

Joint Jurisdiction Courts: Needs Assessment Findings

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I. Introduction and Background

A. The Grant

As part of Grant No. 2016-IC-BX-K001 awarded by the Bureau of Justice Assistance (BJA) to provide training and technical assistance in the area of tribal/state collaborations, the Tribal Law and Policy Institute (TLPI) disseminated a needs assessment survey in October 2019. TLPI presents this report, which identifies the common characteristics shared by these courts, and describes the challenges faced by tribal, state, and federal justice systems and the innovative solutions that judicial and justice partner leaders have forged together. Quietly, these leaders have reimagined and implemented a new face of justice—joint jurisdictional courts.

This report is intended to serve the following purposes: (1) to describe existing joint jurisdictional courts; (2) to help others follow in their footsteps; (3) to gain insight into the most pressing needs among active joint jurisdictional courts; (4) to focus TLPI's efforts on the most relevant training and technical assistance needed by these courts; and (5) to propose recommendations to BJA for future funding.

B. The Problem: How to Maximize Service Delivery and Justice System Outcomes

Even when tribal, state, federal, and local government entities work cooperatively to address shared community concerns, complicated systems of legal jurisdiction and overlapping service delivery areas that operate within those systems pose a challenge to both those who provide justice and those trying to access it. Questions about which court has jurisdiction can delay proceedings, and independent parallel justice systems can issue conflicting orders that then need to be untangled. Services provided by one government entity might not be well known within another entity. In addition, services offered by different government entities may be duplicative, or litigants may play one system off against another, thus resulting in inefficient and ineffective use of resources. Effective, culturally based justice systems, court-connected services, and resources may not be easily accessible in tribal, federal, and state systems.

C. The Solution: Joint Jurisdictional Courts

Rather than focusing on the problem of complicated jurisdiction in a “yours or mine,” “all or nothing” approach, some judicial leaders have instead focused on developing solutions that

acknowledge the autonomy of each. On a systems level, joint jurisdiction “can provide 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.”¹

1. Joint Jurisdictional Courts Defined

Jurisdiction is exercised jointly when a tribal court judge and a state or federal court judge exercise their respective authority simultaneously, bringing together justice system partners to promote healing and protect public safety. Joint exercise of jurisdiction allows the systems to leverage resources, reduce administrative costs, effectively deliver services that are culturally based, and achieve better results for individuals involved in the civil and criminal justice systems. In a joint jurisdictional court, a state/federal court judge and a tribal court judge preside together over a docket that provides tribal (and nontribal) individuals, and in some cases their families, with a court-supervised alternative that is trauma informed and emphasizes community values and culture.

Using innovative joint jurisdictional agreements, tribal, state, and federal jurisdictions bring together their strengths, reflect the unique circumstances of different tribal nations, and successfully address the challenges they face.

2. Background: The First Joint Jurisdictional Courts

The first joint jurisdictional court was developed in northern Minnesota in 2006 by the Leech Lake Band of Ojibwe and the Cass County District Court. Located approximately 200 miles north of 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 counties in Minnesota (out of 87 counties), stemming from impaired driving. Cass County also had the

One Size Does Not Fit All

While joint jurisdictional wellness courts are one example of how jurisdiction can be exercised jointly, it must be emphasized that there is no “one size fits all” approach for determining which structure is best. 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. The type of model selected depends entirely upon local needs and goals.

¹ Hon. Christine Williams, Chief Judge, Shingle Springs Band of Miwok Indians.

Joint Powers Agreement

The judges of the tribal court and state court entered into a simply worded Joint Powers Agreement:

“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.”

worst outcomes in the state for children, with high rates of sexually active teens, out-of-home placements, attempted suicides, drinking and driving, and children living in poverty. Sixty percent of residents living on the Leech Lake reservation reported having serious drug or alcohol problems, and 95 percent reported being directly affected by a family member’s alcoholism or drug abuse. Change was needed in the community, but neither system had been able, on its own, to stem the tide of drug and alcohol abuse and to reduce recidivism.²

Cass County District Court Judge John P. Smith and Cass County Probation Director Reno Wells recognized that if drug and alcohol use could be reduced, resulting crime would also be reduced. And if crime could be reduced, the number of child welfare cases could also be reduced, healing could begin, and relationships between the people of the two sovereign governments could be improved. But Judge Smith and Director Wells knew that partnering with the Leech Lake Band of Ojibwe was essential to lasting change because tribal members were so disproportionately represented in the

criminal justice system. Judge Smith and Director Wells approached Leech Lake Tribal Chairman George Goggleye Jr. and Tribal Court Judge Korey Wahwassuck to enlist their help in forming a joint court that heard driving while intoxicated/driving under the influence (DWI/DWU) cases, and the Leech Lake Band of Ojibwe Tribal Council agreed to work with the Cass County District Court to pool knowledge, staff, and resources. This first joint jurisdictional wellness court started as any new DWI/DWU court would; the only difference was that the two judges took the bench together, exercising their jurisdiction simultaneously, and the wellness court team consisted of representatives from both jurisdictions.

The judges of the tribal court and state court entered into a simply worded joint powers agreement:

² See, generally, Wahwassuck, K., Smith, J. P., & Hawkinson, J. R. *Building a Legacy of Hope: Perspectives on Joint Tribal-State Jurisdiction*, William Mitchell Law Review 36(2), Article 3 (2010).

“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.”

A more detailed Memorandum of Agreement and manual containing policies and procedures were developed for day-to-day court operations. But it is significant to note that the court operated on a handshake for nearly a year. In February 2007, the Leech Lake tribal flag was officially installed in the Cass County District Court in Walker, Minnesota: the first time in history that a tribal flag flew side by side with the United States’ flag and a state flag in a state courtroom.

Since its inception in 2006, the Leech Lake/Cass County Wellness Court resulted in positive outcomes, and state courts in neighboring counties sought to replicate its success. In 2007, a second joint jurisdictional 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, these first joint jurisdictional courts expanded to include juvenile diversion and reentry programs. After more than 13 years, both of these groundbreaking joint jurisdictional courts are still operational, despite judicial and staff turnover, tribal council and county board of commissioner administration changes, and fiscal challenges. The courts have been recognized with 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, including one from the Humphrey School of Public Affairs at the University of Minnesota. The courts were also nominated for a United Nations public service award.

None of the judges who formed these first joint jurisdictional courts ever could have imagined that their work would have such a profound positive impact on the relationships between the court systems and between the tribal and local governments, or that their innovative work would become a national model of intergovernmental collaboration. They simply wished to improve outcomes and change a system that was not working as effectively and efficiently as

Displays of Collaboration

In recognition of each other’s sovereignty and jurisdictional authority, most joint courts have the flags of each sovereign raised.

it could.³ This “new face of justice” continues to be replicated in multiple locations throughout the nation. At least twelve joint jurisdictional courts have been developed, with ten fully operational.

3. Fundamental Systems Change: Improved and Promising Outcomes

These first joint jurisdictional courts served high-need clients and significantly met many of their needs, including those related to chemical health, housing, and employment.⁴ They demonstrated lower recidivism rates: performed 60 percent fewer rearrests one year after program entry; committed 44 percent fewer property crimes two years after program entry; and had no new felony arrests two years after program entry.⁵ They demonstrated lower incarceration rates because they achieved positive outcomes, which also translates into significant cost saving: between 2007 and 2014 the savings was \$2,078,031, and more than \$3,000,000 when the evaluation took into account the number jail days avoided.⁶

Not all the economic benefits of the joint jurisdictional 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. By preventing future crimes, these first joint jurisdictional courts save potential victims of these crimes from the associated costs. The program evaluators concluded that “allocating resources to this initiative makes economic sense for society and specifically to taxpayers.”

These evaluations show that the first joint jurisdictional wellness courts developed in Minnesota are effective and result in positive outcomes. And the joint jurisdictional courts developed elsewhere show promise for similar outcomes. This report describes these courts’ common characteristics, barriers to success, and technical assistance needs.

II. Methodology

In September 2019, TLPI disseminated a needs assessment survey to ten operational joint jurisdiction courts. All but one court responded. The surveys consisted of twenty-five questions

³ Id.

⁴ In 2015, Alcohol & Drug Abuse Division End of Year Evaluation Report for the Leech Lake Band of Ojibwe-Itasca County Joint Jurisdiction Wellness Court and Wilder Research of St. Paul, Minnesota, conducted a two-year impact evaluation of participants enrolled in the Leech Lake-Itasca County Wellness Court from July 1, 2013 through June 30, 2015 (n = 32).

⁵ In 2014, the National Demographics Corporation (NDC) conducted a process, outcome, and cost evaluation that examined data from the Leech Lake Band of Ojibwe-Cass County Joint Jurisdiction Wellness Court, compared to offenders in a nonjoint jurisdictional court process, from 2006 to 2012.

⁶ Id.

that were a mix of multiple choice, yes/no, ranking, and open ended. Almost all questions had an open-ended component to elicit additional information. All questions were optional, so that choosing to skip a question would not preclude the respondents from finishing the survey. TLPI gathered (1) basic information about the courts' approach, design, and development; (2) detailed information about the courts' operations; (3) detailed information about the court-connected services; (4) basic information about the court collaboration and coordination; (5) information about court record management and evaluation; and (6) techniques to sustain the courts.

III. Overview of Operational Joint Courts

The existing joint jurisdictional courts hear the following different kinds of cases:

- Civil cases (adoption, child abuse and neglect, conservatorship, delinquency, domestic violence, family law, guardianship, truancy, termination of parental rights, and tribal customary adoption).
- Criminal cases (adult criminal felonies, misdemeanors, and driving under the influence/while intoxicated [DUI/DWI]).

None of the courts are specifically dedicated to addressing mental health issues, homelessness, or veterans' issues; however, when these issues arise, most of these courts address them.

Judges and justice partners decided to launch their courts for similar reasons relating to the need for a new way of delivering justice to better serve their citizens.⁷ Respondents reported that they knew the community needed this program (joint jurisdictional court) to address a shared concern. Finally, respondents reported that when they opened their minds and were willing to really listen to one other, then they were able to successfully launch their joint court.⁸

Some judges convened justice partners with the goal of creating a joint court, but in the end realized that their collaboration was not ready for a joint court. Instead, they examined the points of decision making in their separate justice systems and developed joint initiatives. When decision makers convene to explore creative ways to exercise their legal authority together, many possibilities for creative joint jurisdictional initiatives emerge. For example, in a criminal case, tribal and nontribal law enforcement can discuss and jointly decide whether to arrest, take into custody, and refer to probation; tribal and nontribal probation can discuss and jointly decide whether to refer for probation, recommend revocation of probation, and recommend various terms and conditions for probation either under the jurisdiction of the tribal or nontribal court; prosecutors and tribal attorneys can communicate on charges and pleas; and a nontribal court judge, working collaboratively with the tribal court, can decide the defendant is a candidate for diversion to the tribal court and suspend the sentence pending successful completion before the tribal court.

⁷ Survey Results: Question 3.

⁸ Survey Results: Question 22.

IV. Analysis: Findings, Discussion, and Recommendations

An analysis of the survey responses shows that the joint jurisdictional courts have the following nine characteristics in common:

- 1) Effective leadership;
- 2) Effective technical assistance;
- 3) Blend two court approaches;
- 4) Are tailored to tribe's culture and local court context;
- 5) Focus on root causes;
- 6) Improve collaboration and break down silos;
- 7) Improve outcomes and system change;
- 8) Apply sustainability and quality control strategies; and
- 9) Face similar challenges.

Each characteristic stems from the survey findings, and is discussed in more detail in the following text based on the authors' experiences with joint jurisdictional courts. Following each discussion are recommendations, which are combined in the conclusions section of this report. The full survey results are in the appendix.

