventory has been shown through studies to measure mood and physical symptoms that correlate with depression (which affects drug court participation). Studies should demonstrate validity for offenders of varying age, race, gender, and ethnicity.

- ***Target Population*** (Key Components #2 and #3)
  Program resources should be prioritized for offenders who demonstrate both high criminogenic risk and high substance abuse treatment need. Applicants should aim to serve offenders whose characteristics and risk factors directly relate to a high probability of offending, and who are frequent drug users diagnosed for drug dependence. Also applicants should target offenders who are subject to (or eligible for) legal sanctions that may provide greater leverage in program compliance.

- ***Procedural and Distributive Justice*** (Key Component #6)
  Applicants should establish and clearly communicate a system of graduated sanctions and incentives that is activated and delivered with certainty in response to offender behavior. Information from the drug court team and the offender should be considered in determining noncompliance and the appropriate response. Specific program responses should be meaningful to the offenders, understandable, and delivered in a manner that can be perceived as fair and equitable.

- ***Judicial Interaction*** (Key Component #7)
  Judges should interact directly and regularly with drug court participants during drug court hearings, which should be as frequent as the participant may require. As the program leader, the judge will maintain authority by demonstrating support for the program and knowledge of individual offenders. Communication between the participant and the judge should be based on a foundation of respect, and judges must maintain an understanding of program resources available to assess and respond to participant behavior.

- ***Monitoring*** (Key Components #5 and #8)
  Applicants should demonstrate a comprehensive plan to monitor drug court participants using random drug testing and community supervision, disseminate results efficiently to the drug court team, and immediately respond to noncompliance with program requirements.

Bureau of Justice Assistance (BJA) Seven Program Design Features (Continued)

- ***Treatment and Other Services*** (Key Component #4)
  Applicants should maintain program resources that address drug court participant needs identified over time, accommodate the range of treatment and other rehabilitation services required, and apply case management beyond initial referral to confirm that providers appropriately deliver ongoing assessment and services.

- ***Relapse Prevention, Aftercare, and Community Integration*** (Key Component #4)
  From the first program phase, applicants should demonstrate how culturally sensitive planning and other programming will be implemented to ***s***upport relapse prevention, community integration, and aftercare/continuing-care services.

For more information on the BJA Seven Program Design Features: www.research2practice.org/index.html

**Note*—While these seven design features likely have some general applicability for Tribal Healing to Wellness Courts, they were developed primarily for state drug courts. There was no tribal-specific research behind the development of these design features, and no resources have yet been developed that provide guidance concerning how these design features could be adapted for Tribal Healing to Wellness Courts.

Key Component #1: Individual and Community Healing Focus

Tribal Healing to Wellness Court brings together alcohol and drug treatment, community healing resources, and the tribal justice process by using a team approach to achieve the physical and spiritual healing of the individual participant and to promote Native nation building and the well-being of the community.

A primary goal of all tribes is to have a healthy and strong citizenry that can produce effective leaders and governance institutions that in turn protect and promote the well-being of individuals, families, extended families, and the tribal community. For tribal government and community leaders, there is an important interconnection among internal nation-building activities, the physical and spiritual well-being of their people, and the future of the tribal government and its citizens as a people. Tribal communities today face tough challenges in the form of violent crime rates at twice the national average (with violent crime rates exceeding 20 times the national average on some reservations), an epidemic of domestic and sexual violence (34% of American Indian and Alaska Native (AI/AN) women are likely to be raped in their lifetimes, and 39% are likely to suffer domestic violence), and AI/AN youth experiencing 50% higher rates of child abuse compared to non-Native youth.[11] Researchers have identified alcohol- and drug-related crimes as the greatest law and order problem in Indian country.[12] Tribal government and community leaders are adopting locally and culturally tailored drug court models (also known as "Tribal Healing to Wellness Court") to meet these challenges and to ensure the future strength and well-being of their nations and their people.

The goal of Tribal Healing to Wellness Court is to have stable and effective tribal government institutions (including tribal courts) that promote the health and well-being of individuals, families, extended families, and the tribal community. The specific objectives of Tribal Healing to Wellness Court is to reduce (1) the use and abuse of alcohol and other drugs, (2) criminal activity related to the use and abuse of alcohol and other drugs, (3) juvenile delinquency, and (4) civil child neglect and child abuse in the tribal community. Tribal Healing to Wellness Court views addiction as an illness requiring treatment. It strives to provide necessary treatment and other services, while holding substance-abusing individuals (also known as "participants") and their families accountable in the recovery process through intensive supervision.

> *"The holistic goal of Tribal Wellness Court . . . is to help chart a healing to wellness journey for individuals who have lost their sense of direction, their vision and purpose. Wellness Court convenes to redirect a disoriented, unsteady, and dazed individual onto a better course or path. It points a person toward a place where strength and balance can be found."*
> – Tribal Healing to Wellness Court Judge

Tribal Healing to Wellness Courts are developed by interdisciplinary tribal teams to meet

[11] S. REP. NO. 111-93, at 2, 19 (2009) (Senate Report accompanying S. 797 on the Tribal Law and Order Act of 2009 [2010]).

[12] CAROLE GOLDBERG, AND OTHERS, FINAL REPORT: LAW ENFORCEMENT AND CRIMINAL JUSTICE UNDER PUBLIC LAW 280, 24 (U.S. Department of Justice, National Institute of Justice, 2007) ("Interviewed officers, administrators, and tribal leaders routinely cited alcohol abuse as their biggest challenge facing their departments and communities…").

prioritized needs—including a target population and the targeted alcohol and/or drug(s) of choice—and to take into account local culture, values, and available resources. The model assumes an interdisciplinary team approach in the planning, implementation, and week-to-week operations of the Tribal Healing to Wellness Court. Team members may include judges, presenting officers, prosecutors, legal advocates, public defenders, substance abuse and mental health treatment providers, police officers, probation officers, social services workers, school representatives, traditional knowledge holders and healers, elders, education and employment representatives, and other community representatives. Collaboration is an ongoing activity, requiring frequent reassessment and adoption of new responsibilities. However, the combined energy and resources of these individuals and the entities that they represent collectively produce the most powerful encouragement for participants to accept help that could change their lives for the better. Tribal justice systems and treatment providers serving the tribal community have historically worked independently from one another and with different target populations. Tribal Healing to Wellness Court provides an institutionalized means to collaborate in order to design and implement a process that meets the specialized needs of court-involved individuals with alcohol and/or other drug abuse problems. The tribal justice system has the unique ability to motivate a person to get treatment shortly after a significant triggering event, such as an arrest or the removal of a child. Treatment providers, with the necessary resources and appropriate training, may then assess treatment needs, design individually tailored treatment plans, and provide services or refer the individual to external or private service providers. Tribal Healing to Wellness Court is a powerful tool for healing in which the power and authority of the judge and treatment resources are combined with intensive team-based supervision.

Bureau of Justice Assistance (BJA) Seven Program Design Features relating to Key Component #1:

Please keep BJA's Seven Design Features designed for state drug courts in mind as you review each Tribal Key Component. As noted in the Introduction, most of these design features apply to more than one of the Tribal 10 Key Components. For purposes of brevity, however, we have only listed the design features under the key components that are most applicable

Key Component #1 concerns the overarching Wellness Court model of integrating treatment, healing resources, and the justice system. It therefore ***encompasses all of the BJA Design Features***, including providing screening and assessment; aiming the Wellness Court towards an identified target population; ensuring procedural and distributive justice; providing judicial interaction, monitoring, treatment, and other services; and finally, providing relapse prevention, aftercare, and community integration.

For more information on the BJA Seven Program Design Features: www.research2practice.org/index.html

Findings from the National Institute of Justice (NIJ) Wellness Court Study: Component #1[1]

Problems Identified:

Wellness teams had a great deal of member turnover.

Lesson Learned #1: Develop a Strong Structure for the Tribal Wellness Court Team

- Develop a strong structure for your Tribal Wellness Court by building the Tribal Wellness Court team based on roles, not on individuals, in order to avoid the disintegration of the team due to staff turnover.
- Detail the responsibilities of team members from various agencies in written policies and procedures, such as memorandums of understanding, in order to ensure the team's integrity.

[1] KAREN GOTTLIEB, LESSONS LEARNED IN IMPLEMENTING THE FIRST FOUR TRIBAL WELLNESS COURTS, note 1 at 5 (U.S. Department of Justice, National Criminal Justice Reference Service, NCJ 231168, 2005).

SUGGESTED PRACTICES

1. The planning of a Wellness Court, from referral to aftercare, should be carried out by a broad-based, interdisciplinary group, including people who represent all parts of the tribal justice system, the local treatment programs, tribal leaders, knowledge holders and elders, and others.
2. For consistency and the stability of Tribal Wellness Court program operations, the core planning and implementation team members should remain with the Tribal Wellness Court program for a sufficient period of time, if necessary in an advisory role or as a member of a steering committee.
3. Planning groups/Tribal Wellness Court teams should keep their governing bodies informed by including tribal leaders on the team or by making regular presentations to the tribal government about the Tribal Wellness Court program. Teams should continue to make periodic presentations on Tribal Wellness Court operations and performance.
4. Traditional healers and dispute-resolution authorities should be included in the decision-making process, and traditional values should be carefully considered in the development and ongoing modification of the Tribal Wellness Court program.
5. Throughout the planning process, a record should be kept of key program-design decisions and the intent behind these decisions so they may be used as building blocks for any future laws or court rules that institutionalize the Tribal Wellness Court and its processes.
6. Documents defining the Tribal Wellness Court's mission, goals, eligibility criteria, operating procedures, and performance measures should be collaboratively

developed and agreed upon by the planning group, then reviewed periodically to account for program change, which includes the high rate of staff turnover experienced in tribal courts and government.

7. Documents defining team member roles and responsibilities, including job descriptions and memorandums of understanding (MOU), should be collaboratively developed and agreed upon by the planning group and partner agencies, then reviewed periodically by the team to account for additional and/or new team members and program staff.

8. In order to ensure mutual respect, prompt and consistent meeting of program and individual responsibilities, and community recognition of the professional integrity of the Tribal Wellness Court and team members, methods of shared decision making, and conflict resolution within the team should be established.

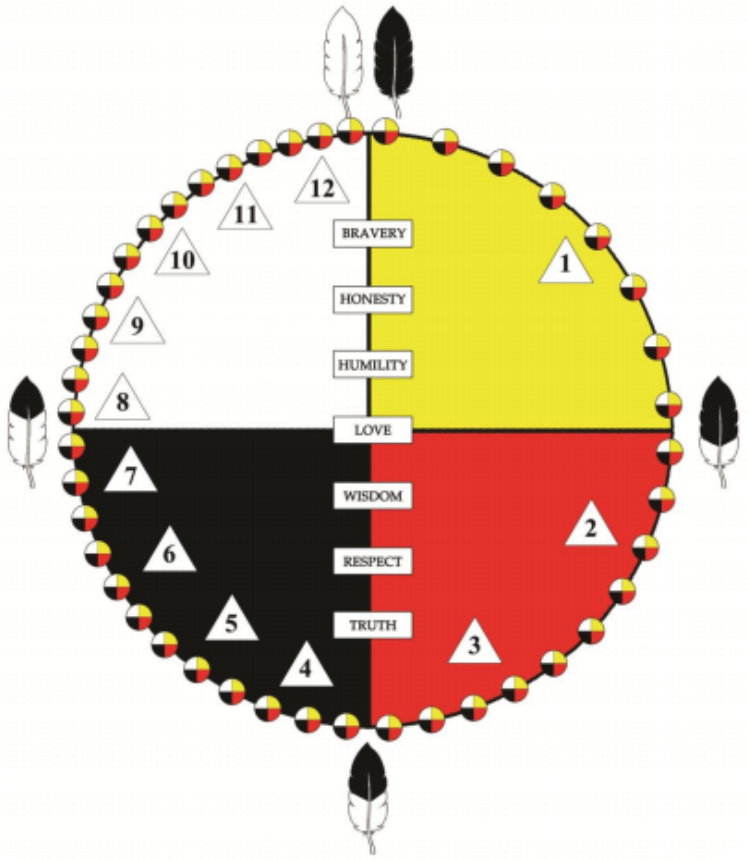
9. Ongoing interdisciplinary education should be provided for every person involved in the planning and implementing of the Tribal Wellness Court in order to develop a shared understanding of the values, goals, and operating procedures of the treatment and justice system components. This should include familiarizing team members with community customs and traditions for addressing an individual's behavior when it is not in accordance with local standards.

10. The community should be educated about the Tribal Wellness Court program and how it is intended to contribute to family and community well-being. Potential activities to help educate, inform, and involve the community may include running articles in local newspapers and holding open-houses and potluck lunches or dinners.

11. Alumni groups should be encouraged when the graduate population includes a sufficient number of people who express a desire to maintain a connection with the Wellness Court. When possible, the Wellness Court should provide adequate support to sustain the group's activity.

Tribal Stories – Key Component #1
Little Traverse Bay Bands of Odawa Indians, Michigan

Tribal Healing to Wellness Courts require comprehensive planning and organizing to provide the resources that affect the healing of individuals and communities. This process forces a Native nation to flex its governance muscles. Then, the tribe must maintain a collaborative and cooperative attitude among a large number of tribal programs and personnel. Little Traverse Bay Bands of Odawa Indians was able to achieve this structural unity within its wellness court—"Waabski Miigwan." The tribe's utilization of a tribal elder's story as the foundation of its wellness court process resulted in something stronger than mere organizational capacity. It instilled a strong and healing spirit. The Waabski Miigwan story describes when an elder pulled a dirty and mangled eagle feather from the mud. After much effort and patient work, she transformed the feather back into the beautiful clean feather that it was once before. Waabski Miigwan sees its participants like the found feather. At first, they struggle on a troubled and muddled path; then after much work and support, the participants will find strength to make their own transformation. *The White Feather Story*[13] serves as a spiritual foundation of the court that promotes a profoundly personal yet public expectation for healing and recovery. *The White Feather Story* ties together the inherent strength of family, the power of a flaming spirit, and the healing nature of love. The Waabski Miigwan incorporates the white feather throughout its programming, including its phased treatment plan.[14] The participant starts as a dark feather, but as they progress around the medicine wheel, the feather is slowly cleansed.



The Waabshki-Miigwan Drug Court Program Week-to-Week Diagram is a tool used to display client progress in the curriculum. *Please see* www.ltbbodawa-nsn.gov/Departments/DrugCourt/WeekToWeekDiag.html

[13] Joe Lucier, About the Waabshki-Miigwan Drug Court Program, www.ltbbodawa-nsn.gov/ (last visited May 2013).
[14] Waabshki-Miigwan has utilized the *Twelve Step Program* as a guide in developing the treatment portion of the program. Alcoholics Anonymous and the Red Road to Wellbriety make up the core of its treatment curriculum.

Key Component #2: Referral Points and Legal Process

Participants enter Tribal Healing to Wellness Court through various referral points and legal processes that promote tribal sovereignty and the participant's due (fair) process rights.

Key Component #2 emphasizes full exercise of tribal sovereignty. In designing, implementing, and operating a Tribal Healing to Wellness Court, the tribe is required to designate infrastructure, process, and procedure that is fair to participants and their families while culturally appropriate and relevant to the community and its needs.

This process includes identification and development of referral points for individuals to enter the Tribal Healing to Wellness Court program. Ordinarily in criminal matters, individuals are brought to the court's attention through law enforcement. However, in Tribal Healing to Wellness Court, referral points are only as limited as the imagination, including referrals from different agencies such as social services, housing departments, and schools.

Referral Sources often require drafting and implementing jurisdictional code provisions and intergovernmental agreements. For the criminal, juvenile, and children's courts, this would include drafting and implementing codes and court rules; for the Tribal Healing to Wellness Court, this would include interagency agreements, policies and procedures, participant handbooks, consent to participate forms, and confidentiality forms.

Jurisdiction in Indian Country

Referral Sources are creative and numerous in Tribal Healing to Wellness Courts in part because they are holistic, treatment-oriented expressions of sovereignty, but also in part because tribes must maneuver complex jurisdiction issues. Federal laws create a complex maze of tribal, federal, and state jurisdiction, limiting tribal and state jurisdiction over participants and their families.[15] Jurisdiction turns on factors such as Indian status, location of the alleged criminal act or event giving rise to a civil matter (for example, did it take place in Indian country?), and the type of crime or civil act. The applicable law also depends on the nexus between the parties, their conduct, and agreements with the tribe or threats to the tribal community.[16] These federal laws create exclusive and shared jurisdiction in various combinations that may give rise to a participant being a defendant in two systems simultaneously and/or the desire to facilitate state-tribe participant "transfers." There may also be situations in which individual case circumstances make the transfer of supervisory responsibilities desirable.[17]

Even when tribes possess criminal jurisdiction, tribes are limited in its use. The Indian Civil Rights Act of 1968 limits tribes from imposing any penalty or punishment greater than imprisonment for a term of one year and a fine of $5,000.[18] Depending on the length of a Tribal

[15] *See* Robert N. Clinton, *Criminal Jurisdiction Over Indian Lands: A Journey Through a Jurisdictional Maze*, 18 ARIZ. L. REV. 503, 508-13 (1976).

[16] *See, for example, Montana v. United States*, 450 U.S. 544 (1981) (holding that tribes lack civil jurisdiction over non-Indian activities except when (1) the non-Indian enters into a consensual relationship with the tribe, or (2) when non-Indian conduct "threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe.").

[17] For a resource on tribal-state-federal collaboration, including information on tribal jurisdiction, *see* www.WalkingOnCommonGround.org.

[18] Indian Civil Rights Act of 1968, 25 U.S.C. § 1302(7).

Healing to Wellness Court program, it may be difficult to entice participation when a jail sentence may be shorter. Tribes may have more flexibility through the enhanced sentencing authority authorized by the Tribal Law and Order Act (TLOA) of 2010.[19] TLOA's enhanced sentencing provisions expand the sentencing limitations from one year imprisonment and a $5,000 fine to three years imprisonment and a $15,000 fine, greatly expanding the tribal court's coercive power to compel participation in Tribal Healing to Wellness Court. However, in order to utilize the enhanced sentencing authority, tribes must provide certain defendant due process protections, including a licensed defense counsel for indigent defendants and a law trained and licensed judge for the criminal proceeding.[20]

Alternatively, there are instances in which tribes lack any criminal authority over offenders, and thereby any criminal coercive power to incentivize participation in Tribal Healing to Wellness Court. Tribal courts generally lack criminal jurisdiction over non-Indians.[21] However, on March 7, 2013, President Obama signed the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) into law.[22] Known as "special domestic violence criminal jurisdiction," tribes can exercise their inherent authority to investigate, prosecute, convict, and sentence both Indians and non-Indians for crimes of domestic violence, dating violence, and criminal violations of protection orders in Indian country. This expanded authority could be used to compel non-Indian participation in Tribal Healing to Wellness Court. However, if a tribe chooses to exercise VAWA's special domestic violence criminal jurisdiction, the tribal court must ensure the defendant's rights are protected under the Indian Civil Rights Act of 1968;[23] provide all the rights described in TLOA enhanced sentencing, and provide the right to a trial by an impartial jury. The jury pool must be drawn from sources that reflect a fair cross-section of the community and not systematically exclude any distinctive group in the community, including non-Indians.[24]

Tribal justice systems are thus limited in addressing alcohol or other substance abuse offenses committed by non-Indians on Indian lands. Many tribes have developed alternative methods, including the use of civil court processing, civil forfeiture, exclusion, and agreements with federal and state justice systems. Similarly, tribes within Public Law 83-

[19] Tribal Law and Order Act (TLOA) of 2010, 25 U.S.C. § 2801, et. seq. (2010). For crimes committed in Indian country, TLOA increased federal accountability, tribal authority to prosecute, and the resources available to combat this criminality.

[20] TLOA, § 234(c). Additionally, tribes must make their tribal codes publicly available and record the criminal proceeding. Note that these additional due process protections only apply to tribes that adopt the enhanced sentencing authority and, even then, only for the criminal proceedings in which the enhanced sentencing authority might apply. *Please see* www.tloa.ncai.org.

[21] *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978).

[22] Violence Against Women Reauthorization Act (VAWA) of 2013, S. 47, 113th Congress, 2013-2015. As of the date of this publication, the law has not yet been codified. For more information on VAWA 2013 *see* www.tribal-institute.org/lists/vawa_2013.htm.

[23] Indian Civil Rights Act of 1968, 25 U.S.C. §§ 1301-1304.

[24] Additionally tribes must inform anyone detained under VAWA's special domestic violence jurisdiction of their right to file federal habeas corpus petitions. The defendant must have sufficient ties to the tribal community: 1) reside in Indian country; 2) be employed in Indian country; or 3) be a tribal member or a spouse or intimate partner of an Indian residing in Indian country. Like TLOA, tribes may elect to participate and are not required to enact the VAWA special domestic violence jurisdiction. Tribes cannot criminally prosecute non-Indians until March 7, 2015. For more information, *please see*, www.tribal-institute.org/lists/VAWA_TitleIX.htm.

280[25] (PL 280) states, or other states with comparable transferred jurisdiction from the federal government to state governments,[26] often have limited criminal justice systems or criminal dockets. Consequently, many Indian nations process criminal offenses involving alcohol and drug abuse as civil offenses and/or collaborate with states to transfer individuals into tribal court or directly into Tribal Healing to Wellness Court.

Because of these numerous and complex issues, Key Component #2 emphasizes the need for tribal and state intergovernmental agreements crafted with the Tribal Healing to Wellness Court in mind in order to properly facilitate alternate Tribal Wellness Court options when the need arises. These agreements may be between executive branches, courts, probation divisions, child welfare divisions, law enforcement, and so forth. They should cover the spectrum of jurisdiction and transfer issues, and any area of shared or coordinated responsibility, including probation monitoring, child welfare investigations and supervision, alcohol and drug testing, treatment services, and record keeping and reporting with respect to the Tribal Healing to Wellness Court judge and team. It is conceivable that a Tribal Healing to Wellness Court team might have state agency team members.[27]

The original state drug court key component publication focused on the following issues in adult criminal cases:[28]

(1) A non-adversarial approach in case processing between the prosecution and defense counsel (roles in drug court hearings and attendance at drug court meetings and hearings);

(2) Drug court responsibility for promoting public safety (What types of charges are allowed for drug court participation? What happens if participants fail to complete the program?); and

(3) Protection of participants' due process rights (What are the incentives to join the drug court program? Is the client being offered alternatives? Does the client have to enter a plea before or after entry into drug court?).[29]

It is important to note that many tribal courts *lack* analogous key positions (e.g., many tribes lack prosecutors, defense counsel, and functioning probation departments), elaborate criminal procedural law, and a fully adversarial process (often by choice). Therefore, the Tribal Healing to Wellness Court process is quite general with a primary focus on fair process.

[25] State Jurisdiction Over Offenses Committed By or Against Indians in the Indian Country, Public Law 83-280, 18 U.S.C. § 1162 (PL 280). PL 280 transferred federal jurisdiction to six state governments, which significantly changed the division of legal authority among tribal, federal, and state governments. It also permitted the other states to acquire jurisdiction at their option.

[26] Like PL 280, Congress similarly transferred jurisdiction from the federal government to the state in Kansas, 18 U.S.C. § 3243, in New York, 25 U.S.C. § 232, and for particular tribes like the Mashantucket Pequot, 25 U.S.C. § 1755.

[27] For resources on tribal-state-federal collaboration, including copies of memorandums of understanding, memorandums of agreement, and joint powers agreements, *see* www.WalkingOnCommonGround.org.

[28] NATIONAL ASSOCIATION OF DRUG COURT PROFESSIONALS DRUG COURT STANDARDS COMMITTEE, DEFINING DRUG COURTS: THE KEY COMPONENTS (U.S. Department of Justice, Drug Courts Program Office, Jan. 1997), *available at* www.ndci.org/sites/default/files/ndci/KeyComponents.pdf.

[29] *See, for example,* SHANNON M. CAREY, EXPLORING THE KEY COMPONENTS OF DRUG COURTS: A COMPARATIVE STUDY OF 18 ADULT DRUG COURTS ON PRACTICES, OUTCOMES AND COSTS (NPC Research, 2008).

Cases Coming from Adult Criminal Tribal Court

"Pre-charge"—Participants that come into a Tribal Healing to Wellness Court "pre-charge" are being *referred* to Tribal Wellness Court, most likely by a tribal attorney general or prosecutor (if they have these positions); treatment provider; probation officer; or even a community member or self-referral. This referral is likely to take place after arrest but before formal criminal charges are filed (see Flow Chart 1).

"Post-plea"—Participants that come into Tribal Healing to Wellness Court "post-plea" are already implicated in the tribe's criminal court process (formal charges have been filed and a plea agreement has been negotiated, agreed to, and approved by the judge). A plea agreement will likely include a guilty plea and an agreement to participate in Tribal Healing to Wellness Court. The plea agreement will likely be accompanied by a tribal court order approving the agreement and either delaying sentencing pending Tribal Healing to Wellness Court completion or sentencing the participant and staying the sentence subject to Tribal Wellness Court completion as a condition of probation (see Flow Chart 1).

