



# JOINT JURISDICTION COURTS

A Manual for Developing Tribal, Local,  
State & Federal Justice Collaborations  
Second Edition

Jennifer Fahey, JD, MPA  
Hon. Korey Wahwassuck  
Allison Leof, PhD  
Hon. John Smith

Project T.E.A.M  
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This report was written and prepared by:

Jennifer A. Fahey, JD, MPA  
Honorable Korey Wahwassuck  
Allison Leof, PhD  
Honorable John P. Smith

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This publication is a product of Project T.E.A.M., a group of professionals dedicated to helping tribes and local governments create, implement, and manage joint jurisdiction collaborations. Our goals are to improve justice outcomes in the community, to use resources more efficiently and effectively through collaboration and partnerships, and to help repair traditionally difficult relationships between tribes and U.S. governmental bodies.

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The Center for Evidence-based Policy  
3030 SW Moody Ave., Ste. 250  
Portland, OR 97201  
[centerforevidencebasedpolicy.org](http://centerforevidencebasedpolicy.org)

# PREFACE

Jurisdiction is exercised jointly when a tribal court judge and a state or federal court judge convene to exercise their respective authority simultaneously, bringing together justice system partners and leveraging resources to promote healing and protect public safety. This manual is a roadmap for leaders who want to develop joint jurisdiction courts or initiatives in their own communities. It is not intended to be a curriculum, but rather a guide, articulating the process developed in one Minnesota community and adopted by other jurisdictions and providing information on creating new joint jurisdiction initiatives.

The initial part of this manual identifies the benefits of intergovernmental collaboration and describes the creation of the first tribal-state joint jurisdiction court in the nation, how it was envisioned, developed, and implemented, with statistics to demonstrate its effectiveness. Next, this manual provides suggested guidelines for developing a new joint jurisdiction justice collaborative in one's own community based on identified needs, community culture, evidence-based principles, articulated goals, and defined outcomes. The third section describes three Project T.E.A.M. (Together Everyone Achieves More) pilot sites: a joint jurisdiction juvenile court initiative involving the Shingle Springs Band of Miwok Indians, the El Dorado County Superior Court, and county officials in California; and joint jurisdiction adult wellness courts involving the Kenaitze Indian Tribe and the Alaska Court System, and the Northern Cheyenne Tribe and the United States District Court for the District of Montana. The final part of the manual contains tips for the successful creation of joint jurisdiction courts and describes lessons learned during Project T.E.A.M.'s work, along with practical suggestions.



# Introduction

All governments struggle with the challenges of drug and alcohol abuse, gang activity, violence, truancy, unsupervised juveniles, and dysfunctional families. Both tribal and non-tribal systems have the common goals of improved outcomes for families, fewer children in out-of-home-placement, decreased incarceration, decreased recidivism, and decreased disproportionate minority contact in the courts. Unfortunately, neither system has been completely successful in reaching these goals on its own. State courts have historically placed the focus on the symptoms of drug and alcohol abuse and are generally not equipped to deal with the root causes of these problems. Tribal courts place more focus on the root causes, but might not have the resources to effectively treat them. Potentially overlapping and conflicting jurisdictional claims also complicate efforts to address these issues.

Tribal, state, and federal governments have a range of common interests, including the expectation of protecting the health, safety, and welfare of their citizens. Common interests include a shared responsibility to use public resources effectively and efficiently and to provide comprehensive services such as education, health care, and law enforcement to their respective citizens.<sup>1</sup> The jurisdiction of tribal courts to adjudicate matters arising in Indian country encompasses all civil and criminal matters absent limitations imposed by federal authority. Tribes have broad freedoms not enjoyed by any other governmental authority in the United States. By keeping common objectives in mind, tribes and states may realize that they have more in common than in conflict and that coordination and cooperation is beneficial to all.<sup>2</sup>

Whether or not tribal-state-federal collaboration succeeds or fails “depends in large part upon the ability to understand each other’s philosophical,

legal, and historical realities. Cultural barriers to communication can, if left unattended, prevent meaningful cooperation from taking place...If we agree that Tribal-state relationships should evolve, we must first accept that the historical animosity and distrust are the products of a powerful legacy of colonization, genocide, and oppression. Furthermore, tribal-state tensions result from a clash of political philosophies and differing world views.”<sup>3</sup>

Each jurisdiction—tribal, federal, and state—has tools unique to its system, and joint exercise of jurisdiction allows the systems to leverage scarce resources and achieve better results. Tribal-state-federal cooperative agreements offer governments the opportunity to coordinate the exercise of authority, share resources, reduce administrative costs, deliver services in more efficient and culturally appropriate ways, address future contingencies, and save costs of litigation.<sup>4</sup> These agreements also enable governments to craft legal arrangements reflecting the particular circumstances of individual Indian nations, rather than relying on uniform national rules.<sup>5</sup>

Greater intergovernmental cooperation often results in better services for Indian country, is more cost effective, culturally compatible, and provides better arrest and prosecution rates.<sup>6</sup>

Even the most basic forms of interjurisdictional cooperation can save money and lives. Without question, cooperation works.<sup>7</sup> In fact, where intergovernmental cooperation has become the rule, not the exception, arrests are made, interdiction of crime occurs, and confidence in public safety improves.<sup>8</sup>

By working together, services to families can be strengthened and overall community wellness can be improved. But such collaboration can only work when

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<sup>1</sup> [www.ncai.org/policy-issues/tribal-governance/state-tribal-relations](http://www.ncai.org/policy-issues/tribal-governance/state-tribal-relations)

<sup>2</sup> Wahwassuck, K., Smith, J.P., & Hawkinson, J.R. (2010). Building a legacy of hope: Perspectives on joint tribal-state jurisdiction. *William Mitchell Law Review*, 36(2), Article 3. Retrieved from <http://open.wmitchell.edu/wmlr/vol36/iss2/3>

<sup>3</sup> Organick, A.G., & Kowalski, T. (2009). From conflict to cooperation: State and tribal court relations in the era of self-determination. *Court Review*, 45, p. 48.

<sup>4</sup> Wahwassuck, Smith, & Hawkinson, *infra* at note 2, pp. 885-886.

<sup>5</sup> *Id.* at 886.

<sup>6</sup> Indian Law and Order Commission (2013). Intergovernmental cooperation: Establishing working relationships that transcend jurisdictional lines. In *A Roadmap For Making Native America Safer: Report to the President and Congress of the United States*, p. 105. Retrieved from <https://www.aisc.ucla.edu/iloc/report/>

<sup>7</sup> *Id.* at 113.

<sup>8</sup> *Id.* at 100.

those who have the ability to create change “reach out to each other for the good of all.”<sup>9</sup> The information that follows was designed for jurisdictions interested in collaborating for better outcomes, building relationships for greater understanding, sharing resources to achieve health and wellbeing, improving public safety, celebrating culture, embracing diversity, and working together to build a better future for whole communities.

As noted legal scholars have pointed out, development of healthy tribal-state-federal relationships “requires mutual understanding and respect and cross-cultural communication. Cross jurisdictional agreements that support tribal sovereignty result in increased economic activity and social well-being and benefit both sovereigns and their people.”<sup>10</sup>

Jurisdiction is exercised jointly when the tribal court and state/federal court judges convene to exercise their respective authority simultaneously, bringing together justice system partners and leveraging resources and allowing the systems to work collaboratively and creatively toward better results for individuals involved in the adult and juvenile justice systems. Joint jurisdiction wellness courts are one example of how courts can exercise jurisdiction jointly. In a joint jurisdiction wellness court, a state/federal court judge and a tribal court judge preside together over a docket that provides tribal and non-tribal individuals, and in some cases their families, with a court-supervised alternative to incarceration that emphasizes community values and culture.

Adopting a problem-solving approach recognizes that the adversarial process can increase conflict and might not produce the best results in some cases. “Underlying the problem-solving approach is an ethic of care and restoration; that is, an approach to judicial decision-making that emphasizes treating litigants with a high degree of civility, dignity, and patience, aiding them in taking responsibility for resolving their difficulties, and providing them with access to restorative services.”<sup>11</sup> Such an approach is consistent with tribal cultural values, and such restorative justice practices are being recognized and incorporated in many courts.

## Project T.E.A.M

As other jurisdictions across the U.S. and in Indian country learned about this novel judicial approach, they expressed interest in creating their own joint jurisdiction courts. Even though there was often strong interest in the benefits collaboration can provide, many jurisdictions – tribal and non-tribal – simply did not know how to begin. Others insisted that collaboration could never happen in their jurisdiction. Those involved with various systems often became entrenched in their own way of doing things, thinking that their way was the best, or only, way to do things. Collaboration between different systems seemed daunting, even if it would benefit both sides. In short, they needed help to get things off the ground.

Project T.E.A.M. was created to help other jurisdictions create their own collaborative courts by addressing public safety issues through the lens of common goals and shared challenges. Project T.E.A.M., in collaboration with the Oregon Health and Science University, received a grant from the U.S. Department of Justice, Bureau of Justice Assistance, to provide training and technical assistance. Project T.E.A.M. is a group of professionals dedicated to helping tribes and local governments create, implement, and manage joint jurisdiction collaborations that are tailored to fit local needs. The goals of Project T.E.A.M. are to improve justice outcomes in the community, to use resources more efficiently and effectively through collaboration and partnerships, and to help repair traditionally difficult relationships between tribes and U.S. governmental bodies. Among others, members of Project T.E.A.M. include the judges who founded the first joint jurisdiction courts in the nation.

This manual was developed based on the work of the first two joint jurisdiction courts in Minnesota and the experiences of Project T.E.A.M. as it helped establish joint jurisdiction courts in California, Alaska, and Montana.<sup>12</sup> It is intended as a guide to help jurisdictions create their own joint jurisdiction courts, by identifying common goals and challenges, and building on them until a working system is in place. Stakeholders can individualize the process and build a court to fit their particular needs.

<sup>9</sup> Folsom-Smith, C. (2008). Walking on common ground: Tribal-state-federal system relationships. *Publication of the National Tribal Judicial Center, National Judicial College* (p. 15). Retrieved from <https://www.walkingoncommonground.org/files/Background%207%20WOCG%202010.pdf>.

<sup>10</sup> Organick and Kowalski, *infra* note 3, p. 50.

<sup>11</sup> Wexler, D.B. (1999, October). *Therapeutic jurisprudence: An overview*. Remarks from a public lecture at the Thomas Cooley Law Review Disabilities Law Symposium.

<sup>12</sup> These three pilot sites were the Shingle Springs Band of Miwok Indians/El Dorado County Superior Court (near Sacramento, California); Kenaitze Indian Tribe/Alaska Court System; and the Northern Cheyenne Tribe/U.S. District Court for the District of Montana.

# Forging the Way

## Development of the first joint jurisdiction courts & Project T.E.A.M.

The Leech Lake Band of Ojibwe is located in northern Minnesota, slightly more than 200 miles from the metropolitan area of Minneapolis and St. Paul. The Leech Lake Band of Ojibwe's reservation covers nearly 1,000 square miles and overlaps with four Minnesota counties: Cass, Itasca, Beltrami, and Hubbard. In 2006, Cass County was named the seventh deadliest county in Minnesota (out of 87 counties), which stemmed from impaired driving.<sup>13</sup> From January 1, 2001, through December 31, 2005, Cass County experienced 32 fatalities,<sup>14</sup> representing one death for every 901 people, compared with one death for every 12,509 people in urban Hennepin County during the same time period.<sup>15</sup> Cass County also had the worst outcomes in the state for children. Ninth graders ranked first in the state for sexually active teens, second in the state for out-of-home placements and attempted suicides, third for drinking and driving, and third for children living in poverty.<sup>16</sup> Of residents living on the Leech Lake reservation, 60% reported having serious drug or alcohol problems, and 95% reported being directly affected by a family member's alcoholism or drug abuse.<sup>17</sup>

Change was needed in these communities but solutions were elusive. In 2006, Cass County Probation Officer Reno Wells and District Court Judge John Smith began a dialogue about finding answers to some of these problems. They decided that at least one solution would be to start a drug court, so they enrolled in training through the National Association of Drug Court Professionals (NADCP).

As Judge Smith and Mr. Wells worked on development of a drug court, they realized they could not do it alone. Judge Smith and his colleagues instinctively knew that nothing could be accomplished without partnering with the Leech Lake Band of Ojibwe

because members were so disproportionately represented in the criminal justice system. Judge Smith and Mr. Wells contacted the tribal chairman of the Leech Lake Band of Ojibwe, George Googleye, and tribal court judge Corey Wahwassuck, to ask for help. As Mr. Wells put it, "if we are going to work together there has to be a respect factor there. We are both important to the endeavor so you go and ask, will you participate with us?"<sup>18</sup>

After consulting with Chairman Googleye and Judge Wahwassuck, the Leech Lake Band of Ojibwe Tribal Council agreed to work with the Cass County District Court. As Judges Smith and Wahwassuck engaged with one another, they realized that the systems they represented shared common goals. Representatives of both systems wanted better outcomes for their constituencies, and they wanted to reduce the jail population and curtail drug and alcohol abuse; they knew they needed to improve relations with each other in order to make this endeavor work. Representatives of both systems knew that if drug and alcohol use could be reduced, resulting crime could also be reduced; the number of child welfare cases could be reduced, healing could begin, and relationships between the people of the two sovereign governments could be improved. They also knew that they could not accomplish their goals alone; each jurisdiction needed the other to pool knowledge, staff, and resources, and to better reflect the people and cultural practices of the populations served. They decided that with common goals and responsibilities, it made sense to bring the court systems together.