1. Characteristic: The Courts Have Effective Leadership

Finding: Effective judicial leadership was noted as a strategy in successfully launching their courts.⁹

Discussion: Judges are in a unique position to lead change because they can bring people to the planning table. The presiding judge of the state court or judge of the federal court and the chief judge of the tribal court must have a shared understanding of what a joint jurisdictional court is and be willing to embrace the approach. When judges use their power to convene a broad-based group of stakeholders together, they can develop a shared vision and design for the joint jurisdictional court. Elected officials also play a critical role because of the government-to-government relationship that is foundational to two independent justice systems coming together and adhering to the laws and respecting the cultures of each.

Obtaining tribal resolutions from tribal leadership and garnering joint powers of agreements from both the presiding judge and chief or presiding judge of both courts early on in the planning process are important to initiating the joint jurisdictional approach to address the shared concern.

The collaborators may not all start out with the belief that they can design a joint jurisdictional court that addresses their shared concern. Getting to "yes, we can do it" may entail: (1) inviting judge-mentors who have successfully launched a joint jurisdictional court, not just to provide a transfer of knowledge but also to champion the approach and encourage those who are

⁹ Survey Results: Question 15.

endeavoring to follow in their footsteps; (2) tribal and nontribal cochairs who convene the stakeholder meetings may need to exert their power and influence to set a date for the launch of the court and assure justice partners that by starting they can together work out the details of the court; (3) stakeholders who are honest with themselves and others about their personal interests, motivations, and the contributions they will make in developing a joint jurisdictional court have the mindset to hear each other out and explore new ways of working together; the result will feel like a win-win for some and for others it will feel like they were simply fulfilling their own personal responsibility in a shared accomplishment; and (4) with leadership and a certain number of these vulnerable stakeholders, the collaboration will have the critical mass to launch the joint jurisdictional court.

The implementation and sustainability of the joint jurisdictional court can be interrupted or undermined when leadership changes, just like with all governments, courts, and organizations. For this reason, a tribal resolution, joint powers agreement between the two justice systems, and letters of support from the County Board of Supervisors and other key county and tribal departments and nonprofits may avert problems down the road.

Tribes and their people are naturally distrustful of a joint approach because history has proven that when tribes have shared, their lands, children, and way of life has been taken and destroyed. Indeed, for tribal/state/federal relationships to evolve, “we must first accept that the historical animosity and distrust are the projects of a powerful legacy of colonization, genocide, and oppression.”¹⁰ Leaders must understand the historical underpinnings of this mistrust and expressly address the concern that a joint jurisdictional court approach could undermine tribal sovereignty. Similarly, nontribal court leaders may be resistant because of concerns that a joint jurisdictional approach would lead to unequal treatment under the law, a breach in judicial ethics, and opposition to tribal members receiving something that nontribal members are not receiving. For that reason, while joint jurisdictional courts do not require tribal code or statutory revisions, a tribe may decide to enact codes on how the court will handle a new case type or the state court may adopt rules clarifying that this approach does not lead to a breach of judicial ethics or a violation of the equal protection clause of the U.S. Constitution.

Recommendations

- 1. Provide funding to train, mentor, and sustain effective joint jurisdiction court leadership.**
 - 1.1. Fund court observations and shadowing.
 - 1.2. Fund short educational videos that capture how these courts work.
 - 1.3. Fund a toolkit that shows how judicial leadership can launch a joint initiative short of a joint court.
 - 1.4. Fund tribal and nontribal engagement that includes community and tribal leadership.
 - 1.5. Promote the creation and dissemination of materials so that the communities can learn

¹⁰ 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.

about the joint jurisdictional court initiative of the tribe and nontribal justice systems.

2. Characteristic: Effective Technical Assistance Is Crucial

Findings: The role of technical assistance providers and facilitators were noted by the majority of respondents as key to a successful joint jurisdictional court.¹¹ Respondents identified their use in supporting implementation, facilitating peer-to-peer learning, and providing education on specific subject matters.¹² Respondents overwhelmingly requested training and technical assistance on how to sustain their courts. One respondent noted that they thought that grantees should be allowed to choose their technical assistance provider rather than having it attached to a grant.¹³

When asked about their court's capacity, an area of technical assistance emerged. None of the courts reported operating at full capacity, and half expressed interest and requested help in jointly hearing another case type or portion of a case in which there is not only concurrent jurisdiction but in which coordination would benefit the court participants (e.g., abuse and neglect, child support, criminal, juvenile, guardianships, veterans).¹⁴

Several respondents emphasized that "a skilled facilitator with experience in the developing joint courts is a must!"¹⁵

Discussion: Having effective technical assistance is important when planning, implementing, and sustaining a joint jurisdictional court. Building and strengthening the relationships required for a joint jurisdictional court can take considerable amounts of time—longer than is available under most grants. When asked about barriers to successful implementation of the courts, one respondent noted an operational challenge—not receiving enough referrals. Receiving insufficient referrals is usually a sign that the collaboration has broken down somewhere and there is a lack of trust on the part of one or more partners. Technical assistance can be helpful to restore collaboration and build trust. Throughout the remainder of this report, the inherent difficulty of building relationships and the continued collaboration that is required for a successful joint jurisdictional court is discussed in more detail, which underscores the importance of continued technical assistance for successful implementation and sustainability.

When people and communities of different worldviews come together to address contemporary shared concerns, it will elicit and provoke feelings, ideas, challenges, and creative solutions. The key is to be attentive to the wisdom in all cultures, to create a dialogue balancing all voices, and to understand the interdependence and need for bridges because of the ways in which we have historically, and presently do impact, impacted each other through

¹¹ Survey Results: Question 15.

¹² Survey Results: Question 27.

¹³ Survey Results: Questions 26 and 27.

¹⁴ Survey Results: Questions 18 and 19.

¹⁵ Survey Results: Question 27.

our words, actions, and justice systems.

The effects of historical trauma among tribal nations must be kept in mind when developing a joint jurisdictional court because they can have a significant impact on the process and can manifest themselves among the court planning team members. And sometimes, trauma-informed practitioners and other non-Native stakeholders will have the cultural humility to pick up on when historical trauma or other trauma triggers seemingly derail a conversation. However, having a skilled facilitator who is knowledgeable about historical and other traumas can turn these moments into more in-depth sharing, which can be healing and advance the joint jurisdictional court development.

A skilled facilitator can provide ongoing technical assistance associated with the design and implementation of a joint court by assisting the judges in (1) building the collaboration; (2) sharing resources and promising practices through cross-court and cross-system education; (3) identifying a shared vision, goals, and design; (4) how they will incorporate cultural values and practices into the court design; (5) memorializing agreements and court documents; and (6) establishing a governance structure. A facilitator can also set the Court up for sustainability by helping the collaboration identify outcome measures, evaluation mechanisms, multidisciplinary training topics, and grant opportunities.

Recommendations

2. Fund startup costs for joint jurisdiction courts, including facilitators, collaboration planning, and peer-to-peer learning opportunities.

- 2.1. Fund technical assistance and skilled facilitator.
- 2.2. Fund intrasystem discussions among partners within each justice system and cross-system/cross-cultural exchanges.
- 2.3. Fund a conference that brings together teams from each joint jurisdictional court to learn from one another.
- 2.4. Fund site visits by teams of 3–5 members to see other joint jurisdictional courts.
- 2.5. Fund a conference that brings together teams from each joint jurisdictional court to learn from one another.
- 2.6. Create a list of funding opportunities that will fund planning and implementation of joint courts.
- 2.7. Create an online listing of training and educational resources by case type.
- 2.8. Host a joint jurisdictional court list serve for existing and prospective courts to pose questions, share information, and learn from one another.

3. Characteristic: The Courts Blended Tribal Healing to Wellness and Problem-Solving Court Approaches

Finding:

As noted earlier, the joint jurisdictional approach is used across all cases types. Other cases that a participant or their family are involved in necessarily come to light in a joint jurisdictional court, and a problem-solving approach prompts the judges and justice partners to discuss how to coordinate these cases and, in some instances, to create a unified court case under the joint jurisdictional court. In response to why the judges launched the joint jurisdictional court, they all talked about collaborating and the benefits of having joint decision making. Tribal respondents focused on asserting decision-making authority in cases involving their families, and state respondents focused on better results.¹⁶

Discussion: The fact that these courts hear a wide range of cases reveals how they blend tribal healing to wellness and problem-solving/collaborative approaches.

By blending approaches, justice partners necessarily undergo a paradigm shift, away from the state or federal justice system that does not typically embrace access to culture and spirituality as a means to resolve the issues before the court and tends to overly rely on incarceration. Justice partners make a shift and design a new justice system that:

- Respects different traditions and accesses tribe-specific culture/spirituality;
- Focuses on root causes;
- Moves away from punishment toward healing by drawing on the individual and community resiliencies; and
- Moves away from supporting families in silos to a coordinated team approach.

Patience and flexibility are keys to success, and the planning team members must understand the various ways joint jurisdiction can be exercised. While many of the existing courts use a “wellness court” model, the type of model depends entirely upon local needs and goals. As new joint jurisdictional courts have developed, they have found that adjustments to phases and programming are necessary. After the courts became operational, it became clear that local needs and actual practices differed from the original plan. Joint jurisdictional courts must be willing to adapt and make changes as they become necessary, and planning teams must be persistent as often delays occur or other obstacles arise that are beyond their control.

Recommendations:**3. Review existing educational and funding resources to determine if they can be used to promote blend tribal healing to wellness and problem-solving/collaborative approaches in joint jurisdictional courts.**

- 3.1 Fund video or webinar that describes the components of tribal healing to wellness and collaborative/problem-solving courts and concludes with how these approaches can be blended to be locally adapted and tribe specific.
- 3.2 Review existing funding sources to encourage existing problem-solving/collaborative courts to reach out to their tribal partners to explore joint jurisdictional approaches.

¹⁶ Survey Results: Question 3.

3.3 Review all collaborative court funding sources, and where there is mentoring for these problem-solving courts, add mentoring by joint jurisdictional courts of state’s problem-solving courts to pilot joint jurisdictional courts.

4. Characteristic: The Courts Are Tailored to the Specific Culture of the Tribe and the Context of the Local Court Systems

Findings: Most of the courts integrate some form of cultural foundation into their court frameworks. For example, eight of the ten courts provide a traditional gift when participants reach a new phase in the court. Five of the courts involve elders in the proceedings and four of the courts offer tribal mentors to participants. Only a few courts use their language in their programming, either offering language classes or naming the court phases in their language. None of the courts require participants to be enrolled in a cultural class, event, or activity, or to learn their family history and/or the cultural roles of family members; however, nearly all offer these to the participants in their healing journey. Two respondents noted that, while traditional programming is offered, it is not required. One respondent made the same point by stating that “[t]he tribe disfavors ordering anyone to participate in traditional practices” and recommended that funding to create culturally based services or to describe them would be helpful. A table from the needs survey that describes the kinds of culturally based elements offered by these courts is included here:

Are there cultural alternatives to program requirements?	
Answer Choices	Responses
Giving traditional gift at transition/phase advancement ceremony	8
Involving elders	5
Exploring the re-creation of practices (e.g., men’s groups to lead to traditional sweat house activities or similar activities for women)	4
Participating in or learning about gathering food/materials and fishing/hunting	4
Tribal mentors	4
Other (please specify)	4
Learning genealogy, and history of individual’s family particularly in terms of historical trauma suffered by relatives/victims	3
Group sessions that include making ribbon shirts, beading, baskets, dolls, etc.	3
If community service is required, making it part of a traditional activity	2
Maintaining a cultural advisor on staff	2
Counseling groups include tribal identity, historical trauma, and tribal healing customs	2
Building healthy community of connections	2
Using Native language in programming	1
Exploring their needs, e.g., domestic violence, and if there are cultural alternative programs for victims and perpetrators, parenting, co-parenting with ex-partners, etc.	1

Requiring participants be enrolled in a cultural class and/or attend traditional/cultural events and activities	1
Smudging	1
Use of drum	1
Cultural/community connections assessment	1
Learning family history/genealogy and cultural roles of family members	1
Recreation of traditional practices	1

Discussion:

Stakeholders understood that they could create a new and better justice system together if the joint jurisdictional court design intentionally incorporated the specific tribal cultures of their citizens. If one is not from the tribal culture or is less connected to it, it is important to proactively learn about the specific tribal culture. Non-Native participants will need to cultivate seeing the world in a different way and must unlearn the usual ways of doing business together. It is equally important to seek permission to incorporate specific cultural practices into the design of the joint jurisdictional court, so that they are integrated into the court operation and not an afterthought. Successful joint jurisdictional courts have invited tribal elders and/or language instructors to share information about the tribe’s worldview and cultural practices. Tribal stakeholders have shared prayers, teachings through storytelling, and invited nontribal stakeholders to tribal gatherings. Nontribal stakeholders have made it their responsibility to respectfully ask questions and learn. Understanding the broader world around us that connects to indigenous ways and to the specific tribal culture that is forming the joint jurisdictional court is how stakeholders find common ground to create a new and better justice system together.