"Post-conviction"—Participants that come into Tribal Healing to Wellness Court "post-conviction" have either had a bench trial or a jury trial in which the judge or jury found them guilty of the offense. In these cases, the judge has likely issued an order sentencing the participant and staying the sentence subject to Tribal Healing to Wellness Court completion as a condition of probation. In the *Tribal Healing to Wellness Court Needs Assessment*, the majority of Tribal Wellness Courts responding (75%) work under this arrangement (see Flow Chart 1).[30]

Cases Coming from State Criminal Court

Through MOUs, MOAs, joint power agreements,[31] and other transfer agreements between sovereigns, participants come into Tribal Healing to Wellness Court through *referrals* or *transfers* from other courts. Often, tribal members are arrested and convicted within the state court system due to checker-board jurisdiction, close proximity of Indian lands to cities and towns, and the greater availability of drugs and alcohol in state jurisdictions. However, because Tribal Healing to Wellness Courts are often specifically tailored to Native participants, including the incorporation of culture and tradition, Tribal Wellness Court may provide a more appropriate venue for treatment and accountability.

Agreements can take multiple varieties and can include referrals and transfers pre-charge, post-plea, and post-conviction. Referral and transfer agreements require initiating communication between the courts. For more information on tribal-state collaboration, visit www.WalkingOnCommonGround.org.

Cases Coming from the Juvenile or Delinquency Tribal Court

Many AI/AN nations have high juvenile populations.[32] As a result, many nations are choosing to establish Juvenile Healing to

[30] TRIBAL LAW AND POLICY INSTITUTE, TRIBAL WELLNESS COURTS NEEDS ASSESSMENT (U.S. Department of Justice, Bureau of Justice Assistance, 2010), *available at* www.tribal-institute.org/download/BJAReviewWellnessNeedsAssessmentAB.pdf.

[31] Find examples of MOUs, MOAs, and Joint Power Agreements *at* www.WalkingOnCommonGround.org.

[32] According to the 2010 Census, 42% of the American Indian population is under the age of 25. U.S. Census Bureau, *2010 Census*, Tables PCT3 and PCT4 (2010).

Wellness Courts. This has become especially important for tribes that lack access to a tribal, Bureau of Indian Affairs, or state detention facility.

In referring juveniles, many tribes follow a civil juvenile-delinquency approach, but there is a tendency for them to conduct criminal court-like proceedings without the formal transfer of a juvenile to "criminal court." The juvenile is typically still treated as a minor with special juvenile offenses applying.

"Pre-petition"—Juvenile participants that come into Tribal Healing to Wellness Court "pre-petition" are most likely *referred* by a tribal attorney general, prosecutor, or presenting officer (if they have these positions); treatment provider; juvenile probation officer; or even a school official, parent, or community member. This referral is likely to take place after being detained by law enforcement or a school incident but before a formal juvenile petition is filed (see Flow Chart 2).

"Post-admission"—Juvenile participants that come into Tribal Healing to Wellness Court "post-admission" are already implicated in the tribe's juvenile court process (a formal petition has been filed and a "plea agreement" has been negotiated, agreed to, and approved by the judge). A plea agreement will likely include an admission and an agreement to participate in Tribal Healing to Wellness Court. The plea agreement will likely be accompanied by a tribal court order approving the agreement and either delaying "sentencing" (for example, detention in a juvenile facility) pending Tribal Healing to Wellness Court completion or sentencing the participant and staying the sentence subject to Tribal Wellness Court completion as a condition of juvenile probation (see Flow Chart 2).

"Post-adjudication"—Juvenile participants that come into Tribal Healing to Wellness Court "post-adjudication" have likely had a bench trial (or "adjudication") in which the judge found them responsible for the juvenile offense. In these cases, the judge has likely issued an order sentencing the juvenile participant and staying the sentence subject to Tribal Healing to Wellness Court completion as a condition of juvenile probation (see Flow Chart 2).

Cases in or Coming from the Children's or Dependency Tribal Court

Tribal Family Healing to Wellness Courts are few but on the rise. As a consequence, it is unclear what typical structure will emerge. State drug courts have developed two different models—the integrated judicial model and the parallel judicial model—that make them different from adult criminal and juvenile drug courts.

The integrated judicial model—which uses the dependency judge as the Tribal Healing to Wellness Court judge with no referral or court-ordered transfer to a separate Tribal Wellness Court judge—appears to be preferred.[33] This approach has significant implications for effective tribal dependency and Tribal Healing to Wellness Court programs. If the integrated judicial model works, there would be no referral or court-ordered transfer of a case from tribal court to Tribal Healing to Wellness Court. Rather, a tribal court dependency judge would continue on as the dependency judge and as the Tribal Healing to Wellness Court judge with Tribal Family Healing to Wellness Court participants.

If a tribe chooses to follow a parallel judicial model, transfers would likely work as follows:

"Pre-petition"—Parents and guardians as

[33] *See* Beth L. Green, and others, *Building the Evidence Base for Family Drug Treatment Courts: Results from Recent Outcome Studies*, DRUG COURT REVIEW 6, no. 2, 76-78 (2009).

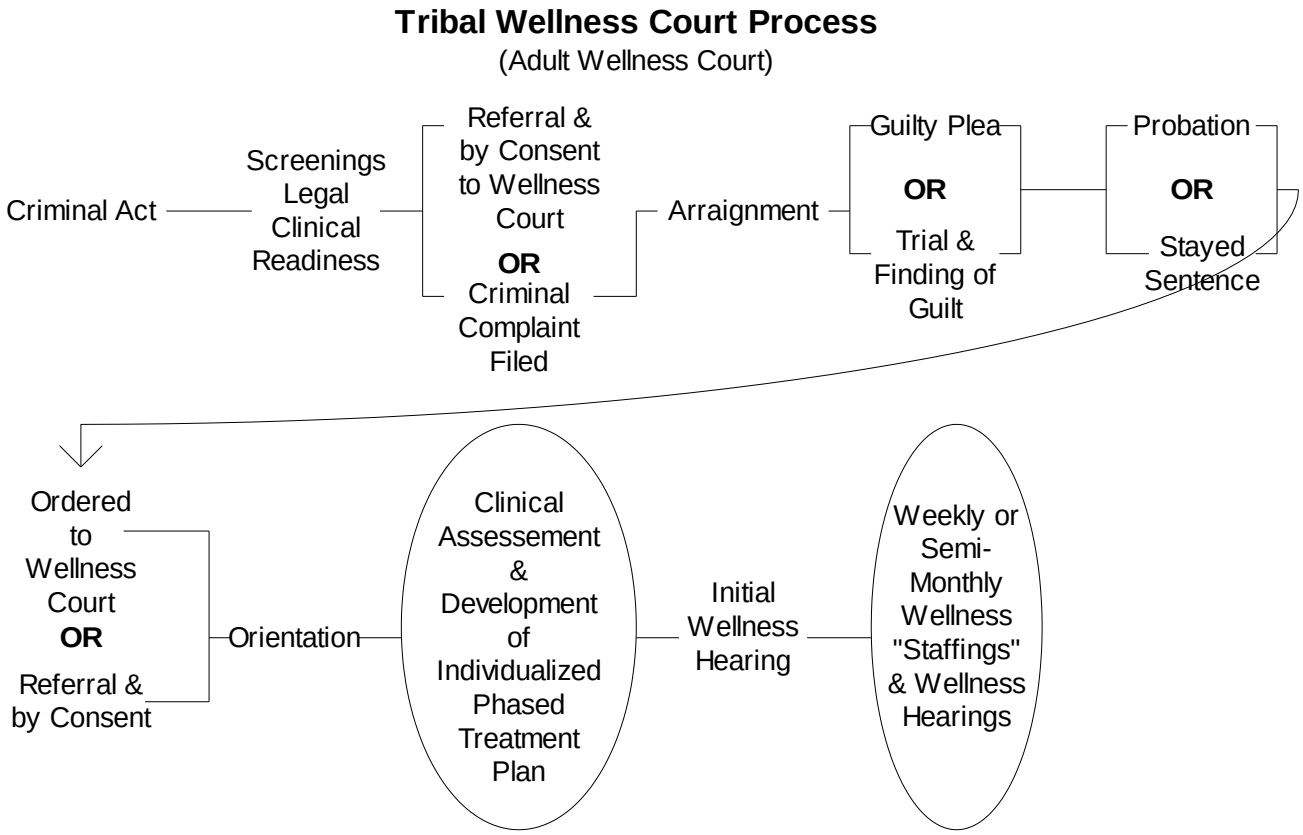
participants that come into Tribal Healing to Wellness Court "pre-petition" would be *referred* to Tribal Wellness Court, most likely by a tribal attorney general, prosecutor, or presenting officer (if they have these positions); child welfare (social services or child protective services); treatment provider; or self-referral. This referral is likely to take place after there has been a formal "report of harm" to a child but before a formal dependency petition has been filed for that child (see Flow Chart 3).

"Post-admission"—Parents and guardians as participants that come into Tribal Healing to Wellness Court "post-admission" are already implicated in the tribe's delinquency court process (a formal petition has been filed and an admission and agreement with a case plan has been negotiated, agreed to, and approved by the judge). The agreement will likely include an admission of the perpetration of child abuse or neglect and an agreement to comply with a case plan—with participation in Tribal Healing to Wellness Court as a part of that case plan. The agreement will likely be accompanied by a tribal court order approving the agreement and the setting of a schedule for further tribal court review hearings pending Tribal Healing to Wellness Court completion. Tribal court proceedings to remove a child from the home, determine a permanent placement for the child, and/or terminate parental rights would be delayed pending successful completion of Tribal Healing to Wellness Court requirements. Tribes receiving or seeking to access Title IV-E funds (federal funds for foster and adoptive placements), either by state-tribe agreement or directly from the federal government, will be mandated to expedite their tribal court process for children placed out of the home. This has significant implications for the amount of time these parent/guardian participants will have to complete Tribal Healing to Wellness Court. In the state systems, this is averaging about a year (see Flow Chart 3).[34]

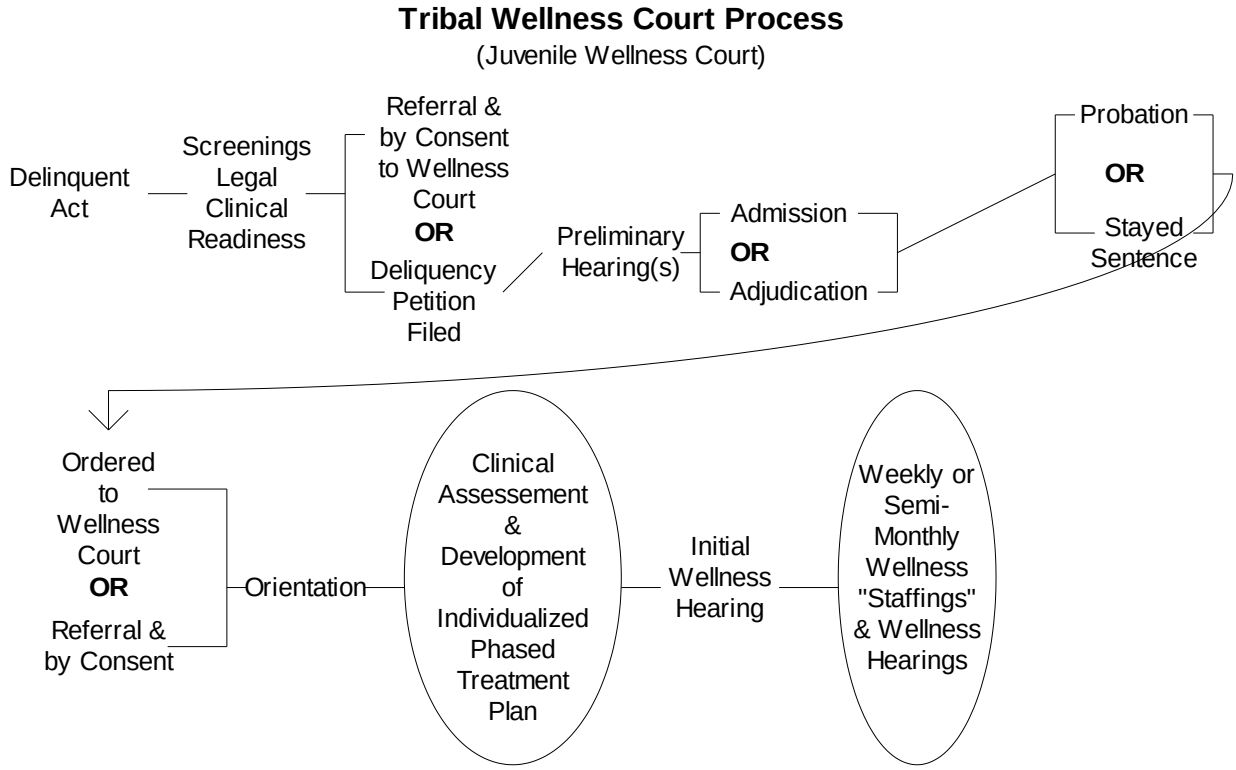
"Post-adjudication"—Parents and guardians as participants that come into Tribal Healing to Wellness Court "post-adjudication" have likely had a bench trial (or "adjudication") in which the judge found them guilty of committing child abuse or neglect. This finding would then trigger child welfare supervision, reports, and hearings resulting in orders for assessments, case plan development, and mandated participation with the case plan. The court-ordered case plan would include a requirement to comply with and successfully complete Tribal Healing to Wellness Court. Tribal court proceedings to remove a child from the home, determine a permanent placement for the child, and/or terminate parental rights would be delayed pending successful completion of Tribal Healing to Wellness Court requirements. Like "post-admission," tribes receiving or seeking to access Title IV-E funds (federal funds for foster and adoptive placements), either by state-tribe agreement or directly from the federal government, will be required to expedite their tribal court process for children placed out of the home (to expedite the establishment of a permanent plan for the child and potentially to terminate parental rights). This has significant implications for the amount of time that these parent/guardian participants will have to complete Tribal Healing to Wellness Court. In the state systems, this is averaging about a year (see Flow Chart 3).[35]

[34] Green, and others, *Building the Evidence Base for Family Drug Treatment Courts,* at 58.
[35] Green, and others, *Building the Evidence Base for Family Drug Treatment Courts,* at 58.

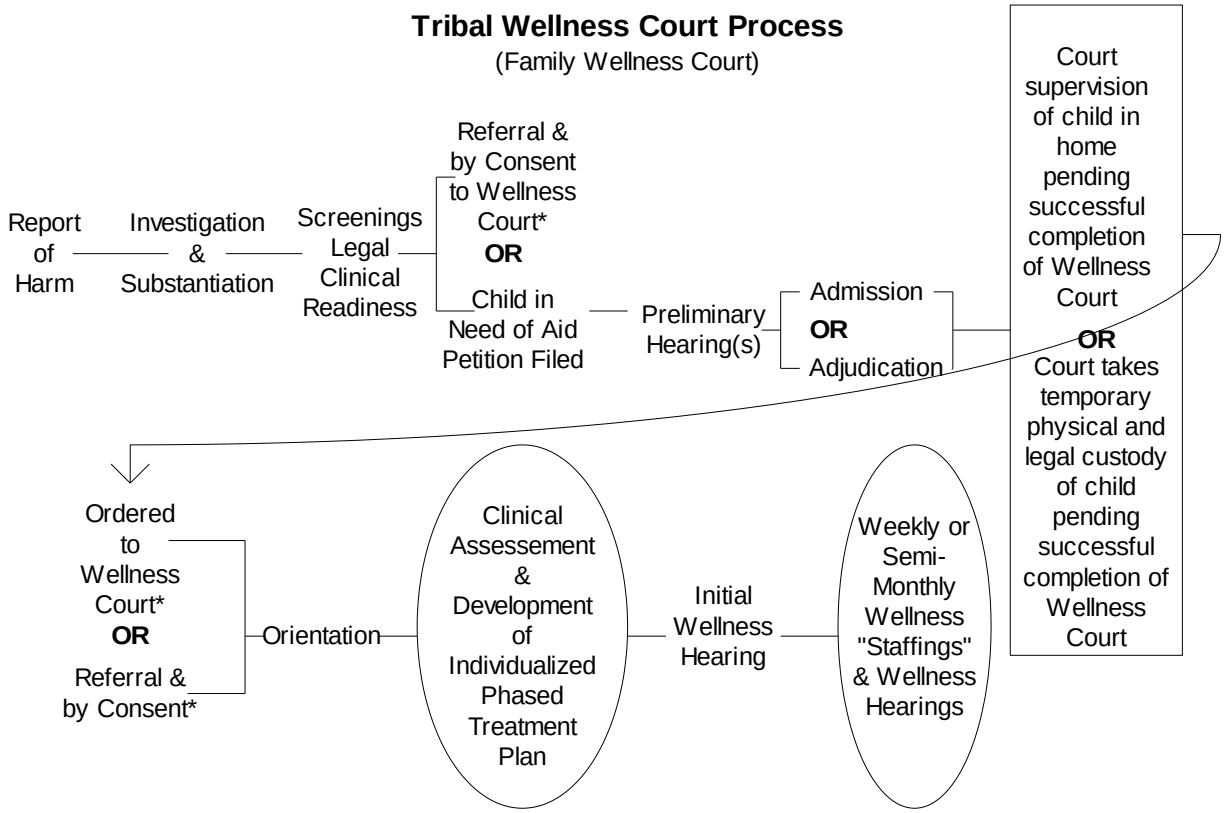
Flow Chart 1


Tribal Wellness Court Process
(Adult Wellness Court)
Criminal Act
Screenings
Legal
Clinical
Readiness
Referral &
by Consent
to Wellness
Court
OR
Criminal
Complaint
Filed
Arraignment
Guilty Plea
OR
Trial &
Finding of
Guilt
Probation
OR
Stayed
Sentence
Ordered
to
Wellness
Court
OR
Referral &
by Consent
Orientation
Clinical
Assessement
&
Development
of
Individualized
Phased
Treatment
Plan
Initial
Wellness
Hearing
Weekly or
Semi-
Monthly
Wellness
"Staffings"
& Wellness
Hearings

Flow Chart 2


Tribal Wellness Court Process
(Juvenile Wellness Court)
Delinquent Act
Screenings
Legal
Clinical
Readiness
Referral & by Consent to Wellness Court
OR
Deliquency Petition Filed
Preliminary Hearing(s)
Admission
OR
Adjudication
Probation
OR
Stayed Sentence
Ordered to Wellness Court
OR
Referral & by Consent
Orientation
Clinical Assessement & Development of Individualized Phased Treatment Plan
Initial Wellness Hearing
Weekly or Semi-Monthly Wellness "Staffings" & Wellness Hearings

Flow Chart 3



*This flow chart illustrates a "parallel" judicial model as opposed to an "integrated" judicial model (in the state systems an integrated model - where the same dependency court judge is also the Wellness Court judge - is recommended as more effective)

BJA Program Design Feature relating to Key Component #2:

As noted in the *Introduction*, BJA and NIJ have identified seven evidence-based program design features that effective drug courts should utilize. Beginning in 2011, BJA began evaluating drug court grant funding using these seven design features as criteria.

BJA Program Design Features *Screening and Assessment* and *Target Population* apply to both Key Components #2 and #3.

- ***Screening and Assessment***—Referral Sources and other stakeholders should be clear on program eligibility criteria, which must be consistent with targeted population needs and available program resources. Applicants should demonstrate an ability to screen promptly and systematically for all offenders potentially eligible for the drug court, identify the agency that will conduct this screening, and detail the procedures that will be used for screening.

  The applicant should further demonstrate how those offenders determined to be eligible for the drug court as a result of screening will then be assessed to identify their risk for relapse and recidivism, as well as the nature of treatment and other rehabilitation needs. Assessments should be conducted using instruments that have been validated* for the targeted population and updated periodically. Treatment and other service assessments should be reviewed and adjusted to gauge offender needs that may change over time.

* Validated means the instrument has been demonstrated to measure the intended characteristic; for example, the Beck Depression Inventory has been shown through studies to measure mood and physical symptoms that correlate with depression (which affects drug court participation). Studies should demonstrate validity for offenders of varying age, race, gender, and ethnicity.

- ***Target Population—***Program resources should be prioritized for offenders who demonstrate both high criminogenic risk and high substance abuse treatment need. Applicants should aim to serve offenders whose characteristics and risk factors directly relate to a high probability of offending, and who are frequent drug users diagnosed for drug dependence. Also applicants should target offenders who are subject to (or eligible for) legal sanctions that may provide greater leverage in program compliance.

For more information on the BJA Seven Program Design Features: www.research2practice.org

Findings from NIJ Wellness Court Study: Component #2[1]

Problems Identified:

(1) Wellness courts had communication issues between the team and the treatment providers due to intrinsic differences in the confidentiality of patient records versus court records.

(2) Participants seemed surprised by the huge time commitment required by the Tribal Wellness Court and did not fully comprehend the Tribal Wellness Court requirements (either they had no public defender or their public defender did not advise participants of their options before entering the Tribal Wellness Court).

Lesson Learned #2: Use the Informed Consent Model for Wellness Court Admittance

- Use an "informed consent" approach with potential participants to ensure their due process rights are protected. In this approach, all benefits, risks, and alternatives of the Tribal Wellness Court are communicated clearly to the offender.
- Review the Tribal Wellness Court rules regularly with the participant while in the program.

[1] KAREN GOTTLIEB, LESSONS LEARNED IN IMPLEMENTING THE FIRST FOUR TRIBAL WELLNESS COURTS, (U.S. Department of Justice, National Criminal Justice Reference Service, NCJ 231168, 2005), note 1 at 12.

SUGGESTED PRACTICES

1. Prosecutors, presenting officers, and defense counsel, if available, should participate in the design of legal eligibility, screening, and case-processing policies and procedures to guarantee that due process rights and public safety needs are served.

2. The continuing role and the nature of the role of prosecutors, presenting officers, and defenders in the daily operations of the Tribal Wellness Court should be discussed with the Tribal Wellness Court team members and be mutually agreed upon.

3. Screening for Wellness Court participant eligibility should be swift. The Tribal Wellness Court team should determine early what charges, offenses, or negative conduct will be appropriate for Tribal Wellness Court participation. The team should also determine whether the offender or candidate exhibits characteristics/risk factors that indicate a high probability of offending.

4. The eligibility process should be clearly described, especially in regards to general criteria such as suitable charges, offense, or negative conduct.

5. The Tribal Wellness Court team should determine if the defendant, parent, or juvenile is a frequent user diagnosed for alcohol or drug dependence. The team should also determine whether he or

she will benefit from available treatment services and other activities.

6. The designated legal officer or team member should ensure that all necessary legal documents are stored and contained in the defendant's hard-copy case file and/or electronic case file.

7. Before deciding on acceptance of an individual as a participant, the Tribal Wellness Court team should properly review any transfer order, arrest warrant, affidavit, complaint/petition, and other relevant information in the potential participant's case file.

8. After a participant is determined to be eligible and is accepted into the Tribal Wellness Court, a designated legal officer or team member should ensure that the participant's file is complete and includes all admission documents, program acceptance, and enrollment forms (for example, waivers, contracts, consent forms, and written agreements).

9. The designated legal officer or team member should thoroughly advise the individual as to the nature and purpose of the Tribal Wellness Court program, the rules for participants, the consequences of noncompliance, and how program participation—or lack thereof—will affect the participant's legal and liberty interests. Court and/or program rules should be reviewed periodically with participants.

10. The designated legal officer or team member should ensure that the individual understands the rights that he or she will temporarily or permanently relinquish, where applicable.

11. The designated legal officer or team member should inform the individual of alternative courses of action, including legal and treatment alternatives available outside the Tribal Wellness Court program.

12. The designated legal officer or team member should discuss with the individual the potential long-term benefits of sobriety and a drug-free life with successful Tribal Wellness Court involvement.

13. The designated legal officer or team member should, if applicable, inform the individual that a positive alcohol or other drug test or open court admission of alcohol or other drug possession or use will not result in a referral for or the filing of additional drug charges based on that admission.

14. The designated legal officer or team member should inform the individual that he or she is expected to speak directly to the judge, or panel of judges, regarding program compliance and personal progress, usually without legal representation, unless the tribe provides it to all participants.

15. The designated legal officer or team member should review with the participant the coordinated strategy for responding to positive alcohol and other drug tests and other instances of noncompliance, including how sanctions are utilized and applied.

16. At the onset of program participation, each participant should fully understand

when termination from Tribal Wellness Court is considered.

17. The Tribal Wellness Court team should base its decisions regarding a participant's continued program participation on performance in treatment rather than on legal aspects of the case, barring additional criminal behavior.

18. The Tribal Wellness Court team should comply with all tribal and federal regulations governing privacy and confidentiality of treatment records and communication of confidentiality of substance abuse treatment records. All communication about an individual's participation in treatment must be in compliance with the provisions of 42 CFR, Part 2 (the federal regulations governing confidentiality of alcohol- and drug-abuse patient records) and with similar tribal regulations.[36]

19. Depending on the Wellness Court's intent and available healing resources, priority should be given to offenders or candidates who demonstrate both criminogenic risk and high substance abuse treatment need. Targeting offenders who are subject to (or may be eligible for) legal sanctions may provide greater leverage in program compliance.