However, there were additional obstacles to overcome. According to Mr. Wells:

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<sup>13</sup> Minnesota Office of Traffic Safety, Operation Nightcap, Tribes and Transportation, REP, at slide 19 (on file with authors) [hereinafter Tribes and Transportation] (on file with authors).

<sup>14</sup> *Id.* at slide 9.

<sup>15</sup> Tribes and Transportation, *supra* note 9; Minnesota Office of Traffic Safety, Impaired Driving Facts (on file with authors).

<sup>16</sup> Planning Correctional Facilities on Tribal Lands Competitive Grant: Leech Lake Band of Ojibwe (Department of Justice program approved grant, August 2008) (on file with authors).

<sup>17</sup> *Id.*

<sup>18</sup> Excerpt from Project T.E.A.M.'s interview with Reno Wells, October 2, 2013 (on file with authors).

*So here we are, we have two different cultures and we still can't communicate with one another. It's crazy. It doesn't make any sense. And that was one of the biggest issues that we had. Even when we started to negotiate our decision to move forward with the Chairman and the Judge, we had tremendous resistance within our own entities. Trying to engage other agencies within our government, whether it be the social service side, the chemical side, etc., there was still tremendous resistance. I don't know if their decisions were based on the fact that it [collaboration] didn't work before, so why would it work now. And the other issue became one of dollars. Everyone wants to know what the bottom line is. What are we willing to invest and what is our return? We knew it was going to be a long term investment, but for us it didn't matter, because everything else we had tried failed. We thought we had a pretty good chance of this being successful. The most important thing for us is that the key individuals, the Chairman of the Band, the Tribal and District Court Judges, and our County Board, said we are doing this. So that was just the way that it was. If people didn't want to participate, there were potentially some ramifications for not following what your policy makers told you they were going to do.<sup>19</sup>*

According to Chairman Googleye, in reference to starting a joint jurisdiction wellness court:

*There were even some of our own tribal members who were opposed to it. Again, you are not always going to be able to satisfy all people. There is always going to be some resistance. We even had resistance from a member of our own*

*tribal [government] who didn't think . . . we should be working with the counties. But it was something we were able to get past. By the way we approached it, how could you not? Not only will this benefit our tribal members with this type of court. . . but it will benefit a lot of other people as well because they are going to get to take advantage of the benefits that exist because of the [wellness] court.<sup>20</sup>*

As Judge Wahwassuck and Judge Smith started their joint venture, they looked for guidance from other jurisdictions. The judges quickly found that even where there is willingness to collaborate, there is no magic formula for success. They hoped at first to find a model that they could copy so that they would know how to handle the complexity of a multi-jurisdiction court. The judges looked nationwide for information on how other courts in similar situations were operating, only to find that collaboration of this nature was truly unprecedented; if they wanted to be successful, they would need to learn together.<sup>21</sup> Even though no model existed, the judges knew they could agree on the goals for their new court.

Both judges were committed to promoting sobriety, healthy individuals, healthy families, and healthy communities. When differing opinions arose, they could always look to their established goals as a beacon for direction. Their ability to focus on the end result helped facilitate the partnership, build relationships, and pull the team through challenging times.

Broad-based collaboration across disciplines was required to meet the prospective participants' needs. Social services, treatment providers, probation, law enforcement, public defenders, and prosecutors all needed to be involved and committed to the joint jurisdiction wellness court. Law enforcement representatives were not easy to convince at the beginning. Many were skeptical of yet another program that was supposed to reduce crime. However, after seeing relationships develop and trust established between members of the county and the tribe, the level of acceptance the fledgling court

<sup>19</sup> *Id.*

<sup>20</sup> Excerpt from Project Team's interview with George Googleye, October 2, 2013 (on file with authors).

<sup>21</sup> Wahwassuck, *supra* note 2, p. 868

achieved within the law enforcement community was nothing short of remarkable.<sup>22</sup> Officer Ryan Fisher, who worked for both the Leech Lake Band of Ojibwe Tribal Police Department and the Cass County Sheriff's Office reported that, "these relationships are better today than they have ever been and I believe wellness court has influenced these relationships."<sup>23</sup>

Minnesota's first joint jurisdiction wellness court started with a handshake and a commitment, and the policies and procedures followed. The wellness court started as any new drug court would; the only difference was that the two judges exercised their jurisdiction simultaneously and the wellness court team consisted of representatives from both jurisdictions. Judge Wahwassuck stated that:

*Since the beginning of the wellness court partnerships, both the district court and the Leech Lake Band of Ojibwe Tribal Court have focused on what is best for the participants in our programs and the safety of the public. These are common goals that we share. Another ingredient to success is mutual respect. We do not have to do everything the same way or believe the same ideas to respect each other. We do not always agree on what is best for our participants, but we have learned how to disagree and still reach a desirable result. The success of our participants is the best evidence of our working relationship.<sup>24</sup>*

Because this was the first court of its kind in the United States, there was no roadmap to follow. Instead of waiting for completion of a comprehensive manual, important and obvious policies were created, but the rest followed from taking action. As issues arose or documentation of success was warranted, policies and procedures were developed. One of the first documents created by the new court was a joint powers agreement signed by each judge, which declared:

Be it known that we the undersigned agree to, where possible, jointly exercise

the powers and authorities conferred upon us as judges of our respective jurisdictions in furtherance of the following common goals: 1. Improving access to justice; 2. Administering justice for effective results; and 3. Fostering public trust, accountability, and impartiality.

This simple, yet significant, document has guided the first joint jurisdiction wellness court for over a decade. The Leech Lake Band of Ojibwe Tribal Council and the Board of Commissioners for Cass County also passed resolutions in support.<sup>25</sup> Additional memoranda of understanding<sup>26</sup> were developed over time to guide the day-to-day operation of the wellness court.

The success of this groundbreaking joint jurisdiction wellness court was closely watched by neighboring counties in Minnesota, and in 2007 a second joint jurisdiction wellness court was formed in collaboration between the Leech Lake Band of Ojibwe and the Itasca County District Court to work with offenders charged with controlled substance crimes and driving while intoxicated (DWI).

Over time, joint jurisdiction work expanded to include a juvenile diversion program and a juvenile reentry program. These first joint jurisdiction courts significantly reduced recidivism and became models of intergovernmental collaboration. The courts have been recognized nationally and even internationally, and are still operational today, despite judicial and staff turnover, tribal council and county board of commissioner administration changes, and fiscal challenges.

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<sup>22</sup> *Id.* at 869

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 872

<sup>25</sup> See Appendix for resolutions.

<sup>26</sup> See Appendix for memoranda of understanding.

# Leech Lake Band of Ojibwe-Cass County & Itasca County Outcomes

The Leech Lake Band of Ojibwe-Cass County and Itasca County joint jurisdiction wellness courts are still operational after more than a decade, despite turnover of the initial presiding judges and other key team members. The courts have won many local and national awards, including a Harvard Honoring Nations Award; the National Association of Drug Court Professionals Cultural Proficiency Courage Award; the National Criminal Justice Association Outstanding Tribal Criminal Justice Award; and two awards for local government innovation. The courts were also nominated for a United Nations public service award.

In 2013, the Leech Lake Band of Ojibwe-Itasca County Joint Jurisdiction Wellness Court contracted with Wilder Research of St. Paul, Minnesota, to conduct a two-year impact evaluation on the characteristics of participants enrolled in wellness court from July 1, 2013, through June 30, 2015. Part of the evaluation studied 32 individuals who had graduated during this time frame. Of this population, 50% had stable housing at intake, at discharge 87% had stable housing; 34% had a valid driver's license at intake, at discharge 80% had a valid license; only 26% had a job or were enrolled in school upon intake, upon discharge 86% were working or in school.

In 2014, the Leech Lake Band of Ojibwe-Cass County Joint Jurisdiction Wellness Court contracted with National Demographics Corporation (NDC) to conduct a process, outcome, and cost evaluation report. The evaluation examined data from the Leech Lake Band of Ojibwe-Cass County Joint Jurisdiction Wellness Court, compared to offenders in a traditional court process, from 2006 to 2012. The wellness court participants had 60% fewer rearrests one year after program entry; committed 44% fewer property crimes two years after program entry; and had no new felony arrests two years after program entry.

The 2015 Alcohol & Drug Abuse Division End of Year Evaluation Report for the Leech Lake Band of Ojibwe-Itasca County Joint Jurisdiction Wellness Court found “that the Wellness Court is serving participants with

significant needs related to chemical health, housing, and employment. Participants' Level of Service – Case Management Inventory (LS-CMI) scores at intake support this conclusion, with 59 percent of the participants having scores indicating high to very high need and an additional 24 percent having scores indicating medium to high needs. In regard to the impact of the joint jurisdiction wellness court, successful graduates had low to moderate service needs when the [sic] left the program, as measured by the LS-CMI completed at client discharge.”

In regards to return on investment results, graduates spent only a fraction of days incarcerated compared to their original sentences; the avoided days in jail represent a savings to the judicial system. In addition, program graduates are less likely to reoffend and be incarcerated after they leave the program, generating additional savings. Successful participants are more likely to find full-time employment and pay taxes from their personal income. The total economic value of these positive outcomes for the graduates of the wellness court at Itasca County between 2007 and 2014 was \$2,078,031. Further, graduates avoided at least 8,084 days in jail during the period studied; multiplying these days by the per-diem cost of jail of \$119.34 resulted in savings of \$964,745.

Not all the economic benefits of the joint jurisdiction wellness court are included in the return on investment estimation. Additional benefits include participants' reduced drug use and treatment needs, increased educational achievement, and reduced health care costs and mortality. Successful graduates had on average 663 days of sobriety; a majority of graduates had stable housing and paid employment. By preventing future crimes, wellness court is also saving potential victims of these crimes from the associated costs. The program evaluators concluded that “[t]he returns on investing in the wellness court program are positive and show that allocating resources to this initiative makes economic sense for society and specifically to taxpayers.”<sup>27</sup>

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<sup>27</sup> See Appendix for a copy of the full 2015 Alcohol & Drug Abuse Division End of Year Evaluation Report for Leech Lake Band of Ojibwe-Itasca County Joint Jurisdiction Wellness Court.

Improved relationships between representatives of the tribal and non-tribal systems was another benefit of the joint jurisdiction wellness courts. Although there was not always agreement as to what was best for participants, the judges were building respect for each other and for the process. Jon A. Maturi, former Chief Judge of the Ninth Judicial District, credits the success of the collaborative efforts to “a mutual understanding of our respective sovereignty; but, more importantly, [to] our mutual understanding of what we hold in common and our joint desire to better serve the residents of [the] County, Leech Lake and the Ninth Judicial District.”<sup>28</sup>

Law enforcement officer Ryan Fisher, who participated in the wellness court as both a tribal and county police officer said, “I believe that these relationships are better today than they have ever been and I believe wellness court has influenced these relationships.”<sup>29</sup> Former prosecutor Earl Maus was skeptical at first, until serving on the joint jurisdiction wellness court team. After he became involved, he found “the unified tribal-state court has helped dissolve racial barriers that often exist . . . both staff and participants appear to be more trusting of each other.”<sup>30</sup>

As other jurisdictions in the United States and in Indian country learned about this novel judicial approach, they expressed interest in creating their own joint jurisdiction courts. Even though there was often strong interest in the benefits collaboration can provide, many jurisdictions—tribal and non-tribal—simply did not know how to begin. Others insisted that collaboration could never happen in their jurisdiction. Individuals involved with various systems often became entrenched in their own way of doing things, thinking that their way was the best, or only, way to do things. Collaboration between different systems seemed daunting, even if it would benefit both sides.

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<sup>28</sup> Wahwassuck, *supra* note 2, p. 872.

<sup>29</sup> *Id.* at 869.

<sup>30</sup> *Id.* at 870.

# Building a Joint Jurisdiction Court or Initiative

After a competitive application process, three pilot sites were chosen. Project T.E.A.M. worked with each pilot site for approximately eight months to establish their courts. The work began with conference calls between Project T.E.A.M. staff, the judges who led the local effort, and their respective court staffs. Initial conference calls were held to identify leadership's vision for the courts. In California, the team chose to focus on a program for juveniles and their families. In Alaska, the team chose to develop a program for adult drug and alcohol offenders. In Montana, the team chose to work with felony-level offenders with substance use issues. Throughout the process, Project T.E.A.M. held regular phone conferences with local leadership.

The next step was to identify stakeholders and invite them to attend planning meetings. Project T.E.A.M. facilitated three separate, two-day meetings in each jurisdiction to gather stakeholders to design and implement a joint jurisdiction court. The identification of stakeholders was important and the success of these meetings can be attributed, at least in part, to the large number of individuals who participated in these meetings and the various perspectives they brought. The planning meetings at all three pilot sites included participants from the judiciary, prosecution and defense, law enforcement, probation/supervision, treatment providers, and others. The Wilder Collaboration Inventory<sup>31</sup> was administered before the first on-site meetings, in California and Alaska, to measure readiness for collaboration and to gather baseline data for later comparison.