Cross-jurisdictional conversations require respect for each other’s worldviews, laws, and cultures. Culture has many definitions, and when studied or described, reveals a body of knowledge that is encoded in personal identification, language, thoughts, communications, actions, customs, beliefs, values, and institutions that are often specific to racial, ethnic, spiritual, religious, geographic, or social groups. Cultural humility recognizes that we each have a cultural lens through which we see the world and make assumptions based on these cultural differences. When stakeholders listen and learn from each other, respecting each other’s cultures, their collaboration is strengthened and the design of their joint jurisdictional courts necessarily incorporates cultural practices. Research shows that connecting or reconnecting to culture is a protective factor, builds resiliency for the individual and community, and improves outcomes.¹⁷

Recommendations

4. Incorporate the essential component of culture into solicitations for joint jurisdiction courts.

4.1 Fund cross-cultural and anti-bias trainings.

¹⁷ For literature review, see Center for Native Child and Family Resilience, <https://cncfr.jbsinternational.com/literature>

- 4.2 Fund new and existing culturally based programs.
- 4.3 Fund culture bearers¹⁸ to consult in the design.
- 4.4 Promote evaluation of culturally based interventions to demonstrate that they are evidenced based.

5. Characteristic: The Courts Focus on Root Causes

Findings: When asked why they launched their joint jurisdictional courts, many of the respondents listed the need to address root causes. For example, they did not discuss reducing crime as the reason, they discussed a desire to assist families struggling with substance abuse.¹⁹

The survey asked the question: “Why did you start a joint jurisdiction court?”
 Answers included:

Why did you launch the court?
To preside over our own families whose abuse and neglect cases were exclusively heard by the state court. We wanted to replicate the success of [another] Joint Family Wellness Court.
To work collaboratively to assist our [tribal] families who are struggling with the impacts of alcohol and substance use and dependency.
Wellness courts have been very successful in assisting people in remaining sober. We did not want to lose any more of our people to drugs. We had a good working relationship with the counties.
The founders knew a wellness court couldn't be successful without the involvement of the tribe.
To work collaboratively to assist our [tribal] families that are struggling.
To reduce recidivism for a healthier community.
To unite judiciary, criminal justice entities, substance abuse treatment providers, and the community.
To have better service for community members who had to compete for space in the county court.
To bring wellness alternatives to youth who were violating the law off the reservation and coming under the jurisdiction of the state.

Discussion: All respondents focused on root causes of a shared problem they wished to address. They may have initially identified the shared presenting problem as an unacceptable rate, such as mortality rate from driving while intoxicated or opioid dependence; removal rate

¹⁸ A culture bearer is someone recognized by the tribal community who is connected to the indigenous knowledge of the tribe. For a culture bearer, one’s indigenous knowledge is not only knowledge about the tribe’s traditions, values, beliefs, worldview, and practices. It is culture, a living part of every person of the tribe, inseparable from each person, and passed on from one’s ancestors.

¹⁹ Survey Results: Question 3.

for abuse and neglect; opioid or other substance abuse rate; or school dropout rate. This unacceptable rate may have led them to target specific case types; however, it is the design of the joint court that necessitates the justice partners to drill down to the underlying root causes. The core team, which includes the judges, know the participants and their families and are on the healing journey with them to focus on the resiliencies and human needs of the participants. This journey encourages everyone to look at an array of underlying concerns and how they negatively impact the participants and their families. These concerns can include bias in decision making on the part of gatekeepers of the courts and court-connected services; racialized education that results in warehousing children and separating them from mainstream school; school climates where bullying and discrimination have not been eradicated; and lack of housing, employment, childcare, mental health, transportation, and other services.

Recommendations

5. Fund joint jurisdictional courts to track data on presenting problems and root causes to use in implementing and sustaining the joint courts and use this information to evaluate court-connected services.

- 5.1 Fund evaluation to measure how these courts are addressing root causes, as well as the presenting problems.
- 5.2 Develop software that these courts can use to identify and measure the key drivers that address the root causes.
- 5.3 Create tools that assist courts and the core team in drilling down to root causes.
- 5.4 Provide funding to address gaps in services that address root causes.

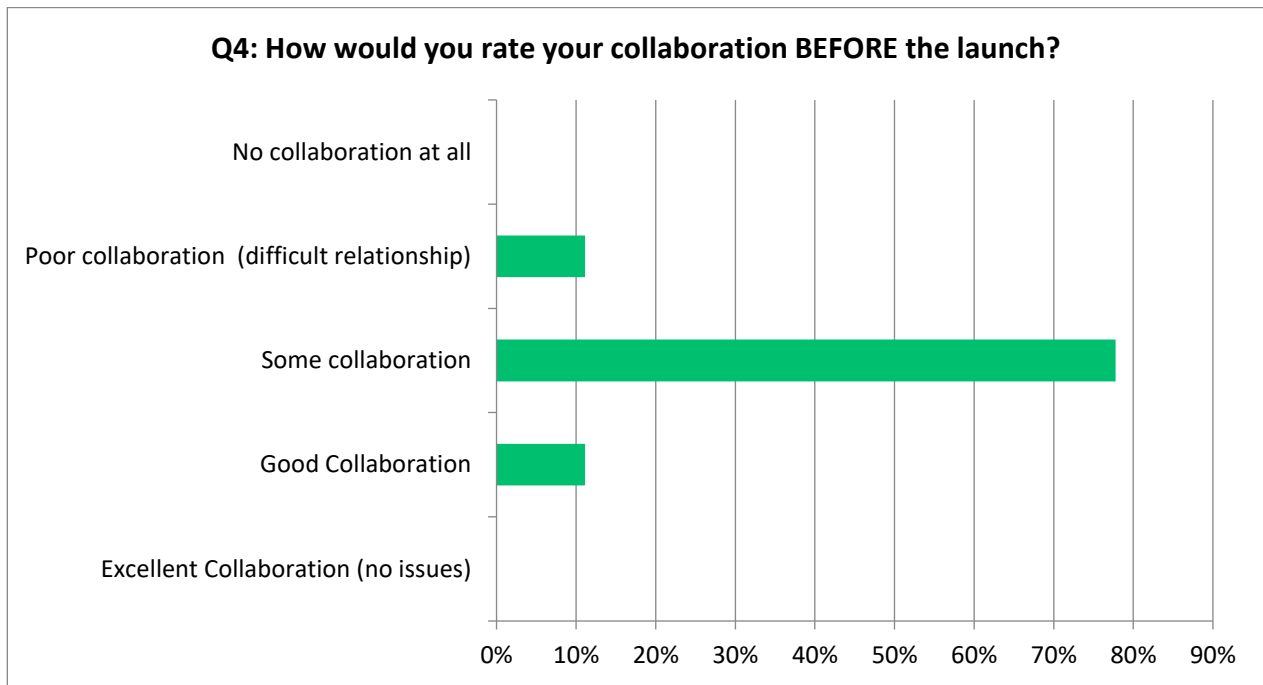
6. Characteristic: The Courts Break Down Silos and Improve Collaboration

Findings: As each collaboration focused on root causes, they bumped up against each other's silos. By designing their joint jurisdictional court, they necessarily improved their collaboration.

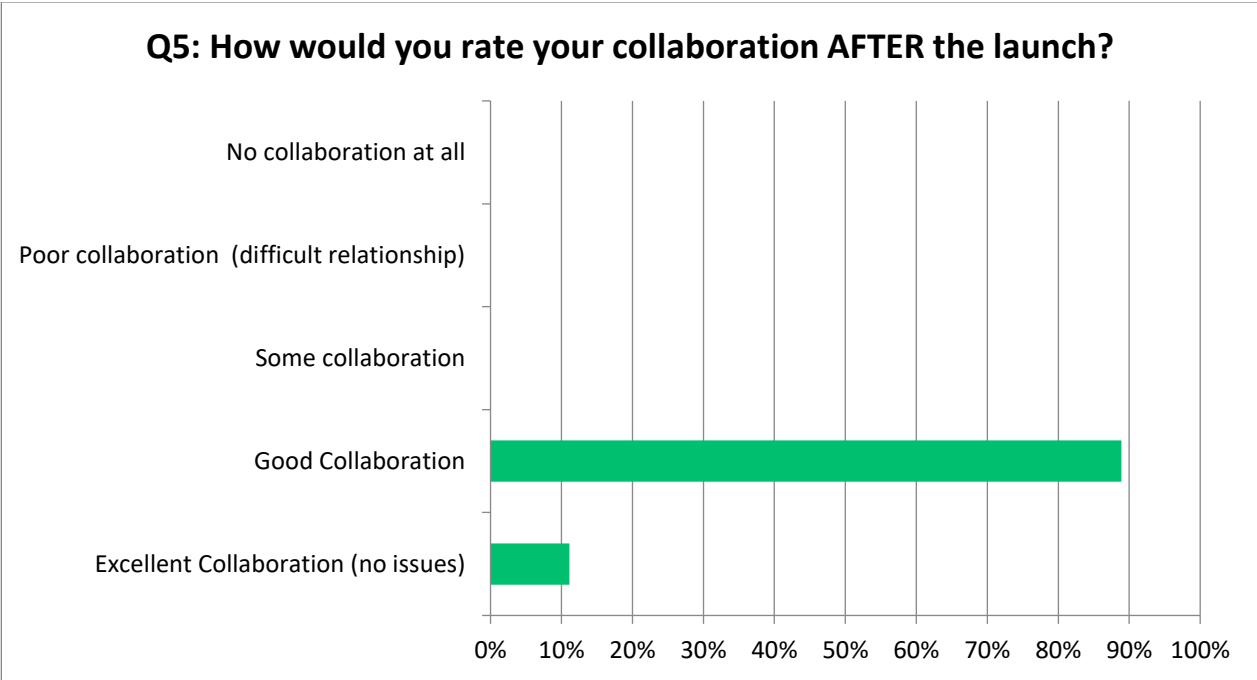
Most respondents expressed in different ways that their communities were better served when their justice systems worked collaboratively. Some respondents saw collaboration as a means to better serve the community on a specific issue, mentioning the impacts of substance use and recidivism. Some respondents saw the joint jurisdictional courts as a means to resolving an issue specific to their particular system or issue specific to their community. For example, one respondent stated that it allowed the tribe to hear dependency cases that, up until that time, were only being heard by the state court. Another respondent stated that the joint jurisdictional court was "a means to better serve community members who have to compete for space in the county court." Yet another stated that they wanted to unite the community with "the judiciary, criminal justice entities, and substance abuse treatment providers." In response to an open-ended question, another respondent indicated that the joint jurisdictional court was as a means of resolving dissatisfaction with the current state system, stating "For PL-280 Tribes [Public Law 83-280]: Unless you are satisfied with the State Court's rulings and sentencing options in every case, start a joint jurisdiction court, enhance your sovereignty and

better the odds for your members of getting out of the justice system pipeline to prison or death.”