[36] *See, for example,* JEFFREY TAUBER, SUSAN WEINSTEIN, AND DAVID TAUBE, FEDERAL CONFIDENTIALITY LAWS AND HOW THEY AFFECT DRUG COURT PRACTITIONERS, (National Drug Court Institute, 1999), *available at* www.ndci.org/sites/default/files/nadcp/federalconfidentiality.pdf.

Tribal Stories – Key Component #2
Saint Regis Mohawk Healing to Wellness Court, New York, and the United States

Tribal Healing to Wellness Courts differ from regular judicial processes in numerous ways. One difference that sets these systems apart is the emphasis on developing a broad referral mechanism and prompt placement of participants into this specialized treatment docket. This focus fits well for tribes because it is common for tribal members, or other eligible participants, to become subject to multiple jurisdictions, including state and/or federal jurisdiction. Many times these individuals are unable to comply with the state's requirements for a multitude of reasons, including being unable to secure adequate transportation. Many find themselves sent to detention even when they were legitimately trying to fulfill their obligations. A few Tribal Healing to Wellness Courts have addressed these issues by taking the initiative to build relationships with their state counterparts. For example, the Saint Regis Mohawk Healing to Wellness Court took advantage of a unique relationship it built with Franklin County, New York. Saint Regis Mohawk Tribal Police have concurrent state and tribal authority as a result of state legislation. The tribal police had been working closely with the district attorney to make recommendations about the disposition of cases prior to the development of the Wellness Court. When the Saint Regis' Wellness Court was operational, the district attorney and the town judge agreed to refer adult tribal citizens charged with alcohol or drug crimes to the Saint Regis' Wellness Court. More recently, a local Assistant U.S. Attorney, who was working with the court to address the Oxycontin problem within the territory, was willing to refer a pilot federal case to the Tribal Healing to Wellness Court.

Micaelee Horn, Coordinator of the Saint Regis Mohawk Tribal Healing to Wellness Court, and a Wellness Court graduate, October 2012

Key Component #3: Screening and Eligibility

Eligible court-involved substance-abusing parents, guardians, juveniles, and adults are identified early through legal and clinical screening for eligibility and are promptly placed into the Tribal Healing to Wellness Court.

A traumatic or life-changing substance abuse–related event in a person's life, such as an arrest or the removal of children from the home, creates a personal and family crisis. It causes the abusive and/or addictive behavior to be brought out into the open so that it can be addressed. Denial is no longer a viable option, as the consequences are now partly controlled by the authorities and the application of the law that is allegedly violated.

In the criminal and juvenile delinquency contexts, the period immediately following an arrest or detention for an alleged criminal or juvenile offense provides a window of opportunity for intervening and emphasizing the value of alcohol and drug abuse treatment. In the family court context, a similar opportunity exists after a child is removed from the home and/or a petition is filed alleging that the child has been abused or neglected. These situations create opportunities to provide the adult offenders, parents, juveniles, and their families with a regimen of treatment that addresses the underlying cause of the negative behavior. Prompt judicial action, taken after these traumatic events, uses this crisis period to stress the consequences of the substance-abusing behavior as well as the potential benefits of participating in Tribal Healing to Wellness Court.

Legal Screening refers to the process in which potential participants are identified as legally eligible to participate in Tribal Healing to Wellness Court. Eligibility is based on target-population criteria developed during the Tribal Healing to Wellness Court planning process, and as modified after implementation.

Eligibility requirements vary by tribal court and type of Tribal Healing to Wellness Court (adult, juvenile, or family) and generally include a criminal charge, juvenile offense, or civil dependency petition involving alcohol and/or drugs. Other eligibility factors may include the number of similar offenses or alleged conduct over a period of time, or whether the offense(s) or conduct involves victims and/or serious property damage.

Tribes that receive federal dollars may be subject to limitations regarding the inclusion of violent offenders and where aggravated circumstances are present in child welfare cases. Tribes that are funded by BJA's Adult Drug Court Discretionary Grant Program may not admit "violent offender" participants.[37] Tribal Healing to Wellness Courts should confer with their grant managers to ensure grant compliance.

Clinical Screening refers to the process in which

[37] "Violent offender" is defined as a person that is convicted of a crime that is punishable by an imprisonment term *exceeding* one year (42 U.S.C. § 3797u-2). However, tribal courts that have not adopted the enhanced sentencing authority of the Tribal Law and Order Act (25 U.S.C. § 2801, et. seq. (2010)) are limited by federal law to sentencing defendants to imprisonment terms of *no more than one year*. *See* Indian Civil Rights Act of 1986 (25 U.S.C. § 1301-03). Therefore, it appears likely that no tribal court conviction would be classified as a "violent offense." Nevertheless, tribal BJA grantees should consult with their grant managers to ensure compliance with their funding requirements.

potential participants are identified as suitable to participate in Tribal Healing to Wellness Court (both in terms of participant need and available treatment services) and are primed for a successful treatment outcome from a clinical perspective and before participation in Tribal Healing to Wellness Court. Determining suitability begins with a screening for the presence, type, and severity of substance abuse before the participant enters the program. But the suitability screening or intake is also quasi-therapeutic in nature. Additionally, because many Tribal Healing to Wellness Courts may combine program eligibility screening with treatment intake, the process can strongly influence whether a person completes the Tribal Wellness Court and treatment admission procedures, the selection of appropriate treatment interventions, and the person's successful engagement in treatment. In light of this dynamic, treatment professionals recommend the following intake process, in addition to screening for alcohol and drug abuse:

> (1) Assess the person's readiness for change and apply appropriate strategies to motivate the client to enter and participate in treatment;
>
> (2) Establish a collaborative relationship between intake personnel and the person being screened;
>
> (3) Identify and overcome barriers that discourage the person from engaging in treatment; and
>
> (4) Promote the development of individualized interventions that meet each client's needs, rather than fitting the person into a predefined program.[38]

This last recommendation has significant implications for how Tribal Healing to Wellness Court phased treatment plans are designed in terms of what can be predefined and regularized, what should be variable under the direction of a treatment professional, and how the two work together.

Short Screening Instruments to Document a Substance Use Disorder

Three instruments have been shown to have high rates of accuracy, positive predictive value and sensitivity, and the capacity to distinguish between substance abuse and dependence disorders:[39]

►The Center for Substance Abuse Treatment's Simple Screening Instrument[40]
►A combination of the Alcohol Dependence Scale and the Addiction Severity Index (ASI)—Drug Use Subscale[41]
►Texas Christian University Drug Screen[42]

Clinical Assessments are characterized by treatment professionals as "ongoing" and vary depending upon a client's history and needs. Clinical screening evaluates a person for the

[38] *See Substance Abuse and Mental Health Services Administration (SAMHSA) TIP 47: Substance Abuse: Clinical Issues in Intensive Outpatient Treatment*, "Treatment Entry and Engagement," TIP Series – Treatment Improvement Protocols (TIPS), SMA06-4182 (2006) and *SAMHSA TIP 35: Enhancing Motivation for Change in Substance Abuse Treatment*, TIP Series – Treatment Improvement Protocols (TIPS), SMA08-4212 (2008), *available at* www.samhsa.gov.
[39] *See SAMHSA TIP 47*.
[40] *Reproduced in SAMSHA TIP 11: Screening Instruments for Alcohol and Other Drug Abuse and Infectious Diseases*, TIP Series – Treatment Improvement Protocols (TIPS), BKD143 (1994).
[41] *See SAMHSA TIP 47* at Appendix 5-B.
[42] *See SAMHSA TIP 47* at Appendix 5-B.

possible presence of a particular problem (alcohol and/or drug abuse), the seriousness of the problem, and whether and what types of further clinical assessments are needed. Clinical assessment is a process for defining the nature of a problem (going toward a diagnosis) and for developing specific treatment recommendations for addressing the problem. Clinical assessments in the state systems are undertaken by licensed treatment professionals.

Timing—Prompt placement of a participant into Tribal Healing to Wellness Court increases the effectiveness of treatment and the community's confidence in the tribal justice and treatment systems. This will be critical for participants in Tribal Family Healing to Wellness Courts accessing Title IV-E funding because the time frame to engage in recovery is shortened. Prompt placement of Tribal Healing to Wellness Court participants into treatment is particularly challenging for tribes that lack the licensed treatment professionals (or the funding to subcontract for these services) needed to undertake the clinical screenings and assessments necessary to design individualized treatment plans.

Assessment Instruments

A wide variety of substance abuse assessment instruments are available for use in justice systems, but the most commonly used is the Addiction Severity Index (ASI),[43] which is used for screening, assessment, and treatment planning.[44] Please note that two separate sections of the ASI are frequently used as clinical screening instruments.

For information on other assessment instruments:

►Overview of Assessment Instruments (Substance Abuse and Mental Health Services Administration [SAMHSA] TIP 44, chapter 2)

►Assessments for Readiness to Change (SAMHSA TIP 47, chapter 5, 9–10)[45]

►Assessments for Adolescents and Substance Abuse (SAMHSA TIP 31)

►Assessments for Persons with Child Abuse and Neglect Issues (SAMHSA TIP 36)

►Assessments for Persons with Co-Occurring Disorders (SAMHSA TIP 42, chapter 4)

[43] *Reproduced in SAMSHA TIP 38: Integrating Substance Abuse Treatment and Vocational Services*, Tip-Series—Treatment Improvement Protocols (TIPS), SMA06-4216 (2000).

[44] *See SAMSHA TIP 44: Substance Abuse Treatment for Adults in the Criminal Justice System*, chapter 2. "Screening and Assessment," Tip Series – Treatment Improvement Protocols (TIPS), SMA09-4056 (2009).

[45] "Assessments for Adolescents and Substance Abuse" discusses Dimension 4 of ASAM PPC-2R, which assesses an individual's readiness to change before conducting full-scale assessments and developing comprehensive treatment plans, and provides a list of brief instruments to help rapidly determine readiness to change or motivational stage. *SAMHSA TIP 47*.

BJA Program Design Features relating to Key Component #3:

As noted in the *Introduction*, BJA and NIJ have identified seven evidence-based program design features that effective drug courts should utilize. Beginning in 2011, BJA began evaluating drug court grant funding using these seven design features as criteria.

BJA Program Design Features *Screening and Assessment* and *Target Population* apply to both Key Components #2 and #3.

- ***Screening and Assessment***—Referral Sources and other stakeholders should be clear on program eligibility criteria, which must be consistent with targeted population needs and available program resources. Applicants should demonstrate an ability to screen promptly and systematically for all offenders potentially eligible for the drug court, identify the agency that will conduct this screening, and detail the procedures that will be used for screening.

  The applicant should further demonstrate how those offenders determined to be eligible for the drug court as a result of screening will then be assessed to identify their risk for relapse and recidivism, as well as the nature of treatment and other rehabilitation needs. Assessments should be conducted using instruments that have been validated* for the targeted population and updated periodically. Treatment and other service assessments should be reviewed and adjusted to gauge offender needs that may change over time.

* Validated means the instrument has been demonstrated to measure the intended characteristic; for example, the Beck Depression Inventory has been shown through studies to measure mood and physical symptoms that correlate with depression (which affects drug court participation). Studies should demonstrate validity for offenders of varying age, race, gender, and ethnicity.

- ***Target Population*—**Program resources should be prioritized for offenders who demonstrate both high criminogenic risk and high substance abuse treatment need. Applicants should aim to serve offenders whose characteristics and risk factors directly relate to a high probability of offending, and who are frequent drug users diagnosed for drug dependence. Also, applicants should target offenders who are subject to (or eligible for) legal sanctions that may provide greater leverage in program compliance.

For more information on the BJA Seven Program Design Features: www.research2practice.org

TRIBAL HEALING TO WELLNESS COURT TASK CHART

TASK	PURPOSE	ACTIVITIES	TIME AND COST	BY WHOM
Legal Screening	Examine public safety and risk Determine if legally permitted to participate	Review: -current charges (drug or alcohol related) -criminal history -circumstances	Activities are part of typical criminal proceedings, so no added time or costs as compared to criminal court	Any of these: - prosecution - defense - police - probation - coordinator
Clinical Screening	Determine suitability for participation given addiction type and severity, available treatment services, and prime motivation for treatment	Explain process Sign releases Brief review of substance use, social history, and other potential disorders Motivation to participate	Takes 5 to 30 minutes Costs include staff time and training on screening instruments	Any of these: - case manager - treatment provider - probation -coordinator
Clinical Assessment	Diagnose problems requiring treatment, further assessment, and treatment planning	☐ Examine nature and scope of alcohol and drug abuse ☐ Design individualized treatment plan ☐ Identify full range of services needed ☐ Match participants to specific services	One to two hours, depending on complexity of problems Costs of hiring or subcontracting with licensed treatment providers, and costs of diagnostic and assessment instruments	Any of these: - clinically trained and qualified counselor - psychologist - psychiatrist - social worker - nurse

Findings from NIJ Wellness Court Study: Component #3[1]

Problems Identified:
(1) Participants seemed surprised by the huge time commitment required by the Tribal Wellness Court and did not fully comprehend the Tribal Wellness Court requirements (either they had no public defender or their public defender did not advise participants of their options before entering the Tribal Wellness Court).

Lesson Learned #3: Assess Readiness for Change in Potential Participants[46]

- Choose participants who are motivated and ready to change their substance abuse behavior in order to maximize scarce resources and increase Tribal Wellness Court success. Participants who enter Tribal Wellness Court only to avoid incarceration may not "get with the program" and work to change their behavior.
- Have a clear termination policy in order to weed out participants who are not working the program after a reasonable time if an inclusive admittance policy is used.

[1] KAREN GOTTLIEB, LESSONS LEARNED IN IMPLEMENTING THE FIRST FOUR TRIBAL WELLNESS COURTS, (U.S. Department of Justice, National Criminal Justice Reference Service, NCJ 231168, 2005), note 1 at 19.

[46] Note that this is an area that should be discussed among team members, as differing opinions exist. *See* Suggested Practices Key Components #1.

SUGGESTED PRACTICES

1. Team members should engage in a discussion about whether a "readiness assessment" is appropriate and available for their participants. If so, evaluate periodically for its continued applicability.

2. Eligibility screening should be undertaken using written legal criteria and tested clinical screening tools.

3. Program coordinators, case managers, tribal prosecutors, or other qualified team members should be designated and trained to legally screen cases and identify potential participants.

4. Trained intake officers or certified/licensed treatment professionals should conduct the initial clinical screening to determine whether the individual's treatment needs will be met by the available treatment services. The initial screening should also identify the risk of relapse and recidivism.

5. While anyone with proper training can administer the simpler clinical screening instruments, clinical assessments should be validated for the targeted population whenever possible and must be administered by a certified substance abuse counselor or a licensed treatment professional (psychologist or psychiatrist).

6. A certified drug and alcohol counselor should undertake the clinical screening but not the assessment. The better practice for undertaking clinical assessments is to subcontract with a licensed treatment professional, who will be able to detect the presence of potential mental health and other issues.

7. Eligible participant's interest and requests for specific substance abuse services, including traditional healing options if available, should be considered early.

8. Participants screened or assessed with potential mental health issues should be referred to appropriate further assessment and treatment services if the tribe or the Tribal Wellness Court cannot provide adequate treatment options.

9. The design and formulation of individualized treatment plans should be undertaken with participant contribution to strengthen commitment and ownership.

10. An initial appearance before the Tribal Wellness Court judge should be scheduled immediately after an individual is found to be eligible for, and is enrolled in, the Tribal Wellness Court program.

11. Not only should team members be familiar with current eligibility criteria, Referral Sources, but all interested community members should be updated as well. Thus, they can contribute to and support the Wellness Court.

Tribal Stories – Key Component #3
Ysleta del Sur Pueblo, Texas

One of the first decisions for a Tribal Healing to Wellness Court to make is to determine what cases and clients it is going to hear and supervise. There are many variations from which to choose. The particular population and problems the court agrees to handle will influence how it will operate. Tribal Healing to Wellness Courts throughout Indian country address a wide range of issues, conflicts, crimes, and civil misconduct. They work with adults, juveniles, parents, veterans, the mentally ill, and other populations. Tribes have developed innovative processes and procedures that identify and refer participants to their Tribal Healing to Wellness Courts. For example, Ysleta del Sur Pueblo Wellness Court initially decided to work with juveniles. William Heidenreich, former Social Worker for Ysleta del Sur Pueblo, noted:

> "Our educational department and prevention department refer all cases they have of youth charged with possession of controlled substances to our Social Services Department. This doesn't matter if it was their first offense or more charges. We want to attempt to assist the youth and their family when the 'problem' is first starting."

Judge Lawrence Lujan of Yselta del Sur Pueblo, and Judge of the Ysleta del Sur Juvenile Healing to Wellness Court notes:

> "When our youth feel like there is no beginning, no hope, no end, our team welcomes them to enter our circle. Personally, I feel that by setting an example of care, support, discipline, and encouragement through not only my role but also through the roles of the rest of our team that we can encourage individual growth and support up and to sobriety. Because, oftentimes, many of our youth are found to lack one if not all of these in their home environment, and these are the precursors to their involvement in drugs or alcohol. Caring for them, supporting them in their successes, disciplining them in their failures, as well as providing structure through discipline and encouragement to succeed makes a great difference in these young lives."

After operating a Juvenile Wellness Court for several years, the Pueblo is now planning to develop an Adult Healing to Wellness Court that focuses on working with participant families.

Ysleta del Sur Pueblo Courtroom

Key Component #4: Treatment and Rehabilitation

Tribal Healing to Wellness Court provides access to holistic, structured, and phased alcohol and drug abuse treatment and rehabilitation services that incorporate culture and tradition.

The Tribal Healing to Wellness Court concept is generally viewed as being consistent with traditional Native justice concepts and methods. Traditional methods of justice for American Indians and Alaska Natives focus on the root cause underlying the addictive and/or abusive behavior that results in a criminal charge or a petition, rather than on the bad act. Traditional methods focus on healing and often involve the family, extended family, and community in the healing process.

About Addiction and the Participant's Perspective[47]—Many people, in all cultures, find it difficult to understand addiction, often believing that the problem is a lack of will power. However, recent scientific advances are showing that this is not true. It is very difficult for an addict to stop using drugs or alcohol given changes in his or her brain, ingrained habits, and/or additional mental health disorders. All drugs of abuse act by mimicking the effects of neurotransmitters naturally found in the brain. When an individual stops using alcohol or other drugs, the brain is in a depleted state with insufficient levels of neurotransmitters. This can cause severely uncomfortable withdrawal symptoms. Although many people experiment with alcohol and drugs with few to no consequences, those who become addicted have repeated the behavior so often that it becomes unconscious habit. The behavior is ingrained, and the individual performs it almost automatically. When an addict attempts to quit alcohol and/or drugs, he or she must develop alternate neural pathways in the brain. This takes considerable time and practice (months or years). Addicts may have significant defects in brain functioning (known as "cognitive dysfunction") long after they stop using.

It is not unusual during the first three months of treatment for the individual to have serious errors in judgment, emotional instability, and poor attention spans—which can make it very hard to engage them in treatment and requires early phases of treatment to focus on keeping these individuals safe and stable until their brain's cognitive functions begin to recover. The time to recovery varies by the drug used and the amount of use. Chronic drug use may also change how the brain responds to "nondrug stimuli"—that is, anything associated with the drug use, such as friends and places where the drug was used. This may cause an individual to experience severe cravings, anticipatory euphoria, and/or withdrawal when confronted with such stimuli (for example, friends and places). Individuals may also lack pleasurable responses to normally pleasurable experiences (for example, food or vacation) and have a sense of overwhelming boredom (also known as "anhedonia"). Treatment for addiction helps individuals learn to manage such symptoms and to reduce the negative consequences of the disease by making healthy lifestyle choices. Addiction treatment focuses on motivation (the goal is to move an individual from an external to an internal state of motivation), insight (knowing why and what to

[47] For a full discussion, *see* NATIONAL DRUG COURT INSTITUTE (NDCI), THE DRUG COURT JUDICIAL BENCHBOOK, 66-72 (Douglas B. Marlowe & William G. Meyer eds., 2011), *available at* www.ndci.org/publications/more-publications/-drug-court-judicial-benchbook.

change—recognizing one's own triggers for drug use in order to avoid relapse), and behavioral skills (knowing how to do it—a great deal of trial-and-error learning in order to make healthy behaviors automatic).

Phased Treatment Plans—For each individual participant, Tribal Healing to Wellness Court provides a "phased treatment plan" and an individualized treatment plan (as part of the overall phased treatment plan) in order to establish a solid structure for the participant and his or her family to heal (*see* the Sample Phases and Phase Advancement Requirements table below for sample phases):

> Drug courts are virtually always structured into phases. The court and treatment program may have identical or different phase structures, but in either case, movement from one phase to another should be dependent upon the completion of objective criteria. Selecting the criteria and developing a system to measure their completion is up to the team. Many drug court teams have a list of specific benchmarks that must be achieved to attain phase advancement. Others may use a scoring system, in which a certain number of points are allotted for the completion of various tasks. Once a participant has accumulated a preset number of points, the participant can move on to the next phase.
>
> There is no one correct sequence or number of phases, and drug courts should develop their own phase structure based upon the clinical needs and prognostic risk in their population. The phase structure should focus on progressive goals for the client as treatment moves forward. . . .
>
> As participants successfully move from one phase to another, the drug court . . . recognize[s] those successes with a formal ceremony, presentation of a certificate, or at least an explicit acknowledgment from the bench. When the participant graduates from the program, the team should formally recognize that graduation with a ceremony in the courtroom. . . . Graduation ceremonies in drug courts are as individualized as the courts themselves.[48]

Individualized Treatment Plans—In the state drug court systems a "one-size-fits-all approach"—in which the content of a standardized phased treatment plan is applied to all participants regardless of their assessed individual needs—is considered to fall below accepted standards of care for treating substance abuse, substance dependence, and addiction.[49] A participant's individualized

[48] NDCI, THE DRUG COURT JUDICIAL BENCHBOOK, at 37–8.
[49] NDCI, THE DRUG COURT JUDICIAL BENCHBOOK, at 82 ("Substance abuse clients present a wide range of needs for various types of treatments and other services. A one size fits all approach does not work and is inconsistent with [evidence-based practices and best practices]. At the most basic level, each client should receive an individualized treatment plan. Treatment plans should not all look alike and should not all include the same interventions. If all clients in a particular treatment program attend the same groups and receive the identical services, it may become necessary for a drug court to reconsider partnering with that treatment program.").

treatment plan should take into account (1) his or her clinical needs; (2) any issues that are likely to impede his or her progress in treatment; and (3) his or her personal strengths and resources.[50] (See Key Component #3 for more on assessing a participant's clinical needs.) The level of care that an individual participant requires is determined according to standardized Patient Placement Criteria promulgated by the American Society of Addiction Medicine. It considers critically important factors such as a participant's withdrawal risks, the presence of other medical conditions, any co-occurring psychiatric or emotional disorders, the participant's readiness for change, and the participant's relapse potential.[51] These factors inform a decision to place the individual into medically supervised detoxification, inpatient rehabilitation, a residential treatment program, intensive outpatient, or simply outpatient treatment. A participant's phased treatment plan (with individualized components) may include a year or more of services and activities for both the participant and his or her family.

Alcohol Abuse in Indian Country—As opposed to state drug courts, Tribal Healing to Wellness Courts are focused on treating both drug and *alcohol* abuse. Alcohol abuse is significantly and disproportionately prevalent in Indian county. American Indians are arrested for alcohol-related offenses at more than double the rate of any other race.[52] Handling alcohol abuse cases through a Tribal Healing to Wellness Court approach requires the adoption of different strategies, especially because alcohol is often readily available. This often includes incorporating alcohol testing programs and plans to address medical concerns related to alcohol detoxification.

Alcohol abuse is so prevalent in Indian country, its effects are now multi-generational. Many Tribal Healing to Wellness Courts include participants that have some form of fetal alcohol syndrome (FAS) or fetal alcohol effect (FAE). A June 1999 survey of operational Tribal Healing to Wellness Courts indicated that one-third of participants suffer from FAS or FAE. Participants suffering from FAS or FAE may not fully understand the consequences of their actions and may have added difficulty addressing their substance abuse. Simultaneously, diagnosing FAS/FAE can be difficult, as FAS/FAE behavior is often mistaken for laziness or uncooperativeness. Training in typical FAS/FAE behavior will assist Tribal Healing to Wellness Court team members to identity FAS and FAE and thereby better develop individualized treatment plans.

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[50] NDCI, THE DRUG COURT JUDICIAL BENCHBOOK, at 82.
[51] NDCI, THE DRUG COURT JUDICIAL BENCHBOOK, at 78–81.
[52] STEVEN PERRY, A BJS STATISTICAL PROFILE, 1992-2002: AMERICAN INDIANS AND CRIME, vii (U.S. Department of Justice, Bureau of Justice Statistics, NCJ 203097, 2004) ("Liquor law violation arrest rates were about 143 per 100,000 for all races and 405 per 100,000 American Indians.").