After the stakeholders had been identified and invited, Project T.E.A.M. worked with the local leadership to develop an agenda for the first meeting. Meeting content varied somewhat based on local needs, but the initial meetings at all three pilot sites included a traditional opening, time for relationship development, establishing rules for communication, defining vision and mission for the initiative, developing goals, sharing what worked in other jurisdictions, and mapping the current system. Project T.E.A.M. took extensive notes throughout all meetings and conference calls, typed them, and shared the notes with stakeholders prior to the next meeting.

Project T.E.A.M.'s second meeting at each pilot site started with a traditional opening, followed by reviewing the notes of the previous meeting; identifying training opportunities; discussing the local culture and how to integrate language, traditional values, and cultural ceremonies into the court; identifying program phases; determining a target population; deciding who would be disqualified; deciding how referrals would be made; and discussing incentives and sanctions, requirements for graduation, and fees. Again, extensive notes were taken and distributed to stakeholders for review prior to the following meeting.

Before the third meeting with each pilot site, Project T.E.A.M. created a draft manual for site stakeholders based on the information compiled at the first and second meetings. The third meeting started with a traditional opening, followed by a review of the previous meeting notes and a lengthy discussion of the site's draft manual. Project T.E.A.M. reviewed the draft manual with site participants, line by line, to ensure that there was consensus among all stakeholders as to content. Often, further discussion and revision were needed. Conversation also included hiring a court coordinator and other needed positions, followed by discussion on developing committees and subcommittees, rallying resources, and measuring results. The final meeting concluded with a traditional closing. Any needed revisions to the manual were distributed to all stakeholders after the final meeting, and Project T.E.A.M. continued to be available to answer questions as needed.

The following sections outline in more detail the process used to create the Leech Lake Band of Ojibwe-Cass County and Itasca County joint jurisdiction wellness courts; steps that Project T.E.A.M. adopted, built on, and used to help pilot sites create their own joint jurisdiction courts. Each section describes the process and provides suggestions for success. Although these initial joint jurisdiction courts chose a "wellness court" model, not all programs are alike, and represent different applications of joint jurisdiction.

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<sup>31</sup> The Wilder Collaboration Inventory is a free tool to assess how your collaboration is doing on 20 research-tested success factors. See [www.wilder.org](http://www.wilder.org).

# 1 UNDERSTAND & BUILD COLLABORATION

Collaboration is extremely powerful, but many people do not know how to do it effectively. Especially when trying to work across complex political systems, this lack of knowledge makes building collaboration even more difficult.

Creating successful systems change is hard work. “The process of engaging complex and traditionally autocratic organizations such as courts... raises issues of turf, trust, and politics. But aligning disparate goals and practices, ensuring shared responsibility and accountability, building consensus, coordinating resources, facilitating shared leadership, and mutually defining and measuring outcomes are critical components of an effective systems change process.”<sup>32</sup>

Collaboration is more than just bringing stakeholders to the table. Collaboration is more than cooperation and exercising jurisdiction jointly goes a step beyond collaboration to create a new type of system. Joint jurisdiction starts with collaboration, which develops over time, and requires multiple interactions that build trust and mutual respect among members.

Stakeholder meetings must provide a safe space to openly and honestly discuss multiple perspectives on system change, underlying assumptions and expectations, and common and competing system goals. Collaborative partners must be open to learning and be willing to change the way they interact with and communicate with each other. All partners must be willing to share their experience and knowledge and use their respective authority to help move the joint jurisdiction court forward.

There is no “one size fits all” approach in determining which joint jurisdiction structure is best for a particular locale. The type of court structure best suited to a particular community depends on a variety of factors, including the structure and size of the courts, local

demographics and resources, and the politics and culture of the community.

It is essential that the court planning team develops trust so that they can openly discuss issues and concerns. Core philosophies and practices must be examined and even challenged, and relationships must be built among different groups of stakeholders. The process takes time and teamwork. Systems change is people-driven, and it takes time to get to know each other and build trust.

Collaboration of individuals and organizations is at the heart of developing joint jurisdiction courts and can often be the hardest part to initiate. Historical trauma, land disputes, litigation, and more all contribute to distrust of the other jurisdiction and those working inside the systems. However, by reaching out, even to one other individual, and getting to know one another goes a long way in reducing tensions and developing relationships. Collaboration of governments truly does begin by developing relationships of two or more people and focusing on common goals. Even in the midst of conflict, or aftermath of litigation, relationships can grow and blossom.

One of the best ways to eliminate distrust between people is to have them work together on a common project.<sup>33</sup> Building a partnership between jurisdictions requires trust and a willingness to openly communicate. The collaborative process is intended to move participants away from the traditional definition of power as control or domination, toward a definition that allows for shared authority. “The fact that full-blown collaboration has blossomed in an environment (in Minnesota) where deeply ingrained ill will once prevailed, bears witness to the fact that fundamental systems change is possible.”<sup>34</sup>

Wilder Research defines collaboration as “a mutually beneficial and well-defined relationship entered into by two or more organizations to achieve common goals,”<sup>35</sup> as well as “a jointly developed structure and shared responsibility; mutual authority and accountability for success; and sharing of resources and rewards.”<sup>36</sup>

<sup>32</sup> Dobbin, S.A., Gatowski, S.I., & Maxwell, D.M. (2004). Building a Better Collaboration: Facilitating Change in the Court and Child Welfare System. *Technical Assistance Bulletin*, 8(2). Reno, NV: National Council of Juvenile and Family Court Judges, p. 1.

<sup>33</sup> Wahwassuck, *supra* note 2, p. 871.

<sup>34</sup> *Id.*

<sup>35</sup> Wilder Foundation. (2001). *Collaboration: What makes it work* (2nd ed). Saint Paul, Minnesota: Fieldstone Alliance, p. 4.

<sup>36</sup> *Id.*

Wilder Research has identified 20 factors that influence the success of collaboration related to the environment, membership characteristics, process and structure, communication, purpose, and resources.<sup>37</sup> Wilder Research has devised a Collaboration Factors Inventory Worksheet<sup>38</sup> that can be used to evaluate the readiness of jurisdictions planning to develop a joint-jurisdiction court. Depending on the scores on the Inventory Worksheet, more time might need to be spent developing relationships before developing structure.

Before site work begins, Project Team generally administers the 40-question Collaboration Factors Inventory Worksheet to site participants in order to measure collaboration readiness. All of the 20 factors influencing the success of collaboration are equally important, but developing and/or enhancing mutual respect, understanding, and trust is critical. Twenty-seven studies have identified mutual respect, understanding, and trust as being necessary ingredients in successful collaboration development. Although many groups don't initially convene with these characteristics, it is developed over time as each new resolution of a problem further enhances mutual trust. However, if the results of the Inventory Worksheet are low in this domain, dedicated time should be allocated for members of the collaboration to get to know one another. The results of the inventory can help determine the strengths and weaknesses of the stakeholder group, whether representatives from different organizations rate questions the same way and, if not, what the implications are, whether there are factors with low ratings in need of attention, and how strong the overall scores are. By paying attention to potential pitfalls early on and intervening in those areas, collaboration can prove much more successful later on.

## suggestions for building collaboration

**INVITE** someone from another jurisdiction, preferably someone in a similar position to your own, to share a cup of coffee or a meal together.

**DISCUSS** goals for your jurisdiction and invite the other person to do the same.

**IDENTIFY** similar and overlapping goals.

**AGREE** to meet again to discuss appropriate next steps, even if it is to continue conversation and work on building a stronger relationship.

**INVITE** others in positions of authority to join you to discuss overlapping goals and the possibility of partnership.

**INCLUDE** judges as participants at the beginning of the collaborative process because they have the authority to convene stakeholders.

**USE** the Wilder Collaboration Factors Inventory Worksheet before convening your first meeting of stakeholders.

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## 2 GATHER STAKEHOLDERS

Judges are the natural leaders for a joint jurisdiction collaborative. They have inherent authority and are likely to have legitimacy with the members of the collaboration and the community. However, it is important to also have a cross-section of members from all groups that will be affected by the proposed collaborative change.

There are four general types of stakeholders: (1)

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<sup>37</sup> *Id.* at p. 7.

<sup>38</sup> See Appendix.

Stakeholders with formal decision-making power; (2) Stakeholders with the power to impede a decision or reform initiative, ranging from top level decision makers who actively block reform efforts to other stakeholders who passively undermine the implementation of specific reforms. It is important that these individuals feel they have a voice in the consensus-building and decision-making process. They need to feel that their concerns are being addressed. Including the perspective of these individuals also assists in the process of problem-definition and the identification of barriers to implementation. These same people often become strong advocates for collaboration if they are treated with respect and educated about how to participate constructively; (3) Stakeholders with relevant information or experience about the current reality of practice, policies, and outcomes. Making certain that a range of individuals from differing levels of the organization or system's structure (e.g., managers, supervisors, and line-level staff) are included in the planning group expands the knowledge base of the group and the group's sphere of influence; (4) Stakeholders affected by decisions and changes in policy and practice. Inclusion of "client" stakeholders in the planning group can serve as a constant "reality check" against whether efforts are appropriately targeted and implemented (e.g., are reform efforts reaching the individuals they were designed to reach? Does the collaborative group have an accurate picture of the needs and concerns of its clients?).<sup>39</sup>

For an adult criminal court, planning team members would likely include judges, the prosecuting attorney and public defenders, law enforcement, probation/parole, treatment providers, administrators, elders, cultural leaders, and others. For a juvenile delinquency court, these same individuals might be in the collaborative, which would likely also include school personnel, social workers, and individuals who work specifically with a juvenile population. Significant representation from both the tribal and non-tribal systems is important. Ideally, participants in the collaborative planning process should have decision-making authority within their respective agencies.

Regarding logistics, a comfortable room should be provided, and it is beneficial to meet on tribal lands to promote cultural understanding. Many of the state-

federal stakeholders might never have been in a tribal courtroom or observed tribal government at work. Oftentimes, cultural artifacts and artwork are on display, cultural events may be taking place, and cultural values are signified by what hangs on the walls. This provides an educational opportunity for many of the gathered stakeholders. Opportunities for informal conversation should also be facilitated, such as frequent coffee breaks, which allow people to get to know each other. Lunch should be provided onsite for the same purpose.<sup>40</sup> A traditional opening by an elder or cultural representative(s) is another opportunity for educating state and federal partners, but most importantly it sets an appropriate tone for a significant event that is about to occur. At the end of the day, meetings are also closed in a traditional way.

### suggestions for gathering stakeholders

**GET** all stakeholders to the table with authority to make decisions, preferably the judiciary, heads of agencies, directors of organizations, board chairs, university researchers, etc.

**SEND** an invitation for the meeting but also pick up the phone and personally invite individuals who might have some reluctance about attending.

**HOLD** the meeting on tribal lands to educate partners regarding tribal customs and to build respect.

**ARRANGE** for a comfortable meeting room because people will be sitting for a long time; preferably a minimum of two days for the first meeting. Provide refreshments and morning, lunch, and afternoon breaks.

**OPEN & CLOSE** meetings in a traditional way; it provides an element of respect for the process and the stakeholders who are participating in the meeting.

<sup>39</sup> *Id.* at p. 55-56

<sup>40</sup> Planning teams should keep in mind and comply with applicable federal grant restrictions prohibiting expenditure of grant funds for food and beverages.

## 3 ESTABLISH GROUND RULES FOR COMMUNICATION

Before beginning discussion, establish ground rules for communication. Use of the circle process and a talking piece could be appropriate; other groups might prefer that a facilitator call on individuals who wish to speak; other groups might adopt guiding principles that help set a tone with which to navigate discussion. One group<sup>41</sup> adopted a commitment to using the Four Agreements as presented by Miguel Angel Ruiz in his book of the same name: 1) be impeccable with your words, 2) don't take things personally, 3) don't make assumptions, 4) always do your best. Additionally, the group adopted the following concepts to guide their discussion:

- Commitment to transparency in sharing information
- Commitment to open dialogue; a safe space to contribute
- Agreement to honor our words and our commitments
- Agreement to stay focused on our mission and goals
- Remember why we are here—our youth and families

Finally, rather than adopt a universal policy of confidentiality in regard to content shared during the meeting, the participants agreed on the ability of any participant to request confidentiality at any time.

In whichever way participants choose to guide their discussions, group leaders or facilitators should commit to creating an environment of openness to talking and sharing ideas, and should effectively communicate this commitment to the group. Setting a tone of a judgment-free environment, where people are encouraged to think outside the box and freely express their ideas, is critical to establishing a new initiative.

## suggestions for setting ground rules

**DEFINE** your own rules for communication or adopt what others have created.

**INVOLVE** everyone, which can be accomplished by asking each person to contribute.

**BE RESPECTFUL** of each person and what they have to say, even if you don't agree with their position.

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## 4 DEFINE THE VISION & MISSION

After the necessary stakeholders are at the table, a traditional cultural opening has been conducted, and communication ground rules have been established, the parties need to unite around a collaborative vision and mission. Such preliminary work provides the planning team with a common sense of purpose and identity, provides long-term direction, and communicates both internally and externally what the collaborative is about.

