Tribal Law and Policy Institute Tribal State Collaboration Webinar Series

Justice Reimagined:
Healing Community and Improving Outcomes Through Joint Jurisdiction
August 5, 2021

Hon. Korey Wahwassuck
Itasca County District Court

Jenny Walter
Partner, Hedger & Walter
Northern California Court Judges Association, appellate judge

Disclaimer: This project was supported by Grant No. 2019-IC-BX-K005 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice’s Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, The Office of Juvenile Justice and Delinquency Prevention, the Office of Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.
Joint Jurisdiction

“Together Everyone Achieves More”
What is Joint Jurisdiction?

• **Joint Jurisdiction is exercised**
  When a tribal court judge and a state or federal court judge come together to exercise their respective authority simultaneously, bringing together justice system partners and leveraging resources to promote healing and protect public safety.

• **Joint Jurisdiction can be exercised**
  Anytime procedurally, because it is a creative approach to changing the very fabric of social justice.
Focus on Root Causes

“Poverty, addiction, racism, and hopelessness know no jurisdictional boundaries”
Wise advice from a 9-year-old

- Be proud of who you are
- Open your minds
- “Learn” each other
- DON’T BE AFRAID
Justice Reimagined

ASK YOURSELF. . .

- How do you heal the whole community?
- What are the long-term benefits of working together?
- What are the cost-savings across all justice partners and systems?
- How do you collaborate within agencies and across jurisdictions?
18 Jurisdictions Reimagined Justice: 9 Operational Joint Courts Hear

- **Civil cases**: adoption, child abuse and neglect, conservatorship, domestic violence, family law, guardianship, juvenile (diversion, delinquency, reentry, and truancy), termination of parental rights, and tribal customary adoption.

- **Criminal cases**: adult criminal felonies, misdemeanors, and driving under the influence/while intoxicated (DUI/DWI)
Where it All Began
Cass County – Itasca County - Leech Lake Wellness Courts

- Created in 2006 and 2007 to address epidemic of alcohol-related crashes and deaths
- First joint jurisdiction courts in the nation
- Serves Tribal Members and Non-Indians
- Multi-jurisdictional, multi-agency participation
- Operated on handshake for over a year
IN CUSTODY
IN CASS COUNTY, MN

IN CUSTODY
IN ITASCA COUNTY
A National Model

- 2010 Harvard Honoring Nations Award
- 2010 Minnesota Corrections Association President’s Award
- 2011 National Association of Drug Court Professionals Cultural Proficiency Courage Award
- 2012 National Criminal Justice Association Outstanding Tribal Criminal Justice Program
- 2012 Minnesota Association of Counties Award
- 2017 Local Government Innovation Award – Humphrey School of Public Affairs/Bush Foundation

Resolutions
- National Association of Drug Court Professionals (2010)
- National Council of Juvenile and Family Court Judges (201)
- Conference of Chief Justices (2011)
The Model Replicated

- Leech Lake Band of Ojibwe - Cass County (Minnesota)
- Leech Lake Band of Ojibwe - Itasca County (Minnesota)
- Saint Regis Mohawk (International: New York, USA and Canada)
- Ho-Chunk Nation - Jackson County (Wisconsin)
- Shingle Springs Band of Miwok Indians - Eldorado County (California)
- Kenaitze Indian Tribe (Kenai, AK)
- Yurok Tribe - Humboldt County (California)
- Yurok Tribe - Del Norte County (California)
- Hoopa Tribe - Humboldt County (California)
The Journey
Breakout Discussion 1

What barriers do you see in your jurisdiction to establishing a joint jurisdictional court?
Nuts and Bolts
Joint Court Planning Process

- Facilitated meetings with stakeholders
- 3-4 on-site meetings, each for 2-3 consecutive days
- Agree on ground rules to ensure everyone has a voice in planning
- Identify stakeholder expectations/values
- Create program manual based on program designed by site participants
Collaboration between governments starts with relationships between two or more people sharing common goals.

Collaboration is more than cooperation.

Mutual understanding, trust, and respect are essential.

Joint jurisdiction goes beyond collaboration to create a new type of justice system.

Ground rules for communication are essential.