Sample Phases and Phase Advancement Requirements[53]

Phase I Treatment and Engagement	**Phase II** Early Recovery	**Phase III** Maintenance	**Phase IV** Community Support
(1) Establish a treatment contract with the counselor that specifies treatment goals, participant responsibilities, and the counselor's efforts. (2) Work to resolve acute crises. (3) Engage in a therapeutic alliance. (4) Prepare a treatment plan with help from the counselor.	(1) Maintain abstinence. (2) Demonstrate ability to sustain behavioral changes. (3) Eliminate drug-using lifestyle and replace it with treatment-related routines and drug-free activities. (4) Identify relapse triggers and develop relapse-prevention strategies. (5) Identify personal problems and begin to resolve them. (6) Begin active involvement in a 12-step or other mutual-help program.	(1) Solidify abstinence. (2) Practice relapse-prevention skills. (3) Improve emotional functioning. (4) Broaden sober social networks. (5) Address other problem areas.	(1) Maintain abstinence. (2) Maintain a healthy lifestyle. (3) Develop independence from the treatment program. (4) Maintain social network connections. (5) Establish strong connection with support groups and pursue healthy community activities. (6) Establish recreational activities and develop new interests.
Phase Advancement Requires: • Complete clinical assessments. • Regularly attend treatment sessions. • Obtain stable living arrangements. • Obtain a self-help group sponsor.	**Phase Advancement Requires:** • A minimum number of days of consecutive drug-negative urine samples. • Completion of community service obligations or probation requirements.	**Phase Advancement Requires:** • Obtain employment. • Work toward GED or attend vocational or parenting classes.	**Graduation Requires:** (Requirements for attendance at treatment sessions, probation appointments, and court hearings are substantially reduced.) • Attend school/work. • Attend self-help group and alumni association meetings.

[53] The sample treatment goals are taken from *SAMHSA TIP 47: Substance Abuse: Clinical Issues in Intensive Outpatient Treatment*, chapter 3. Sample phase advancement requirements are taken from the NDCI, THE DRUG COURT JUDICIAL BENCHBOOK, at 37-38.

Intensive Outpatient Treatment and Cultural/Traditional Components—Many drug courts (and some Tribal Healing to Wellness Courts) use what is known as "intensive outpatient treatment." Early in the Tribal Healing to Wellness Court movement, the contents of an effective intensive outpatient-treatment program were ill-defined (even for the national drug court movement). Today, a significant amount of research and practice has generated clearer guidelines for what an effective intensive outpatient-treatment program should include.[54] The comprehensive program requires certified and/or licensed treatment providers and the professional and community services that many tribes lack. Although most tribes may wish to pursue these resources as part of their long-term planning and implementation, there is also an ongoing debate as to the extent to which an effective Tribal Healing Wellness Court can substitute traditional, hybrid justice, healing ways, or other community services and activities for evidence-based alcohol and drug abuse treatment practices, as opposed to supplementing these practices.[55]

Cultural/Traditional Components—Tribal Healing to Wellness Courts incorporate a wide range of cultural, traditional, customary, and/or community values, practices, and activities within their phased treatment plan requirements. These may include diagnostic, healing, and cleansing activities such as consulting a medicine man or woman or participating in a cleansing ceremony (for example, sweats or smoking); Native justice–related activities that seek to repair broken relationships such as peacemaking, talking circles, or mediation; participation in spiritual or community activities such as religious society membership, traditional ceremonial participation, participation in competitions, feasts and games, or the Native American Church; or seeking out the advice and/or mentorship of knowledge holders and elders. Tribal Healing to Wellness Courts may also incorporate substantive educational courses on tribal history and subsistence skills, or engage participants in family tree mapping or other tribal history or social projects such as language preservation or revitalization efforts. They may also engage participants in community service projects ranging from subsistence activities to assisting the elderly. The possibilities are endless.

If a Tribal Healing Wellness Court's treatment resources include evidence-based treatment programs and traditional/custom-based community practices, it may be useful for the team to discuss (1) the potential benefits or harms of substitution of one for the other or using them simultaneously in the participant's treatment plan,[56] (2) religious worldview differences and respect issues, (3) the placement of the treatment method in the appropriate program phase, (4) therapeutic goals of the practice or activity in order to ensure a seamless continuum of care, (5) therapeutic goals of the practice or activity in regards to evaluating individual and programmatic success, (6) and any cross-

[54] See *SAMHSA TIP 47.*

[55] For the pro-evidence-based practice/best practice argument, *see* NDCI, THE DRUG COURT JUDICIAL BENCHBOOK, at chapter 4.

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[56] For recent research findings on the effectiveness of Tribal Substance Abuse Treatment programs, *see* Conner and Conner, *Involving AI/AN Substance Abuse Treatment Programs in Participatory Research: Evidence for the Effectiveness of Tribal and Inter-Tribal Cultural Interventions in Reducing AOC Abuse*, INTERSECTING INTERESTS: TRIBAL KNOWLEDGE AND RESEARCH COMMUNITIES, UNIVERSITY OF MONTANA, 54 (2008) *available at* iers.umt.edu/docs/intersectinginterestsdocs/Intersecting%20Interests%20Compendium%20Final.pdf.

training issues and requirements.

Intensive Outpatient Treatment—Practitioners and researchers in the alcohol and drug abuse treatment community now view alcohol and drug abuse to be a chronic disorder (as opposed to an acute disorder) requiring a realignment of treatment and outcome expectations (for example, from only short intensive periods in residential treatment to longer periods in intensive outpatient treatment or a combination of both).[57] Intensive outpatient treatment is most effective when it is part of a continuum of care in which participants enter treatment at a level appropriate to their needs and step up or down to a different intensity of treatment based on their responses.[58] The goals of an intensive outpatient-treatment program vary based on factors such as the treatment population, program comprehensiveness, and the program's philosophy.

General Treatment Goals[59]

(1) To achieve abstinence;

(2) To foster behavioral changes that support abstinence and a new lifestyle;

(3) To facilitate active participation in community-based support systems (for example, 12-step fellowship);

(4) To assist participants in identifying and addressing a wide range of psychosocial problems (for example, housing, employment, and adherence to probation requirements);

(5) To assist participants in developing a positive support network; and

(6) To improve participants' problem-solving skills and coping strategies.

Core Services—The core services of intensive outpatient treatment include group and individual counseling, psycho-educational programming (substantive presentations on particular topics such as "The Stages of Recovery"), monitoring substance use, medication management, case management, medical and psychiatric exams, crisis-intervention coverage, and orientation to community-based support groups.[60] This would be followed by "continuing care" (also known as "aftercare"), which includes participation in mutual-help groups (for example, 12-step and other support groups).[61] Additional or

[57] "Today, many Intensive Outpatient Treatment (IOT) programs are involved in treatment beyond the traditional 4–12 weeks." *SAMHSA TIP 47*, at 1.
[58] *SAMHSA TIP 47,* at Executive Summary, 2.

[59] *SAMHSA TIP 47,* at h. 3, 2.
[60] *See SAMHSA TIP 47*, 1, 4, 6, 9, 11, 13, and the Executive Summary, 2; and for a detailed discussion of community-based support groups, *see SAMHSA TIP 47,* at chapter 4, 11–13.
[61] "The American Medical Association (1998) has adopted a policy stating that participants with substance use disorders should be treated by qualified professionals

enhanced services include adult education classes, recreational activities, adjunctive therapies (for example, acupuncture and meditation), child care, nicotine-cessation treatment, housing, transportation, and food.[62] New, viable, and effective therapeutic approaches have emerged, including cognitive-behavioral interventions,[63] relapse-prevention training, motivational enhancement therapy, and the use of incentives and case-management approaches. The recommended amount of intensive outpatient treatment "contact hours per week per participant" is between 6 and 30 hours per week for a minimum of 90 days followed by continuing care.[64]

Promising Treatment Interventions for Use in the Tribal Healing to Wellness Court Context

►Motivational Interviewing and Motivational Enhancement Therapy—Empathic listening in which the intake personnel or counselor explores a participant's attitude toward substance abuse and treatment, supporting past successes and encouraging problem-solving strategies (client centered, goal driven, and encouraging client self-sufficiency).[65]

►Cognitive Behavioral Interventions—Individual and group sessions teaching participants skills to help them recognize and reduce relapse risks, maintain abstinence, and enhance self-efficacy. Clients must be motivated and counselors must receive special training for interventions to succeed.[66]

►Relapse Prevention Therapy—Teaching behavioral skills to help participants identify their own personal triggers for relapse and the process by which they tend to lead themselves down the road toward substance abuse.[67]

►Family-based Interventions—From creating family genograms and social network maps to engaging the family in treatment to providing family services, to utilizing multifamily groups, family therapy groups, individual family therapy, couples therapy, child-focused therapy, and support groups.[68]

►Non-Native Treatment Providers Working with Diverse Populations in Intensive Outpatient Treatment.[69]

and that mutual-help groups should serve as adjuncts to a treatment plan devised within the practice guidelines of the substance abuse treatment field. . . . According to the policy statement . . . mutual-help groups are an important component of treatment, but they cannot substitute for substance abuse treatment." *SAMHSA TIP 47*, at chapter. 1, 2–3.

[62] *SAMHSA TIP 47,* at Executive Summary, 2; for a detailed discussion *see SAMHSA TIP 47*, at chapter 4, 14–16.

[63] Ibid. at chapter 8, 3–4. The most commonly used theoretical approaches to treatment include (1) 12-step facilitation, (2) cognitive-behavioral, (3) motivational, (4) therapeutic community, (5) matrix model, and (6) community reinforcement and contingency management.

[64] *SAMHSA TIP 47,* at chapter 8, 4–6, chapter 1, 2–3.

[65] *SAMHSA TIP 47,* at chapter 8; *SAMHSA TIP 35*: *Enhancing Motivation to Change in Substance Abuse Treatment.*

[66] *SAMHSA TIP 47*, at chapter 8.

[67] *See* NATIONAL DRUG COURT INSTITUTE, THE DRUG COURT JUDICIAL BENCHBOOK, 74 (Douglas B. Marlowe & William G. Meyer eds., 2011), *available at* www.ndci.org/publications/more-publications/-drug-court-judicial-benchbook

[68] *SAMHSA TIP 47*, at chapter 6.

[69] *SAMHSA TIP 47,* at chapter 10.

Selecting and Working with Treatment Agencies—Learn to Become Competent Consumers of Clinical Practices

"Selecting competent treatment providers is a critically important task for any drug court program. . . . Admittedly, some communities might not have reasonable access to effective treatment programs that provide [evidence-based practices] and [best practices]. The substance abuse treatment field has, unfortunately, been relatively slow to adopt new and validated interventions, and there may not be meaningful consumer choice in a given jurisdiction. Under such circumstances, however, it is incumbent upon the drug court team to work diligently to encourage the eventual adoption of [evidence-based practices] and [best practices] going forward. There is no justification for permitting poor-quality or unvalidated [sic] *treatment services to continue to be administered unabated, with the excuse that criminal justice professionals are not qualified to judge the quality of those treatment services. Although it is inappropriate for judges, lawyers, or probation officers to engage in clinical practice, they can and must learn to become competent consumers of clinical practices. Where necessary, a drug court may enlist its own cadre of experienced clinicians to serve as consultants to the program on [evidence-based practices] and [best practices] or may need to obtain technical assistance and training from national, regional, or state organizations, such as NDCI [National Drug Court Institute]."*[70]

[70] NDCI, THE DRUG COURT JUDICIAL BENCHBOOK, at 91-2.

BJA Program Design Features relating to Key Component #4:

As noted in the *Introduction*, BJA and NIJ have identified seven evidence-based program design features that effective drug courts should utilize. Beginning in 2011, BJA began evaluating drug court grant funding using these seven design features as criteria.

BJA Program Design Features *Treatment and Other Services* and *Relapse, Prevention, Aftercare and Community Integration* both apply to Key Component #4.

- ***Treatment and Other Services***—The applicant should maintain program resources that address drug court participant needs identified over time; accommodate the range of treatment and other rehabilitation services required; and apply case management beyond initial referral to confirm that providers appropriately deliver ongoing assessment and services.
- ***Relapse Prevention, Aftercare, and Community Integration*—**From the first program phase, the applicant should demonstrate how culturally sensitive planning and other programming will be implemented to ***s***upport relapse prevention, community integration, and aftercare/continuing care services.

For more information on BJA Seven Program Design Features: www.research2practice.org.

Findings from NIJ Wellness Court Study: Component #4[1]

Problems Identified:

(1) Recidivism (post-program arrests) for alcohol- or drug-related offenses for a three-year period following Tribal Wellness Court participation ranged from 50 to 59% in the adult courts and more than 90% in the juvenile courts.

Relevant Lesson Learned #4: Integrate Culture, Not Religion, into the Tribal Wellness Court

- Integrate cultural tradition into treatment, but do not require participants to do activities that can be perceived as religious rather than cultural because many tribes are religiously diverse.
- Emphasize culture (e.g., how to build a sweat lodge) not religion (e.g., participating in a sweat lodge ceremony) in order to avoid conflict with individual religious beliefs.

[1] KAREN GOTTLIEB, LESSONS LEARNED IN IMPLEMENTING THE FIRST FOUR TRIBAL WELLNESS COURTS, (U.S. Department of Justice, National Criminal Justice Reference Service, NCJ 231168, 2005), note 1 at 24.

SUGGESTED PRACTICES

1. Tribal Wellness Court team members should continually learn about addiction (and substance abuse and substance dependence) and the leading approaches in treating addiction (and the various modalities and how to distinguish key concepts such as relapse and lapse).

2. Tribal Wellness Court team members should work together to understand and design the standard elements, therapeutic goals, and advancement requirements of a Tribal Wellness Court phased treatment plan.

3. Clinical assessments should include mental health assessments as warranted and the requisite treatment plan and services provided by a psychologist or psychiatrist in addition to standard drug and alcohol abuse counseling.

4. In designing Tribal Wellness Court phased treatment plans, the tribal court and Tribal Wellness Court team should take into consideration existing treatment resources and finances. However, the tribal court and Tribal Wellness Court team should plan to expand such services to fill gaps and to introduce state-of-the-art (for example, substance abuse, substance dependence, and addiction) treatment into the tribal community. This may require subcontracting for the services of licensed treatment professionals who are knowledgeable about the drug court model and the rapidly changing field.

5. Tribal Wellness Court teams should provide access to training for local treatment providers and other team members in the various screening/assessment techniques, therapies, and treatment modalities used by drug courts (for example, motivational interviewing and motivational enhancement therapy, cognitive-behavioral interventions, relapse prevention therapy, and family-based interventions).

6. Treatment plans should be tailored to the individual participant's needs based on the initial assessment. The treatment plan can be modified in response to additional assessments and/or change in circumstances. The participant should take an active role in the development of the treatment plan as well as integrating what treatment providers may recommend.

7. The Tribal Wellness Court team should ensure that case management is undertaken with care for each participant in order to assure that available additional support is provided to the participant.

8. The Tribal Wellness Court should require weekly or semi-monthly status hearings during the early phases of a participant in order to review participant compliance and progress with the treatment plan. Team and participant family members should be coordinated to support a commitment to and compliance with the treatment plan.

9. Once a participant agrees to be placed in a Tribal Wellness Court, the Tribal Wellness Court team should require the

participant to be immediately and actively involved in treatment screening, assessment, and services.

10. Continued coordination and collaboration with the Wellness Court's partners is necessary to plan and provide aftercare for participants after graduation.

Tribal Stories – Key Component #4
Eastern Band of Cherokee, North Carolina; Keweenaw Bay Indian Community, Michigan; Turtle Mountain Band of Chippewa Indians, North Dakota; Fallon Paiute Shoshone Tribe, Nevada; Wind River Indian Reservation, Wyoming; Fort Peck Assiniboine and Sioux Tribes, Montana; Prairie Band of Potawatomi Nation, Kansas; and Suquamish Tribe, Washington.

A Crow sweat lodge.--Museum of the American Indian

Healing and treatment are approached in a wide variety of ways by Tribal Healing to Wellness Courts. Not only do tribes utilize the spectrum of treatment modalities and programs, but they have also incorporated customary and traditional healing practices. Some of these practices are widely accepted as intertribal ceremonies, and others are specific to a certain tribal culture. Local tribal healers and knowledge carriers provide much of the guidance and direction for these practices. These traditional methods help to instill greater respect and reverence for a Healing to Wellness Court. They also generate greater credibility among tribal and community members for the court's healing goals and mission. The Eastern Band of Cherokee and Keweenaw Bay Indian Community have created a formal relationship with traditional healers and provide funds to pay for their services. The Turtle Mountain Band of Chippewa, Fallon Paiute Shoshone Tribe, Wind River Indian Reservation, and Fort Peck Tribes regularly utilize sweat lodge ceremonies for adults and juveniles. The Prairie Band Potawatomi Nation encourages participants to learn the tribal language, which helps to support and maintain tribal identity and belonging. The Suquamish Wellness Court conducts a canoe carving and extended canoe journey for participants and their families to honor and remember their forefathers and to form a relationship with the water and natural environment.

Master carvers working on a dugout canoe for a Suqamish family. Canku Ota Newsletter, 2011.

All of these practices help reconnect program participants to the tribal culture and people, which support and promote participant healing and treatment progress.

Key Component #5: Intensive Supervision

Tribal Healing to Wellness Court participants are monitored through intensive supervision that includes frequent and random testing for alcohol and drug use, while participants and their families benefit from effective team-based case management.

"The necessity for case management is implicit throughout The Key Components *document."*

"A successful drug court requires a coordinated team strategy and seamless collaboration between the treatment and justice systems. Case management is a series of interrelated functions that provides this needed coordination and seamless collaboration, and is essential for sustaining integrated and effective drug court systems. . . . Each team member represents an essential part of the drug court program and provides important input into the intertwined process of treatment, supervision, and accountability. Members of the drug court team perform specific and, at times, overlapping roles and functions that necessitate the chronicling and sharing of information among team members. While in many respects this myriad of team members provides a team-based case management structure to the drug court process, the management of each case and the coordination of all case-specific information related to a specific caseload typically falls to a designated primary or lead case manager."

"Case management . . . ensur[es] that: (1) clients are linked to relevant and effective services; (2) all service efforts are monitored, connected, and in synchrony; and (3) pertinent information gathered during assessment and monitoring is provided to the entire drug court team in real time."[71]

[71] National Drug Court Institute (NDCI), *Drug Court Case Management: Role, Function, and Utility*, MONOGRAPH SERIES 7, 1 (2006).

The Tribal 10 Key Components differ from the state key components most prominently in Key Component #5. The State Key Component #5 states "abstinence is monitored by frequent alcohol and other drug testing." Tribal Healing to Wellness Courts recognize the importance of frequent and random drug testing, and encourage its application throughout the Wellness Court program. However, drug testing alone is insufficient.

Drug court professionals now recognize that case management joins the "big three"—judicial leadership, treatment, and community supervision—in making a drug court effective. Thus, Tribal Healing to Wellness Courts have incorporated case management along with drug testing as two equally crucial aspects. Case management is the process of focusing on the holistic and basic needs of participants (for example, safety, food, shelter, emotional needs, medical needs, employment, education, and connection with community) and assisting them in addressing these needs. Two of the four case-management models are preferred for use in drug courts: the assertive community treatment model and the clinical/rehabilitation model.

The assertive community treatment model is an intensive case-management model that stresses frequent, community-based contact with participants using a multidisciplinary team approach. All team members share the caseload and work together in order to provide proactive services, assertive outreach, and strong advocacy to participants. The team provides many services to the client directly and, if referring to an outside agency, carefully monitors the relationship between the client and the service providers.

The clinical/rehabilitation model, alternatively, reflects the practice of many treatment providers in which treatment services are integrated with case-management services.[72]

Drug court professionals recommend the creation of a case manager position. The duties of a drug court case manager would include providing direct case-management services and drug court documentation and information sharing. In the Tribal Healing to Wellness Court context, given significant resource limitations, it is likely the Tribal Wellness Court coordinator or probation officer would perform case-management duties. Each Tribal Healing to Wellness Court program will need to negotiate clear roles, duties, and information documentation and sharing responsibilities, based upon available resources.

Team responsibilities would include ensuring that (1) appropriate confidentiality waiver forms have been developed and are being used, (2) MOAs detail what information should be shared by whom and when have been negotiated, signed, and are being followed, and (3) real-time information is being shared with the case manager daily, so that it can be shared with team members for a coordinated response.

MOAs should contain provisions governing how critical real-time information is shared, documented, and reported—negative and positive—including drug test results, treatment attendance (or lack thereof), law enforcement contact or new arrest, change of address, change of employment, report of alcohol or drug use (with or without a drug test result), physical health or mental health setbacks, or advancements and living condition changes. Not all new information need be exchanged. The point is to manage actionable information or information requiring a team response.

[72] NDCI, *Drug Court Case Management,* at 7–8.

Case-Management Functions and Tasks

Each Tribal Healing to Wellness Court must determine how to properly manage each case in compliance with Tribal Wellness Court goals and objectives, in consideration of locally available resources, and consistent with applicable law, policy, and procedure. The following tables illustrate important factors to include in the case management of typical Tribal Healing to Wellness Court cases. Tribal Healing to Wellness Courts may manage cases differently based upon the circumstances of the individual tribe.

NDCI Case-Management Functions and Task List[73]	
FUNCTION	TASK
Assessment	■ Initial determination of participant's needs, wants, strengths, and resources ■ Initial determination of participant's psychosocial situation
Planning	In collaboration with the participant and the team: ■ Define participant goals ■ Develop strategies for each goal ■ Identify who is responsible for each action in the strategy ■ Establish time frames
Linkage	■ Identify services and supports needed for the participant to meet his or her goals ■ Make referrals to appropriate services and supports ■ Provide the participant with information or assist the participant in assessing needed services
Monitoring	Maintain ongoing communication with services and supports, and conduct ongoing assessments of the participant's progress to determine: ■ Is the participant using the service? ■ Is the appropriate service being provided at an adequate intensity? ■ Is the participant benefiting from the service? (If not, return to planning and linkage functions.)
Advocacy	Help the participant access services for which he or she is eligible through: ■ Education of service providers ■ Persuasive communication ■ Negotiation ■ Use of policy and rights-protecting laws and rules

[73] NDCI, *Drug Court Case Management*, at table 1.

How Case Management Applies to the State Key Components[1]

State Key Component #1: Drug courts integrate alcohol and other drug (AOD) treatment services with justice system processing.
This component highlights the necessity of a multifaceted, collaborative "team" approach for integrating the delivery of services into the administration of justice and enhancing the justice and treatment systems' joint mission of promoting abstinence and law-abiding behavior. It underscores the need for collaborative goal setting and program monitoring through ongoing communication and continuous processing of timely and accurate information about each participant's performance in the program. It is the case manager who coordinates the flow of drug court information across and within the treatment and justice systems.

State Key Component #2: Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
The case manager assists in keeping these traditional adversarial parties focused on their primary purpose of the program: the participant's movement toward fulfilling his or her recovery plan. As an advocate for the participant's recovery, the case manager supports due process, ethical and strengths-based treatment, and confidentiality while promoting individual accountability and community safety. It is in this sense that the case manager helps bridge the traditional gap among the coercive traditions of justice, protection of the public, privacy mandates of treatment, and respect for individual rights.

State Key Component #3: Eligible participants are identified early and promptly placed in the drug court program.
The case manager helps ensure the coordination of this process by "tracking" and facilitating the prompt sharing among the team of all relevant information arising from the initial referral, eligibility screening, and assessment process.

State Key Component #4: Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
The case manager identifies and monitors each participant's unique needs for support and rehabilitation services, coordinates participant access to these services, and ensures linkage and coordination among the drug court service providers. The case manager works closely with the clinical treatment providers and community supervision officers to provide ongoing assessment and communication of the participant's progress and to coordinate referrals to appropriate ancillary service providers.

State Key Component #5: Abstinence is monitored by frequent alcohol and other drug testing.
The case manager ensures that drug test results, whether obtained by probation, treatment, law enforcement, or other court partners, are promptly and accurately recorded and disseminated to the drug court team.

State Key Component #6: A coordinated strategy governs drug court responses to participants' compliance.
As the central person responsible for coordinating team information flow, the case manager tracks and monitors the court's allocation of sanctions and incentives to each participant in order to help ensure that subsequent sanctions, incentives, and interventions are graduated, treatment-relevant, strengths-based, and otherwise consistent with the program's philosophy.

State Key Component #7: Ongoing judicial interaction with each participant is essential.
As the primary link between the treatment and justice systems, the case manager serves as the bearer of much participant information and, in this role, can give critical insight and input into the drug court judge.

State Key Component #8: Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.
The case manager ensures that all relevant information is accurately, promptly, and systematically documented so that ongoing monitoring of the participants and evaluation of the program can occur.

State Key Component #9: Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.
Because the case manager deals daily with clinical and ancillary service providers as well as justice system partners, he or she is well suited to facilitate interdisciplinary education within the drug court team. In some jurisdictions, case managers integrate interdisciplinary training into drug court meetings by periodically enlisting an ancillary service provider or justice system professional to address the team and, if appropriate, participate in the staffing process.