The difference between a vision and a mission statement can sometimes be confusing. Developing a vision statement entails identifying the optimal goal or reason for the existence of a group or organization. A vision statement describes how the group would look in its future successful state of being; it communicates where an organization wants to be. A mission statement, on the other hand, describes what a group will do in the present to attain its future vision; it describes how an organization will get to where it wants to be.

Developing a vision statement can sometimes feel like an exercise to be checked off a to-do list. However, a strong vision statement, developed by the entire

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<sup>41</sup> The Shingle Springs Band of Miwok Indians and El Dorado County Superior Court in California.

group, serves as an important declaration of intent to make change. A well-drafted vision statement can prevent the group from veering off course and can help remind the group of its initial intent and reason for existence. The Shingle Springs Band of Miwok Indians-El Dorado County Superior Court's vision statement is "One safe, strong community of thriving families created through trust and healing."<sup>42</sup>

One of the fundamental questions for any group or organization is, "what is our purpose?" A mission statement provides purpose and direction for the stakeholders. It should be aspirational in reach, yet also clear and specific enough to define the stakeholders' work. The value of a mission statement comes only when all stakeholders can internalize it and use it as a kind of organizational compass. The mission of the Leech Lake Band of Ojibwe-Cass County Wellness Court is "To enhance public safety by providing hope and opportunities for appropriate treatment with accountability, thereby improving the quality of life within families and in the community."

There are many ways of developing group vision and mission statements. One method Project T.E.A.M. used was to have each person in the room give one word that described what they wanted the group to accomplish in the future. All words were written on a white board, whittled down to a few, and combined until they formed the vision the group had for future success. The process used to create a mission statement was the same, except that a few words or a sentence was offered instead of only one word.

## suggestions for defining mission & vision

**DISCUSS** the issues facing each system and how the initiative wants to see such problems addressed. The issues could be drugs, drunk driving, out-of-home placements, all of the above, or other issues.

**DEVELOP** a vision statement, which is a future goal the group intends to attain. This statement is a tagline of sorts that can be easily remembered and repeated. It communicates where the group or initiative wants to be in the future.

**DEVELOP** a mission statement that describes what the group intends to do in the present to accomplish its future mission. If the group veers off course, a mission statement helps to redirect the group and refocus on the agreed-upon mission.

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## 5 MAP THE CURRENT SYSTEM

It is crucial to map the current system and then to identify opportunities for improvement. Stakeholders often have an excellent understanding of their own organizations, yet are often lacking critical information of other organizations that affect the system as a whole. The mapping process helps each stakeholder understand how the entire system works and how each organization fits into the system.

By mapping the current system, all stakeholders are involved in creating a flow chart, identifying steps in the process, setting timelines between events, identifying applicable laws and regulations, and identifying resources and lack thereof. This is an opportunity for stakeholders to identify their role in the system and for each person to understand their function in the whole. Stakeholders may learn, for

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<sup>42</sup> The Kenaitze Indian Tribe and Alaska Court System.

example, that:

- Arrests have increased
- Treatment beds all have waiting lists
- Probation officers are required to arrest for certain violations
- Judges have discretion in the imposition of some fines/fees
- There is a need for better communication between departments
- There is a need for new hires or new positions

By mapping the current process, all stakeholders learn the details of the system, where cases become backlogged, how to navigate treatment agencies, what is legally required when an offender is on probation or parole, etc. By understanding the nuances of how the system operates, stakeholders can better identify needs, establish goals, and collaborate regarding system change.

## suggestions for mapping the current system

**CREATE** a hypothetical case as a group exercise, and map how it currently proceeds through the system, from time of arrest, charge, or removal of a child through to resolution of the proceeding.

**INCLUDE** in the map how much time elapses between each event; which stakeholders come in contact with the offender/respondent; what types of cases require mandatory fines, fees, or jail time; what substance abuse and mental health treatment services are available; what resources are available through each court and the community, etc.

**MAP** a hypothetical case after the court's framework is developed to determine how the case will proceed with two systems (tribal and non-tribal) working together.

# 6 DEVELOP GOALS

Collaborative goals provide four basic functions<sup>43</sup>:

- Guidance and direction
- A template for short- and long-term planning
- Motivation and inspiration
- A way to evaluate performance

Goals also affect individual performance through a variety of mechanisms<sup>44</sup>:

- Goals direct action and effort toward goal-related activities and away from unrelated activities.
- Goals energize stakeholders; challenging goals lead to higher stakeholder effort than easy goals.
- Goals affect persistence; stakeholders exert more effort to achieve challenging goals.
- Goals motivate stakeholders to use their knowledge to attain a goal or acquire the knowledge needed to do so.

Goals should be specific, measurable, attainable, realistic, and time-bound, otherwise known as S.M.A.R.T. goals. Instead of developing goals that call for “reduced recidivism,” devise goals such as “drug- and alcohol-related driving offenses will be reduced by 25% within two years of the joint jurisdiction court’s start date.” Instead of developing a goal that “all program participants will have a substance abuse evaluation completed,” instead state that “all program participants will have a substance abuse evaluation completed within 30 days of entering the program.” To reduce criminal behavior and recidivism, the Leech Lake Band of Ojibwe-Cass County developed S.M.A.R.T. goals such as the following:

- 70% of participants will graduate from the program within three years of their start date.
- 73% of participants will have 90 consecutive days of sobriety by the end of their first year in the program.
- 90% of participants will not experience a driving-impaired violation within one year after graduation.

<sup>43</sup> Barney, J. B., & Griffin, R. W. (1992). *The management of organizations: Strategy, structure, behavior*. Boston: Houghton Mifflin Co.

<sup>44</sup> Locke, E.A., Latham, G.P. (2002). Building a practically useful theory of goal setting and task motivation: A 35-year odyssey. *American Psychologist*, 57(9), 705–717.

## suggestions for developing goals

**ESTABLISH** goals that provide direction, facilitate planning, motivate, and help evaluate performance of the initiative.

**ASK** group members to articulate goals they would like to see the initiative adopt.

**TURN** stated goals into SMART goals.

**IDENTIFY** current data needed to develop a baseline against which to measure goals in the future.

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## 7 UTILIZE ESTABLISHED TRAININGS

Training in the area of drug and alcohol courts, Tribal Healing to Wellness Courts, and other evidence-based training programs can be very helpful to stakeholders, no matter what type of joint jurisdiction court is being developed. Stakeholders are encouraged to attend trainings together, if possible. Spending time with one another outside of the workplace helps to solidify relationships and creates informal learning opportunities. Two exceptional trainings are offered annually. The Tribal Law and Policy Institute offers a Tribal Healing to Wellness Training<sup>45</sup> (see [www.wellnesscourts.org](http://www.wellnesscourts.org)) and the National Association of Drug Court Professionals<sup>46</sup> also offers a drug court training (see [www.nadcp.org](http://www.nadcp.org)).

<sup>45</sup> See Appendix for the 10 Key Principles of Tribal Healing to Wellness Courts.

<sup>46</sup> See Appendix for the 13 Key Principles of the National Association of Drug Court Professionals Drug Treatment Courts.

<sup>47</sup> Esther Lucero M.P.P. (2011). From tradition to evidence: Decolonization of the evidence-based practice system. *Journal of Psychoactive Drugs*, 43(4), 319-324.

## suggestions for using trainings

**ENCOURAGE** stakeholders to be trained in the area of drug/alcohol courts, Tribal Healing to Wellness Courts, or other evidence-based training programs.

**ATTEND** trainings together, if at all possible, so that team members learn the same information, have opportunities for informal learning, and continue to build relationships.

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## 8 INTEGRATE CULTURE & ITS HEALING PROPERTIES

Before the arrival of European colonizers, American Indian and Alaska Natives (AI/ANs) lived in communities complete with their own holistic systems of care, which included spiritual practices, traditional healers, community involvement in healing processes, and extensive knowledge of medicinal properties associated with their local flora and fauna (Vogel, 1970). With the arrival of the Europeans came disease, along with oppression, and then a long attack on the health and wellness of tribal communities.<sup>47</sup>

Today, AI/AN people experience more traumatic events and are at higher risk for developing post-traumatic stress disorder (PTSD) compared with the general population. Despite significant intergroup differences, Native people as a whole are at a greater risk than any other ethnoracial group for experiencing traumatic life events than the general population. In the largest epidemiological survey available regarding Native health, researchers found that two-thirds of the Native populations reported levels of lifetime trauma exposure that were higher than those in the general U.S. population. In terms of PTSD, considerable research has been completed with Native populations

that confirms the high prevalence of this psychiatric diagnosis among these populations.<sup>48</sup>

Historical trauma is highly relevant to any discussion of trauma in AI/AN populations. The term refers to the “colonization of indigenous communities and subsequent experiences of subjugation and abuse, including coercive assimilation through boarding schools (the experience of which often included physical, sexual, and emotional abuse). Historical trauma also refers to the theft of land; the forced removal and relocation of families and communities; and cultural genocide, including loss of Native language, cultural practices, social structures, and spiritual beliefs and practices.”<sup>49</sup>

According to the Surgeon General, substance abuse, mental illness, and violence are constant cycles ailing individuals, families, and communities in the AI/AN populations today. The increasing presence of these ailments within this population represents the trauma associated with AI/AN sociopolitical histories. It also demonstrates the disparity in the provision of mental health services, and a failure to address issues specific to AI/ANs.<sup>50</sup> The Surgeon General’s findings include acknowledgment of a connection between AI/AN sociopolitical oppression and their current mental health status; identification of a need for culturally sensitive providers who utilize appropriate ways to manage mental health care for AI/ANs; expression of a need for AI/AN mental health research and epidemiological data; recommendations to overcome the limitations of philosophies, treatments, and funding streams, and to address the comorbidity of mental health and substance abuse; and acknowledgment of the values of AI/AN traditional practices and encouragement to advance science to support AI/AN contributions.<sup>51</sup>

The effects of historical trauma among AI/ANs are important to keep in mind when developing a joint jurisdiction court because they can have a significant impact on the process. These effects can manifest themselves not only among court participants, but also among the court team members.

Culture is inherent in the entire process of joint jurisdiction work. Culture should be part of the process, both in creating the court and in defining its procedures. Joint jurisdiction courts can be a key in helping people reconnect and learn about their values, traditions, and how to restore relationships. It can be a healing and learning experience for everyone involved, participants and court team members, tribal members and non-Indians alike.

Culture is often integrated in the name of the joint jurisdiction court or initiative. Naming of the court is important and can express traditional values of the community. Traditional values are the underlying foundation of the court and serve as guiding principles for stakeholders and participants. In the Leech Lake Band of Ojibwe-Cass County Court, Native participants can engage in naming ceremonies if they do not have an Indian name. Community feasts and traditional ceremonies are often held at graduation ceremonies, program incentives can include cultural activities, and requirements of community service can be to serve elders in the community. Culture is a protective factor and should be supported and nurtured throughout program development and implementation.

## suggestions for integrating culture

**INFUSE** culture in the planning, development, and implementation of the court.

**CONSIDER** the local culture when naming the court or initiative. It can have a significant effect on the community.

<sup>48</sup> Bassett, D., Tsosie, U., and Nannauck, S. (2012). Our culture is medicine: Perspectives of native healers on posttrauma recovery among American Indian and Alaska Native patients. *The Permanente Journal*, 16(1), p. 19.

<sup>49</sup> *Id.*

<sup>50</sup> Office of the Surgeon General, Center for Mental Health Services, & National Institute of Mental Health. (2001). *Mental Health: Culture, Race, and Ethnicity: A Supplement to Mental Health: A Report of the Surgeon General*. Rockville, MD: Substance Abuse and Mental Health Services Administration. Publications and Reports of the Surgeon General. Retrieved from <https://www.ncbi.nlm.nih.gov/books/NBK44243/>

<sup>51</sup> Lucero, note 50 *supra*, p. 319-320.

## 9 DETERMINE THE TARGET POPULATION/ ELIGIBILITY CRITERIA

Who does the joint jurisdiction court intend to serve? Will it be a juvenile court or an adult court? Will it serve families involved in child welfare cases or serve drug-addicted adults involved in the criminal justice system? If the proposed participant does not meet all criteria, will the core team be allowed to review the participant’s history for possible waiver of disqualification from the program? These are all questions that stakeholders need to decide.

### suggestions for determining population

**DETERMINE** who the court will serve and why.

**IDENTIFY** the criteria for who will be admitted into the program.

**DECIDE** whether potential waivers will be allowed for individuals who do not meet all the requirements.

## 10 DECIDE WHO WILL BE DISQUALIFIED

Some courts automatically disqualify a person from entering the joint jurisdiction court if the applicant has a violent history; some courts make acceptance decisions based on a case-by-case analysis. What are the new joint jurisdiction court’s criteria for disqualification? Will violent offenders be excluded? Individuals with histories of drug dealing? Does the court have or plan to apply for federal grant funding that has restrictions on accepting certain types of offenders? All of these factors must be considered.