All the respondents reported that the establishment of joint jurisdictional courts resulted in improved collaboration between systems. The majority of respondents, seven out of ten, stated that they had “some” collaboration before the court was launched. Eight of the respondents reported that collaboration had improved and had become “good” collaboration after the court was launched. After launch, no respondents reported that collaboration continued to be poor.



Graph 1: Question 4 from 2019 Needs Assessment



Graph 2: Question 5 from 2019 Needs Assessment

Discussion:

Cooperation is accomplished when participants agree to engage in an activity in which each person is responsible for solving a portion of the problem and be accountable to themselves and each other. Collaboration goes beyond cooperation; it is a coordinated, synchronous activity that is the result of a continued attempt to construct a shared conception of a problem and solution.

True collaboration is messy and hard. It does not mean building false consensus. It means giving up some control and being vulnerable; it requires respect for other people’s roles, thoughts, and what they bring to the table; and it means discerning when to compromise, when to back down, and when to lean in. Collaborative problem solving requires us to get outside our comfort zones and to tolerate some tension; if it didn’t ask so much of us, it would be easy to do.

It can be difficult to understand one another because not all stakeholders share the same language given their different identities, fields, experiences, cultures, and communities. For example, not everyone can be expected to understand medical professionals unless they talk in lay terms. And various court-connected fields within which stakeholders work do not all use the same terms and acronyms. Silos are created by each specialization, whether legal- defense, prosecution, tribal presenting officer, tribal attorney, social work, medical, public health, alcohol and drugs, probation, or law enforcement, and stakeholders do not always communicate effectively when they talk at cross-purposes. And while each professional has their own expertise and perspective, stakeholders do not always respect or understand others’ views. This is why it is crucial to develop a shared language to work together on a specific

concern across fields and jurisdictions, especially given the different historical contexts and cultures within which various stakeholders have each been raised.

Effective communication can be achieved if the planning team seeks common ground; learns about others; attacks problems, not people; gives and receives respect; takes their time; and are clear and use common terms and language understood by all.

Remember that conflict can be constructive. Often, conflict helps identify important problems and issues, and leads to solutions. Conflict helps people identify issues that are important to them, can help release emotion and anxiety, and builds cooperation and coping skills.

Planning teams must develop strategies to handle perceived threats. These strategies can include listening to individuals who may be resistant to change, giving them an opportunity to express concerns, and taking time to ensure that everyone is “on the same page.” To handle perceived organizational threats, the planning team must include leaders who have decision-making authority and individuals from multiple levels of stakeholder organizations. This fosters buy-in from team members and helps ensure success.

When creating a new justice system, it takes time to get to know each other and build trust. Face-to-face relationships are crucial, and the joint jurisdictional court planning team must develop trust so that they can feel comfortable openly discussing issues and concerns. The team must be able to examine, and even challenge, their core philosophies and practices. Relationships must be built among a variety of stakeholders from different backgrounds and disciplines. Social services agencies, treatment providers, probation, law enforcement, public defenders, and prosecutors all must be involved and committed to the joint jurisdictional court. Developing a joint jurisdictional court requires clear, honest, and open communication and dialogue. Planning team members need to listen to each other and be willing and able to provide (and receive) constructive feedback. As stakeholders learn from one another, they begin to have stronger, more positive relationships; and when they take the time to move from cooperation to collaboration, the silos they work in can be broken down.

Recommendations

6. Fund educational opportunities that foster collaboration among separate justice systems and their partners.

- 6.1 Fund face-to-face meetings on tribal lands that promote cross-discipline communication.
- 6.2 Fund cross-cultural exchanges that foster collaboration and encourage exploration of a range of approaches, some of which may not rise to the level of a joint jurisdictional court.
- 6.3 Fund workshops—speakers and travel—to address justice partner concerns.
- 6.4 Fund judicial leaders and team members to present at various conferences on how joint jurisdictional court approach breaks down silos and addresses disproportional numbers of Native Americans and other people of color in the state and federal courts.
- 6.5 Given the time to develop and strengthen relationships, planning grants should

account for intrasystem discussions among partners within each justice system and cross-system/cross-cultural exchanges.

6.6 Fund logistics for stakeholder meetings to build collaboration, including meeting facilities and travel.

6.7 Fund readiness assessments of the collaborative relationships.

6.8 Fund opportunities, such as cross-cultural exchanges, for justice partners to explore options in sharing jurisdiction, which may not rise to the level of a joint jurisdictional court. As part of these grants, encourage observations of tribal healing to wellness court proceedings and mapping decision points for shared problem areas that the two jurisdictions would like to reimagine and design services jointly.

7. Characteristic: The Courts Resulted in Improved Outcomes and System Changes

Findings: In question 22, we asked respondents to identify the top three system improvements that resulted from the formation of the court. Respondents noted that the formation of the courts led to better outcomes for participants and families. The system improvement that resulted from the joint jurisdictional courts that was most often noted by the respondents was stronger collaborative relationships. Most of the respondents talked about collaboration generally as an improvement. In some cases, however, the respondents were specific about the collaborations that were a system improvement, noting stronger relationships between tribal and state/county probation and law enforcement, and between tribal and state court judges, as a system improvement.

Improvements that resulted from the court

- Stronger collaborative relationships
- Better outcomes
- Families are seen and heard
- Increased rates of sobriety among participants
- Reducing recidivism in participants
- Implementation of holistic treatment
- Better engagement and outcomes for DUI offenders
- Positive relationship established
- State criminal justice stakeholders gained better understanding of native community
- Faster access to services
- Local access to court for participants
- Improved and expanded relationship with county-tribal probation and law enforcement
- Improved and expanded relationship with county-tribal judges
- Provided better outcomes for tribal families who successfully completed the court process.
- Connection with families
- Collaboration

Discussion: The joint jurisdictional courts typically adopt outcome measures that have been associated with evidenced-based practices and have been adapted so that they incorporate the tribe-specific worldview, culture, and laws of the specific tribal nation exercising jurisdiction with the nontribal court. This new face of justice that is locally designed is the driver of the court's positive outcomes and promising practices. These courts have demonstrated the following types of positive outcomes: (1) lower recidivism rates; (2) lower school discipline and higher graduation rates; (3) increased family preservation rates; (4) reduced incarceration rates; and (5) cost savings. These courts have developed many promising practices, which meet significant needs, such as housing, employment, education, prenatal care, mental health, alcohol and drug treatment, childcare, and other needs related to social determinants of health by incorporating culturally based, locally designed interventions.

Systems change is people driven. It is a process, and like any process, it can be filled with stops and starts. It is a normal part of this process to encounter obstacles and challenges, diversions and changes of course. Because these are to be expected, planning teams should not become frustrated or be discouraged by the challenges encountered along the way. Instead celebrate them and learn to use them. What can seem at first like obstacles to success can be opportunities to make lasting change and can lead to innovative solutions. Keep in mind that systems don't collaborate, people do: face-to-face relationships are crucial.

Eliminating racial and ethnic disparities in courts is critical to creating a fair and equitable system of justice for all. Native Americans are disproportionately represented at nearly every decision point in nontribal justice systems, regardless of the case type. A fundamental canon of judicial ethics in federal and state courts is that judges must perform all duties of office fairly

and impartially, without bias or prejudice and avoid actual bias and the appearance of bias. A joint jurisdictional approach proactively addresses these disparities because at every decision point, the two judges make those decisions with the input of tribal and nontribal service providers who know the participant as does the tribal court judge. The participants and their families are front and center for the court team. Because they know the participants and their families, the joint jurisdictional court team will not let the participants fall through any cracks and they always know where to find them. Maladaptive coping strategies and behaving badly will always be known and not excused. Participants cannot hide out or play one court against the other or one provider against the other because representatives from both systems make up the core team that staffs the joint jurisdictional court. Similarly, this is true of the core team members; they hold each other accountable to providing warm-hand offs for early assessment and services. But this process does not happen overnight.

A common thread that has woven its way throughout this report is the time that it takes for the justice partners to build trusting relationships and embrace the joint jurisdiction model. It also takes time for the community to trust the model and the team and join these voluntary courts. In many Native communities, the best dissemination strategy is word of mouth—a family member has a good experience in the court and tells her family and friends. A team member sees the good results effected by the court and begins referring more clients to the court. It takes time and energy to create materials that explain these courts, their goals, and their methods but those materials are essential to the continued operation of the courts.

Recommendations

7. Fund the development of an evaluation framework that uses indigenous measures of success and outcome measures.

- 7.1 Fund development of evaluation plans for joint jurisdictional courts that focus on health and wellness and interventions that address root causes of the presenting problems in the joint court case.
- 7.2 Promote evaluation of culturally based interventions to demonstrate that they are evidenced based.
- 7.3 Fund data-collection methods for their evaluation activities and assist with development of data-collection tools and locally indigenous-defined success methods.
- 7.4 Create a webpage that links to the specific evidenced-based practices that are used by the joint jurisdictional courts and those that are culturally created or adapted.
- 7.5 Promote a continuous feedback loop between the court participants and the joint jurisdictional court and between the tribal community and the joint jurisdictional court.
- 7.6 Have a tolerance for lower court numbers to give newer courts time to prove themselves to the community. Lower numbers are not necessarily an indicator of failure for newer joint jurisdictional courts.
- 7.7 Develop 360 self-assessment tool²⁰ that asks stakeholders to reflect on the strength of

²⁰ This type of tool is one that solicits anonymous feedback from each member of a team, so rather than a hierarchical evaluation between Court administrator and planning team members, it would be, like a circle, where one seeks this feedback among all the team members of each other, including the court coordinators and judges.

their relationships intrasystem, intersystem, and cross-jurisdictionally, upon receiving the grant award, after planning phase, and annually after implementation.

7.8 Promote and evaluate system changes within each agency, cross-agency within each jurisdiction, and cross-jurisdictionally.

8. Characteristic: The Courts Apply Sustainability and Quality Control Strategies

Findings: Respondents underscored that their teams meet regularly to update the court's policies and practices based on lessons learned during implementation; information they received through trainings; and evaluation of outcome measure data. Six of the respondents noted that there have been changes in policy and/or practice since the courts were launched. Specific changes included implementation of collaborative prevention practices and formalizing collaborations through a Memorandum of Understanding.²¹

With the exception of one respondent,²² all the respondents stated that they would like help ensure the sustainability of their court, as well as help launch another joint jurisdictional court. Most indicated that they would like to expand the scope of an existing joint jurisdictional court to hear additional kinds of case types, such as juvenile, guardianship, and veterans' cases. One respondent stated that the tribe and state court were in discussion to replicate the court in a neighboring county.

Discussion: Joint jurisdictional courts sustain themselves by finding ways to preserve the structural changes that they have made within and across their justice or court-connected service system. The sustainability strategies must be built into planning, implementation, and ongoing operations. It starts with the community's local and shared goals. It involves making structural changes, ongoing evaluation of operations, and incorporating lessons learned. In this way, these courts are always evolving, attuning to the local and tribal context, and lasting beyond the personalities of the leaders and stakeholders who designed the joint jurisdictional court.

Strategies to Sustain a Joint Jurisdictional Court

- 1) Formalize structural changes by writing them down.
Memorialize agreements,²³ court operations manual, court forms, protocols for early access to assessments and services, as well as coordination and warm handoff of those services. Draft or revise codes, statutes, or rules.
- 2) Establish a governance structure.
Many of these courts have a governance structure that includes a steering committee, co-chaired by the two judges, which meets quarterly and annually reviews Memoranda

²¹ Survey Results: Question 23.

²² Survey Results: Question 19.