State Key Component #10: Forging partnerships among drug courts, public agencies, and community-based organizations increases the availability of treatment services, enhances drug court effectiveness, and generates local support.
While all drug court team members contribute to the formation and maintenance of these critical partnerships, it is the case manager that sustains ongoing contact with the key line staff of the partnering agencies and organizations. This consistent and direct contact with other community-based service-delivery professionals puts the case manager in a position to learn about the policies, procedures, capacities, strengths, and limitations of existing support service organizations. With this knowledge base, the case manager is well positioned to identify service gaps and community needs and offer strategies to facilitate collaboration between the court and the community.

[1] National Drug Court Institute (NDCI), *Drug Court Case Management: Role, Function, and Utility*, MONOGRAPH SERIES 7, 1-3 (2006).

About Case-Management Assessments (The Bio-Psychosocial Assessment Tool) [1]

Case-management assessments use a "bio-psychosocial" assessment tool. The assessment elicits information about a person's past and present life, including the following information:

- Alcohol and other drug use history
- Mental health history
- Physical health history
- Criminal history
- Education
- Emotional health/barriers
- Employment
- Family dynamics
- Housing
- Physical health/nutrition
- Spirituality
- Social support systems
- Special population needs (based on drug of choice; coexisting disorders; gender, ethnic, and cultural considerations; other health issues such as HIV and hepatitis C, sexual orientation, domestic violence, and sexual abuse)

- Transportation
- Treatment history

[1] For more information on case-management assessment tools, *see* American Psychiatric Association's *Handbook of Psychiatric Measures*, 2nd Ed., (American Psychiatric Publishing Inc. Washington D.C. (2008)).

Drug Testing—A participant's healing to wellness journey is not accomplished alone. Rather, the process or journey is taken with the support and encouragement of the Tribal Wellness Court staff, family, extended family, friends, and other community resources. The choice and challenge to follow a healthy lifestyle is a very difficult task. Because of the arduous nature of the journey, participants must be supported by others and sometimes require strict assistance and encouragement to stay on the right path. Drug testing plays this integral corrective role in a participant's healing to wellness journey. Random and frequent alcohol and drug testing serves as a reliable method to ensure that a participant receives the full benefits from a treatment plan. Drug testing helps to ensure that the participant is making progress and following the healing journey prescribed to him or her, and that he or she agreed to follow.

Frequent, random, and observed alcohol and drug testing are essential to document the participant's compliance with Tribal Healing to Wellness Court requirements, including abstinence or continued abstinence from drug and/or alcohol use. Testing may be done as part of an intake process to confirm a newly admitted participant's substance use history, as part of routine treatment and/or Wellness Court monitoring, and to identify an intoxicated participant or confirm abstinence. Testing monitors progress and encourages behavioral change. Alcohol- and drug-testing results are objective measures of treatment effectiveness, as well as a source of important information for periodic review of treatment progress. Testing also helps to shape the ongoing interaction between the court and each participant. Timely and accurate test results promote frankness and honesty among all parties. It also gives the participant immediate information about his or her own progress, keeping the participant actively involved in the recovery process, rather than as a passive recipient of services.

During the first weeks of treatment, treatment professionals recommend that testing be done twice a week with at least three days between tests. Once a participant is stabilized in treatment, they may require less intensive monitoring of abstinence. At this point, the frequency of scheduled tests and randomized collection times may be reduced.[74]

For tribes and Tribal Healing to Wellness Courts, the challenges include (1) where to site responsibility for doing the testing in the absence of tribal or on-reservation treatment providers; (2) consistently securing sufficient funding for transportation/gas, testing supplies, and verification; and (3) establishing a frequent and randomized schedule of testing during times of likely use (for example, weekends).

SAMHSA TIP 47, Appendix B: Urine Collection and Testing Procedures and Alternative Methods for Monitoring Drug Use

Consult Appendix B for more information regarding the following:

- Testing schedule
- Collection procedures and policies
- Selection of drug batteries and testing techniques
- Urine testing techniques
- Alternate testing methods (for example, breath, saliva, sweat, blood, and hair)

[74] *SAMHSA TIP 47*, App. B.

BJA Program Design Feature relating to Key Component #5:

As noted in the *Introduction*, BJA and NIJ have identified seven evidence-based program design features that effective drug courts should utilize. Beginning in 2011, BJA began evaluating drug court grant funding using these seven design features.

BJA Program Design Feature *Monitoring* applies to both Key Components #5 and #8.

- ***Monitoring***—The applicant should demonstrate a comprehensive plan to monitor drug court participants using random drug testing and community supervision; disseminate results efficiently to the drug court team; and immediately respond to noncompliance with program requirements.

For more information on the BJA Seven Program Design Features: www.research2practice.org

Findings from NIJ Wellness Court Study: Component #5[1]

Problems Identified:

There is difficulty in maintaining intensive supervision and monitoring because of shortage of probation officers and the relatively expensive cost of the drug testing supplies.

Lesson Learned #5: Monitor During Times When Illegal Acts Are Likely to Occur

- Monitor participants by using team member probation officers during the hours when illegal acts are most likely to occur. Probation officers need to be out in the community monitoring their clients and conducting alcohol and drug tests frequently and at unexpected times.

[1] KAREN GOTTLIEB, LESSONS LEARNED IN IMPLEMENTING THE FIRST FOUR TRIBAL WELLNESS COURTS, (U.S. Department of Justice, National Criminal Justice Reference Service, NCJ 231168, 2005), note 1 at 29.

SUGGESTED PRACTICES

1. Testing should be frequent, undertaken multiple times per week during the early phases of treatment, and reduced in frequency thereafter.
2. Testing should be undertaken randomly in order to assure participant compliance and accountability. Random testing means that the participant is unable to predict when the time of the test will occur.
3. The scope of testing should be sufficiently broad in order to detect the participant's primary drug of choice as well as other potential drugs.
4. Use technology that is reliable for drug testing when it must be determined whether a participant has used a specific drug.
5. Because the drug of choice in most indigenous communities is alcohol,

random use of a breathalyzer should be incorporated into the testing regimen.

6. Alcohol and other drug-testing policies and procedures should be based on established and tested guidelines.
7. If a program uses contracted laboratories to analyze urine or other samples, these laboratories should be held to established standards.
8. Test results should be available and communicated to the Tribal Wellness Court and the participant within one day.
9. The Tribal Wellness Court team should be notified immediately when a participant has tested positive, failed to submit to testing, submitted the sample of another, or adulterated a sample.
10. The Tribal Wellness Court team should respond immediately to any dirty drug tests or other noncompliance.
11. Tribal Wellness Courts should develop a coordinated strategy for responding to positive, missed, and fraudulent tests.

Tribal Stories – Key Component #5
Pascua Yaqui Tribe, Arizona

Drug and alcohol testing is a regular activity in Tribal Healing to Wellness Courts. It is not performed with the goal of punishing participants, but rather as a tool to support abstinence and sobriety. Many times, a participant will openly admit to a positive test. On other occasions, confirmation of a positive test is required and samples must be sent to a lab to confirm initial test results. Drug testing labs are often many miles away from tribal communities. The cost for delivery and testing are expensive. The Pascua Yaqui Tribe, however, operates a lab of its own, which its Healing to Wellness Court utilizes regularly. The service greatly improves the time for test results to be provided to the team and the participant. This supports the court's emphasis on timely response to potential program violations. This valuable resource gives the Wellness Court team the opportunity to work more closely and timely with its participants on their journey to wellness.

Key Component #6: Incentives and Sanctions

Progressive rewards (or incentives) and consequences (or sanctions) are used to encourage participant compliance with the Tribal Healing to Wellness Court requirements.

> *The healing journey is not only a pathway; it is a test of character, self-determination, and drive. It is a difficult road and along the entire route there are crossroads that test the participant's sense of direction and resolve. Though Tribal Wellness Court attempts to clearly identify—with signs and markers—the most direct path to wellness, alternative paths appear less daunting. A participant's pace and momentum depend both on his commitment and dedication to stay the course, and his ability to make the better choice at every turn. Wrong turns can lead to distractions and even dead-ends that only divert the participant's initiative and focus away from the ultimate destination of healing. Positive turns move the participant closer to that destination.*
> *— Tribal Judge*

The drug court model was designed to use strategies to respond to participant behavior, for example to reward positive behavior and sanction negative behavior. The goal is to have participants successfully comply with and complete the Tribal Healing to Wellness Court requirements and their individual treatment plans. The primary focus has been on how such incentives and sanctions are applied in the courtroom. But drug court professionals stress that such measures should also be applied in treatment, probation, and case-management settings. The basic techniques break down into positive reinforcement methods and sanctions. Positive reinforcement methods (incentives) are associated with promoting sustained behavior change, and sanctions are associated with short-term effects (hours or days) when a behavior "cannot be permitted to recur and must be squelched quickly in the interest of public safety."[75] Tribal Healing to Wellness Court teams can and should model incentives and sanctions in culturally appropriate ways. Each community is distinct, and what may be an incentive in one community may be irrelevant in another. Evaluating the value of items and activities to the community base will provide the Tribal Healing to Wellness Court team with several tribally appropriate motivational options for rewarding (incentivizing) or sanctioning participant behavior.

Positive Reinforcement Methods—"The point of motivational incentive programs is to bring the benefits of abstinence forward in time by providing tangible and immediate rewards." [76] The original model was a "voucher system" model in which points could be earned each time a negative drug test was submitted.[77] The points had a monetary value and could be used to purchase retail goods (for example, clothing and sports equipment) and services (for example, rent or bill payments) with the staff making the purchases. A later version called a "fishbowl system" varied the model in order to lower costs. In the fishbowl system, participants could draw a slip of paper from a

[75] National Drug Court Institute (NDCI), *Quality Improvement for Drug Courts: Evidence-Based Practices*, "Motivational Incentives in Drug Courts," MONOGRAPH SERIES 9, 101-104, 109-114 (2008); *see also* ibid. at "Motivational Incentives in Drug Courts" and "Application of Sanctions," 97 and 107, respectively.

[76] NDCI, "Motivational Incentives in Drug Courts," at 99.
[77] NDCI, "Motivational Incentives in Drug Courts," at 99.

bowl each time they submitted a drug-free test, with a chance of winning prizes that were displayed on site. Both systems have been shown to promote sustained abstinence in treatment settings. Drug courts are now applying this approach (using low-cost, prize-based motivational incentives) in order to achieve other goals, such as improved attendance and adherence to treatment goals. The principle of positive reinforcement is thought to promote desired behavior while "fostering a more positive and celebratory atmosphere." Three basic steps are followed in implementing a successful positive reinforcement intervention: (1) selection and definition of target behaviors (for example, keeping regular status hearing dates, giving urine samples on demand, attending self-help meetings, and remaining abstinent); (2) identification of effective "reinforcers" (for example, prizes, vouchers, verbal praise, and social support); and (3) development and implementation of a plan that ensures immediate, reliable, and consistent application of the intervention.[78]

Evidence-Based Practices in Nontribal Drug Courts: Incentives[79]

1. Positive reinforcement should be incorporated into all levels of the drug court program.

2. Reports to the judge should highlight the success and accomplishments of participants.

3. The judge should deliver praise for accomplishments at all status hearings.

4. In courts with more resources, tangible incentives (for example, vouchers, gift cards, or prizes) should be incorporated into the system at drug treatment, probation, case-management, and courtroom levels to reinforce regular attendance and drug abstinence in each of these settings.

Sanctions—"Generally speaking, rewarding desired behavior is more effective and efficient than punishing undesired behavior for improving client outcomes . . . sanctions may bring with them a host of negative side effects and their influence tends to be fleeting once control over the client has ended. Nevertheless, some behaviors cannot be permitted to recur and must be squelched quickly in the interest of public safety."[80] Sanctions, when administered correctly and in combination with adequate treatment and incentives for sobriety, are thought to be effective at reducing substance use and crime.

Administering sanctions correctly requires

[78] NDCI, "Motivational Incentives in Drug Courts," at 99–100.

[79] NDCI, "Motivational Incentives in Drug Courts," at 103-4.

[80] NDCI, "Motivational Incentives in Drug Courts," at 109.

attention to eight attributes:

(1) Specificity—Clients need to have advance notice about the specific behaviors that may trigger a sanction;

(2) Certainty—It is important to closely monitor a participant's treatment attendance, substance use, and criminal activity on a continuous basis in order to ensure that infractions are detected and elicit an appropriate consequence;

(3) Second Chances—Giving a participant a second chance before administering a sanction reduces the certainty that sanctions will be applied, which in turn reduces their efficacy;

(4) Immediacy—A participant's performance must be evaluated frequently and sanctions applied quickly because the effects of sanctions degrade within only hours or days of an infraction;

(5) Magnitude—Sanctions tend to be least effective at the lowest and highest magnitudes and most effective within a moderate range;

(6) Therapeutic Response versus Punitive Sanctions—A controversy exists about whether an increase in treatment requirements should be treated as a sanction for misbehavior (for example, sends negative signals about treatment and interferes with the "therapeutic alliance");

(7) Behavior Shaping—Distinguish between short-term and long-term goals and apply sanctions accordingly (excessive demands on clients can overwhelm them and cause them to give up); and

(8) Fairness—Participants are most likely to respond well to a sanction if they feel that they had a fair opportunity to voice their side of the story, were treated in an equivalent manner to similar people in similar circumstances, and were accorded respect and dignity throughout the process.[81]

[81] NDCI, "Motivational Incentives in Drug Courts," at 109–13.

Evidence-Based Practices in Nontribal Drug Courts—Sanctions[1]:

1. Lay the Ground Rules in Advance—Infractions should be concretely defined, and the permissible range of sanctions that can be imposed for certain types of infractions should be clearly specified. This information should be memorialized in a written program manual.

2. Monitor Clients Closely—Treatment attendance, substance use, and criminal activity should be carefully monitored on a continuous basis in order to ensure infractions are reliably detected and responded to. The frequency of urine testing should be the last supervisory burden that is lifted, and only after clients have achieved several months of consecutive abstinence in a non-controlled setting.

3. Second Chances Should Be Earned—Sanctions should only be withheld if clients have engaged in concrete actions intended to correct transgressions.

4. Respond to Infractions Promptly—Client's performance must be evaluated frequently and sanctions applied quickly where indicated. Delays greater than two weeks can substantially reduce the efficacy of sanctions, especially for individuals with more serious drug problems or criminal backgrounds.

5. Use Moderate Sanctions—Sanctions tend to be least effective at the lowest and highest magnitudes and most effective in the moderate range. It is best to have available a range of intermediate sanctions that can be ratcheted upward or downward in response to clients' behaviors.

6. Punish Misbehavior but Treat Dysfunction—Administer punitive sanctions for willful noncompliance with program requirements but apply remedial or therapeutic responses to insufficient progress in treatment.

7. First Things First—During the early phases of treatment, shape clients' behaviors by applying higher-magnitude sanctions for failing to satisfy short-term proximal goals and lower-magnitude sanctions for failing to satisfy long-term distal goals.

8. Be Fair—Give clients a chance to explain their side of the story, pay careful attention to issues of equal protection, and always treat clients with respect and dignity.

9. Do Not Rely on Sanctions Alone—The effects of sanctions are unlikely to endure after graduation unless clients also receive positive rewards for engaging in pro-social behaviors that will continue to compete against drug use and crime into the future.

[1] National Drug Court Institute, *Quality Improvement for Drug Courts: Evidence-Based Practices*, "Application of Sanctions," MONOGRAPH SERIES 9, 113-14 (2008).

BJA Seven Program Design Features relating to Key Component #6:

As noted in the *Introduction*, BJA and NIJ have identified seven evidence-based program design features that effective drug courts should utilize. Beginning in 2011, BJA began evaluating drug court grant funding using these seven design features as criteria.

BJA Design Program Feature *Procedural and Disruptive Justice* applies to Key Components #6.

- ***Procedural and Distributive Justice***—Applicants should establish and clearly communicate a system of graduated sanctions and incentives that is activated and delivered with certainty in response to offender behavior. Information from the drug court team and the offender should be considered in determining noncompliance and the appropriate response. Specific program responses should be meaningful to the offenders, understandable, and delivered in a manner that can be perceived as fair and equitable.

For more information on the BJA Seven Program Design Features: www.research2practice.org

Findings from NIJ Wellness Court Study: Component #6[1]

Problems Identified:

(1) Incarceration was often too readily used as a sanction, and participants could serve more time while in Tribal Wellness Court than if they had served their original sentence.

(2) Participants complained that hearsay evidence was used in determining noncompliant behavior.

(3) Participants complained about inconsistent application of sanctions and incentives (lack of graduated sanctions and incentives tied to specific behaviors).

(4) Too much focus on sanctioning negative behavior and not enough focus on rewarding positive behavior.

(5) Using incarceration too readily, rather than thinking of more therapeutic alternatives.

Lesson Learned #6: Reward Positive Behavior

- Reward compliant behavior with incentives rather than emphasizing the punishment of noncompliant behavior with sanctions.
- Be judicious in levying nontherapeutic sanctions, such as incarceration, that are antithetical to the holistic healing philosophy underlying Tribal Wellness Courts.

[1] KAREN GOTTLIEB, LESSONS LEARNED IN IMPLEMENTING THE FIRST FOUR TRIBAL WELLNESS COURTS, (U.S. Department of Justice, National Criminal Justice Reference Service, NCJ 231168, 2005), note 1 at 19.

SUGGESTED PRACTICES

1. A comprehensive approach to community supervision requires frequent and regular communication between the team members and timely reporting of participants' progress and/or noncompliance to program rules and treatment plans.
2. Monitoring and support of participants should occur during regular business hours *and* in the evening and weekends when participants face potential challenges to engage in noncompliant conduct and activities.
3. Procedures for reporting noncompliance should be clearly defined in the Tribal Wellness Court's policies and procedures manual, the participant's handbook, and other operating documents.
4. The Tribal Wellness Court should respond immediately to applicable participant conduct by the next review/status hearing, rewarding productive progress and sanctioning noncompliance.
5. The Tribal Wellness Court's policy regarding compliance and noncompliance should be explained verbally and provided in writing to participants before or at their official orientation, as well as at various points of program participation.
6. Tribal Wellness Courts should impose appropriate graduated responses for choices that involve further use of alcohol and/or drugs or other noncompliance. The first sanction needs to teach accountability, whereas the subsequent sanctions may be used more as a means of punishment (sanction).
7. Participants should be made aware of potential responses (sanctions and/or incentives) before officially starting the Tribal Wellness Court. When possible, include participants in developing and revising the incentive and sanction schedule.
8. The certainty and swiftness of the Tribal Wellness Court response to participant behavior should be reviewed with the participant in written form and verbally prior to enrollment in order to support the fullest comprehension.
9. Consistent and equitable distribution of sanctions and incentives require close supervision of participants and transparent documentation of the reward and sanction system used.
10. Periodic review of the policies should be made with participants throughout their stay in the Tribal Wellness Court.
11. Where possible, choices for sanctions and incentives should offer flexibility for each participant—that is, what is a punishment for one participant may be an incentive for another.
12. The team should be sensitive to the participants' motivations for reoffending before imposing a sanction and/or incentive because there may be underlying reasons as to why a participant is reoffending. For example, a Tribal Wellness Court participant might reoffend so that he or she would be jailed in order to have a place to sleep and eat meals.

13. Rewards or incentives for compliance may include encouragement and praise from the bench; honoring ceremonies; publicly awarded tokens, medals, and/or certificates showing participant progress; recognition for involvement in community or cultural activities; community recognition of participant success (such as a story in a tribal newsletter); traditional gifts (such as eagle feathers, baskets, or Pendleton blankets); gift cards, movies tickets, and so forth; and/or forgiven fines or fees.
14. Sanctions may include warnings and admonishment from the bench in open court, increased frequency of alcohol and other drug testing, increased court appearances, increased community service hours (for example, providing services for tribal elders), required appearances before traditional forums or instruction by tribal elders, confinement in the courtroom or jury box, increased monitoring, and/or fines.
15. If detention is to be utilized as a sanction, a clear policy should be reviewed with participants and consistently followed.

Tribal Stories – Key Component #6
Fort McDowell Yavapai Nation, Arizona

Tribal Healing to Wellness Courts are creative and resourceful when it comes to awarding incentives and issuing sanctions. For instance, the Fort McDowell Wellness Court uses a fishbowl to provide the element of choice, chance, and circumstance to the awarding process. Participants pick from a basket of flower petals that have numbers that correspond with a number on gifts (incentives) in the coordinator's office. The values of these incentives range from $3.00-$30.00 and may include items for which participants have shown much appreciation. Adding another layer of chance to Fort McDowell's fishbowl practice, awarded participants may opt instead to take a ticket. The "ticket" is placed in another "bowl" for a quarterly drawing. The incentives in the quarterly drawing can range from $100-$200. They are prizes appealing enough for participants to work hard to earn more tickets. The fishbowl, however, does not have to include only things of monetary value. The same notions of choice and chance are apparent if the possibilities include a "leave early from hearing" card, an "excused check-in" pass, or some similar programmatic perk. This fun and adaptable "fishbowl" device is just one example of how Tribal Healing to Wellness Courts innovatively reward participants for positive and productive efforts.

Fort McDowell Courtroom and Fishbowl

Key Component #7: Judicial Interaction

Ongoing involvement of a Tribal Healing to Wellness Court judge with the Tribal Wellness Court team and staffing, and ongoing Tribal Wellness Court judge interaction with each participant are essential.

> *In focus group sessions with drug court participants, offenders told researchers that personal attention from the judge during status hearings (which take up the greatest portion, by far, of a drug court judge's time) was the most important influence of their drug court experience. This special relationship, along with the judge's ability to resolve issues involving old warrants, childcare, employment, and social services, was pivotal in keeping participants in the program.*[82]

The Tribal Healing to Wellness Court judge plays an extremely important role in monitoring participant progress and in using the authority of the court to promote positive outcomes for the participant. Key Component #7 emphasizes the importance of interactions between the participant and the judge and stresses the frequency and continuity of interaction. Judges are expected and encouraged to attend Tribal Healing to Wellness Court team meetings in which participant progress is discussed, attend Tribal Wellness Court steering committee meetings, and preside over Tribal Wellness Court hearings. Judges typically receive weekly updates on participant progress. In Tribal Healing to Wellness Courts, the judicial role may be carried out by a non-lawyer judge or a traditional dispute-resolution authority and/or elder, as may be appropriate in the tribal community. For example, in some tribal communities, the judicial role is carried out by a panel of judges or elders. The Tribal Healing to Wellness Court judge or panel must oversee coordinated communication, cooperation, and decision making among the court, treatment, child welfare services (social services), probation, and other agencies. For guidance on typical Tribal Healing to Wellness Court judge responsibilities, Tribal Wellness Court teams may refer to TLPI's forthcoming Judges' Bench Book, as well as Judge Core Competencies recommended by the National Drug Court Institute (NDCI) (see box below).

The tribe's choice of the person to be the Tribal Healing to Wellness Court judge needs to take into consideration the ability of the person to step out of the traditional judge's role as arbiter of criminal and civil disputes and step into the role of a judge of a problem-solving court with therapeutic justice as its goal.

Regardless of whether a judge, a panel, or elders preside over the Tribal Healing to Wellness Court, careful training in the drug court model is critical and may require assistance to ensure that language and cultural values do not become an obstacle to the successful operation and administration of the Tribal Wellness Court.

> *When interacting with participants (and team members), never underestimate the healing power of a smile, of a kind word. The business of change is hard, so be compassionate. Remember that the point isn't to punish, but to transform lives.*
>
> – Judge Korey Wahwassuck
> Leech Lake – Cass County Wellness

[82] NATIONAL INSTITUTE OF JUSTICE, DRUG COURTS: THE SECOND DECADE, 11 (NCJ 211081, 2006).

Court and Leech Lake-Itasca County
Wellness Court,
Leech Lake Band of Ojibwe Indians

As Drug Court Judge, I take on a more supportive role when I address each participant from the bench. I sense that in time the kids can see that I am no longer this stern, authoritative figure, but I am someone who actually cares about their future.

– Judge Jay Pedro
Sap Hihim Hekth A'lga (Children on the Good Path) Juvenile Drug Court,
Gila River Indian Community

Core Competencies of a Drug Court Judge[1]

Core Competency 1—Participates fully as a drug court team member, committing him- or herself to the program, mission, and goals, and works as a full partner in order to ensure their success.

Core Competency 2—As part of the drug court team, in appropriate non-court settings (such as, staffing), advocates for effective incentives and sanctions for program compliance or lack thereof.

Core Competency 3—Is knowledgeable of addiction, alcoholism, and pharmacology generally and applies that knowledge to respond to compliance in a therapeutically appropriate manner.

Core Competency 4—Is knowledgeable of gender, age, and cultural issues that may impact the offender's success.

Core Competency 5—Initiates the planning process by bringing together the necessary agencies and stakeholders to evaluate the current court processes and procedures and thereafter collaborates in order to coordinate innovative solutions.