### suggestions for disqualifications

**DETERMINE** whom the court will not serve, and why.

**IDENTIFY** the criteria for whom will be excluded from the program.

## 11 IDENTIFY PHASES OF THE COURT

Phases simply refer to the different parts of the participant’s program: milestones to be accomplished. For example, a three-phase program was developed by the Leech Lake Band of Ojibwe-Cass County Joint Jurisdiction Wellness Court that included a treatment phase lasting three to six months, a transition phase lasting six to 12 months, and a living-well phase lasting six to 18 months. The first phase focuses on completing treatment and following recommendations, attending joint jurisdiction wellness court weekly, obtaining work or enrolling in school or volunteer work, and submitting to random urinalysis and seeing a probation officer multiple times a week. The second phase builds on phase one and includes surrounding oneself with community supports, making amends to victims, reducing court attendance to biweekly, and reducing the number of random urinalyses. The third phase focuses on maintaining progress and giving back to the community. Court attendance is reduced to monthly appearances; random urinalysis and probation contacts are also reduced. To graduate from wellness court, participants are required to show an understanding of their addiction and a plan for relapse prevention, have 180 days of continued sobriety, be gainfully employed or enrolled in vocational/academic training, have stable housing, attend all court and treatment appointments, and have reached the goals of their individualized case plan.

A joint jurisdiction court should be designed to reflect the needs of the target population that the court will serve. The program model (e.g., Juvenile, Adult, or

Family) can affect how long each phase will last. For example, if the court will serve entire families versus one individual, more time might be required in each phase, and a focus on different issues could be necessary. Those who want to develop courts can look to what has been done by other jurisdictions and modify their programs. Phases can always be adjusted later as the court develops and the needs of the program and participants are identified. Examples of procedures from other joint jurisdiction courts are included in the Appendix.

### suggestions for identifying court phases

**LOOK** to the manual of other joint jurisdiction courts for inspiration in developing phases.

**DECIDE** how long each phase will last and what requirements the participants must complete in each phase.

**PROVIDE** names for the phases that reflect what is to be accomplished. For example, the “treatment phase” of one court is very explicit and focuses on initiating and maintaining sobriety; the “mastery” phase of another court focuses on skill development and enriching one’s life.

**REMEMBER** that development of a joint jurisdiction court is a fluid process. Don’t become stuck developing perfect policies and procedures; they will likely change as the court progresses.

## 12 DETERMINE HOW REFERRALS WILL BE MADE

How will participants be referred to the joint jurisdiction court? Some courts have chosen to limit referrals to those made by prosecutors or probation officers. Other courts have opened the referral process to allow almost anyone to make a referral. Regardless of where the referral comes from, it should be sent to the court coordinator, who will review it and send it to the core team (see Section 17 below), if appropriate.

### suggestions for referral process

**DETERMINE** from where or from whom referrals will be accepted. Referrals will be reviewed by the court coordinator and, if appropriate, will be sent to the core team for review. The core team will make the final determination regarding whether one is accepted into the court.

## 13 DETERMINE INCENTIVES & SANCTIONS

Incentives and sanctions must be predictable, fair, consistent, and administered in accordance with evidence-based principles of effective behavior modification.<sup>52</sup> Incentives of the Leech Lake Band of Ojibwe-Cass County and Itasca County joint jurisdiction wellness courts include verbal recognition and praise, applause, phase advancement, decreased restrictions, court appearance priority, and gift cards. Sanctions of the joint jurisdiction wellness courts include verbal reprimands and warnings, verbal or written apologies to the judges and other participants, community service, additional chemical testing, court

<sup>52</sup> National Association of Drug Court Professionals (NADCP) (2013). *Adult Drug Court Best Practice Standards, Volume 1*, p. 26.

hearings and/or support meetings, being moved back a program phase, or jail.

Incentives don't have to be grand or require a monetary outlay. Verbal praise or decreased restrictions are possible incentives. Similarly, sanctions don't have to be severe. A written apology or increased testing could be appropriate sanctions, depending on the nature of the violation.

## suggestions for incentives & sanctions

**ENSURE** that administered incentives and sanctions are predictable, fair, and consistent.

**CONTACT** local businesses about donating gift cards or other items for incentives.

## suggestions for commencement

**DETERMINE** requirements for participant graduation. What length of documented, continuous sobriety will be required of participants? Is gainful employment a condition of graduation?

**MAKE** the graduation ceremony special and memorable so that the participant has something to look forward to and something to remember.

**INCORPORATE** culture into the graduation ceremony.

**CONSIDER** utilizing graduates as volunteer mentors for other participants, if appropriate.

# 14 DETERMINE GRADUATION/ COMMENCEMENT REQUIREMENTS

The Leech Lake Band of Ojibwe-Cass County and Itasca County joint jurisdiction wellness courts require participants, prior to graduation, to prepare written responses to a graduation questionnaire, which shows that they understand addiction, criminal behavior, and relapse prevention. Participants must have been sober for a minimum of 180 days preceding graduation, be gainfully employed, have reached the goals of their individualized case plan, and met other requirements. Graduation should be a special event, honoring the graduating participant through community feasts, cultural ceremonies, speakers, a graduation certificate, recognition by the tribal chairperson, and more.

# 15 DETERMINE WHETHER TO CHARGE FEES

Some joint jurisdiction courts charge participants a program fee. The joint jurisdiction court must determine whether fees should be charged and what they will be used for. For example, the Leech Lake Band of Ojibwe-Cass County and Itasca County joint jurisdiction wellness courts charge \$400 per participant, payable in weekly installments. Participants must pay a minimum of five dollars each week. A court's fees can be used to purchase participant incentives, journals, graduation gifts, or pay for community feasts. Fees can also be used to advertise the court, help offset costs of stakeholder training, or pay for a program evaluation.

## suggestions for determining fees

**DECIDE** whether or not the court should charge participant fees. If so, determine an appropriate fee and break it into small amounts payable in increments.

**DETERMINE** what the fees will pay for: training, incentives, graduation, etc.

# 16 IDENTIFY A COURT COORDINATOR

The court coordinator plays a critical role in a joint jurisdiction court. Court coordinators need to be competent, efficient, and good with people. A court coordinator might be the first person most participants encounter when entering a joint jurisdiction court. He or she will be responsible for taking referrals; forwarding the referrals to the core team (see section below); managing files; entering data; managing a busy caseload; and having contact with participants, judges, community members, elders, board members, law enforcement, treatment providers, and many others. When developing a new joint jurisdiction court, the court coordinator should be the first position hired so that the coordinator can assist with developing policies and procedures, scheduling meetings, etc.

## suggestions for court coordinator

**HIRE** or appoint a court coordinator to help organize people, events, schedules, and documents for the court.

**HIRE** or appoint a court coordinator who is able to efficiently and effectively manage competing priorities.

**HIRE** or appoint a court coordinator who is good at interacting with a wide variety of people.

**HIRE** or appoint a court coordinator early on so that he or she can participate in development and hit the ground running when the joint jurisdiction court is active.

# 17 DEVELOP A STEERING COMMITTEE, CORE TEAM & SUBCOMMITTEES

## STEERING COMMITTEE

The steering committee is the policy and planning body for the joint jurisdiction court. It makes decisions on policy and procedures and meets quarterly, generally for an hour or two. Steering committee membership generally includes judges; council members from the tribe and city or county; the court coordinator; legal representatives from the prosecuting attorney's office, the public defender's office, and perhaps a CASA, guardian ad litem, or child welfare attorney; and probation, law enforcement, treatment services, social services, mental health services, and other agencies that may be involved in the court. It may also be advantageous to have a member of the business community involved as well.

### CORE TEAM

The core team meets before each court session to discuss client status, including whether the participant is attending treatment, therapy, or groups as ordered; whether the participant is maintaining sobriety; whether the participant is actively seeking employment, etc. The core team also prepares for court by deciding beforehand what an appropriate sanction or incentive might be for a participant who has violated a condition of the court or accomplished something positive. Depending on how many participants are in the court, core team meetings are estimated to take approximately one hour, followed by a one-hour court session. Membership will generally include judges, case managers and treatment providers, the court coordinator, law enforcement, and attorneys.

### POLICIES & PROCEDURES SUBCOMMITTEE

Many policies, procedures, and forms must be established and revised as the court develops, such as participant contracts, referral forms, court rosters, release forms, the court's manual, and a participant manual. Examples of these documents are in the Appendix. It will be much easier for steering committee members to create new policies if they have been involved in the planning process. Also, the steering committee should utilize state and tribal resources and contact other jurisdictions that may have policies and procedures already in place that can be adapted.

### DATA SUBCOMMITTEE

Tracking data allows the court to monitor participant success and program success. The Leech Lake Band of Ojibwe-Cass County and Itasca County joint jurisdiction wellness courts use a simple but effective spreadsheet or roster (see Appendix) that tracks length of time in the program, which phase of the program participants are in, length of sobriety, results of urinalysis tests, sanctions imposed, amount of participant fees still owed, next report date, and general notes such as participants' birthdays or if they are not required to appear in court. Factors that should be measured at intake and discharge include the risk level of participants, their criminal history, their housing situation, their employment records, and whether participants have a valid driver's license. A cost-benefit analysis can be conducted by measuring the number of days of incarceration avoided for each participant, savings from reduced recidivism,

and benefits to the county from taxes contributed by employed participants. It may be helpful to partner with a university or foundation that can help the court collect and analyze data (see Section 19 below).

### PUBLIC RELATIONS SUBCOMMITTEE

It is important to create interest and excitement about any new court, and a joint jurisdiction court is unprecedented in most states. Be proud of the work with other stakeholders and share information about the court's work with county and tribal boards, supreme courts, the community, etc. When the new court is operational, advertise this fact on local radio and television stations, have a community feast to celebrate, and consider a public ceremony such as the flag installation ceremony done by the Leech Lake Band of Ojibwe-Cass County and Itasca County joint jurisdiction wellness courts. The Leech Lake Band of Ojibwe Flag was installed in the courtrooms of the state district courts and the Chamber of Commerce office, along with a pipe ceremony and a parade between the two building locations. Community celebrations should reflect the culture of the population the court serves.

## suggestions for committees

**ASK** for volunteers to serve on subcommittees in which they have interest and/or expertise.

**UTILIZE** community resources for assistance such as local universities or colleges, other therapeutic courts, the chamber of commerce, businesses, and local radio or television stations.

**CONNECT** with other joint jurisdiction courts for information, assistance, and guidance.

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# 18 RALLY RESOURCES FOR SUSTAINABILITY

Securing funding is necessary for the survival of a joint jurisdiction court. A grant can provide funds for program development, training, and initial implementation, but securing long-term funding is essential for sustainability. Partnering with the business community, including Rotary International, the Chamber of Commerce, employers, local radio and television stations, foundations, and others will go a long way in securing program funding, procuring incentives such as gift cards or movie tickets, helping participants find jobs, identifying volunteers, and promoting the joint jurisdiction court throughout the community.

It is important to determine whether programs and services utilized as part of the joint jurisdiction court are eligible for Medicaid funding. If they are not eligible, work with appropriate officials to determine how a provider can become eligible to bill for services. It might be a complicated process initially, but the revenue stream can allow for sustained, reimbursable services.

## suggestions for rallying resources

**SEEK OUT** available grant funds for development, training, implementation, evaluation, etc.

**WORK** with the business community to procure monetary donations, participant incentives, job opportunities, volunteers, and to promote the court.

**DETERMINE** whether service providers are Medicaid eligible for funding; if not, work with your state to become eligible.

# 19 MEASURE RESULTS

Collecting and analyzing appropriate data are critical for identifying results, securing funding, and maintaining sustainability. An evaluator should be on board from the court's inception so that data can be collected from the very beginning for formal evaluation purposes.

Evaluation of any court is an ongoing process with three general goals:

- Evaluate the court processes—Is the court operating efficiently and effectively? Are participants being informed of their court option in a timely manner, and if they enroll do they receive their assessments and services in a timely manner? Is the required data obtained and recorded? Do court team members have the information they need to do their jobs?
- Evaluate participant outcomes—Is the court effective at achieving its goal of better participant outcomes? Are there any particular parts of the court intervention that are associated with better outcomes? (e.g., intensity of treatment or number of visits, type of services provided, nature of originating “offense” or incident?)
- Evaluate satisfaction with the court—Do court clients and the community at large feel well served? Do core team members all feel heard? Is tribal council supportive?

Collecting quality data should facilitate evaluation of the court's performance in the three areas above. There are three sources of data for evaluation:

- Quantitative data—data that are directly measurable and comparable. Examples include assessment scores, “units” of services received, and pass or fail results on drug tests.
- Qualitative data—information that cannot be easily measured, for example, a written incident report from law enforcement or probation, a participant petition to move between phases, or a participant exit interview.

- Survey data—surveys ask a certain population (clients or community) the same questions and average scores are calculated. Surveys can also include qualitative data or open-response questions.

Although data elements should be defined and collected as early as possible, it could take years to accumulate sufficient data to allow a formal outcome evaluation to occur. However, collecting data early on will help prepare for future evaluations, available funding opportunities, allocation of staff, identification of program needs, etc. Specific, accurate, timely and complete data will serve a joint jurisdiction court well in many areas.

Partnering with a local university or college to help with data design, collection, and analysis can also be invaluable in ensuring sustainability because what is measured is more likely to be funded.