²³ Most joint jurisdictional courts have foundational documents, such as the tribe's resolution supporting the joint jurisdictional court. Some even have a state document supporting the establishment of a joint jurisdictional court, such as from the state's Administrative Office of the Courts, Judicial Council, or Tribal-State-Federal Forum. Almost all have a joint powers agreement between the two courts that are forming the joint court.

of Agreements, the court’s policies and procedures, and data collected by a core operational team that meets monthly and addresses the day-to-day operations of the court.

- 3) Evaluate the joint jurisdictional court.
Remember: what gets measured, gets funded.

Tips for Quality Control

- 1) Make sure you are evaluating the court processes,²⁴ the participant outcomes,²⁵ and satisfaction with the court and court-connected services.²⁶
- 2) Make sure to collect three sources of data:
 - a. 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.
 - b. 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.
 - c. 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.
- 3) Collect as early as possible and review quarterly by steering committee, which is the policy making body for the court and is convened the two judges.
- 4) Keep in mind that it could take years to accumulate sufficient data to allow a formal outcome evaluation to occur. But collecting data from the beginning will help prepare for future evaluations, identify funding opportunities, allocate staff, and identify program needs.

Considerations for Sustaining the Court and Quality Control

- Partnering with a local university or college to help with data design, collection, and analysis can also be invaluable in ensuring sustainability.
- Hiring an evaluator with experience in evaluating tribal programs and measuring culturally rooted outcomes at the very beginning of the joint jurisdictional court’s development were successful in collecting baseline and benchmark data.

²⁴ 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?

²⁵ 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)?

²⁶ Do court clients and the community at large feel well served? Do core team members all feel heard? Are tribal and nontribal government leaders supportive? Have tribal and nontribal mapping of services been updated so that core team members know what services are available to court participants?

Recommendations

8. Fund capacity building and replication of joint jurisdictional courts.

- 8.1 Create and maintain a clearinghouse of all joint court materials, including Joint Power Agreements (JPAs), and Memorandums of Understanding (MOUs), court manuals, court forms, evaluation templates, and other protocols.
- 8.2 Create a toolkit to assist others to replicate and sustain a joint jurisdictional court. As part of this toolkit:
 - Encourage courts to put in place transition plans or to identify successor champions so that the loss of a leader does not mean the end of the court; other mechanisms that will help make the court lasting are court rules and clarifying codes.
 - Describe by case type where justice partner roles can be perceived as resistant and why (e.g., attorneys' ethical obligations to client and concerns over how client information will be used; alcohol and drug treatment, behavioral health treatment, and medical treatment legal concerns over release of private information).
 - Create stock presentations on joint jurisdictional courts that can be adapted for use at tribal or nontribal governmental meetings, justice partners and community meetings, and other local gatherings.
- 8.3 Create a list of funding opportunities that will fund planning and implementation of joint courts.
- 8.4 Create an online listing of training and educational resources by case type.
- 8.5 Host a joint jurisdictional court list serve for existing and prospective courts to pose questions, share information, and learn from one another.
- 8.6 Fund workshops—speaker and travel—for leaders and team members who are champions to present at various conferences so that the loss of a leader does not mean the end of the court; other mechanisms that will help make the court lasting are court rules and clarifying codes.
- 8.7 Fund evaluation to measure how these courts address root causes, as well as the presenting problems, and address disparities across case types.
- 8.8 Create a webpage that links to the specific evidenced based practices that are used by the joint jurisdictional courts and those that are culturally created or adapted (and indicate which court uses them).
- 8.9 Create tools and promote the evaluation of system changes within each agency; cross-agency within each jurisdiction.
- 8.10 Create tools and fund pre- and posttests on community readiness and public trust and confidence in courts and key court-connected service providers.

9. Characteristic: The Courts Faced Similar Challenges

Findings: Respondents reported the following challenges: insufficient planning, inadequate staffing, geographic distance, lack of funding, and sustaining their courts.

- Planning: The importance of effective planning was highlighted by respondents when

asked what enabled them to successfully launch their courts. Engaging partners from each jurisdiction (tribal, state, and federal) in planning was also thought as significant.²⁷ Respondents stated that they would have increased the Tribal Council's involvement and engaged the non-Tribal Court judges earlier in the planning process to allow more time for relationship building and fostering collaboration.

- Staffing: Specifically, the top three obstacles to launching the court were inadequate staffing, turnover at staff and tribal leadership levels, and hesitation from justice partners. Respondents noted that some partners seemed to “put in place” impediments. Attorneys who played different roles were commonly noted throughout these responses. In two cases, attorneys representing children and parents posed a challenge. In another case, it was a district attorney. Getting buy-in from tribal child welfare also posed an issue for one court. And not having a dedicated court coordinator posed a challenge in another court that relied on splitting those responsibilities between a county social worker and judicial secretary.²⁸
- Geographic Distance: Successful operation of the courts is made more difficult by distance. One respondent noted that obtaining training for everyone to attend together was an issue. It was not clear whether this is because it is difficult for team members to travel to where the trainings are being hosted or whether it is difficult for team members to all come together at the same time when trainings are hosted closer to home.²⁹
- Lack of Funding³⁰ for Direct Services and Training: While courts have come together and established joint jurisdictional courts with no additional funding, most tribes do not have the funding to operationalize the design and their nontribal counterparts may be in qualified rural, poor zones or may need an incentive to come to the table given that these joint jurisdictional courts are time intensive. Just like starting a collaborative or problem-solving court, where the nontribal judge and core team members need to have the time to staff these cases and attend frequent court hearings, funding is essential. Dedicated staff must be given the time to work with the court participants and their families. Respondents specifically needed funding for (1) court coordinator positions; (2) “operationalizing and sustaining” the court;³¹ (3) in-kind support from courts and partners; and (4) annual costs associated with increased time for judge/clerk/direct services to handle the new docket.³² A facilitator or other technical assistance provider can arrange for the type of training the collaboration needs to learn about joint

²⁷ Survey Results: Question 15.

²⁸ Survey Results: Question 8.

²⁹ Survey Results: Question 21.

³⁰ Survey Results: Question 16.

³¹ Survey Results: Question 11. Sources of startup funding for existing operational joint courts: Coordinated Tribal Assistance Solicitation (CTAS), Bureau of Justice Assistance (BJA), Children's Bureau, State funding (California Judicial Council; Minnesota Department of Highway Safety).

³² Survey Results: Question 12.

jurisdictional courts and to facilitate cross-cultural exchanges.

Discussion: Time for planning is critical. When the planning team members share in and guide the vision, goals, decision-making power, roles and responsibilities, and outcome measures, cultural divides can be bridged. The word, *culture*, comes from the Latin *to tend* the land or *cultivate*. By tending to the collaboration in this way and embracing a paradigm shift the partners can transform their working relationships so that they and their systems work better for their clients.

Staffing can be addressed when planning team members are open to embracing a different role that still values their expertise and experience, as also honors their professional ethics. These individuals become so invested in the new design that they will become very creative in solving the staffing question. However, if the tribal and nontribal agencies do not trust the judges or have authority to adjust workloads, then their staff will not have the support to show up and be creative in the planning of the joint jurisdictional court. A single justice partner can undermine and sabotage the launch of the court. Understanding which justice partner may be resistant and why; addressing their concerns, if they can be; and if not, exercising authority to pilot the joint jurisdictional court without that individual may become necessary.

Geographic distance is an issue for many jurisdictions that try to establish a joint jurisdictional court. Because tribal communities are often remote from the nontribal courthouse and services, situated in areas with little to no public transportation or cell reception, the ability to collaborate on planning, implementing, and sustaining the court can be an issue. Many joint jurisdictional courts use video-appearances, hold the court sessions alternately on the reservation, and bring service providers to the families.

Lack of funding for direct services is always a problem, and yet when these courts are operating, they find ways to leverage and create new services. The difficulty is in sustaining these new services. As described previously under characteristic 8, sustainability, training, and technical assistance is critical in ensuring the joint jurisdictional court can be sustained.

Recommendations

9. Provide for flexible funding

- 9.1. Leverage federal funding by issuing joint grant opportunities using collaborative/problem-solving dollars and joint jurisdictional dollars.
 - Explore ways to leverage the separate funding sources to encourage existing collaborative courts to reach out to their tribal partners to explore joint jurisdictional approaches.
 - Review all collaborative court funding sources and add funding for these courts to plan a joint jurisdictional court with a tribal court in their jurisdiction.
 - Review existing mentor court funding sources to incorporate joint jurisdictional courts.
- 9.2 Encourage regional grant applications given that tribal communities may live in different counties, on and off the reservation. (Currently, grant requirements are punitive in that

when a lead applicant submits a grant for a region, they are not entitled to the amounts they would have received had they applied separately.)

9.3 Fund expansion of direct services

- Mapping tribal and nontribal services to identify service gaps and maximize existing service, as well as create new culturally based services and fund.
- Fund positions, such as court coordinators and second position for two courts sharing jurisdiction (e.g., depending on case type, courts may want a dedicated social worker, probation officer, attorney, peer mentor/coordinator, and/or culture bearer).
- Awarding enhancement amounts to tribal and nontribal service providers who come together to create new services and/or leverage existing services to maximize service delivery reach.
- Incentivizing states and tribes to engage in partnerships to maximize other sources of funding (federal, state, foundations, etc.) for direct services.

9.4 Fund creative ways to address the geography, such as transportation, laptops for video-conferencing, and access to Internet and cellular services.

9.5 Fund costs associated with additional docket especially during evaluation phase to assess where cost savings occurs though implementation of the joint jurisdictional court.

V. Conclusion and Summary of Recommendations

Current and generational/historical issues affect tribal communities, families, and individuals, leading to substance abuse and mental health crises, high recidivism, and astronomical rates for out-of-home placement of Native American children. There is no simple solution because the same justice systems that historically perpetuated the removal and displacement of Native Americans, today struggle to address disparate outcomes and disproportionality in the criminal and child welfare systems that resulted from that legacy. But the joint jurisdictional court approach creates an environment in which those who are most affected by existing systems join together as equal partners with those who can influence structural reform. The Joint Jurisdictional Needs Assessment showed that judicial leaders from tribal, state, and federal systems have joined forces to better meet the needs of all citizens. In the beginning, the urgency of a shared problem prompted them to convene stakeholders and begin a conversation; in the end, they created a completely new system of justice. The survey responses showed that these courts share similar characteristics and faced similar challenges. All the courts shared the following characteristics: Leadership was crucial for development; they needed effective technical assistance; they blended healing-to-wellness and problem-solving court approaches; they were tailored to fit the specific culture of the tribe and local court systems; they focused on root causes; they broke down silos and improved collaboration; their work resulted in improved outcomes and system changes; they applied sustainability and quality control strategies; and they faced similar challenges in planning, staffing, geographic distance, and lack of funding for direct services and training. And in the end analysis, it was

clear that the joint jurisdictional approach can be used across all case types, in a variety of geographical locations, and results in better outcomes.

Results of the assessment showed that the ten operational joint jurisdictional courts throughout the country garnered positive results from their collaborative efforts. The courts demonstrated improved outcomes, promising practices, and structural changes that addressed disparities and improved access to and types of services necessary to effect lasting change in these communities. Some of the improved outcomes included (1) lower recidivism rates; (2) lower school discipline and higher graduation rates; (3) increased family preservation rates; (4) reduced incarceration rates; and (5) cost savings. Working together in a joint jurisdictional court, respondents showed that they were able to meet significant needs, such as housing, employment, education, prenatal care, mental health, alcohol and drug treatment, childcare, and other needs related to social determinants of health by incorporating culturally based, locally designed interventions.

These collaborations resulted in fundamental system changes that reimagine the face of justice. It is no accident that all the survey respondents identified the importance of collaboration to make this change possible. System improvements extended beyond the courts and into the communities, resulting in improved government-to-government relationships and fostering the trust that is crucial to making lasting change in people's lives. But collaboration does not just happen; it is people driven and must be supported if it is to be successful. Results of the needs assessment demonstrate that the joint jurisdictional approach is a bridge between worldviews and cultures. The process of developing these courts can be challenging, revealing stereotypes and unveiling traumas, but it also fosters a shared language, promotes cultural humility, and helps leaders and stakeholders innovate.