Core Competency 6—Becomes a program advocate by utilizing his or her community leadership role in order to create interest in and develop support for the program.

Core Competency 7—Effectively leads the team to develop all the protocols and procedures of the program.

Core Competency 8—Is aware of the impact that substance abuse has on the court system, the lives of offenders, their families, and the community at large.

Core Competency 9—Contributes to the education of peers, colleagues, and judiciary about the efficacy of drug courts.

[1] NATIONAL DRUG COURT INSTITUTE, THE DRUG COURT JUDICIAL BENCHBOOK, 47 (Douglas B. Marlowe & William G. Meyer eds., 2011), *available at* www.ndci.org/publications/more-publications/-drug-court-judicial-benchbook.

BJA Seven Program **Design Features** relating to Key Component #7:

As noted in the *Introduction*, BJA and NIJ have identified seven evidence-based program design features that effective drug courts should utilize. Beginning in 2011, BJA began evaluating drug court grant funding using these seven design features as criteria.

BJA Program Design Feature *Judicial Interaction* applies to Key Components #7.

- ***Judicial Interaction***—Judges should interact directly and regularly with drug court participants during drug court hearings, which should be as frequent as the participant may require. As the program leader, the judge will maintain authority by demonstrating support for the program and knowledge of individual offenders. Communication between the participant and the judge should be based on a foundation of respect, and judges must maintain an understanding of program resources available to assess and respond to participant behavior.

For more information on the BJA Seven Program Design Features: www.research2practice.org

Findings from NIJ Wellness Court Study: Component #7[1]

Problems Identified:

The original judge left and was replaced by a judge who did not practice Tribal Wellness Court principles or who was not a team player.

Lesson Learned #7: Choose a Wellness Court Judge Who Can Be Both a Leader and a Team Player

Choose a judge for Tribal Wellness Court who understands and practices Tribal Wellness Court philosophy. The judge makes or breaks the Tribal Wellness Court; not every judge can relinquish the traditional role of sole arbiter and be a team player.

[1] KAREN GOTTLIEB, LESSONS LEARNED IN IMPLEMENTING THE FIRST FOUR TRIBAL WELLNESS COURTS, (U.S. Department of Justice, National Criminal Justice Reference Service, NCJ 231168, 2005), note 1 at 40.

SUGGESTED PRACTICES

1. The judge or captain of the Tribal Wellness Court team effectively and efficiently conducts the weekly staff meeting.
2. The judge must have a basic understanding of alcohol and other drug treatment and be able to discuss the treatment plan with treatment providers. The judge must also keep up to date on available healing resources that may benefit the Wellness Court and its participants.

3. Tribal Wellness Courts require judges to step beyond their role of sole decision maker and into a position that promotes a partnership perspective—at times more captain than coach, and at other times, vice versa. Not every judge can serve proficiently as a Tribal Wellness Court judge.

4. The judge interacts directly and regularly with participants at court appearances to review progress or lack thereof; educate; encourage for compliance; and/or discipline for noncompliance.

5. The judge maintains authority and leadership of a Wellness Court by playing an active role in the treatment process, including frequently reviewing participant treatment progress as well as the status provided by the treatment providers and staff.

6. The judge responds to each participant's positive efforts as well as to noncompliant behavior respectfully and through a consistently applied set of rewards and punishments (incentives and sanctions).

Tribal Stories – Key Component #7
Leech Lake Band of Ojibwe Indians, Minnesota; and Gila River Indian Community, Arizona

Ongoing, consistent, and active judicial interaction and participation in Tribal Healing to Wellness Court processes and procedures gives a Tribal Wellness Court clout, credence, and character. Judges, or decision makers, not only conduct hearings with clients, but they also facilitate staffing meetings and guide and direct the efforts of the Tribal Healing to Wellness Court team. Not all judges can serve as a Tribal Healing to Wellness Court judge because it requires the relinquishment of some control and decision-making power to the team. Moreover, a Tribal Healing to Wellness Court judge must incorporate a healing aspect in the administration of justice and have the ability to connect and communicate with team members, clients, and the community. A few Healing to Wellness Court judges have emerged as central links to their team, including Judge Korey Wahwassuck of the Leech Lake-Cass County Wellness Court and the Leech Lake-Itasca County Wellness Court, and Judge Jay Pedro of the Sap Hihim Hekth A'lga Juvenile Drug Court of the Gila River Indian Community. They have the great ability to encourage and direct others with the skill and patience of a fully engaged team coach. They know when to become actively involved and when to leave the team alone. Through stories, lectures, and memories, these judges lead and teach from the Tribal Healing to Wellness Court bench. Along with benefiting participants, the judges instruct the team, participant families, and the community.

Gila River Indian Community Court House

Key Component #8: Monitoring and Evaluation

Process measurement, performance measurement, and evaluation are tools used to monitor and evaluate the achievement of program goals, identify needed improvements to the Tribal Healing to Wellness Court and to the tribal court process, determine participant progress, and provide information to governing bodies, interested community groups, and funding sources.

Successful Tribal Healing to Wellness Courts carefully collect, organize, analyze, and evaluate information from the beginning of the planning stage and throughout program operations. There are three primary purposes for the collection and analysis of Tribal Healing to Wellness Court information. First, it is important to frequently monitor internal program operations in order to make changes to improve the existing process. Second, it is necessary to demonstrate the program's effectiveness and impact on the community to tribal, federal, state, and private policy-makers and funders. Information, including collected data and stories, helps to show the success of the Tribal Healing to Wellness Court. Third, funding sources may evaluate how well the court adheres to their particular grant management standards, design features, and performance measures.

In 2004, the NDCI established the National Research Advisory Committee (NRAC) to create and develop a uniform research plan for drug court data collection and analysis and to provide a uniform and manageable data collection and evaluation strategy for local drug court programs. The resulting "process evaluation" and "performance measurement" tools may be used by Tribal Healing to Wellness Courts to promote sound management practices and to answer questions from stakeholders and funding agencies.

Drug court process evaluations are tools to be used by managers and stakeholders as they seek to maintain successful drug court programs, enhance services, and promote research-based practices.[83] Ideally, a drug court process evaluation would be undertaken annually. Process evaluations should include descriptive statistics that are used to answer questions about the level to which the program is meeting its goals. The seven basic elements to be considered are:

1. Program Goals—Is the court achieving its program goals? Is the court achieving the legislative goals?

2. Target Population—Is the court reaching the defined target population? Is the target population appropriately defined?

3. Alcohol and Drug Abuse Treatment—Is the court providing the appropriate dosage of treatment for participants? Are participant treatment needs (as determined by assessment) being addressed?

4. Court Process—Is the court admitting participants in a timely fashion? Are drug tests and other services occurring on a timely basis? Do sanctions and incentives make sense? Are sanctions and incentives having the intended effects? What is the ratio of sanctions

[83] Cary Heck and Meridith H. Thanner, "Evaluating Drug Courts: A Model for Process Evaluation," DRUG COURT REVIEW 5, no. 2, 32 (2006).

and incentives to the precipitating behaviors of participants?

5. Units of Service—Are participants compliant with court requirements? Are participants getting the services they need?

6. Team Member Cooperation—Does the drug court team work well together?

7. Community Support—Does the community support the program?[84]

Tribal Healing to Wellness Court coordinators should direct evaluators to consider additional questions specific to their jurisdiction.

Drug court performance measurement is the establishment of research-based indicators that measure drug court program activity in order to determine correlations (not causes).[85] Ideally, a drug court performance evaluation would take place toward the end of a particular grant and support further fundraising efforts. It is no longer recommended that drug courts pursue outcome evaluations.[86] Instead, the NRAC has developed four primary drug court performance measures or indicators:

1. Retention—What is the retention rate?

2. Sobriety—What is the average stretch of sobriety for a graduating participant? What are the trends in participant sobriety over the course of the program?

3. Recidivism—What is the in-program recidivism rate? What is the post-program recidivism rate? How do participants compare to other similarly situated offenders in recidivism?

4. Units of Service—Which services affect participants in a positive way? Does the way the drug court program brokers services positively affect participants?[87]

Collection of data is recommended; however, there is no need for a specialized Tribal Healing to Wellness Court case-management system to collect data for process evaluations or performance measures. The Excel and Access software programs of the Microsoft Office Suite can be used in conjunction with the information on the specific data elements (in Appendix B) in order to create a simple but usable and valuable database for evaluations and performance measurement. Also, the NIJ has developed a logic model for drug court teams to guide evaluations and performance measurement of drug court programs.[88]

Nevertheless, a free, generic Management Information System (MIS) is available for download at the American University website. The Buffalo Drug Court MIS, a system that mirrors the actual MIS system used by the Buffalo, New York Drug Court, Mental Health Court, and Veterans Court, was donated to the BJA Drug Court Technical Assistance Project at the American University for distribution to other drug courts.[89]

[84] Cary Heck, National Drug Court Institute, "Local Drug Court Research: Navigating Performance Measures and Process Evaluations," LOCAL DRUG COURT RESEARCH, MONOGRAPH SERIES 6, 4-7, 21 (2006).
[85] Cary Heck and Meridith H. Thanner, National Drug Court Institute, "Drug Court Performance Measurement: Suggestions from the National Research Advisory Committee," DRUG COURT REVIEW 5, no. 2, 37 (2006).
[86] Heck, "Local Drug Court Research: Navigating Performance Measures and Process Evaluations," LOCAL DRUG COURT RESEARCH, MONOGRAPH SERIES 6, 7 (2006).
[87] Heck and Tanner, "Drug Court Performance Measurement," at 7–12, 21. For a comprehensive list of data elements for adult drug courts see App. B.
[88] *See* CHEESEMAN II, NIJ, PERFORMANCE MEASUREMENT AND PROGRAM EVALUATION FOR DRUG COURTS, (NCJ231775, 2010).
[89] Contact justice@american.edu to learn more.

BJA Program **Design Feature** relating to Key Component #8:

As noted in the *Introduction*, BJA and NIJ have identified seven evidence-based program design features that effective drug courts should utilize. Beginning in 2011, BJA began evaluating drug court grant funding using these seven design features as criteria.

BJA Program Design Feature *Monitoring* applies to both Key Components #5 and #8.

- ***Monitoring***—The applicant should demonstrate a comprehensive plan to monitor drug court participants using random drug testing and community supervision; disseminate results efficiently to the drug court team; and immediately respond to noncompliance with program requirements.

For more information on BJA Seven Program Design Features: www.research2practice.org

Findings from NIJ Wellness Court Study: Component #8[1]

Problems Identified:

(1) The purpose and goals of the Tribal Wellness Courts were not well known to their communities at large.

(2) Lack of automated (computerized) wellness records.

(3) Tribal Wellness Court ended once the federal funding ended.

Lesson Learned #8: Collect Automated Wellness Court Information Systematically from Day One

- Begin systematic and automated data collection on day one of the Tribal Wellness Court in order to allow for rigorous internal and external evaluations.
- Do not wait until the Tribal Wellness Court is underway and retrospectively collect the information.

[1] KAREN GOTTLIEB, LESSONS LEARNED IN IMPLEMENTING THE FIRST FOUR TRIBAL WELLNESS COURTS, (U.S. Department of Justice, National Criminal Justice Reference Service, NCJ 231168, 2005), note 1 at 46.

SUGGESTED PRACTICES

1. The collection and management of information, and the effective evaluation of such data, begins in the initial comprehensive planning stage, including the development of program goals and objectives.
2. Specific and measurable goals that define the parameters of data collection and management should be established early and then evaluated at repeated intervals.

3. An evaluator can serve as a valuable member of the planning team.

4. Data needed for internal program monitoring should be collected in records maintained for day-to-day program operations.

5. Team members should gather and organize data in useful formats for regular review.

6. Logic models, diagrams, and flow charts may be used to delineate critical steps in a Tribal Wellness Court process, both for explaining to others and to highlight critical information points requiring documentation to staff.

7. Team members should keep their home agencies informed of Tribal Wellness Court data requirements and facilitate official authorization when necessary.

8. Information regarding monitoring and evaluation is gathered *at program start* through an automated system that provides timely and useful reports. If an automated system is not available, manual data collection and report preparation should be designed to fit the available record-keeping system.

9. Additional monitoring information can be acquired through observation by program staff and through participant interviews.

10. Automated and manual information systems should adhere to written guidelines that protect against unauthorized disclosure of sensitive personal information about individuals and families.

11. The Tribal Wellness Court team should review outside court evaluations and program monitoring reports. They can be useful to analyze program operations, gauge effectiveness, and modify procedures and refine goals when necessary.

12. Process evaluation activities should be undertaken throughout the course of Tribal Wellness Court operations, as early as the planning stage and throughout implementation.

13. If feasible, a qualified independent evaluator should be selected and given responsibility for developing and conducting a process and performance evaluation design and for preparing interim and final reports. If an independent evaluation is unavailable, a Tribal Wellness Court may design and implement its own evaluation, based on guidance available in the field.

14. Judges, prosecutors, the defense advocates, treatment staff, and others may design evaluations for their components collaboratively with the evaluator. The independent evaluator should assist the Tribal Wellness Court's information-systems expert design and implement the information-management system.

15. The independent evaluator should have access to relevant justice system and treatment information and maintain contact with Tribal Wellness Court team members in order to provide information on a regular basis.

16. At least six months after participants begin and exit a Tribal Wellness Court, progress and status information should

be gathered and evaluated that is designed to document the participant's full programmatic progress.

17. The success of Tribal Wellness Court graduates and those individuals within a comparison group (which should have been defined during the planning stages of the Tribal Wellness Court) should be examined in order to determine the long-term performance of the Tribal Wellness Court.

Tribal Stories – Key Component #8
Turtle Mountain Band of Chippewa Indians, North Dakota

Capturing and analyzing court and client information presents a complex challenge to Tribal Healing to Wellness Courts. Paper records largely account for most records and are still kept in order to review and evaluate program operations and participant progress. The Turtle Mountain Wellness Court developed a computerized database that allows them to maintain the data and information important to their program and participants. The court is fortunate to have a coordinator with computer knowledge and skills who utilized Microsoft Access to tailor a database for the Wellness Court. The system is adaptable and can change with the court and clients. Information is readily available and Turtle Mountain can produce requested data for both staff and evaluators for monitoring and evaluation purposes. In this way, their story is well kept and easily shared with others. The coordinator and court have been willing to assist other Tribal Healing to Wellness Courts develop a similar system for their own courts.

Turtle Mountain Tribal Court of Appeals at the University of North Dakota Law School, 2011.

Key Component #9: Continuing Interdisciplinary and Community Education

Continuing interdisciplinary and community education promotes effective Tribal Healing to Wellness Court planning, implementation, and operation.

The structure of the Tribal Healing to Wellness Court teams varies widely, including team members from various disciplines. Tribal Healing to Wellness Court teams may include tribal employees and service providers—Native and non-Native—as well as community leaders, healers, mentors, or others. Team members bring a wealth of experience, expertise, and resources to the Tribal Healing to Wellness Court from their different fields and backgrounds. Applying their knowledge and know-how, team members play important and crucial roles in ensuring that the Tribal Healing to Wellness Court works.

Tribal Healing to Wellness Court team members need to understand each other's roles to be effective, and ongoing cross-training is encouraged. Previous experience shows that judges and court personnel typically need to learn about the nature of alcohol and drug problems, as well as theories and practices supporting specific treatment approaches. Treatment providers typically need to become familiar with criminal justice accountability issues, court operations, and legal theory and practice, particularly due process. All team members must understand general drug-testing standards and procedures as well as the street knowledge or drug culture that participants may be used to.

Interdisciplinary education and cross-training provide the necessary shared understanding of the values, goals, and operating procedures of the treatment, justice system, and ancillary service components of the Tribal Healing to Wellness Court, thus empowering teams to perform with greater efficiency and effectiveness. Continuing interdisciplinary education helps to institutionalize the Tribal Healing to Wellness Court and moves it beyond a simple program identity to a more entrenched and permanent governmental fixture. Moreover, the knowledge gained from interdisciplinary education creates in each team member an intensive shared understanding about their peers that enhances their ability to more powerfully contribute to participant healing and the healing of their families.

There are various methods of educating and cross-training team members, new Tribal Healing to Wellness Court staff, and other interested parties and stakeholders. The rapid development of technology creates an even easier environment for teaching and learning. One practical method is to visit a Tribal Healing to Wellness Court or a state drug court and observe its operations. During on-site visits, visitors can observe how Tribal Healing to Wellness Court staff and team members function in their roles and how they interact with each other and program participants. Visitors can ask questions of their counterparts about specific issues and how they perform their functions. Talking to their peers directly affirms how each team member's particular position contributes to the court's mission and goal of promoting healing.

Findings from NIJ Wellness Court Study: Component #9[1]

Problems Identified:

Wellness teams had a great deal of member turnover.

Lesson Learned #9: Develop a Written Curriculum for Wellness Court Staff

Develop a written curriculum for Tribal Wellness Court staff—a Tribal Wellness Court handbook that includes educational information on substance abuse, the Tribal Wellness Court philosophy, and specific information on the policies and procedures of your court. This curriculum can be used to educate new members and help to institutionalize the Tribal Wellness Court even as staff turnover occurs.

[1] KAREN GOTTLIEB, LESSONS LEARNED IN IMPLEMENTING THE FIRST FOUR TRIBAL WELLNESS COURTS, (U.S. Department of Justice, National Criminal Justice Reference Service , NCJ 231168, 2005), note 1 at 51.

SUGGESTED PRACTICES

1. Team members and other key personnel should attain a specified level of basic education, as defined in their job descriptions and in the written Tribal Wellness Court's policies and procedures.
2. The program's policies and procedures should outline minimum requirements for continuing education of each team member.
3. Team members and Tribal Wellness Court staff should be involved in interdisciplinary education and training before the first case is heard.
4. Team members from justice, treatment, and social services agencies should cross-train each other beginning with the Tribal Wellness Court design and planning process and continuing throughout to current operational issues.
5. Team members should not assume that professionals from the legal discipline or the treatment or social services disciplines know the purposes, processes, and limitations of each other's agencies.
6. Attendance at educational and training sessions by all team members should be required periodically.
7. Team members should attend regional and national drug court training sessions that provide new information about innovative developments among other Native nations and state courts.
8. When feasible, training sessions should be attended as a team.
9. Offering continuing educational credits for professional education should be considered and planned for if available in the community.
10. The team should develop an educational curriculum including the goals, policies, and procedures of its Tribal Wellness Court and the basic role and functions of each team member and their agency or program.

11. Training for new team members and staff should include various topics such as the goals and philosophy of healing to wellness courts, the nature of alcohol and other drug abuse, treatment and treatment terminology, the dynamics of abstinence and techniques for preventing relapse, and responses to relapse and to noncompliance of other program requirements.

12. The team should be versed in basic legal processes and with an overview of the criminal justice, juvenile justice, and family court policies, procedures, and terminology.

13. Team members should have general and functional knowledge of drug-testing standards and procedures.

14. Team members should be trained in sensitivity to racial, cultural, ethnic, gender, and sexual orientation as they pertain to Tribal Wellness Court participants.

15. Team members should be trained in the interrelationship of co-occurring conditions such as alcohol and other drug abuse and mental illness (also known as “dual diagnosis”).

16. Staff and team members should be trained in tribal, federal, state, and local confidentiality laws and participant rights to privacy.

Tribal Stories – Key Component #9
Regional and National Trainings

Tribal Healing to Wellness Courts are most efficient when team members, court staff, and community members are continually increasing their knowledge. If the education and training of Tribal Healing to Wellness Court practitioners and partners is on-going, interdisciplinary, and focused on specific learning needs, then more progress can be made in the court. One orientation or a single training about the drug court model or the Tribal 10 Key Components is simply not enough. The team approach applied in Tribal Healing to Wellness Courts requires greater depth and breadth of understanding of the various disciplines the team represents. Correspondingly, a TLPI Wellness Court Needs Assessment[90] found that training was a top concern to practitioners due in part to the common problem of staff turnover. While each person shares an individual burden to learn and understand, each court or jurisdiction can encourage education in various ways. Regional conferences, symposiums, and training sessions have made tremendous differences in acquiring a greater practical knowledge. They have also spawned collaborative relationships between tribal nations and state judicial branches. Regional conferences such as the Midwest Drug Court Conference, the Montana State Drug Court Conference, and Oklahoma Specialty Court Conference are examples of comprehensive and inclusive training opportunities that enhance understanding, awareness, and education for tribal and state court participants. National conferences, such as the National Association of Drug Court Professionals Annual Conference and the Indian Nations Conference, alternatively provide opportunities to connect with drug courts from across the nation. Finally, the TLPI, along with other drug court technical assistance providers, provide regular regional and national trainings centered on Tribal Healing to Wellness Courts. Teaching, learning, and shared experiences are central to productive Tribal Healing to Wellness Court growth and development.

TLPI staff and consultants at the
Tribal Healing to Wellness Court Enhancement
Training, December 2012.

TLPI staff and consultants at the
Montana Statewide Drug Court Conference,
April 2012.

[90] TRIBAL LAW AND POLICY INSTITUTE, TRIBAL WELLNESS COURTS NEEDS ASSESSMENT (U.S. Department of Justice, Bureau of Justice Assistance, 2010), *available at* www.tribal-institute.org/download/BJAReviewWellnessNeedsAssessmentAB.pdf.

Key Component #10: Team and Community Interaction

The development and maintenance of ongoing commitments, communication, coordination, and cooperation among Tribal Healing to Wellness Court team members, service providers and payers, the community, and relevant organizations, including the use of formal written procedures and agreements, are critical for Tribal Wellness Court success.

> *"Why cooperate? Because our sovereignty, fairness, our people's recovery, and the success of our Wellness Court Program depend on it."*
> *—Tribal Court Judge*

Tribal Healing to Wellness Courts are unique judicial institutions. Not only do they serve the needs of individuals, families, and the community, but Tribal Wellness Courts further indigenous community and nation building by bringing together key components of a complex governmental system that seeks to heal. A Tribal Healing to Wellness Court's comprehensive response to substance abuse, addiction, and crime cultivates administrative connections between branches and arms of tribal government that force collaboration and creativity. Tribal Healing to Wellness Courts inspire tribal government, private organizations, and citizens to communicate more with each other in order to beneficially coordinate their efforts.

This collaborative and team approach encourages the development of unique tribal coalitions among private, community-based organizations, public criminal agencies, treatment delivery systems, and others. These coalitions contribute to expand the continuum of services for Tribal Healing to Wellness Court participants. Program services are intended to help redirect participants and their families on to a more productive path, on to a healing to wellness journey. As a public, private, and community-based partnership, a Tribal Healing to Wellness Court fosters tribal and community-wide involvement through its commitment to sharing responsibility and participation with program partners. The community partnership assures that the community's healing resources are fully utilized. As a part of, and leader in, the formation and operation of tribal partnerships, a Tribal Healing to Wellness Court helps restore public faith in the criminal justice system.

To foster tribal partnership and collaboration, a Tribal Healing to Wellness Court team must effectively exercise, apply, and take advantage of its members' group skills, services, and insight. Taking full advantage of each team member requires that the other members are aware of and appreciate the other members' roles, responsibilities, latitudes, and limitations. Consequently, Tribal Healing to Wellness Court and other tribal and agency staff require specific and focused education and training that support their understanding of the court's mission, its processes, and their specific duty in promoting successful participant healing to wellness journeys.

Equally crucial is tribal and community awareness. Community and tribal members must be educated about the Tribal Healing to Wellness Court's purpose, place, and vision. Everyone must actively extend good thoughts and efforts toward a shared wellness-based vision and goals. By working together to reach a shared vision, it is easier for the tribal

community to develop plans and road maps to guide their efforts. As institutions of hope and healing, Tribal Healing to Wellness Courts bring together knowledge and wisdom from the past and existing community resources to thrust the people forward to the possibilities that lay ahead.

A successful Tribal Healing to Wellness Court is simultaneously engaged in effective nation building and in fostering Tribal Wellness Court team efforts. The overarching goals are stable and effective government and the health and welfare of tribal member individuals, their families, and the tribal community. Tribes commonly commit in policy and law to undertaking greater affirmative duties to their people than does the U.S. federal government or the states. These often include legal commitments to enforce positive rights such as the right to learn about and develop one's tribal identity. Such commitments may include a right to treatment and healing services in order to be clean, sober, and healthy.

The means of meeting these heightened duties and rights on the part of tribal governments and the Tribal Healing to Wellness Court is the careful negotiation and carrying out of written agreements, which take form in policies and procedures, interagency agreements, third-party (often service provider) contracts, and intergovernmental agreements (to solve jurisdictional problems and fill service gaps). There are four types of instruments that are critical to successful Tribal Healing to Wellness Court operations:

> (1) Intergovernmental agreements between tribes and states for joint or shared service provision (in the areas of court, probation, and law enforcement),
>
> (2) Tribal Healing to Wellness Court interagency agreements (particularly in the areas of alcohol and drug testing and case management),
>
> (3) Tribal Healing to Wellness Court team policies and procedures, and
>
> (4) Third-party service-provider contracts (particularly for licensed alcohol and drug treatment and mental health provider services).