### suggestions for measuring results

**USE** the Wellness Court Roster, as an example, for tracking data and modify it as court needs dictate (see Appendix for roster).

**CONSULT** with a local university or college to assist the court in identifying the outcomes to measure and appropriate data to collect.

**CONSULT** with other jurisdictions for information and advice on data collection and analysis.

## 20 DRAFT A POLICY & PROCEDURE MANUAL

With the information gathered in the preceding steps, a policy and procedure manual can be drafted for the joint jurisdiction court (several examples are in the Appendix). After an initial draft is complete, circulate it to stakeholders involved in the planning stages for review. If concerns are raised about content, it would be wise to bring the issue back to the entire planning group for discussion and resolution. The manual is a living document. It will likely be reviewed and revised many times during the first few months after the court is operational, and in the following years.

### suggestions for drafting manual

**ADAPT** sample policy and procedure manuals in the Appendix to fit the needs of a new joint jurisdiction court.

**CIRCULATE** the draft to stakeholders for review and comment. If concerns arise regarding content, bring the issue back to the large planning group for discussion and resolution.

**REACH OUT** to others for assistance. A list of resources is in the Appendix.

# Project T.E.A.M's Joint Jurisdiction Court Pilot Series

## SHINGLE SPRINGS BAND OF MIWOK INDIANS-EL DORADO COUNTY SUPERIOR COURT

The Shingle Springs Band and the Superior Court of El Dorado County wanted to develop a joint jurisdiction court based on the Leech Lake Band of Ojibwe-Cass County and Itasca County models to better serve system-involved young people and their families living on or near the Shingle Springs Rancheria. Chief Tribal Court Judge Christine Williams and Superior Court Presiding Judge Suzanne Kingsbury intended to create a program that would address issues facing tribal youth and their families and serve as a model for other tribal and state jurisdictions in California.

The judicial leadership and system-involved partners, with the assistance of Project T.E.A.M. consultants, were able to create a joint jurisdiction family wellness court. Distinguishable from a family treatment court that generally involves child welfare cases, this program provides system-involved youth and their families with a court-supervised alternative to incarceration that emphasizes restorative justice practices through a wraparound continuum of care consisting of prevention, intervention, and post-adjudication services. Program staff use a teamwork approach to address needs of program participants using a culture-specific, trauma-informed, strength-based, and evidence-based approach.

Individualized case plans measure and address participants' criminogenic needs, which include antisocial/pro-criminal attitudes, values, and beliefs; pro-criminal associates; temperament and personality factors; a history of antisocial behavior; family factors; and low levels of educational, vocational, or financial achievement. Although some of these factors cannot be changed or influenced (e.g., prior record or family history of criminality), others can be. These dynamic factors include who a person associates with, attitudes and values, lack of problem-solving skills, substance use, and employment status. These factors are

correlated with recidivism, and all can be targeted for change.

Family, broadly defined, is an important part of family wellness court. A young person is only as healthy as his family environment. A youth may leave a treatment program after a period of abstinence from substances only to return to a home where drugs and alcohol are prevalent. The family wellness court is based on voluntary participation, but the young person and his or her family must agree to be held accountable through family service agreements and court orders. By signing a consent form, the parents agree to participate in the joint jurisdiction court, which can provide services and administer sanctions to participants for lack of compliance.

Because it is the intent of the family wellness court to promote legal, individual, and family wellness, wraparound services<sup>53</sup> are an important part of the program. The foundation of this approach involves cultural, strength-based, collaborative decision-making among service providers and the family, resulting in joint outcome-based decisions for the individual needs of the young person and his or her family, with a focus on services being provided in his or her cultural community.

The family wellness court initially used a four-phase court model including 1) trust, 2) belonging, 3) mastery, and 4) generativity. A few months into implementation, the court developers decided that these four phases were difficult for youth to comprehend and changed the court to a three-phase model including 1) honesty, 2) accountability, and 3) initiative.

The first phase requires youth to be honest about their issues; their drug and alcohol use; family matters; mental health; school attendance; and the ability to follow the rules of home, school, and community. The court requires them to honestly complete an in-depth social service assessment and follow resulting recommendations. During this phase, youth and family

<sup>53</sup> Burns, E.J., Walker, J.S., Adams, J., Miles, P., Osher, T.W., Rast, J., VanDenBerg, J.D. & National Wraparound Initiative Advisory Group (2004). *Ten principles of the wraparound process*. Portland, OR: National Wraparound Initiative, Research and Training Center on Family Support and Children's Mental Health, Portland State University.

members will develop greater insight into their own risk and needs and follow developed treatment plans.

During the second phase, youth and family members focus on removing barriers to success, developing skills, and enriching their lives. Individuals may be required to make amends through apologies, payment of fines and restitution, or completion of community service. One may participate in a vision quest, further develop educational or vocational plans, and gain financial skills.

In the third phase, participants will continue to work on healing and healthy behaviors as well as preparing to transition out of the court system. They will continue to focus on educational-vocational skills; identify support people and systems; and develop a family contract, youth behavioral plans, and co-parenting plans. Participants can mentor others, help elders, or give presentations on their experience with the family wellness court.

Examples of incentives include praise and recognition, decreased restrictions, gift certificates, phase advancement, and a big family outing that may include a trip to Disneyland.<sup>54</sup> Sanctions may include verbal reprimands, participant apologies and amends, community service, imposition of curfews, phase regression, and others.

The family wellness court has been operational for several years. During that time, the court has evolved and the team has revised its policies and procedures. Rather than using phases, the court now uses a system of benchmarks. The judges have also explored other types of joint jurisdiction work, including an innovative approach to diverting children in need of protection or services before the filing of a petition in state court.

### THE KENAITZE INDIAN TRIBE-ALASKA COURT SYSTEM

The Kenaitze Indian Tribe faced many obstacles that prompted them to seek the assistance of Project T.E.A.M. The Kenaitze Tribal Court had struggled in seeking concurrent jurisdiction in criminal cases involving AI/AN individuals on Indian land because of Public Law 83-280 (commonly referred to as PL

280). Prior to PL 280, criminal jurisdiction was shared between federal and tribal governments, and states had no authority in criminal cases involving tribal members or AI/AN individuals.

The passage of PL 280 in 1953 granted Alaska and five other states criminal jurisdiction in cases involving tribal members and AI/AN individuals. The situation was complicated by tribal land issues in Alaska. Lands set apart for natives under the Alaska Native Claims Settlement Act are not designated as Indian country as established by the Supreme Court in *Alaska v. Native Village of Venetie Tribal Government* (1998). This left the Kenaitze Tribal Court with no jurisdictional authority to prosecute crimes that occurred in Indian country (federal reservations, Indian allotments<sup>55</sup>) because federal reservations, except for the Annette Island Reserve, simply did not exist in Alaska.

PL 280 prevented the Kenaitze Tribal Court from routing tribal members away from the justice system and into culturally appropriate, highly effective wellness treatment programs. The law also undermined tribal sovereignty by conferring the state of Alaska concurrent jurisdiction in criminal matters involving AI/AN individuals and inadequately funding tribal justice systems throughout the nation. Prevailing attitudes concerning the efficacy and authority of tribal courts in Alaska, as well as the Kenaitze's limited capacity<sup>56</sup> to prosecute non-Indian perpetrators of crime, kept the tribal court from seeking concurrent jurisdiction in criminal cases. For over 60 years, PL 280 has kept the Kenaitze Tribal Court from establishing a tribally owned and operated law enforcement agency, correctional facilities, and the residential treatment programs required by the community's most vulnerable populations. The impact of these service gaps affected non-Tribal members of the community as well.

Initially, the goal of the Kenaitze Tribal Court's joint jurisdiction collaboration with the state of Alaska was to develop an effective concurrent jurisdiction process to serve AI/AN individuals involved in criminal court cases, including individuals with drug abuse, alcohol abuse, and co-occurring disorders.

When the Kenaitze Tribal Court applied for Project

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<sup>54</sup> No federal funds are used to pay for trips to Disneyland, outings, or gifts.

<sup>55</sup> 18 U.S.C. §1151.

<sup>56</sup> The Kenaitze Indian Tribe had no operational jails, holding cells, law enforcement, or treatment facilities that could be utilized as part of a criminal justice/joint jurisdiction healing to wellness program.

T.E.A.M. assistance, it proposed joint jurisdiction collaboration with the Alaska State Court in Kenai for AI/AN individuals involved in drug or alcohol abuse offenses. This included individuals with co-occurring disorders and their families. The Kenaitze Tribal Court was developing Tribal Healing to Wellness programs for youth and adult populations and planned to make every effort to provide effective, holistic, and efficient sentencing, diversion, treatment, and recovery services for offenders and their families. Proposed key partners in the establishment of a joint jurisdiction wellness collaboration include tribal court judges, tribal circle keepers,<sup>57</sup> local state court judges, Alaska Supreme Court judges, the Alaska Legal Services Corporation, local law enforcement, Department of Juvenile Justice representatives, partners from the school system, and local and state behavioral health providers including the Kenaitze's Department of Behavioral Health. The objectives of the collaboration were to improve the recidivism rate of AI/AN offenders on the Kenai Peninsula by at least 15% by 2016 and to route at least 30% of AI/AN offenders with drug or alcohol use issues to treatment in Healing to Wellness initiatives in 2015-2016.

The Kenaitze Tribal Court understood that the willingness of state judges to participate in the joint jurisdiction court would greatly affect project success. Grant resources for Tribal Healing to Wellness programming would be equally important so that AI/AN individuals who had substance or alcohol abuse problems could be diverted into culturally rich, evidence-based treatment and recovery programs. Finally, buy-in from the tribal community, AI/AN populations, and non-tribal members would create program support and community-wide accountability.

The planning team knew that there would be barriers to project implementation, despite recent gains in community support. In spite of barriers, judicial leadership, government, and local partners, with the assistance of Project T.E.A.M., were able to create a new joint jurisdiction court called *Henu'*<sup>58</sup> Community Wellness Court. The *Henu'* Community Wellness Court provides tribal and non-tribal individuals and families with a court-supervised alternative that emphasizes values and culture. The program's continuum of care consists of prevention, intervention, and post-

adjudication services. Program staff use a teamwork approach to address needs of program participants using a values enriched, culture-specific, trauma-informed, strength-based, and evidence-based approach.

The *Henu'* Community Wellness Court model is a strength-based, *un'ina*<sup>59</sup> (person)-centered, family-focused model, grounded in values and culture, based on data-driven decision making and measurable outcomes. Staff work closely with individuals and families to identify their strengths and needs, and together they create a values- and culture-based "life change plan" to help the individual and/or family meet their short- and long-term goals. Although not all participants are AI/AN, the court's model uses the Kenaitze Indian Tribe Traditional Values Wheel as its foundation. Living according to Kenaitze traditional values brings balance and healing to one's life, whether that person is a tribal member or not.

The *Henu'* Community Wellness Court planning team chose a four-phase recovery model that includes a trust phase, belonging phase, living well phase, and restorative phase. The first phase (trust) lasts 120 days and orients participants to the program, helps identify participants' particular challenges, and puts together a plan that will help participants conquer their addiction and related issues. This first phase requires participants to meet with the court on a weekly basis. During this phase, participants develop a life change plan based on assessments completed and information collected on the individual participant and his or her family. Drug and alcohol testing is conducted; *Dena'ina*, *Athabaskan*, and other Native teachings, activities, and ceremonies may be performed; and incentives and sanctions are forthcoming based on compliance or noncompliance with court orders.

The second phase (belonging) lasts 120 days and helps create a community of sober living through supportive people and community programs, and helps participants to take responsibility for their actions and make better life choices. This phase requires participants to meet with the court on a biweekly (every other week) basis. During this phase, participants gain greater insight into their own risks

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<sup>57</sup> Tribal circle keepers facilitate conflict resolution and peacemaking circles.

<sup>58</sup> *Henu'* is pronounced "HEE-NEW" and means "willingness to work, cooperation, helpfulness" in the Dena'ina language.

<sup>59</sup> *un'ina* is pronounced "U-NINE-A"

and needs and continue working on developing life change plans.

The third phase (living well) lasts 120 days and supports the participant in making amends, learning new skills, and gaining confidence in maintaining a sober lifestyle. This phase requires participants to meet with the court on a monthly basis. During this phase, participants focus on removing barriers to success, developing skills, and enriching their lives.

In the fourth phase (restorative), which lasts 180 days, participants are responsible for giving back to the community and mentoring individuals early on in their struggle with addiction. This fourth phase requires participants to meet with the court monthly. During this phase, participants continue to work on healing and healthy behaviors and prepare to transition out of the court system.

The court became operational in December 2016, and serves adults (tribal members and non-Indians) who face legal trouble stemming from substance use, focusing on drug and alcohol offenders—including those in families with Children in Need of Aid (CINA) cases—who reside within the tribe's service area. Defendants charged with property crimes may also be considered if the offense stems from substance use.

The court aims to address the root of substance use issues, offering participants resources to pursue sobriety rather than sending them directly to jail. Participants work closely with a probation officer and court team, complete frequent random drug screenings, and receive substance use treatment and mental health counseling as needed.