Justice is not, and should not be, one size fits all; flexibility and a focus on local needs is the key to effectively addressing local problems and must be fostered and encouraged. The survey revealed that in some cases a true joint jurisdictional court where the tribal and nontribal judge preside over the case simultaneously and apply tribal and nontribal law did not meet local needs. However, the collaborative process nevertheless broke down silos within and between justice system partners and proved no less effective in achieving better outcomes. The key is that planning teams must have the tools and resources to develop a model that is unique to their locality and specific cultural traditions. For this reason, this report concludes that it is essential to foster justice system collaboration so that local stakeholders can decide for themselves what model of shared jurisdiction works best for their unique needs.

The authors of this report are indebted to the individuals who, through their leadership and commitment to justice, have reimaged justice and paved the way for others to follow in their footsteps. To that end, the authors summarize their recommendations to help replicate this approach and sustain the system and structural changes that result in better outcomes:

Summary of Recommendations

- 1. Provide funding to train, mentor, and sustain effective joint jurisdiction court leadership.**
 - 1.1. Fund court observations and shadowing.
 - 1.2. Fund short educational videos that capture how these courts work.
 - 1.3. Fund a toolkit that shows how judicial leadership can launch a joint initiative short of a joint court.
 - 1.4. Fund tribal and nontribal engagement that includes community and tribal leadership.
 - 1.5. Promote the creation and dissemination of materials so that the communities can learn about the joint jurisdictional court initiative of the tribe and nontribal justice systems.
- 2. Fund startup costs for joint jurisdiction courts, including facilitators, collaboration planning, and peer-to-peer learning opportunities.**
 - 2.1. Fund technical assistance and skilled facilitator.
 - 2.2. Fund intrasystem discussions among partners within each justice system and cross-system/cross-cultural exchanges.
 - 2.3. Fund a conference that brings together teams from each joint jurisdictional court to learn from one another.
 - 2.4. Fund site visits by teams of 3–5 members to see other joint jurisdictional courts.
 - 2.5. Create a list of funding opportunities that will fund planning and implementation of joint courts.
 - 2.6. Create an online listing of training and educational resources by case type.
 - 2.7. Host a joint jurisdictional court list serve for existing and prospective courts to pose questions, share information, and learn from one another.
- 3. Review existing educational and funding resources to determine if they can be used to promote blended tribal healing to wellness and problem-solving/collaborative approaches in joint jurisdictional courts.**
 - 3.1. Fund video or webinar that describes the components of tribal healing to wellness and collaborative/problem-solving courts and concludes with how these approaches can be blended to be locally adapted and tribe specific.
 - 3.2. Review existing funding sources to encourage existing problem-solving/collaborative courts to reach out to their tribal partners to explore joint jurisdictional approaches.
 - 3.3. Review all collaborative court funding sources and where there is mentoring for these problem-solving courts, add mentoring by joint jurisdictional courts of state’s problem-solving courts to pilot joint jurisdictional courts.
- 4. Incorporate the essential component of culture into solicitations for joint jurisdiction courts.**
 - 4.1 Fund cross-cultural and anti-bias trainings.
 - 4.2 Fund new and existing culturally based programs.

4.3 Fund culture bearers³³ to consult in the design.

4.4 Promote evaluation of culturally based interventions to demonstrate that they are evidenced based.

5. Fund joint jurisdictional courts to track data on presenting problems and root causes to use in implementing and sustaining the joint courts and use this information to evaluate court-connected services.

5.1 Fund evaluation to measure how these courts are addressing root causes, as well as the presenting problems.

5.2 Develop software that these courts can use to identify and measure the key drivers that address the root causes.

5.3 Create tools that assist courts and the core team in drilling down to root causes.

5.4 Provide funding to address gaps in services that address root causes.

6. Fund educational opportunities that foster collaboration among separate justice systems and their partners.

6.1 Fund face-to-face meetings on tribal lands that promote cross-discipline communication.

6.2 Fund cross-cultural exchanges that foster collaboration and encourage exploration of a range of approaches, some of which may not rise to the level of a joint jurisdictional court.

6.3 Fund workshops—speakers and travel—to address justice partner concerns.

6.4 Fund judicial leaders and team members to present at various conferences on how joint jurisdictional court approach breaks down silos and addresses disproportional numbers of Native Americans and other people of color in the state and federal courts.

6.5 Given the time to develop and strengthen relationships, planning grants should account for intrasystem discussions among partners within each justice system and cross-system/cross-cultural exchanges.

6.6 Fund logistics for stakeholder meetings to build collaboration, including meeting facilities and travel.

6.7 Fund readiness assessments of the collaborative relationships.

6.8 Fund opportunities, such as cross-cultural exchanges, for justice partners to explore options in sharing jurisdiction, which may not rise to the level of a joint jurisdictional court. As part of these grants, encourage observations of tribal healing to wellness court proceedings and mapping decision points for shared problem areas that the two jurisdictions would like to reimagine and design services jointly.

7. Fund the development of an evaluation framework that uses indigenous measures of success and outcome measures.

³³ A culture bearer is someone recognized by the tribal community who is connected to the indigenous knowledge of the tribe. For a culture bearer, one's indigenous knowledge is not only knowledge about the tribe's traditions, values, beliefs, worldview, and practices. It is culture, a living part of every person of the tribe, inseparable from each person, and passed on from one's ancestors.

- 7.1 Fund development of evaluation plans for joint jurisdictional courts that focus on health and wellness and interventions that address root causes of the presenting problems in the joint court case.
- 7.2 Promote evaluation of culturally based interventions to demonstrate that they are evidenced based.
- 7.3 Fund data-collection methods for their evaluation activities and assist with development of data-collection tools and locally indigenous defined success methods.
- 7.4 Create a webpage that links to the specific evidenced-based practices that are used by the joint jurisdictional courts and those that are culturally created or adapted.
- 7.5 Promote a continuous feedback loop between the court participants and the joint jurisdictional court and between the tribal community and the joint jurisdictional court.
- 7.6 Have a tolerance for lower court numbers to give newer courts time to prove themselves to the community. Lower numbers are not necessarily an indicator of failure for newer joint jurisdictional courts.
- 7.7 Develop 360 self-assessment tool³⁴ that asks stakeholders to reflect on the strength of their relationships intrasystem, intersystem, and cross-jurisdictionally, upon receiving the grant award, after planning phase, and annually after implementation.
- 7.8 Promote and evaluate system changes within each agency, cross-agency within each jurisdiction, and cross-jurisdictionally.

8. Fund capacity building and replication of joint jurisdictional courts.

- 8.1 Create and maintain a clearinghouse of all joint court materials, including JPAs, MOUs court manuals, court forms, evaluation templates, and other protocols.
- 8.2 Create a toolkit to assist others to replicate and sustain a joint jurisdictional court.
 - As part of this toolkit:
 - Encourage courts to put in place transition plans or to identify successor champions so that the loss of a leader does not mean the end of the court; other mechanisms that will help make the court lasting are court rules and clarifying codes.
 - Describe by case type where justice partner roles can be perceived as resistant and why (e.g., attorneys' ethical obligations to client and concerns over how client information will be used; alcohol and drug treatment, behavioral health treatment, and medical treatment legal concerns over release of private information).
 - Create stock presentations on joint jurisdictional courts that can be adapted for use at tribal or nontribal governmental meetings, justice partners and community meetings, and other local gatherings.

³⁴ This type of tool is one that solicits anonymous feedback from each member of a team so rather than a hierarchical evaluation between Court administrator and planning team members, it would be, like a circle, where one seeks this feedback among all the team members of each other, including the court coordinators and judges.

- 8.3 Create a list of funding opportunities that will fund planning and implementation of joint courts.
- 8.4 Create an online listing of training and educational resources by case type.
- 8.5 Host a joint jurisdictional court list serve for existing and prospective courts to pose questions, share information, and learn from one another.
- 8.6 Fund workshops—speaker and travel—for leaders and team members who are champions to present at various conferences so that the loss of a leader does not mean the end of the court; other mechanisms that will help make the court lasting are court rules and clarifying codes.
- 8.7 Fund evaluation to measure how these courts address root causes, as well as the presenting problems, and address disparities across case types.
- 8.8 Create a webpage that links to the specific evidenced-based practices that are used by the joint jurisdictional courts and those that are culturally created or adapted (and indicate which court uses them).
- 8.9 Create tools and promote the evaluation of system changes within each agency; cross-agency within each jurisdiction.
- 8.10 Create tools and fund pre- and post-tests on community readiness and public trust and confidence in courts and key court-connected service providers.

9. Provide for flexible funding.

- 9.1 Leverage federal funding by issuing joint grant opportunities using collaborative/problem-solving dollars and joint jurisdictional dollars.
 - Explore ways to leverage the separate funding sources to encourage existing collaborative courts to reach out to their tribal partners to explore joint jurisdictional approaches.
 - Review all collaborative court funding sources and add funding for these courts to plan a joint jurisdictional court with a tribal court in their jurisdiction.
 - Review existing mentor court funding sources to incorporate joint jurisdictional courts.
- 9.2 Encourage regional grant applications given that tribal communities may live in different counties, on and off the reservation. (Currently, grant requirements are punitive in that when a lead applicant submits a grant for a region, they are not entitled to the amounts they would have received had they applied separately.)
- 9.3 Fund expansion of direct services
 - Mapping tribal and nontribal services to identify service gaps and maximize existing service, as well as create new culturally based services and fund.
 - Fund positions, such as court coordinators and second position for two courts sharing jurisdiction (e.g., depending on case type, courts may want a dedicated social worker, probation officer, attorney, peer mentor/coordinator, and/or culture bearer).
 - Awarding enhancement amounts to tribal and nontribal service providers who come together to create new services and/or leverage existing services to maximize service delivery reach.
 - Incentivizing states and tribes to engage in partnerships to maximize other

sources of funding (federal, state, foundations, etc.) for direct services.

9.4 Fund creative ways to address the geography, such as transportation, laptops for video-conferencing, and access to Internet and cellular services.

9.5 Fund costs associated with additional docket especially during evaluation phase to assess where cost savings occurs though implementation of the joint jurisdictional court.

VI. Appendix A: Intergovernmental Collaboration Resources

Jennifer Fahey, Hon. Korey Wahwassuck, Allison Leof, and Hon. John Smith, [*Joint Jurisdiction Courts: A Manual for Developing Tribal, Local, State & Federal Justice Collaborations*, 2nd ed.](#) (Project T.E.A.M., Center for Evidence-Based Policy, Oregon Health & Science University, 2018).

Heather Valdez Freedman, Kori Cordero, and Carrie Garrow, [*Tribal State Court Forums: An Annotated Directory*](#) (Tribal Law and Policy Institute, January 2016).

Carole Goldberg and Duane Champagne, [*Promising Strategies: Tribal-State Court Relations*](#) (Tribal Law and Policy Institute, March 2013).

Carole Goldberg and Duane Champagne, [*Promising Strategies: Public Law 280*](#) (Tribal Law and Policy Institute, March 2013).

William Thorne and Suzanne Garcia, [*Crossing the Bridge: Tribal-State-Local Collaboration*](#) (Tribal Law and Policy Institute, February 2019).

Hon. Korey Wahwassuck, Hon. John P. Smith, and Hon. John R. Hawkinson, [*Building a Legacy of Hope: Perspectives on Joint Tribal-State Jurisdiction*](#), 36:2 WILLIAM MITCHELL L. REV. 859 (2010)

Hon. Korey Wahwassuck, [*The New Face of Justice: Joint Tribal-State Jurisdiction*](#), 47 WASHBURN L. J. 733 (2008).