We focus here on the second instrument as a starting point for all the others—the Tribal Healing to Wellness Court interagency agreement. The focal activity is case management. Drug court professionals now recognize that case management should join "the big three"—judicial leadership, treatment, and supervision—as critical to making a drug court work.

The Tribal Healing to Wellness Court interagency agreement (or MOA) should contain, for example, provisions governing how critical real-time information is shared, documented, and reported—negative and positive—including drug test results, treatment attendance (or lack thereof), law enforcement contact or new arrest, change of address, change of employment, report of alcohol or drug use (with or without a drug test result), physical health or mental health setbacks, or advancements and living condition changes. Not all new information need be exchanged. The point is to manage actionable information or information requiring a team response.

The Tribal Healing to Wellness Court team policies and procedures should be developed in tandem with the above agreement.

Findings from NIJ Wellness Court Study: Component #10[1]

Problems Identified:

The community does not know the Tribal Wellness Court exists, or does not understand the goals of the Wellness Court.

Lesson Learned #10: Emphasize Early Outreach within the Community

- Emphasize early outreach within the community to both take advantage of tribal resources and to increase buy-in by community members.
- Ensure wellness court institutionalization by making the wellness court something owned by the community as a whole, and not the tribal court alone.

[1] KAREN GOTTLIEB, LESSONS LEARNED IN IMPLEMENTING THE FIRST FOUR TRIBAL WELLNESS COURTS, (U.S. Department of Justice, National Criminal Justice Reference Service, NCJ 231168, 2005), note 1 at 57.

SUGGESTED PRACTICES

1. Form a steering committee composed of Tribal Wellness Court agencies and community partners that provides healing resources and defines roles and responsibilities in writing (typical steering committee responsibilities include developing policy, providing guidance, advocating for reforms, and acquiring funds and resources).
2. Review and develop proposed reforms to tribal laws and tribal court policies and rules to fully institutionalize the Tribal Wellness Court.
3. Negotiate and develop written agreements and protocols with key partners.
4. Consider forming a nonprofit organization with partners to bring in funding and resources.
5. Provide opportunities for community involvement, including the holding of informational meetings, community forums, and other outreach.
6. Use tribal and local media for community education, for program announcements, and to recruit funds and resources.

Tribal Stories – Key Component #10
Leech Lake Band of Ojibwe Indians, Minnesota

Tribal Healing to Wellness Courts are the products of comprehensive design, collaboration, and teamwork, both within and outside a tribal nation. In many instances, not only is cooperation required between branches, departments, and programs of a tribal government, but the success of a Tribal Healing to Wellness Court may depend on those coordinated efforts between the state, local government, and/or neighboring tribe. For example, the Leech Lake Tribal Court entered into two Joint Powers Agreements[91] with two of the four counties that overlap the reservation. In these unprecedented agreements, one in 2006 and the other in 2008, the tribal and county courts pledged to "jointly exercise the powers and authorities conferred upon us as judges of our respective jurisdictions." The agreement with Cass County produced a joint Wellness Court aimed at DWI cases. A similar agreement with Itasca County produced a joint Wellness Court that combines drug and DWI cases. Both of these joint courts incorporate a multidisciplinary, multijurisdictional team that draws upon an individualized treatment plan and meets regularly to discuss and monitor each case. The county and tribal judges preside simultaneously. Clients report their progress directly to the pair of tribal and county judges. Significantly, both courts employ evidence-based practices that are proven to reduce recidivism. This includes data-based decision making, identification of offender risk, appropriately targeted treatment interventions, and balancing of positive reinforcement with swift imposition of appropriate sanctions for violating conditions. Results have been striking, including a significant reduction in recidivism, coupled with reunification of families, an end to abusive relationships, and securing of employment and valid drivers' licenses. In 2010, the Joint Leech Lake/Cass and Itasca County Wellness Courts were awarded honors by the Honoring Nations program at Harvard University's John F. Kennedy School of Government.[92] In 2012, the National Criminal Justice Association honored the Leech Lake Wellness Court for court innovation.[93] For Leech Lake, this collaborative spirit is fueled by a primary goal of a Healing to Wellness Court described in Key Component 1: to achieve the physical and spiritual healing of the individual participant and to promote Native nation building and the well-being of the community.

Leech Lake Tribal Flag Ceremony on February 23, 2007 at the Cass County District Court.

[91] For more information on the Leech Lake –Cass County Wellness Court, *see* http://ccllwellnesscourt.wordpress.com/.
[92] *See* http://hpaied.org/images/resources/publibrary/joint%20tribal-state%20jurisdiction.pdf.
[93] *See* www.llojibwe.org/court/tcAwards.html.

Sources for Additional Information

Tribal Law and Policy Institute
8235 Santa Monica Blvd., Suite 211
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Fax: 323.650.8149
Websites: www.tlpi.org
www.WellnessCourts.org
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Center for Children and Family Futures
Office of Juvenile Justice and Delinquency Prevention Family Drug Court Training and Technical Assistance Program
4940 Irvine Blvd., Suite 202
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Telephone: 714.505.3525, ext. 205
Fax: 714.505.3626
Website: www.cfffutures.org

Center for Court Innovation
Drug Court Projects
520 Eighth Avenue, 18th Floor
New York, NY 10018
Telephone: 646.386.4470
Websites: www.courtinnovation.org/topic/drug-court
www.drugcourtta.org
www.drugcourtonline.org

Fox Valley Technical College
National Criminal Justice Center
1825 N. Bluemound Drive
P.O. Box 2277
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Telephone: 888.370.1752
Fax: 920.720.6837
Website: www.ncjtc.org

Institute for Native Justice
American Indian Resource Center
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Fax: 918.208.0513
Website: www.institutefornativejustice.com

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Carrie Garrow (*Akwesasne Mohawk*) is the Executive Director of the Center for Indigenous Law, Governance & Citizenship at Syracuse University College of Law. She received her undergraduate degree from Dartmouth College, her law degree from Stanford Law School, and a master's degree in public policy from the Kennedy School of Government at Harvard University. After graduating from Stanford in 1994, Judge Garrow worked as a deputy district attorney for Riverside County in Southern California. She has also worked as a Chief Judge for the Saint Regis Mohawk Tribe and as a tribal justice consultant for several nonprofit organizations. In 2004, she joined the Center for Indigenous Law. She also currently serves as the Chief Appellate Judge for the St. Regis Mohawk Tribal Court.

Pat Sekaquaptewa (*Hopi*) is the Executive Director of The Nakwatsvewat Institute, a nonprofit organization committed to furthering governance, justice, and education projects in Indian country. She serves as an Appellate Justice for the Hopi tribe and is a trained mediator. Formerly, she served as the Director of the UCLA Native Nations Law and Policy Center and its Tribal Legal Development Clinic. At UCLA, as a full-time Lecturer-in-Law, she provided instruction in constitution and statutory drafting and in tribal-court development, and she trained and supervised law-student clerks for the Hopi and Hualapai Appellate Courts. She taught nation building in UCLA's American Indian Studies Program and is the cofounder and former Associate Director of the Tribal Law and Policy Institute, where she worked in the field with more than 100 different tribes on their justice system development work.

Glossary of Terms

Abstinence: Refraining from drug use or from drinking alcoholic beverages, whether as a matter of principle or for other reasons.

Acute disorder: A disorder (disease) with an abrupt onset and usually a short course.

Addiction (substance dependence): The American Society of Addiction Medicine defines *addiction* as a primary, chronic disease of brain reward, motivation, memory, and related circuitry. Dysfunction in these circuits leads to characteristic biological, psychological, social, and spiritual manifestations. This is reflected in the individual pursuing reward and/or relief by substance use and other behaviors. The addiction is characterized by impairment in behavioral control, craving, inability to consistently abstain, and diminished recognition of significant problems with one's behaviors and interpersonal relationships.

Adversarial: Having opposite sides or interests.

Adversary system: The system of law in the United States in which a judge acts as a decision maker between opposite sides.

Adjunctive therapy: Treatment used together with the primary treatment. Its purpose is to assist the primary treatment.

Affidavit: Written statement signed under oath.

Aftercare: Aftercare, or continuing care, is the stage following primary treatment (which may include group and individual counseling, psycho-educational programming, etc.) when the participant no longer requires services at the intensity required during primary treatment. Aftercare can occur in a variety of settings, such as periodic outpatient aftercare, relapse/recovery groups, 12-step and self-help groups, and halfway houses. In drug courts, aftercare or continuing care is often included within the final phase of the drug court phased treatment plan.

Anhedonia: The inability to feel pleasure or happiness in response to experiences that are ordinarily pleasurable.

Anticipatory euphoria: When a drug, or its associated paraphernalia, or people, things, or places associated with past drug use, elicit shudders of anticipatory pleasure.

Arbiter: A person chosen to decide a disagreement.

Assessment (or clinical assessment): A process for defining the nature of a problem and developing specific treatment recommendations for addressing the problem. A basic assessment consists of gathering key information and engaging in a process with the participant that enables the counselor to understand the participant's readiness for change, problem areas, any diagnosis(es), disabilities, and strengths. In correctional settings, "screening" and

"assessment" are equated with "eligibility" and "suitability," respectively. Eligibility is determined in pretrial and jail settings by screening for offenders who may need substance abuse treatment (for example, does the offender meet the system's criteria for receiving treatment services?). Suitability for placement in one of several different levels of treatment services is determined by an assessment to help identify key psychosocial problems related to referral to treatment and/or supervision (for example, is the offender suitable for the type of program services that are available?).

Behavioral skills: One of the three main focuses of substance abuse treatment (in addition to "motivation" and "insight"). Skills and practices learned through treatment interventions for avoiding drugs, managing cravings, and responding appropriately to triggers.

Best practice: A practice that has not necessarily been proven to be effective in tightly controlled experiments, but that tends to be implemented by the most effective treatment programs (where it makes sense to adopt the practice of an effective treatment program and avoid the practice of an ineffective program).

Bio-psychosocial assessment: An assessment of a participant, undertaken by a case manager in order to identify strengths as well as weaknesses through a systematic evaluation of the participant's current level of functioning. Areas commonly evaluated by the case manager include mental health status; preexisting health or mental health problems; an appraisal of the participant's needs and the resources of the participant's informal support system, including family members, friends, and organizational memberships; social role functioning; environmental issues, including economic situation, employment status, and other basic needs; and relevant cultural and religious factors.

Case management: Case management is a method of providing services whereby a trained case manager assesses the needs of the participant and the participant's family (when appropriate) and arranges, coordinates, monitors, evaluates, and advocates for a package of multiple services to meet the specific participant's complex needs. In drug courts, although there is a designated primary case manager, case-management monitoring and interventions are team-based.

Case staffing: Meetings of Tribal Wellness Court team members, usually held just prior to participant court appearances, in which information about the participant's drug-testing results, attendance and participation in required treatment and other required activities, and other relevant information is shared and updated. Recommendations about the participant are also made to the judge during this time.

Charging document: The legal form used by the prosecution to begin the criminal process against an offender.

Chronic disorder (chronic disease): A chronic disease is a disease or other human health condition that is persistent or long-lasting in nature. *Alcoholism* has been defined by the National Council on Alcoholism and Drug Dependence and American Society of Addiction Medicine as a primary, chronic disease characterized by impaired control over drinking,

preoccupation with the drug alcohol, use of alcohol despite adverse consequences, and distortions in thinking.

Clinical screening: A process for evaluating someone for the possible presence of a particular problem. The screening process does not necessarily identify what kind of problem the person might have or how serious it might be but determines whether further assessment is warranted. Screening does not typically include assignment of *Diagnostic and Statistical Manual of Mental Disorders* (DSM) diagnoses of alcohol or drug abuse or dependence and may only identify DSM-related problem areas. During the screening process, staff members use instruments that are limited in focus, simple in format, quick to administer, and usually able to be administered by nonprofessional staff. In correctional settings, "screening" and "assessment" are equated with "eligibility" and "suitability," respectively. Eligibility is determined in pretrial and jail settings by screening for offenders who may need substance abuse treatment (for example, does the offender meet the system's criteria for receiving treatment services?). Suitability for placement in one of several different levels of treatment services is determined by an assessment to help identify key psychosocial problems related to referral to treatment and/or supervision (for example, is the offender suitable for the type of program services that are available?).

Code of Federal Regulation (CFR): The compilation of all rules and regulations put out by federal agencies.

Coercive: Restrained by force.

Cognitive-behavioral therapy (intervention): A relatively short-term form of psychotherapy based on the concept that the way we think about things affects how we feel emotionally. Cognitive therapy focuses on present thinking, behavior, and communication rather than on past experiences and is oriented toward problem solving. The underlying assumption is that learning processes play an important role in the development and continuation of substance abuse and dependence. These same learning processes can be used to help individuals reduce their drug use, as they focus on teaching individuals the skills that will help them understand and reduce their relapse risks and maintain abstinence.

Cognitive dysfunction (or brain fog): This is defined as unusually poor mental function, associated with confusion, forgetfulness, and difficulty concentrating. A number of medical or psychiatric conditions and treatments can cause such symptoms, including mood disorders (depressive disorders and bipolar disorder).

Cognitive functions: An intellectual process by which one becomes aware of, perceives, or comprehends ideas. It involves all aspects of perception, thinking, reasoning, and remembering. It encompasses awareness and capacity for judgment.

Confidentiality: Refers to information about a person that is private and protected by federal and other laws in order to prevent its disclosure without the person's consent.

Continuum of care: Substance abuse and dependency (addiction) services are viewed as a continuum of prevention, intervention, treatment, and aftercare. A comprehensive substance abuse continuum combines many programs, policies, and practices in order to reduce substance abuse in communities. A local continuum of care may include local services ranging from prenatal parenting classes, student assistance programs, outpatient and residential treatment, and community-based relapse prevention and ongoing recovery support services.

Co-occurring disorders (dual diagnosis or dual disorders): The term *co-occurring disorders* (COD) replaces the terms *dual disorder* or *dual diagnosis*. Clients with COD have one or more disorders relating to the use of alcohol and/or other drugs of abuse as well as one or more mental disorders. Common examples of COD include the combinations of major depression with cocaine addiction, alcohol addiction with panic disorder, alcoholism and polydrug addiction with schizophrenia, and borderline personality disorder with episodic polydrug abuse. Some patients have more than two disorders.

Cravings: A strong desire to consume a particular substance of abuse (for example, cocaine) or food (for example, chocolate); craving is a major factor in relapse and/or continued use after withdrawal from a substance of abuse and is imprecisely defined and difficult to measure.

Creatinine levels: Creatinine is a muscle-breakdown product, which is excreted in the urine at a steady rate. There are two important reasons to measure creatinine levels in urine specimens: (1) to determine whether a person is internally diluting their urine (for example, drinking excessive amounts of water) and (2) to test for new, as opposed to previous, marijuana (THC) use. The ratio of THC to creatinine should decrease over time when there is no new use.

Custom: Regular behavior (of persons in a geographical area or type of business) that gradually takes on legal importance so that it will strongly influence a court's decision.

Descriptive statistics: Descriptive statistics describe the main features of a collection of data quantitatively (factual information that can be measured in numbers or quantities). Descriptive statistics summarize data and provide a powerful summary that may enable comparisons across people or other units.

Detoxification: A process of discontinuing drug and alcohol use that leads to reduction and elimination of drugs and alcohol from the participant's body. Detoxification may need to be medically supervised depending upon the type of drug being discontinued.

Due process: The required process of law as set forth in the United States Constitution, the Indian Civil Rights Act, and/or applicable tribal, state, or federal law—generally a person is entitled to have notice and an opportunity to be heard (i.e., a real chance to present his or her side in a legal dispute) and that no law or government procedure should be arbitrary or unfair.

Empathic listening (active listening or reflective listening): A way of listening and responding to another person that improves mutual understanding and trust. It enables the listener to receive and accurately interpret the speaker's message and then provide an appropriate response. The response is an integral part of the listening process and can be critical to the

success of the intervention. Among its benefits, empathic listening builds trust and respect, enables the disputants to release their emotions, reduces tensions, encourages the surfacing of information, and creates a safe environment that is conducive to collaborative problem solving.

Evidence-based practice: An evidence-based practice is one that has been proven through tightly controlled research studies to be effective in helping people recover from substance dependency. With regard to medications and certain medical devices, the Food and Drug Administration generally requires proof of effectiveness through at least two randomized, controlled experimental studies. Comparable criteria for evidence-based practices have recently been endorsed for behavioral interventions, including addiction counseling.

Family-based therapy (intervention): An approach to therapy based on the idea that a family is—and behaves as—a system. Interventions are based on the presumption that when one part of the system changes, other parts will change in response. Family therapists therefore look for unhealthy structures and faulty patterns of communication.

Family genogram: A pictorial chart of the people involved in a three-generational relationship system that marks marriages, divorces, births, geographical location, deaths, and illness. Significant physical, social, and psychological dysfunction may be added. A genogram assists the therapist in understanding the family and is used to examine a family's relationships.

Group counseling (therapy): Groups form the crux of most intensive outpatient programs. A group approach supports intensive outpatient treatment clients by (1) providing opportunities for clients to develop communication skills and participate in socialization experiences, which is particularly useful for individuals whose socializing has revolved around using drugs or alcohol; (2) establishing an environment in which clients help, support, and, when necessary, confront one another; (3) introducing structure and discipline into the often chaotic lives of clients; (4) providing norms that reinforce healthful ways of interacting and a safe and supportive therapeutic milieu that is crucial for recovery; (5) advancing individual recovery (group members who are further along in recovery can help other members); and (6) providing a venue for group leaders to transmit new information, teach new skills, and guide clients as they practice new behaviors.

Incentives: Positive reinforcement or rewards given to participants in drug courts to promote sustained behavior change while emphasizing a supportive and celebratory approach to treatment and other interventions. Specifically, incentives are typically used as part of a prize- or voucher-based system, either with direct prize-giving or by using a fishbowl approach (a form of lottery that gives people chances to win a prize). The goals may include reinforcing abstinence, improving attendance at treatment sessions, and adhering to treatment goals.

Individual counseling: In intensive outpatient treatment programs, individual counseling is an important, supportive addition to group sessions but not the primary form of treatment. Whereas concurrent psychiatric interventions and addiction counseling are appropriate for participants with co-occurring substance use and mental disorders, most individual counseling in intensive outpatient treatment programs addresses the immediate problems stemming from participants' substance use disorders and their current efforts to achieve and maintain

abstinence. Counseling typically does not address the participant's underlying, long-standing conscious and subconscious conflicts that may have contributed to substance use.

Inpatient rehabilitation: Inpatient rehabilitation (rehab) is designed to provide a safe, structured, and drug-free environment for patients who have not been able to remain abstinent in the community. It is also suited for individuals whose health or mental health is at significant risk if they do not remain drug free. Inpatient stays are usually in the range of 7 to 35 days, with the 28-day program being the most common. The role of inpatient rehabilitation is to prepare the patient for outpatient care. In addition to medication management, inpatient programs often include educational lectures; individual and group therapies; recreation or occupational therapy; medical, dental, and mental health care; and preparation for and initiation of self-help group involvement.

Insight: One of the three main focuses of substance abuse treatment (in addition to "motivation" and "behavioral skills"). Insight is about knowing why and what to change. It is the self-knowledge that becomes important for maintaining recovery over the long haul. For example, some individuals might abuse drugs as a way to avoid feelings of depression or anxiety, or as a means to feel more socially competent in interpersonal situations. Recognizing one's own triggers for drug use is the key to avoiding relapse in the future.

Intensive outpatient treatment: Intensive outpatient treatment or day treatment programs typically meet three to five days per week for several hours each visit. Intensive outpatient treatment helps participants in early recovery receive the support and structure they require. As their early recovery gets stronger, the number of visits will decrease. Participants may stay one to three months in intensive outpatient treatment, followed by a step down to outpatient treatment.

Interagency agreements: Written documents that reflect the interests of the organizations or agencies and their commitments to the program.

Jurisdiction: Legal authority. The geographical area within which a court (or a public official) has the right and power to operate; the persons about whom and the subject matters about which a court has the right and power to make decisions.

Legal screening: A process to decide if the prospective participant meets the eligibility criteria for Tribal Wellness Court related to criminal history, type and severity of offense, and other criteria as defined by the team during initial planning.

Mediation: Outside help in settling a dispute.

Memorandum of agreement (MOA): A written document between units of government that reflects the interests of the organizations and their commitments to a program such as Tribal Wellness Court.

Milieu: Environment; setting.

Motivation: One of the three main focuses of substance abuse treatment (in addition to "insight" and "behavioral skills"). The large majority of substance abuse patients drop out of treatment prematurely. Intense cravings, withdrawal symptoms, impaired impulse control, and anhedonia may conspire to overwhelm their commitment to sobriety and drive them to relapse. Initiating and maintaining a significant life change requires substantial levels of sustained motivation. Treatment works, in part, by developing and maintaining a person's motivation for change.

Motivational enhancement therapy (MET): MET is a short-term alcohol addiction treatment that is designed to support clients to recognize and build on personal strengths in order to help change damaging drinking behaviors. It is an adaptation of motivational interviewing. Therapists work with clients to establish goals and encourage self-motivation to change, while educating about health risks of alcohol addiction.

Motivational interviewing: Motivational interviewing is a therapeutic style intended to help clinicians work with individuals to address their ambivalence. While conducting a motivational interview, the clinician is directive yet client-centered, with a clear goal of eliciting self-motivational statements and behavioral change from the individual, and seeking to enhance motivation for positive change.

Motivational stage: The transtheoretical stages-of-personal-change model emerged from an examination of 18 psychological and behavioral theories about how change occurs, including components that make up the bio-psychosocial framework for understanding addiction. The five stages of change are pre-contemplation, contemplation, preparation, action, and maintenance. These stages can be conceptualized as a cycle through which individuals move back and forth. Individuals who are in the early stages of readiness need and use different kinds of motivational support than do individuals at later stages of the change cycle.

Mutual-help group/program: A type of group in which members organize to solve their own problems. It is led by the group members, who share a common goal and use their own strengths to gain control over their lives.

Neural pathways: A neural pathway connects one part of the nervous system with another and usually consists of bundles of elongated, myelin-insulated neurons, known collectively as white matter. Neural pathways serve to connect relatively distant areas of the brain or nervous system, compared to the local communication of grey matter.

Neurons: Neurons are the specialized cells that make up the body's nervous system. These nerve cells process and transmit information from one part of the body to another. For example, touching a candle flame for more than an instant causes pain nerves (receptors) in the finger send a message up through the hand and arm to the spinal cord and to the brain. The brain records the pain and sends messages back down to various parts of the body. The mouth cries, "ouch!"; the arm, hand, and body jerk away from the flame; and the finger hurts. This all happens in milliseconds. Much of the brain is made up of highly specialized neurons. They interact to control the five senses, thought, mood, and motion.

Neurotransmitters: Neurotransmitters are the messengers that travel between one brain cell and another. They are chemical signals that neurons use to talk to each other, which is what makes the brain work. They help determine how a person feels, thinks, and acts.

Non-adversarial: Not having opposing interest against.

Outpatient treatment: Outpatient treatment is the most common level of addiction care. Participants live at home or in a community residence and attend sessions at the program. Traditionally, regular outpatient treatment will involve one or two visits per week, lasting approximately one to two hours per visit. Participants attend group and individual counseling sessions while participating in the program. Outpatient care should almost always be included in continuing-care plans for participants who are leaving a higher level of care. Participants may stay in outpatient care for 3–12 months or more depending upon their individual needs.

Participant: The term used for juveniles or defendants who are referred to and accepted into Tribal Wellness Court.

Performance measurement (evaluation): Performance measurement refers to the establishment of research-based indicators to measure program activity. It is concerned with correlations, not causes (to be distinguished from outcome and impact evaluations that are concerned with the causal relationship between a program or policy and some greater social gain or loss), and it is concerned with the strength of a relationship between two things (for example, does a change in one factor, such as drug court participation, influence a change in the other factor, such as recidivism?). Evaluation in this form allows for program feedback as well as cross-site comparison. There are four measures of drug court performance: retention, sobriety, recidivism, and units of service. All of these measures can be examined at either the client level or the program level. Performance measurement helps establish a basis for funding and program-implementation decisions.

Phased treatment plan: The schedule of classroom, counseling, therapeutic, and other activities and support groups that Tribal Wellness Court participants are required to attend over a 12-month or longer period in order to complete Tribal Wellness Court requirements.

Process evaluation: Process evaluations are tools that drug courts use to measure their efficiency, efficacy (the power or capacity to produce a desired effect), and achievement of program goals. Critical elements of analysis include goals, target population, drug treatment, court processes, units of service, team cooperation, and community support.

Prosecutor: The public official who presents the government's case in criminal law.

Punitive: Inflicting or aiming to inflict punishment.

Psycho-educational programming: Groups that are designed to teach substantive material, rather than process-oriented recovery. These sessions, like recovery groups, stimulate discussion that helps participants relate topics to personal experience and foster emotional and behavioral change.