The court's top priorities are:

- Treating and healing substance use
- Restoring a participant's ties to the community
- Restoring a participant's relationships with family and friends
- Increasing self-sufficiency
- Breaking the cycle of recidivism
- Placing children in safe homes
- Giving back to the community through volunteer efforts

## NORTHERN CHEYENNE TRIBE AND THE UNITED STATES DISTRICT COURT, DISTRICT OF MONTANA

The third joint jurisdiction pilot site was the Northern Cheyenne Tribe and the United States District Court for the District of Montana. Felony offenses committed on the Northern Cheyenne reservation are prosecuted in federal court, and the vast majority of those offenses, particularly violent offenses, involve substance abuse. There are limited treatment options available for felony offenders, especially on the reservation, and if treatment options do exist, defendants involved in crimes of violence are often disqualified. Lack of treatment ensures that offenders will recidivate, victimizing the community again and again. Incarceration is the only option currently available to the United States District Court when violations of release conditions occur, which most often occur because of substance abuse. Incarceration is expensive and does not address the root cause of the problem. Additionally, because of the depressed economic condition of the reservation communities, even if a defendant qualifies for treatment, it is likely that the defendant lacks transportation or money for gasoline to travel significant distances to attend treatment. Public transportation is extremely limited because of the remote location of the reservation.

As with the first two joint jurisdiction pilot sites in California and Alaska, the Montana team developed a draft policy and procedure manual. The Northern Cheyenne and the United States District Court in Montana collaborated over the course of almost a year to create a blueprint for development of a joint jurisdiction court to serve Northern Cheyenne adult members and non-members living on the reservation who have been charged with, or convicted of, a felony level crime involving drug or alcohol use. Participants would enter the program after serving a sentence (reentry) or prior to a conviction (diversion) and services would be provided by both the tribe and the federal government. Prior to implementation of the joint jurisdiction court, there was a change in judicial leadership at the Northern Cheyenne Tribal Court. A new chief judge is now in place, and is currently reviewing the status of joint jurisdiction opportunities.

# Insights from Joint Jurisdiction Pilot Site Judges

*In terms of words of advice, I still would stress with anyone who is setting up a collaborative court to not feel as if every contingency needs to be addressed or every loose end tied up before getting started. Having subject matter expert committees working on different areas is critical (e.g., forms, legal sanctions and incentives). Having good, user-friendly, multi-jurisdictional forms is a must. Service providers need to have forms for reporting to the court which provides necessary information while still protecting confidentiality to the extent possible. It is necessary to constantly evaluate manuals and other components of the program to make sure they are still accurate and relevant.*

Hon. Suzanne N. Kingsbury  
Superior Court Judge  
Eldorado County Superior Court

*The American justice system can be a difficult system to escape for anyone who enters. Take into account the modern worldview of the tribal population in America, which is almost certainly informed by historical trauma, often including negative encounters with the American justice system, and you can see tribal people becoming institutionalized from a young age without the tools to leave the system. In the Shingle Springs Band of Miwok Indians Tribal Court, we see cycles of incarceration within the community, within families, with our tribal youth. The effect of incarceration is far-reaching and long-lasting. A proactive approach is needed to break this cycle of incarceration and empower tribal members, their families and their communities to improve not only their lives and their communities, but to improve the justice system approach overall.*

*That is what the Shingle Springs Band of Miwok Indians and the Superior Court of El Dorado County are attempting to do with the collaborative, wraparound approach of the Family Wellness Court. The information we have shared through steering meetings, case staffing meetings, and trainings has increased awareness on both sides of the collaboration. On a systemic level, we all have a better understanding about our systems, our families, our people, and how we can all approach problems together to create better outcomes for everyone. On a case level, more reliable and relevant information about each case means better decisions from the court and better outcomes for the participants. It's a start, and we are all proud of what we have accomplished so far.*

*A note on tribal sovereignty: as a member of the Yurok tribe myself, a graduate of law school with a degree in Indian law, and a licensed attorney with a career representing tribes, I respect tribal sovereignty. The inherent sovereignty that is the foundation of all tribal communities must be protected and respected above all, lest we lose everything we have fought so hard to retain. The Shingle Springs Band of Miwok Indians and the Superior Court of El Dorado County collaborative, joint jurisdiction court model strengthens tribal sovereignty. Our model was thoughtfully developed and does not limit or compromise tribal or state jurisdictions in any way. If anything, it has expanded tribal jurisdiction and increased access to resources on both sides of the collaboration. In a Public Law 280 state like California, the county has jurisdiction over all offenses committed on or off the reservation. Under the Indian Child Welfare Act, the tribe can hear juvenile matters in the tribal court; however, for the Shingle Springs Band of Miwok Indians and many other tribes in California, that would mean sacrificing county resources, from staffing to foster care funding, that we currently rely on. Under this model we sit together on the reservation and hear all the cases together as a team. One desired outcome of exercising our concurrent jurisdiction together as a team is that no one slips through the cracks to be lost in the system, undetected.*

**Hon. Christine Williams**  
Chief Judge

**Shingle Springs Band of Miwok Tribal Court**

*The Henu' wellness court is a prime example of how two entities with similar goals can blend their unique talents to solve a community problem. By working together, the two courts have been able to provide a joint jurisdiction wellness court to all members of our community, both Native and non-Native. We have been able to blend the more formal organizational style of the state court with the more informal tribal court model. All participants have been able to take advantage of services offered by both the Kenaitze Indian Tribe and the State of Alaska. Of great importance is the cultural underpinning of the court and the resulting therapeutic effect. It has been a pleasure to be a part of this collaborative effort.*

**Hon. Anna Moran**  
**County Superior Court**

*The Henu' court is about restoring the humanity in our fellow human beings, our brothers and sisters and cousin allies. The goal of Henu' is to serve our people and community. If there is only one success story, we have accomplished much. But there are already multiple successes with the participants and with the staff and state folks who see lives changing. I do see that both the state and Tribal leaders have shared goals for Henu', our vision is shared. I believe the concreteness of our goals are becoming real for some of our more skeptical supporters and that will only grow with time. Henu' is a success on multiple levels. The support of the clients and the changed lives is another outward indicator. The partnership between the state, Kenaitze Indian Tribe, and community partners is another success as it becomes more evident that "we are only as healthy as our community."*

**Hon. Susan Wells**  
**Chief Judge**  
**Kenaitze Tribal Court**

*The Henu' Community Wellness Court is a positive step toward mutual respect. We share the same values, we share the same passion. There are many benefits. The project aligns with the tribe's Dene' Philosophy of Care. It takes a whole-person approach toward health, focusing on not just one, but all areas of a person's well-being, including physical, mental, spiritual, and emotional wellness.*

Hon. Kimberly Sweet  
Former Chief Judge  
Kenaitze Tribal Court

# Project T.E.A.M.'s Lessons Learned

Systems change is a process. Like any process, systems change is filled with stops and starts, roadblocks and challenges, diversions, and missteps. This is a normal part of the process; it is to be expected. Rather than feel defeated or frustrated by the challenges and resistance encountered along the way, celebrate them and learn to use them.

One of the mantras of Project T.E.A.M. is a piece of advice Judge Wahwassuck received years ago from her then nine-year-old son as she was preparing to give a speech to a fairly diverse group. As she was considering how to address the assembly, her son said, It's easy Mom, all you have to do is tell them to:

- Be proud of who you are
- Open your mind
- "Learn each other"<sup>60</sup>
- Don't be afraid

Some of the important principles learned during Project T.E.A.M.'s work included the following:

**DETERMINE** what the court's goals are. Is the goal to reduce drug offenses? DWI offenses? Property crimes? Juvenile delinquency? Are you trying to create a problem-solving court, a diversion program, a reentry program?

**CREATE** a plan for accomplishing goals.

**DETERMINE** which institutions or people can help the court accomplish its goals (e.g., another judge, a law enforcement entity, a treatment provider), and define what is needed from them (e.g., money, services, facilities).

**FIND** the person in each organization who will be the best liaison (e.g., the tribal chairperson or tribal council/county board of commissioners, the tribal judge or state judge).

**DISCOVER** the culturally appropriate way to approach the liaison. Is there a person who should do introductions and set up a meeting? Where should the meeting be held? What format should be used? What is the respectful way to greet the liaison? Should a gift be presented?

**UNDERSTAND** and embrace cultural differences.

**DISCUSS** needs honestly and why help is needed. Include discussions on what the stakeholders are trying to accomplish and why accomplishing it is a good idea.

**FOLLOW-UP** on the meeting. Does everyone understand the shared and common vision? Is there a process for additional meetings or additional steps? Are aims and objectives realistic? Is the process being documented?

**ACKNOWLEDGE** the existence of separate organizational aims and objectives and explore how they connect to jointly agreed-upon aims and objectives.

**ENSURE** a level of commitment on the part of both partners.

**DEVELOP** a process for working out the inevitable conflicts.

**DEVELOP** and maintain trust.

**DEVELOP** clear partnership working arrangements.

**RECOGNIZE** the opportunity for learning experiences and sharing good practices.

**PUBLICIZE** success, both of the court and its participants.

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<sup>60</sup> As Judge Wahwassuck's son described it, he could "learn about" something by watching television or reading a book, but to "learn each other" you have to look people in the eyes.

**REMEMBER** that systems don't collaborate, people do: face to face relationships are crucial.

**ACKNOWLEDGE** the challenges both systems face and work together to develop strategies to overcome them.

**RECOGNIZE** that each partner brings its own strengths and experiences and accept that each faces its own challenges and obstacles.

**REMAIN** flexible.

**DON'T BE AFRAID TO TRY SOMETHING NEW!**

Project T.E.A.M. returned to the pilot sites in California and Alaska after the courts became operational. The purpose of these trips was to interview the joint jurisdiction wellness court teams, participants, and other stakeholders about their experiences and the progress of the court. At each site, the feedback was consistent with the experiences of the very first joint jurisdiction wellness courts. During these return visits, several common themes emerged; these themes were consistent with the experience of the first joint jurisdiction courts in Minnesota.

## The Importance of Leadership

The most effective leaders are those who influence others not by making them do something but by inspiring them to want to do it; not by telling them what to do, but by telling them why it is important and how it fits in the overall organizational vision for change. Effective leaders communicate a compelling vision, one that people want to see happen and want to participate in making happen.<sup>61</sup> Judges are in a unique position to lead change, as they can be very effective in bringing people to the planning table and making the court a success.

Care must be taken to ensure that the effort does not become "so tied to the personality of the formal leader that it cannot sustain itself beyond the loss of that person in a leadership role...Remember, systems change is an evolutionary and ongoing process.

Changes in the leadership tenure should be seen as stages in the change process, not as discrete moments and issues in time."<sup>62</sup>

Leadership activities can be very difficult; they add to existing workload, and have the potential to place the leaders in a position of challenging political and structural norms that may lead to negativity and conflict. Conflict is a reality, no matter how well team members handle it. Even when great relationships exist, people's opinions differ and conflict can develop. Planners must see these conflicts as opportunities to improve communication and strengthen partnerships.

There are strategies leaders can use to overcome politics and conflict:

- Ensure that different perspectives are included in the planning group, especially those that have been identified as leading to resistance to change or other potential stumbling blocks to change efforts.
- Prepare for conflict—do not speak or act out of frustration or anger; allow time to "cool off" when tempers flare; lead by example—how you handle the politics should be the way you would want others to behave.
- Clarify problems—when the planning team sits down to discuss differences, ask questions and be genuinely interested in other perspectives.
- Seek areas of agreement—identify all those areas, no matter how small.
- Take responsibility for what might have contributed to the problem; taking responsibility often means allowing honesty to come to the surface—honesty is best for getting to the real difficulties and moving into problem-solving.
- Keep the group focused on results—when conflict arises ask "So, what can we do to resolve this situation?" and encourage brainstorming to generate solutions.<sup>63</sup>

<sup>61</sup> "Building Better Collaborations" *supra* at note 36, p. 29.

<sup>62</sup> *Id.* at pp. 39.

<sup>63</sup> Adapted from Pastor, J. (2004). *Who is afraid of a little conflict?* Retrieved from [www.leader-values.com](http://www.leader-values.com).

## Building Trust

Developing a joint jurisdiction court requires clear and open communication and dialogue. Discussions must be honest and open. Partners need to listen to each other and be willing to provide constructive feedback. Balanced, inclusive participation enhances trust and cooperation. Team members must get to know one another, and attending trainings together is a great way to build relationships. Members of the California and Alaska planning teams for the first two pilot sites attended training together and all agreed that the experience deepened relationships and brought the members together.

However, not all always goes as planned. In Montana, Project T.E.A.M. inadvertently failed to administer the initial Wilder Collaboration Factors Inventory worksheet before site participants convened for the first time. Although participants reported having worked together in the past, there was little evidence of strong relationships during our time together. Many participants came late to the meetings, only a few arrived in time for morning coffee and networking, while many stayed in the conference room for lunch, most left after finishing eating, and most participants sat with members of their own organizations upon return. This lack of interaction did not help the team members get to know each other, a crucial ingredient for building trust.

## Planning for Transitions

If there is to be a change in staffing of the court, it is important to help new team members develop the necessary skills and capacities to succeed. This includes sharing knowledge and information about the court's development and history. New team members need to develop their own leadership style, and it is important to provide feedback and mentorship along the way. Work together to devise a transition plan.