Jennifer Walter and Heather Valdez Freedman, [*Emerging Strategies in Tribal-State Collaboration: Barriers and Solutions to Enforcing Tribal Protection Orders: December 6, 2017 Meeting Report*](#) (Tribal Law and Policy Institute, February 2019).

Also see: Tribal Law and Policy Institute, www.WalkingOnCommonGround.org

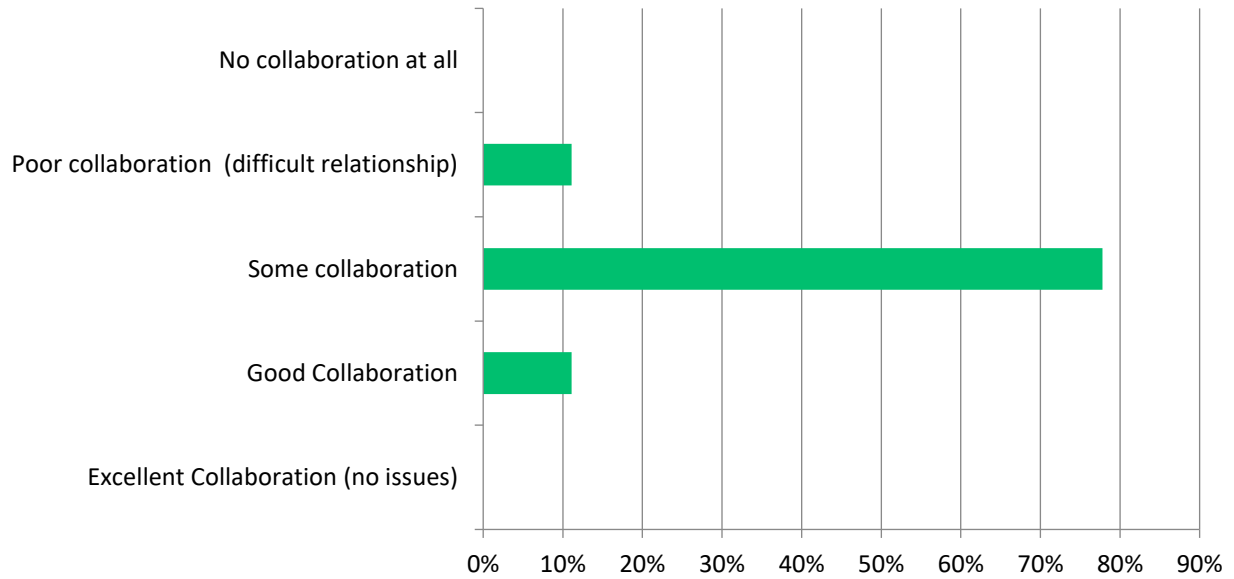
VII. Appendix B: Full Survey Results³⁵

Q3: Why did you launch the court?

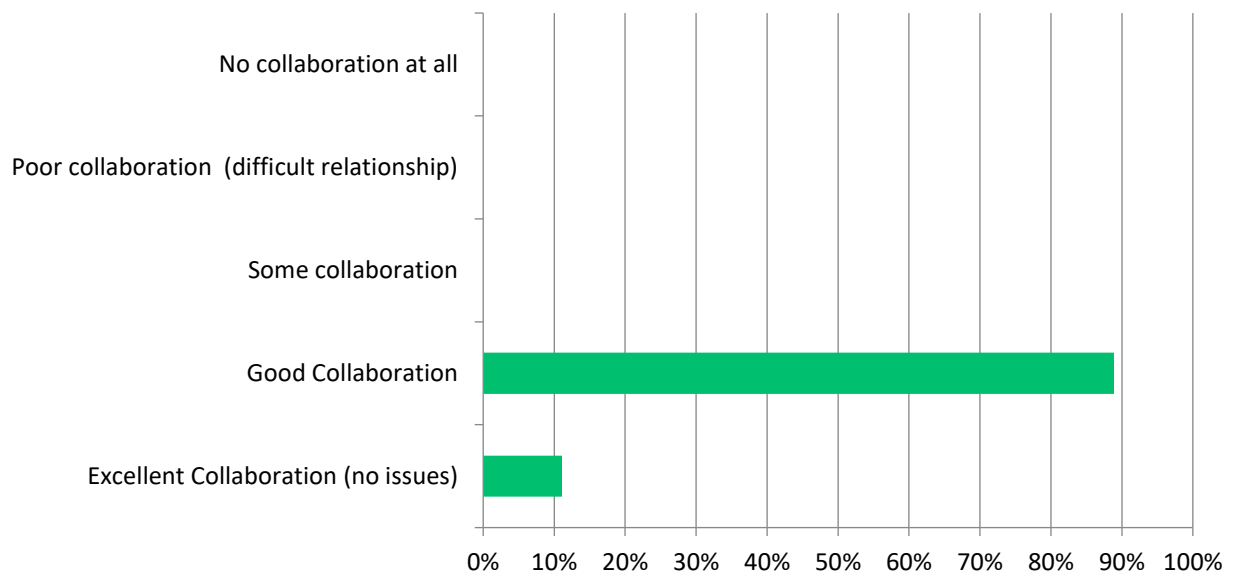
- To preside over our own families whose abuse and neglect cases were exclusively heard by the state court. We wanted to replicate the success of the Yurok-Humboldt Joint Family Wellness Court.
- To work collaboratively to assist our Yurok families who are struggling with the impacts of alcohol and substance use and dependency.
- Wellness courts have been very successful in assisting people in remaining sober. We did not want to lose anymore of our people to drugs. We had a good working relationship with the counties since TLOA. White Earth was one of the first tribes to be granted concurrent federal jurisdiction. It really brought the parties together to collaborate.
- The founders knew a wellness court couldn't be successful without the involvement of the tribe
- To work collaboratively to assist our Yurok families that are struggling.
- To reduce recidivism for a healthier community
- To unite judiciary, criminal justice entities, substance abuse treatment providers, and the community.
- To have better service for community members who had to compete for space in the county court
- Do bring wellness alternatives to youth who were violating the law off the reservation and coming under the jurisdiction of the state.

³⁵ Note that some questions/answers were redacted due to confidentiality concerns.

Q4: How would you rate your collaboration BEFORE the launch?



Q5: How would you rate your collaboration AFTER the launch?



Q6: Who are the key agencies/partners that have expressed a commitment to the joint jurisdiction court?	
Tribal Court	9
State/County Court	9
Federal Court	0
Tribal Attorney	6
County/State/Court-Appointed Attorney	6
Tribal Prosecutor's Office	2
State/County Prosecutor's Office	4
U.S. Attorney's Office	2
Tribal Defense Counsel	1
State/County Defense Counsel	3
Federal Defense Counsel	0
Tribal Probation	2
State/County Probation	6
Federal Probation	0
Tribal Behavioral Health	5
State/County Behavioral Health	5
Tribal Social Services (may include child protective services)	9
State/County Social Services (may include child protective services)	8
Tribal Mental Health (if distinct from behavioral health)	3
State/County Mental Health (if distinct from behavioral health)	2
Private treatment provider(s)	2
Tribal Housing	4
State/County Housing	1
Tribal Vocational Rehabilitation	3
State Rehabilitation	1
Tribal Government Leader	6
State Government Leader	4
County/Local Government Leader	4
Tribal Cultural Bearer	2
Tribal Member At-Large	2
Tribal Education	3
Bureau of Indian Education	1
State Education	0
County/Local Education	3
TANF	3
Tribal Non-Profit	0

Non-Profit	3
Tribal Law Enforcement	5
Bureau of Indian Affairs Law Enforcement	0
State/Local Law Enforcement	4
Federal Law Enforcement	0
Tribal Medical Provider	4
Non-Tribal Medical Provider	3
Children's Attorney	4
Parent's Attorney	0
Indian Legal Services	1
Tribal Alcohol and Other Drug Services	5
State/County Alcohol and Other Drug Services	3
Other (please specify)	3

Q7: Are there any known missing partners? If yes, please list.

- Social Services
- No.
- We used to have a partnership with Regional Native Defense. Some changes occurred in staffing for them so we are now in need of a new defense attorney for the team.
- The current county attorney ...
- Partners for Progress
- Not missing but the County DA is our only source of opposition

Q8: Please list the role and organization of all individuals who attend hearings

Response 1:

- Tribal Judge
- State/County Judge
- State/County Clerk
- State/County Behavioral Health
- Tribal/County Social Services
- occasionally others listed as needed

Response 2:

- State Judge
- County Attorney
- County Probation
- Tribal Judge
- Compliance officer – Tribe
- Coordinator – Tribe
- Mental Health – Tribe

- Substance Abuse -Tribe
- Court Administrator - Tribe

Response 3:

- Tribal Judge
- State Judge
- Tribal CD Counselor
- County CD counselor
- Tribal chemical use assessor
- County Probation
- State probation
- Program coordinator
- Tribal attorney
- Defense attorney

Response 4:

- State Court Judge
- Tribal Court Judge
- District Attorney – State
- Public Defender- State
- Private Attorneys
- Tribal Probation Officer
- Project Coordinator – State
- Project Coordinator – Tribal
- Behavioral Health – Tribal
- Circle – Tribal
- Probation - State

Response 5:

- District Court Judge
- Tribal Court Judge
- County Attorney
- MN DOC County Agent
- County Probation Agent
- Tribal Law Enforcement Officer
- County Treatment Providers
- [Tribal] Treatment Provider
- Treatment Court Coordinator - State/County
- Volunteer Defense Attorney

Response 6:

- Chief Judge
- HWC Coordinator
- FTC Case Manager
- DSS Quality Assurance Coordinator
- Community Justice Program, Program Manager
- Mental Health Program Manager
- Addictions Assistant Program Manager
- ICWA Case Worker
- Traditional Support Worker
- Chief of Police

Response 7:

- Probation County (as needed)
- Probation Tribal
- Tribal Attorney (as needed)
- Tribal Services
- County Social services (as needed)
- County Judge
- Tribal Judge
- County clerk
- Tribal Clerk
- County reporter (as needed)

Q9: Please list the role and organization of all individuals who only attend staffing meetings

Response 1:

- Tribal Judge
- State/County Judge
- State/County Clerk
- State/County Behavioral Health
- Tribal/County Social Services
- occasionally others listed as needed

Response 2:

- Behavioral Health Director – Tribal
- PD office Director - State

Q10: Were there planning costs?

Yes = 3

No = 0

Don't know = 4

If yes, please indicate the funding source for planning costs:

- The County applied for a grant that paid for a court coordinator, clinical case manager and social worker. The Tribe, through a [tribal court] Coalition applied for a grant that paid some costs (tribal mentor and data/evaluation) including a facilitator with expertise in establishing joint courts.
- The County used in-kind services, however the Tribe applied for a grant that paid for some costs, including a facilitator with expertise in establishing joint courts
- NDCI for DWI Court, NADCP for Drug Court
- CTAS
- The tribe provided the space (meeting room and AV equipment) and the food for lunch for each planning meeting day (at least 6) plus minimal materials costs.

Q11: Are there implementation costs?

Yes = 5

No = 0

Don't know = 2

If yes, please indicate the funding source for implementation costs.

- The County applied for a grant that paid for a court coordinator, clinical case manager and social worker. The Tribe, through the Tribal Court Coalition (NCTCC) applied for a grant that paid some costs (tribal mentor and data/evaluation) including a facilitator with expertise in establishing joint courts. As well as other Tribal grants have enabled us to implement this joint court model. County and Tribe convene quarterly steering committee meetings and monthly court operational team meetings.
- The County brings in-kind services: judge, clerk, and reporter, social worker, and others as needed. The Tribe brings judge and social worker to the County seat for hearings. County and Tribe convene quarterly steering committee meetings and monthly court operational team meetings.
- State Department of Highway Safety for DWI Court, WE Tribe and now BJA for Drug Court
- Paid out of a BJA wellness court grant
- Federal/State Grants, State/County Funding
- CTAS
- County brings reporter and clerk and judge to the reservation for hearings. Not sure exactly the break down. We have quarterly advisory committee meetings, the Tribe sponsors the space and food for those.