Readiness-to-change screening: A process for evaluating whether an individual is receptive to treatment and committed to recovery goals. Readiness for treatment provides an important indicator regarding *where* the substance abuse treatment should begin. An individual's readiness for change is one of the most important factors that substance abuse counselors and clinicians should examine during the screening and assessment process and has been found to be predictive of treatment retention and other outcomes. Several treatment interventions (for example, motivational interviewing and motivational enhancement therapy) have been developed to explore and enhance readiness for treatment.

Recidivism: Habitual relapse into crime.

Relapse-prevention therapy: A type of group therapy in which, by using relapse-prevention materials, participants analyze one another's personal triggers and high-risk situations for substance use and determine ways to manage or avoid them.

Relapse trigger: A relapse trigger is any person, place, thing, or situation that reminds a person of their drug and alcohol use.

Releases of information: Written consent forms in which the person signing the form permits personal information to be transferred from one place to another. A release may be used by the Tribal Wellness Court to demonstrate permission to gather information about health, treatment participation, criminal history, and other services used by the participant.

Residential treatment: Residential treatment programs are typically longer term, but lower in intensity, than inpatient rehabilitation programs and do not provide around-the-clock medical supervision. Residential treatment programs include halfway houses, supportive living communities, and therapeutic communities. Residential treatment programs help the individual by providing a safe and supportive environment for an extended period of time. The programs typically offer on-site community meetings, professional counseling sessions, self-help meetings, and transportation assistance to attend other outpatient treatment programs or vocational or educational programs in the community. These programs may last from three months to two years.

Restitution: Giving something back; making good for something.

Sanctions: Punishments administered in drug courts for undesired participant behaviors that cannot be permitted to recur and that must be squelched quickly in the interest of public safety. When administered correctly in combination with adequate treatment and incentives for sobriety, sanctions are effective at reducing substance abuse and crime.

Social network mapping: A process for determining the concept and definition of *family* to include people who are important to the participant. When determining the participant's concept of family, the key is to identify who will be supportive of recovery and who might seek to undermine it. A social network map can help the counselor identify and understand the family of origin and family of choice. A social network map displays the links among individuals who have a common bond, shared social status, similar or shared functions, or geographic or

cultural connection. When the social network assessment is used in intensive outpatient treatment, individuals are identified who can support the client or participate in the treatment process.

Staffing: Regular (often weekly or semimonthly) drug court team meetings for pre-court reviews to monitor each participant's performance and progress and to coordinate a strategy for responding to each participant's performance and progress.

Status hearing or compliance hearing: The participant's appearance before the court, in which the court reviews and responds to the participant's performance and progress in Tribal Wellness Court.

Standard of care: A standard of care is a formal diagnostic and treatment process that a doctor will follow for a patient with a certain set of symptoms or a specific illness. That standard will follow guidelines and protocols that experts would agree with as being most appropriate (also called "best practice").

Strength-based treatment: Strength-based treatment is based on the belief that individuals possess abilities and inner resources that enable them to cope effectively with the challenges of living. It uses the strengths and resources that participants, their cultures, and their communities possess in a participant-owned and participant-directed process of goal setting, solution building, and self-evaluation. Strength-based treatment has five basic components: (1) participant responsibility for recovery, (2) participant-directed goal setting, (3) focus on participant strengths and resources, (4) collaboration and partnership, and (5) community-based services and resources.

Substance abuse: The excessive use of a substance, especially alcohol or a drug. A frequently cited definition of *substance abuse* is in the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders, fourth edition* (DSM-IV) issued by the American Psychiatric Association. The DSM-IV definition is as follows:

> A maladaptive pattern of substance use leading to clinically significant impairment or distress, as manifested by one or more of the following, occurring within a 12-month period:
>
> 1. Recurrent substance use resulting in a failure to fulfill major role obligations at work, school, or home (e.g., repeated absences or poor work performance related to substance use; substance-related absences, suspensions or expulsions from school; neglect of children or household)
> 2. Recurrent substance use in situations in which it is physically hazardous (e.g., driving an automobile or operating a machine when impaired)
> 3. Recurrent substance-related legal problems (e.g., arrests for substance-related disorderly conduct)
> 4. Continued substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the substance (e.g., arguments with spouse about consequences of intoxication, physical fights).

Substance dependence (addiction): The DSM-IV defines substance dependence as when an individual persists in the use of alcohol or other drugs despite problems related to use of the substance. Compulsive and repetitive use may result in tolerance to the effect of the drug and withdrawal symptoms when use is reduced or stopped. Historically, addiction has been defined as physical and psychological dependence on psychoactive substances (for example, alcohol, tobacco, heroin, and other drugs) that cross the blood-brain barrier once ingested, temporarily altering the chemical milieu of the brain.

Therapeutic alliance: The therapeutic alliance (also called the *helping alliance*, *therapeutic relationship*, and *working alliance*) refers to the relationship between a healthcare professional and a patient. It is the means by which the professional hopes to engage with and effect change in a patient. It has also been referred to as the bond of confidence and mutual understanding established between therapist and client, which allows them to work together in order to solve the client's problems.

Title IV-E of the Social Security Act: Title IV-E enables the Foster Care and Adoption Assistance Program to provide federal money to tribes for foster care and adoption assistance on an entitlement basis. Title IV-E also provides funding for independent living services for adolescents who are transitioning out of foster care. Tribes entering into federal-tribe or state-tribe Title IV-E agreements must adhere to the time limits for handling children's cases in tribal court, which may substantially limit the permissible duration of Tribal Wellness Court treatment for substance-abusing parents.

Traditional dispute resolution: A non-adversarial style of resolving disputes through the use of cultural customs and traditions by tribal justice systems.

12-step program: The 12-step fellowship includes the most commonly recognized and widely attended groups for continuing recovery support. Involvement in 12-step groups, such as Alcoholics Anonymous (AA), Narcotics Anonymous (NA), or Cocaine Anonymous (CA), is correlated positively with retention in treatment and abstinence. The 12-step group includes a spiritual focus, espouses principles of conduct, and provides ongoing support for as long as an individual wishes to participate. There are12-step groups available throughout the country. There are different types of meetings (for example, open speaker meetings, step meetings, and open and closed discussion meetings). Basic AA texts include *Alcoholics Anonymous* (the "Big Book"), *Twelve Steps and Twelve Traditions*, and *Living Sober*. Basic texts of NA include *Narcotics Anonymous* and *It Works: How and Why*.

Violent offender: In drug courts, the term generally refers to the definition of *violent offender* as set forth in the statutes that authorize federal funding for drug court programs but prohibit the use of these funds for a violent offender. The statutes define *violent offender* as a person who either (1) is charged with or convicted of an offense, during the course of which offense or conduct the person carried, possessed, or used a firearm or dangerous weapon; there occurred the death of, or serious bodily injury to any person; or there occurred the use of force against the person of another, without regard to whether any of the circumstances previously

described is an element of the offense or conduct of which or for which the person is charged or convicted or (2) has one or more prior convictions for a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm (42 U.S.C. § 3796ii et seq.).

Withdrawal: Those side effects experienced by a person who has become physically dependent on a substance upon decreasing the substance's dosage or discontinuing its use. The usual reactions to alcohol withdrawal are anxiety, weakness, gastrointestinal symptoms, nausea and vomiting, tremor, fever, rapid heartbeat, convulsions, and delirium. Similar effects are produced by withdrawal of barbiturates, though in this case convulsions occur frequently, often followed by psychosis with hallucinations. Treatment of withdrawal consists of providing a substitute drug, such as a mild sedative, along with treatment of the symptoms as needed. Injected fluids are often required.

Worldview: The different beliefs, values, and meanings about the world that a particular society or people have that contribute to its unique culture, traditions, and ways of life.

Recommended Reading List

The following publications may be ordered from the address listed. Many of the publications are downloadable at the website listed.

The National Criminal Justice Reference Service P.O. Box 6000, Rockville, MD 20849–6000 Telephone (800) 851–3420 Fax (301) 519–5212 Website: http://puborder.ncjrs.org	
Title	**NCJRS Number**
Drug Courts: The Second Decade (National Institute of Justice, 2006)	NCJ 211081
Healing to Wellness Courts: A Preliminary Overview of Tribal Drug Court (Bureau of Justice Statistics, 1999)	NCJ 178907
Promising Practices and Strategies to Reduce Alcohol and Substance Abuse Among American Indians and Alaska Natives (Office of Justice Programs, 2000)	NCJ 183930
Looking at a Decade of Drug Courts (Bureau of Justice Assistance, 1998)	NCJ 171140
Defining Drug Courts: The Key Components (Bureau of Justice Assistance, 2004)	NCJ 205621
Drug Court Resources Series: Practical Guide for Applying Federal Confidentiality Laws to Drug Court Operations (Office of Justice Programs, 1999)	NCJ 176977
Juvenile and Family Drug Courts: An Overview (Bureau of Justice Assistance, 1998)	NCJ 171139
Guideline for Drug Courts on Screening and Assessment (American University, DCPO-Sponsored, 1998)	NCJ 171143
Drug Court Monitoring, Evaluation, and Management Information Systems (Bureau of Justice Assistance, 1998)	NCJ 171138
Drug Identification and Testing in the Juvenile Justice System: Summary (Office of Juvenile Justice and Delinquency Prevention, 1998)	NCJ 167889
Drug Courts: A Research Agenda (National Drug Court Institute, 1999)	NCJ 177394
Drug Courts Publications Resource Guide, 4th ed. (National Drug Court Institute, 1999)	NCJ 195776
Drug Courts: A Revolution in Criminal Justice (National Drug Court Institute, 1999)	NCJ 177227

National Association of Drug Court Professionals 901 North Pitt Street, Suite 370, Alexandria, VA 22314 Telephone (703) 706–0576 Fax (703) 706–0577 Website: www.nadcp.org
NADCP Tribal Mentor Courts: A Regional Approach to Provide Training and Technical Assistance to Native American Wellness Courts by Native American Wellness Courts

National Drug Court Institute 901 North Pitt Street, Suite 370, Alexandria, VA 22314 Telephone (703) 706-0576 Fax: (703) 706-0577 Website: www.ndci.org
Building the Evidence Base for Family Drug Treatment Courts: Results from Recent Outcome Studies (Drug Court Review, Volume VI, Issue 2, Summer 2009)
Critical Issues for Defense Attorneys in Drug Court (Monograph Series 4, National Drug Court Institute, 2003)
Drug Court Case Management: Role, Function, and Utility (Monograph Series 7, National Drug Court Institute, 2006)
Evaluating Drug Courts: A Model for Process Evaluation,(Drug Court Review, Volume V, Issue 2, 2006)
Local Drug Court Research: Navigating Performance Measures and Process Evaluations (Monograph Series 6, National Drug Court Institute, 2006)
Research on Drug Courts: A Critical View (Drug Court Review, Volume I, Issue 1, 1998)
Therapeutic Jurisprudence and the Drug Treatment Court Movement (Norte Dame Law Review, Vol. 74, 2, January 1999)
Drug Court Practitioner Fact Sheet: Family Dependency Treatment Court: Applying the Drug Court Model in Child Maltreatment Cases (Vol. 5, No. 1, National Drug Court Institute, 2006)
Federal Confidentiality Laws and How They Affect Drug Court Practitioners, National Drug Court Institute, 1999)
Drug Court Performance Measurement: Suggestions from the National Research Advisory Committee (Drug Court Review, Volume V, Issue 2, 2006)
DWI/Drug Courts: Defining a National Strategy (Monograph #1, National Drug Court Institute, 1999)
Development and Implementation of Drug Court Systems (Monograph #2, National Drug Court Institute, 1999)
Painting the Current Picture: A National Report on Drug Courts and Other Problem-Solving Court Programs in the United States (National Drug Court Institute, 2011)
Special Issue on Juvenile Drug Courts (Drug Court Review, Volume VII, Issue 1, 2010)
Special Research Edition (Drug Court Review, Volume V, Issue 2, 2006)
The Drug Court Judicial Benchbook (National Drug Court Institute, 2011)
Quality Improvement for Drug Courts: Evidence-Based Practices (Monograph Series 9, National Drug Court Institute, 2008)

NPC Research 5100 SW Macadam Ave., Suite 575, Portland, OR 97239-3867 Telephone: (503) 243-2436 Fax: (503) 243-2454 Website: information@npcresearch.com
Exploring the Key Components of Drug Courts: A Comparative Study of 18 Adult Drug Courts on Practices, Outcomes and Costs, Executive Summary (NPC Research, 2008)

OJP Drug Court Clearinghouse and Technical Assistance Project 4400 Massachusetts Ave, N.W., Washington, DC 20016-8159 Telephone (202) 885–2875 Fax (202) 885–2885 AU's Justice Program Office Clearinghouse Reference Collection Website: www.american.edu/justice
Tribal Drug Court/Healing to Wellness Court Operational Materials (American University, 2001)
Drug Testing in a Drug Court Environment: Common Issues to Address (Robinson and Jones, American University, 1999)
Applying Drug Court Concepts in the Juvenile and Family Court Environments: A Primer for Judges (McGee, Parnham, Merrigan, Smith, and Cooper, American University, 2000 (rev.))
Sisseton-Wahpeton Sioux Tribal Treatment Court Policies and Procedures (Jones)
Makah Tribal Wellness Court: An Overview
The New Face of Justice: Joint Tribal-State Jurisdiction (Wahwassuck, 47 Washburn Law Journal 733, 2008)
Statutes and Resolutions Relating to Drug Courts Enacted by State Legislatures and Tribal Councils (Cooper, American University, 2006)
Selected Statutes and Resolutions Relating to Drug Courts Enacted by State Legislatures and Tribal Councils (Cooper, American University, 2010)
Cherokee Tribal Drug Court: Participant Handbook
Cass County Leech Lake Band of Ojibwe Wellness Court: Participant Handbook
Establishing Drug Treatment Courts: Strategies, Experiences and Preliminary Outcomes, Volume One: Overview and Survey Results (Cooper, Franklin, and Mease, 2010)

	SAMHSA TIPS & TAPS **Knowledge Application Program (KAP)** U.S. Department of Health and Human Services Alcohol and Drug Abuse and Mental Health Services Administration Center for Substance Abuse Treatment TIPs Series *(Treatment Improvement Protocols (TIPs) are the products of a systematic and innovative process bringing together clinicians, researchers, program managers, policy-makers, and nonfederal experts to reach a consensus on various state-of-the-art treatment practices):* http://store.samhsa.gov/list/series?name=TIP-Series-Treatment-Improvement-Protocols-TIPS- TAPs Series *(Technical Assistance Publications (TAPs) are a compilation of written materials gathered from various Federal, State, programmatic, and clinical sources, which provide practical guidance and information related to the delivery of treatment services to individuals experiencing alcohol and drug use disorders):* http://store.samhsa.gov/list/series?name=Technical-Assistance-Publications-TAPs- For more information, go online at www.samhsa.gov/ or call 1-877-SAMHSA-7 (1-877-726-4727).
TIP 13	The Role and Current Status of Patient Placement Criteria in the Treatment of Substance Abuse Use Disorders (SMA) 09-3021
TIP 14	Developing State Outcomes Monitoring Systems for Alcohol and Other Drug Abuse Treatment BKD162
TIP 21	Combining Alcohol and Other Drug Abuse Treatment With Diversion for Juveniles in the Justice System (SMA) 09-4073
TIP 23	Treatment Drug Courts: Integrating Substance Abuse Treatment with Legal Case Processing (SMA) 08-3917
TIP 25	Substance Abuse Treatment and Domestic Violence (SMA) 08-4076
TIP 26	Substance Abuse and Older Adults (SMA) 08-3918
TIP 27	Comprehensive Case Management for Substance Abuse Treatment (SMA) 08-4215
TIP 29	Substance Use Disorder Treatment for People with Physical and Cognitive Disabilities (SMA) 08-4078
TIP 30	Continuity of Offender Treatment for Substance Use Disorders from Institution to Community

	(SMA) 08-3920
TIP 31	Screening and Assessing Adolescents With Substance Use Disorders (SMA) 09-4079
TIP 32	Treatment of Adolescents With Substance Use Disorders (SMA) 08-4080
TIP 33	Treatment for Stimulant Use Disorders (SMA) 09-4209
TIP 34	Brief Interventions and Brief Therapies for Substance Abuse (SMA) 07-3952
TIP 35	Enhancing Motivation for Change in Substance Abuse Treatment (SMA) 08-4212
TIP 36	Substance Abuse Treatment for Persons with Child Abuse and Neglect Issues (SMA) 08-3923
TIP 37	Substance Abuse Treatment for Persons With HIV/AIDS (SMA) 08-4137
TIP 38	Integrating Substance Abuse Treatment and Vocational Services (SMA) 06-4216
TIP 39	Substance Abuse Treatment and Family Therapy (SMA) 08-4219
TIP 41	Substance Abuse Treatment: Group Therapy (SMA) 09-3991
TIP 42	Substance Abuse Treatment for Persons With Co-Occurring Disorders (SMA) 08-3992
TIP 44	Substance Abuse Treatment for Adults in the Criminal Justice System (SMA) 05-4056
TIP 45	Detoxification and Substance Abuse Treatment (SMA) 08-4131
TIP 46	Substance Abuse: Administrative Issues in Outpatient Treatment (SMA) 06-4151
TIP 47	Substance Abuse: Clinical Issues in Intensive Outpatient Treatment BKD551
TIP 48	Managing Depressive Symptoms in Substance Abuse Participants During Early Recovery (SMA) 08-4353
TIP 50	Addressing Suicidal Thoughts and Behaviors in Substance Abuse Treatment (SMA) 09-4381

TIP 51	Addressing the Specific Needs of Women (SMA) 09-4426
TIP 52	Clinical Supervision and Professional Development of the Substance Abuse Counselor (SMA) 09-4435
TAP 10	Rural Issues in Alcohol and Other Drug Abuse Treatment PHD662
TAP 11	Treatment for Alcohol and Other Drug Abuse: Opportunities for Coordination PHD663
TAP 13	Confidentiality of Patient Records for Alcohol and Other Drug Treatment BKD156
TAP 17	Treating Alcohol and Other Drug Abusers in Rural and Frontier Areas BKD174
TAP 18	Checklist for Monitoring Alcohol and Other Drug Confidentiality Compliance PHD722
TAP 19	Counselor's Manual for Relapse Prevention with Chemically Dependent Criminal Offenders (SMA) 06-4217
TAP 20	Bringing Excellence to Substance Abuse Services in Rural and Frontier America BKD220
TAP 21	Addiction Counseling Competencies: The Knowledge, Skills, and Attitudes of Professional Practice (SMA) 08-4171
TAP 22	Contracting for Managed Substance Abuse and Mental Health Services: A Guide for Public Purchasers BKD252
TAP 23	Substance Abuse Treatment for Women Offenders Guide to Promising Practices (SMA) 08-3929
TAP 24	Welfare Reform and Substance Abuse Treatment Confidentiality: General Guidance for Reconciling Need to Know and Privacy BKD336
TAP 28	The National Rural and Substance Abuse Network Awards for Excellence 2004 BKD552
TAP 29	Integrating State Administrative Records to Manage Substance Abuse Treatment System Performance (SMA) 09-4268
TAP 31	Implementing Changes in Substance Abuse Treatment Programs (SMA) 09-4377

List of Tribal Healing to Wellness Courts As of April 2014				
	Tribe	**Type of Court**	**CITY**	**STATE**
1	Aleut Community of St. Paul Island	DWI	St. Paul	AK
2	Chehalis Tribe	Juvenile	Oakville	WA
3	Cherokee Nation	Juvenile	Tahlequah	OK
4	Cheyenne and Arapahoe Tribes		Concho	OK
5	Chippewa Cree Tribe of the Rocky Boy Reservation	Juvenile and Family	Box Elder	MT
6	Citizen Potawatomi Nation	Adult	Shawnee	OK
7	Coeur d'Alene Tribe	Adult *(Planning)*	Plummer	ID
8	Colorado River Indian Tribes	*Planning*	Parker	AZ
9	Confederated Tribes and Bands of Yakama Nation	Adult	Toppenish	WA
10	Crow Tribe	Juvenile	Crow Agency	MT
11	Eastern Band of Cherokee Indians	Adult and Juvenile	Cherokee	NC
12	Fallon Paiute Shoshone Tribe	Adult	Fallon	NV
13	Eastern Shoshone and Northern Arapaho Tribes of the Wind River Reservation		Fort Washakie	WY
14	Fort McDowell Yavapai Nation	Adult and Juvenile	Fort McDowell	AZ
15	Fort Peck Assiniboine and Sioux Tribes	DUI and Family	Poplar	MT
16	Gila River Indian Community	Juvenile	Sacaton	AZ
17	Grand Traverse Band of Ottawa and Chippewa Indians		Peshawbestown	MI
18	Ho-Chunk Nation	Adult	Black River Falls	WI
19	Hoopa Valley Healing to Wellness Court		Hoopa	CA
20	Hopi Tribe	Juvenile	Keams Canyon	AZ
21	Kaibab Band of Paiute Indians	Adult	Fredonia	AZ
22	Karuk Tribe	Juvenile	Yreka	CA
23	Keweenaw Bay Indian Community	Adult	Baraga	MI
24	Kickapoo Tribe in Kansas	Adult	Horton	KS
25	La Jolla Healing to Wellness Court	*Planning*	Pauma Valley	CA
26	Little Traverse Bay Bands of Odawa Indians	Adult and Juvenile	Harbor Springs	MI
27	Leech Lake Band of Ojibwe Indians	DWI and Adult	Cass Lake	MN
28	Lower Brule Sioux Tribe	Adult	Lower Brule	SD
29	Lower Elwah Klallam Tribe	Adult	Port Angeles	WA
30	Lummi Nation	Adult	Bellingham	WA
31	Makah Tribe	Adult	Neah Bay	WA
32	Menominee Indian Tribe	Adult	Keshena	WI
33	Mescalero Apache Tribe	Adult	Mescalero	NM
34	Mississippi Band of Choctaw Indians	Adult and Juvenile	Choctaw	MS

35	Native Village of Barrow	Juvenile	Barrow	AK
36	Native Village of Scammon Bay	Adult, Family, and Juvenile	Scammon Bay	AK
37	Omaha Tribe of Nebraska	DWI	Macy	NE
38	Pascua Yaqui Tribe	Adult	Tucson	AZ
39	Penobscot Indian Nation	Adult and Juvenile	Indian Island	ME
40	Poarch Band of Creek Indians	Adult	Atmore	AL
41	Prairie Band of Potawatomi Nation	Adult	Mayetta	KS
42	Pueblo of Acoma	Adult	Acoma	NM
43	Pueblo of Laguna	Adult	Laguna	NM
44	Pueblo of Sandia	Adult, Juvenile, and Family	Bernalillo	NM
45	Pueblo of Zia	Adult and Juvenile	Zia Pueblo	NM
46	Pueblo of Zuni	Adult	Zuni	NM
47	Quinault Indian Nation	Adult	Quinault	WA
48	Reno-Sparks Indian Colony	Adult and DWI	Reno	NV
49	Rosebud Sioux Tribe of the Sicanqu Oyate	Juvenile and Family	Rosebud	SD
50	Sac and Fox Tribe of the Mississippi in Iowa	Adult and Family	Tama	IA
51	Saint Regis Mohawk Tribe	DWI	Akwesasne	NY
52	Salt River Pima-Maricopa Indian Community	Juvenile	Scottsdale	AZ
53	San Carlos Apache – Ndeh Nation	Adult and DWI	San Carlos	AZ
54	Sault Ste. Marie Adult Healing to Wellness Court	Adult	Sault Ste. Marie	MI
55	Scammon Bay Traditional Council			
56	Shoshone Indians and Northern Arapaho Tribe	Adult and Juvenile	Fort Washakie	WY
57	Sisseton-Wahpeton Oyate of the Lake Traverse Reservation	Adult, DWI	Agency Village	SD
58	Snoqualmie Tribe	Juvenile and Family	Snoqualmie	WA
59	Southern Ute Indian Tribe	Adult and Juvenile	Ignacio	CO
60	Spirit Lake Tribe	Adult, Juvenile, Family, and DWI	Fort Trotten	ND
61	Suquamish Tribe	Family	Suquamish	WA
62	Swinomish Indian Tribal Community	Juvenile	La Conner	WA
63	Three Affiliated Tribes: Mandan, Hidatsa, and Arikara Nation	Family	New Town	ND
64	Tonto Apache Tribe		Payson	AZ
65	Turtle Mountain Band of Chippewa Indians	Adult	Belcourt	ND
66	White Earth Nation	Juvenile & Family	White Earth	MN
67	Winnebago Tribe of Nebraska	Juvenile	Winnebago	NE
68	White Mountain Apache		Whiteriver	AZ
69	Yavapai-Apache Nation	Adult, Juvenile, and	Camp Verde	AZ

		Family		
70	Yomba Shoshone Tribe	Adult, Juvenile, Family	Austin	NV
71	Ysleta Del Sur Pueblo	Juvenile	El Paso	TX
72	Yurok Tribe	Adult	Klamath	CA

For additional Healing to Wellness Court information,
visit the Wellness Court website:

www.WellnessCourt.org

"Providing resources and technical assistance for Tribal Healing to Wellness Courts"