While leadership turnover in Montana, immediately after conclusion of the training, did not help further the implementation process, neither did failure to have results of the Collaboration Factors Inventory worksheet. In hindsight, if a low score was received indicating lack of collaboration readiness, Project T.E.A.M. could have spent more time focusing on strengthening collaboration factors before working on development of the program. This may have helped the fledgling court weather staff turnover. Also lacking in this group was open and frequent communication,

which was readily apparent when knowledge of staff turnover was learned about through a newspaper article.

The team in Alaska also experienced judicial turnover, with the departure of Chief Tribal Court Judge Kim Sweet. Judge Susan Wells took over in Judge Sweet's place, but the transition could have been conducted more smoothly with a transition plan in place so there could be a "warm handoff."

Changes in judicial leadership can be hard on program participants, but do not have to derail the process. In Minnesota, there has been complete turnover of the judges and other key team members, but the transition was relatively flawless and resulted in no disruption of services or programming.

Strategies for smooth leadership transitions include:

- Ensuring that there is a shared vision.
- Developing a specific leadership transition plan.
- Reflecting on the existing team—are the right people on the team? Is there anyone missing who might help ease the transition?
- Assessing the network of support for the court.
- Critically assessing whether successor leaders have the right qualities to lead and can motivate others. If not, mentoring and other learning opportunities can help develop these skills.
- Communicating support for successors.

## Effective Communication is Essential

Communication skills are essential to develop in team members. Listening helps people to learn and shows others that their views are respected. Effective communication can be achieved if the planning team:

- Looks for common ground
- Finds out about others
- Attacks problems, not people
- Gives and gets respect
- Proceeds slowly
- Is explicit and clear

Effective communication is hindered for a variety of reasons. People are different, and some can be impatient and/or negative. Being able to give and

receive open and honest feedback is a crucial part of working together to create a joint jurisdiction court. When giving feedback, it's important to be clear and objective; avoid words like "always" or "never"; do not be judgmental. Focus only on your own reactions, and do not refer to what others say or think. Use "I" statements and not "you" statements to reduce the potential for a defensive or negative reaction.

Receiving feedback can be difficult. Be sure to listen and not interrupt. Ask questions if something is not clear, and acknowledge valid points. Take time to think about what's being said, and take a deep breath before responding.

### Dealing with Conflict

Conflict is inevitable in the process of systems change. Many factors contribute to conflict, including poor communication, power seeking, weak leadership, lack of openness, and change in leadership. If conflict is brewing, it often manifests in the form of withholding of bad news, surprises, conflicts in value systems, increasing lack of respect, and even open disagreement, among other things.

Keep in mind that conflict can be constructive: It can clarify important problems and issues, lead to solutions, involve people in issues that are important to them, release emotion and anxiety, and build cooperation and coping skills.

Project T.E.A.M. suggests the following techniques for avoiding and/or resolving conflict:

- Meet conflict head on.
- Set goals.
- Plan for and communicate frequently.
- Be honest about concerns.
- Agree to disagree—understand that healthy disagreement builds better decisions.
- Avoid making decisions based upon ego.
- Let the planning team create—people will support what they help create.
- Communicate honestly
- Reinforce that the team has common goals and a common vision.

- Use subcommittees or working groups to collect additional information on the contested issue and report back.
- Assign a final decision maker if the team fails to reach consensus. Make sure everyone agrees and knows who the final decision maker is and who has the final authority.
- Agree to disagree.
- Be sensitive to status and power differences and ensure that there is a mechanism for disagreements to be expressed in an appropriate way.

Fear and anxiety are a natural, healthy reaction to changes in the level of openness among a group of people who are changing "business as usual." Strategies should be developed for handling threats some individuals may perceive. This can include listening to individuals who may be resistant to change and giving them a chance to express concerns and making sure everyone is "on the same page." To handle perceived "organizational" threats, be sure to include leaders who have decision-making authority. Include stakeholders from multiple levels of stakeholder organizations.

### Other Lessons from the Pilot Sites

At all three sites, team members learned that patience and flexibility are keys to success. It is crucial that the planning team members understand the various applications of joint jurisdiction courts; although many of the existing courts use a "wellness court" model, that is not the only way to go. The type of model selected depends entirely upon local needs and goals. The courts' developers also adjusted phases and programming as the courts became operational, and they discovered that local needs and actual practices differed from the original plan. Be willing to adapt and make changes as necessary. Also, planning teams must be persistent if delays occur that are out of their hands. For example, in Kenai, Alaska, it took over a year and a change in administration at the top levels of state government to gain approval to move forward. But *Henu'* Community Wellness Court team persisted, and even the Governor of the State of Alaska attended the formal agreement-signing ceremony.

Infusing culture throughout the planning process and in court operations is frequently cited as crucial. Learning the lessons from best practices is also crucial.

For example, over time the *Henu'* Community Wellness Court in Alaska added more cultural components to the program, such as marking milestones with culturally appropriate gifts and using important cultural areas of the tribal facilities for activities, among other things.

Be realistic about what services the court can provide and how the courtroom should be set up. The *Henu'* Community Wellness Court team learned the hard way that taking participants with serious mental health issues can impede the participant's success if the court does not have adequate resources to address them. Also, even the way the courtroom seating is arranged can take into account participants' trauma histories; the *Henu'* court places participants where they have a full view of the room, and participants with PTSD have reacted very positively and feel much less stress.

All pilot sites found that although there was a willingness and desire to create a court, strong facilitation was needed to help get it off the ground. The services of Project T.E.A.M. were the vehicle to start these collaborations and create joint jurisdiction courts.

# Other Joint Jurisdiction Courts

In addition to the groundbreaking courts in Minnesota and the Project T.E.A.M. pilot sites, more and more jurisdictions are coming together to create their own vision of joint jurisdiction courts to fit local needs. Examples include:

## St. Regis Mohawk-U.S. & Canadian courts, New York State, local jurisdictions

### NEW YORK

The Saint Regis Mohawk Tribe's Healing to Wellness Court was the third joint jurisdiction wellness court in the Nation. Operational in 2009, the court provides offenders an opportunity to access tribally run alcohol or substance abuse rehabilitation services for adults while under tribal court supervision. Based on the 10 Key Components of Tribal Drug Courts, the tribe's Healing to Wellness Court uses a four-phase treatment process, along with community supervision, regular review hearings, and graduated sanctions for noncompliance. The court collaborates with non-tribal agencies including the State of New York, the United States, and the Town of Bombay on the U. S. side of the border; on the Canadian side the court collaborates with the Canadian government, the provincial governments of Quebec and Ontario, the Assistant U.S. Attorney, state courts, city courts, and the federal and state probation offices. Treatment and support services for clients are provided by tribal agencies. Upon completion of the joint jurisdiction healing to wellness court program, charges may be reduced or dismissed.

## Yurok Tribe-Del Norte & Humboldt Counties

### CALIFORNIA

The Yurok Tribe-Del Norte and Humboldt Counties, California, also developed their own joint jurisdiction wellness court. The mission of this joint jurisdiction wellness court is to provide a path to healing for nonviolent adult Yurok offenders affected by drugs and/or alcohol through an intensive substance abuse treatment program to improve family, community, and cultural involvement; promote healthy life choices; and reduce criminal recidivism. The court also strives

to reduce alcohol- and other substance abuse-related crimes by providing treatment planning, case management, and court monitoring of Yurok offenders; expanding access to concurrent jurisdiction over drug-related criminal cases that involve Yurok tribal members in Humboldt and Del Norte Counties; assist Yurok offenders in the reintegration process back into their community; and apply interventions that meet the cultural and spiritual needs of Yurok tribal members. The court is in the final planning stages and will be operational in the summer of 2018.

## Ho Chunk Nation-Jackson County

### WISCONSIN

The Ho Chunk Nation and Jackson County launched a joint jurisdiction healing to wellness court in early 2012, designed to break the cycle of addiction-driven criminality for adult Ho Chunk offenders convicted of crime while under the influence of drugs and/or alcohol. Two years later, the court collaboration expanded to serve entire families involved in the criminal and/or the child welfare systems. The treatment model is a holistic, family-based model, with a foundation embedded in cultural teachings and practices.

## Forest County Potawatomi-Forest County

### WISCONSIN

Drug and alcohol crimes do not hurt only the individuals involved in the crime; they affect others in a multitude of ways. The Forest County Potawatomi-Forest County Wellness Court is offered first as something to help the addict, but also to address the needs of the community. In March 2017, Chief Tribal Court Judge Eugene White-Fish and Forest County Circuit Court Judge Leon Stenz began taking the bench together in the newly established wellness court located on tribal lands. Participants may be either Native or non-Native, be 18 years of age, have current nonviolent charges pending, have a past history involving drugs and/or alcohol, have a diagnosis of dependency, and not be gang affiliated.

## White Earth Nation & Mahnomon County District Court

### MINNESOTA

The program, officially called the White Earth Tribal and Mahnomon County Healing to Wellness Drug Court, targets high-risk, high-need adult felony offenders whose substance abuse problems caused or contributed to their current involvement with the criminal justice system. The court serves both tribal members and non-Indians who live in the service area. Through the program, district court and tribal judges work closely with prosecutors, public defenders, probation officers, social workers, and other justice system partners to develop a strategy that will pressure offenders into completing a treatment program and abstaining from repeating the behaviors that brought them to court. The ultimate goal is address the underlying addiction that resulted in offenders' criminal offense, and have them leave the program sober, law-abiding, and with a stable living situation. The drug court convenes weekly, but alternates hearing locations between the Mahnomon County Courthouse before state court judge Anne Rasmusson and the Becker County Courthouse before tribal court judge David DeGroat. The program relies on a partnership between White Earth Tribal Court, Mahnomon County District Court, Mahnomon County Attorney's Office, White Earth Behavioral Healthcare Network, Regional Native Public Defense Corporation, White Earth Police Department, White Earth Tribal Council, White Earth Substance Abuse, Minnesota Department of Corrections, and the surrounding county jails that currently support Mahnomon County District Court. The court recently received final approval to begin operations.

# Conclusion & Acknowledgments

None of the founding members of the first joint jurisdiction courts imagined that their work would be the first step in a remarkable change of course in the relationship between the state court and the tribal court and between the governments, or that it would become a national model of intergovernmental collaboration. They were simply focused on improving outcomes and improving a system that was not working as effectively and efficiently as it could. Since their inception in 2006, the joint jurisdiction courts have consistently reduced recidivism, saved money, protected public safety, and promoted lasting change. More and more joint jurisdiction courts are being formed nationwide to combat effects of the drug and alcohol epidemic and to address public safety. Many of the joint jurisdiction courts are located in states subject to PL 280, and have chosen a wellness court model. However, nothing prevents individuals in non-PL 280 states, or those wishing to develop a different model, from moving forward if joint jurisdiction fits local needs. Follow the advice of a wise nine-year old: be proud of who you are, open your minds, “learn” each other . . . and DON’T BE AFRAID. Fundamental systems change is possible, and coming together to exercise joint jurisdiction in its various forms is one way to achieve better results and foster community healing.

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# Appendix

For access to the follow Appendix documents, please visit ([www.walkingoncommonground.org](http://www.walkingoncommonground.org))

1. Leech Lake Band of Ojibwe-Tribal Council-Cass County Board of Commissioners Resolutions in Support of the Joint Powers Agreement
2. Additional Memoranda of Understanding
3. 2015 Alcohol and Drug End of Year Evaluation for the Leech Lake Band of Ojibwe-Itasca County
4. 2014 Cass County/Leech Lake Band of Ojibwe Wellness Court, Walker MN, Process, Outcome, and Cost Evaluation Report
5. Participant Roster
6. Examples of Joint Jurisdiction Manuals
7. Bureau of Justice Assistance, U.S. Department of Justice website. Wahwassuck, K. (2008). The New Face of Justice: Joint Tribal-State Jurisdiction. Washburn L.J., 47:733.
8. Wahwassuck, K. Smith, J.P. & Hawkinson, J.R. (2010). Building a Legacy of Hope: Perspectives on Joint Tribal-State Jurisdiction. W. Mitchell L.R. 36, 2.
9. Folsom-Smith, C. (2010). Walking on Common Ground: Tribal-State-Federal System Relationships (A Publication of the National Tribal Judicial Center, National Judicial College).
10. Walking on Common Ground, a website with resources for promoting and facilitating Tribal-State-Federal Collaborations. Tribal Law & Policy Institute, Los Angeles, California.
11. State and Tribal Courts: Strategies for Bridging the Divide. A Publication of the Center for Court Innovation, 2011.
12. Promising Strategies: Tribal-State Court Relations. A Publication of the Tribal Law and Policy Institute and the Bureau of Justice Assistance, U.S. Department of Justice, March 2013.
13. A Circle of Healing for Native Children Endangered by Drugs. Office for Victims of Crime, video training series (2014).
14. Tribal Healing to Wellness Courts: the Key Components. A Publication of the Tribal Law and Policy Institute and the Bureau of Justice Assistance, U.S. Department of Justice, 2nd Edition, May 2014.
15. 13 Key Principles of a Drug Treatment Court. First identified in 1997 by the National Association for Drug Court Professionals and later modified.
16. Wilder Collaboration Factors Inventory Worksheet