Q12: Are there any additional costs?

Yes = 5

No = 0

Don't know = 2

If yes, please explain the additional cost AND identify funding source.

- Judicial Council ... innovation grant and \$420,000 from the National Quality Improvement Center for Collaborative Community Court Teams (QIC-CCCT) to Address the Needs of Infants, Young Children, and Families Affected by Substance Use Disorders over a three year period to assist in replication of the joint court and implementation of plans of safe care with NCTCC Tribes.
- Increased Tribal and County court and social services time for hearings and staffings, which are time intensive.
- Probation assist with drug testing costs for DWI Court
- Program is funded by the department of public safety. Employees are paid out of their employer's funds
- Grant funding
- Yearly costs associated with running the program through State/County funding.
- Increased judge and clerk time and direct services to handle the new docket which is time intensive.

Q13: Please list the launch date.

- April 1, 2019
- March 22, 2019
- DWI Court (2014)
- DWI Court (2015)
- Drug Court (2018)
- Spring 2006. We are the original joint jurisdiction wellness court
- 01/2018
- December 2016
- July 2007
- September 2010
- April 2015

Q14: Was your launch date postponed/delayed?

Yes = 0

No = 7

- Delayed due to lack of referrals.
- Final agreements with District Attorney's office

Q15: What are the top three things that enabled you to be successful in launching the court?

Response 1:

1. Judicial Leadership
2. Facilitator and Technical Assistance
3. Tribal Government and Community Engagement

Response 2:

1. Judicial Leadership
2. Facilitator and Technical Assistance
3. Shared Goal

Response 3:

1. Tribe, State and County took part in the planning process together.
2. The team believed in the program that we developed and knew that the community needed a program such as this.
3. Although team members may have different ideas, we all listened to each other and developed a successful program.

Response 4:

1. Planning
2. Open minds
3. Dedicated staff

Response 4:

1. Training and guidance from Project T.E.A.M.
2. Grant funding
3. Buy in from all entities

Response 5:

1. Collaboration with community partners
2. Collaboration with local town courts

Response 6:

1. We had effective technical assistance
2. We had laid the foundation relationships
3. We had strong judicial leadership with elected official's supporting us

Q 16: What are the top 3 obstacles you encountered?

Response 1:

1. Tribal leadership turnover
2. Lack of buy-in by Tribal social services
3. Lack of trust

Response 2:

1. Panel attorneys representing children and parents.
2. Initially no court coordinator.
3. Referrals blocked by partners due to capacity and lack of infrastructure.

Response 3:

1. Not having a defense attorney at the table.
2. It is sometimes hard to sell a new program when that role is not at the table due to funding.

Response 4:

1. Distance
2. Identifying families
3. Hesitant partnering agencies

Response 5:

1. Final agreements – MOU
2. Request for Tribe to waive Sovereign Immunity

Response 6:

1. State Courts

Response 7:

1. The County DA wants to reject every case
2. We did not have enough planning or resources around the services and case planning side
3. Staff turn over

Q 17: List Case Types for Joint Jurisdiction Court and for Tribal Court			
	Joint Jurisdiction Court	Tribal Court	Total
Abuse and Neglect	4	5	6
Adoption with Termination of Parental Rights	0	2	2
Adult Criminal - Felony	2	0	2
Adult Criminal - Misdemeanor	2	0	2
Conservatorship	0	3	3

Delinquency	1	2	2
Domestic Violence	0	2	2
DUI/DWI	2	0	2
Family (dissolution, custody, visitation)	0	2	2
Guardianship	0	3	3
Homelessness	0	0	0
Mental Health	0	0	0
Protection Orders	0	3	3
Tribal Customary Adoption	0	2	2
Truancy	1	2	2
Veterans	0	0	0

Q 18: Is your Joint Jurisdiction Court at full capacity for participants?

Yes = 0

No = 7

If no, what is your capacity in terms of number of participants per case type.

- We have a capacity of 25 per court.
- 25
- 20 with no more than 7 in phase one
- 35
- We don't have a limit

Q 19: Would you like to launch another joint jurisdiction court?

Yes = 4

No = 1

If yes, what type of cases would the joint jurisdiction court hear?

- Juvenile and guardianships.
- Veterans, Juvenile and Criminal.
- We are in discussion with the County to launch a joint jurisdictional court. It is in the early stages.
- Veteran
- Civil diversion for Tribal Courts to hear misdemeanor cases
- Criminal cases
- Any case or portion of a case where there is not only shared jurisdiction but where jurisdiction coordination would benefit the participants in court, anything from child support to dependency to criminal.

Q 20: Are there cultural alternatives to program requirements?	
<i>Answer Choices</i>	<i>Responses</i>
Using Native language in programming	1
Exploring their needs e.g., domestic violence and if there are cultural alternative programs for victims and perpetrators, parenting, co-parenting with ex-partners etc.	1
Exploring the re-creation of practices (e.g., men's groups to lead to traditional sweat house activities or similar activities for women)	4
Involving elders	5
Participating in or learning about gathering food/materials and fishing/hunting	4
Learning genealogy, and history of individual's family particularly in terms of historical trauma suffered by relatives/victims	3
Requiring participants be enrolled in a cultural class and/or attend traditional/cultural events and activities	1
Prayer as part of the healing process	0
Holding court in a healing circle	0
Smudging	1
Giving traditional gift at transition/phase advancement ceremony	8
Group sessions that include making ribbon shirts, beading, baskets, dolls, etc	3
If community service is required, making it part of a traditional activity	2
Use of drum	1
Including talking stick at group sessions	0
White bison groups	0
Maintaining a cultural advisor on staff	2
Counseling groups include tribal identity, historical trauma and tribal healing customs	2
Cultural/Community Connections Assessment	1
Tribal Mentors	4
Building Healthy Community of Connections	2
Learning Family History/Genealogy and Cultural Roles of Family Members	1
Recreation of traditional practices	1
Other (please specify)	4

Other:

- 10 day birth basket for baby.
- Traditional programming is offered but it is not a requirement.
- Healing Circle requirement in phases
- The tribe disfavors "ordering" anyone to participate in traditional practices, it can be recommended in their case plans but not tracked or ordered.

Q 21: List the top three problems to successful operation of your Court now

Response 1:

1. Distance
2. Referrals
3. Turnover

Response 2:

1. Distance
2. Referrals

Response 3:

1. County Attorneys actions

Response 4:

1. Distance

Response 5:

1. Scheduling/time
2. Training for all to attend together
3. Housing

Response 6:

1. Referrals from local town courts
2. referrals from state (county) courts

Response 7:

1. Funding for direct services
2. Funding for court operations (no sustainable funding from BIA 638 contracts available in other states.)
3. Need more adult cases from the County DA

Q 22: List the top three system improvements that resulted from the formation of your Court

Response 1

1. Stronger collaborative relationships
2. Better outcomes

Response 2:

1. Stronger collaborative relationships
2. Families are seen and heard

3. Better outcomes

Response 3:

1. increased rates of sobriety among participants
2. reducing recidivism in participants
3. Implementation of holistic treatment

Response 4:

1. Better engagement and outcomes for DUI offenders
2. Positive relationship established
3. State criminal justice stakeholders gained better understanding of native community

Response 5:

1. Connection with families

Response 6:

1. Collaboration

Response 7:

1. Faster access to services
2. Local access to court for participants

Response 8:

1. Improved and expanded relationship with county-tribal probation and law enforcement
2. Improved and expanded relationship with county-tribal judges
3. Provided better outcomes for tribal families who successfully completed the court process.

Q 23: Have there been any changes in policies or practices since the launch of your court? If yes, what prompted these changes and what were those changes? Did they address the identified issues?

Yes = 4

No = 2%

If yes, please describe.

- The biggest is that the Tribal Court is now hearing its own family cases—both separately in Tribal Court and jointly with the State Court.
- Prevention and early intervention strategies that are implemented collaboratively, maximizing/leveraging limited County and Tribal services. We still have a lack of services available for our families.
- Policies and Procedures manual is a living document that is adapted as we learn more from our families and how we can best work together.

- Yes, we try to do annual reviews to adjust policy based off knowledge gained through training or by what we learned through operation.
- The tribe and county have formally established a MOU were the county board and tribal council meet each year to address any
- Updates to policies and procedures have been ongoing to better meet the needs of our court.
- What we planned didn't always work in practice. We are still working on revisions to polices.

Q 24: With hindsight, is there anything you would have done differently in the planning or operation of your court?

- No, worked diligently to engage Tribal Government, Tribal Community, Tribal Social Services, and State Court
- Yes, would have obtained funding for the Tribe and County to each have a court coordinator working in tandem to operationalize and sustain the joint court.
- No, the process was well received. We learn through our mistakes and successes.
- More involvement from Tribal Council.
- Including State/County Judges earlier in the process to attempt to create a better relationship and foster collaboration
- No

Q 25: What are some of the best practices you would like to share with us?

- Cultural components, tribal mentors who are like aunties/uncles, prevention based case planning at family team meetings/staffings, by focusing together we have been able to pivot upstream to help families earlier before they get to Tribal Court, State Court, or Joint Court.
- Most all of the graduates state that the frequency of the drug testing is what helped them to maintain sobriety as well as the support from the team.
- Having a Multi-Disciplinary Team that makes decisions. Judges spending a min of 3 min with each participant at hearings. Involving the healing circle. Cultural components. Ability to have Court, Treatment, housing, free lunch and family services all on campus.
- Prevention based case planning. Court supervised pre-petition child welfare cases, huge success, kept families out of the system that we are certain would have ended up in the child welfare system otherwise.

Q 26: Is there anything else you would like us to know and share with others who would like to develop a joint jurisdictional court?

- Yes, a skilled facilitator with experience in the developing joint courts is a must!
- Each of us in our own separate jurisdictions can design a better way of working together and serving our families if we are willing to just try.
- "The Tribe did not waive Sovereign Immunity even though it was asked in the beginning.
- A strong MOU/MOA is important.
- Cultural components are important."

- For PL-280 Tribes: Unless you are satisfied with the State Court's rulings and sentencing options in every case, start a joint jurisdiction court, enhance your sovereignty and better the odds for your members of getting out of the justice system pipeline to prison or death.
- TA funding should be given directly to tribal communities to hire who they want to accomplish their justice goals. I have had "TA" from many agencies to assist several different courts I have worked for. The TA we had for our joint jurisdiction planning was the most effective, BY FAR. Aside from that group it has not been a productive or positive experience. Please do not send people from outside of CA to "help" us with strategic planning who will draw only on their own limited experience in non-PL-280 states. We waste a lot of time having to provide background on a history they should know. Anyone who is from outside a PL-280 state should be a true expert if facilitating a strategic plan (as evidenced by successful implementation of the plan they co-created) who has a local subject matter expert with them. Not just someone who has been a judge or worked in a tribal court somewhere, or worse, just provided training and/or studied Tribal Courts. Enough please. This is not an academic exercise. They do not understand the specific needs and benefits of our jurisdiction and funding history. They do not know how to actually help communities build a court, in a practical way that will be sustainable and helpful. It is one thing to send other joint jurisdiction court representatives to share models (ie Judge ...is amazing), but if they have not experienced the unique jurisdictional maze of PL-280, as a practitioner or expert planner, they are typically ineffective and frustrating. Please diversify the pool of TA provider Federal grant recipients or just give the Federal money that goes to TA providers to tribes directly. You need to provide access to people who have actually set up a joint jurisdiction court, or any court for that matter. I am tired of the wall of sticky notes that leave with the ineffective trainers and are never seen again. Waste of precious tribal time and resources. Thank you for your consideration.