Safe, open, and inclusive environment is necessary to talk and share ideas.
Nuts and Bolts: Toward a “Taught Fabric”

- Start with mapping the current system
- Identify service gaps, underutilized services, and opportunities to create new services
- Ask each other what you need from one another to infuse culture and incorporate best practices
- Don’t be afraid to try something new
Needs Assessment Shared Characteristics

- Effective leadership
- Blend two court approaches
- Are tailored to the tribe’s culture and local court context
- Face similar challenges
- Focus on root causes
- Improve collaboration and break down silos
- Improve outcomes and system change
- Apply sustainability and quality control strategies
- Got their start with effective technical assistance
Effective Leadership

“The execution of the Joint Powers Agreements between the Tribal Court and State District Courts...are an important example of how broader inter-governmental relations can begin to come full circle back to that of co-equal sovereigns.”

-Leo Brisbois (White Earth Ojibwe)
Federal Magistrate Judge/former President of Minnesota State Bar Association
Blend Two Approaches
Bridge Two Different World Views

NOT JUST “HEALING TO WELLNESS” or "PROBLEM-SOLVING" COURTS

Grounded in Indigenous Ways
The Original Restorative Justice
Caring for the People
Tailored to the Tribe’s Culture and Local Court Context

- Culture-specific
- Trauma-informed
- Strengths-based
- Family-oriented

Practices

- Tribal healing to Wellness
- Problem-solving/collaborative courts
- Wraparound Process
From Similar Challenges to Common Goals

- Reducing disproportionate minority contact
- Decreasing the number of children in out of home placement
- Addressing the epidemic of drug and alcohol abuse
- Reducing number of DWI’s and traffic fatalities
- Breaking the school to prison pipeline
Focus on Root Causes
Collaboration and Breaking Down Silos Gets Results

- Leverage scarce resources
- Make new funding sources and services available
- Direct hand in healing while protecting public safety
- Cultural Understanding - Eliminate “us v. them” attitude
- Strengthen services to families
- Increase public trust and confidence
- Expand jurisdiction
- Lower recidivism and stop the revolving door of the criminal and juvenile justice systems
Improved Outcomes and System Changes

- Elimination of truancy cases
- Elimination of state court child welfare cases
- Participants reunited with children/families
- Valid driver’s licenses
- Employment/school
- Ending abusive relationships
- Participants have tens of thousands of days of documented sobriety between them
- Significant reduction in recidivism
- Significant cost-savings
Sustainability and Quality Control Strategies

- Rethinking Evaluation - Telling Our Story Together
- Memorializing Agreements and Policies
  - Joint Powers Agreements
- Court Manual, Protocols, Flowchart, Contracts and Interagency Agreements,
- Always Strengthening Collaboration - Regular Joint Leadership Meetings
- Signaling Co-Equal Partnership - flag raising
Getting Started - Technical Assistance

- Consultants
  - Project T.E.A.M.- Bureau of Justice Assistance
  - State Grants- Collaborative Courts and Judicial Council
  - Tribal Grants- CTAS and other
  - Tribal Law and Policy Institute- Bureau of justice Assistance
Breakout Discussion 2

How can you overcome the barriers you identified in the first breakout session?
Leadership
Lessons Learned - Leadership

- Starts with a conversation
- Let the planning team create – people support what they help create
- Identify and reinforce the team’s common goals and vision
- Stay focused on results
- Amplify voices in a balanced and inclusive way
- Step toward conflict as it is inevitable and seek areas of agreement, but agree to disagree because healthy disagreement builds better decisions
- Assign a final decision maker if the team fails to reach consensus
- Plan for transitions of leadership and staff- “warm hand-off”
Wellness Teams
Making it Together!
Lessons Learned - Wellness Teams

- Be patient, flexible, and adaptable
- Be persistent when delays beyond the planning team’s control occur
- Take time to “learn” one another
- Infuse culture and incorporate best practices
- Local needs determine court structure
  - Be realistic about what services justice partners can provide
- Enlist a strong facilitator
DON’T GIVE UP!!!! Remember-

- Change is hard
- Joint Jurisdictional team members are helpers—each with their own histories of trauma
  - Acknowledge it,
  - Own it, and
  - Work on it
- Systems don’t collaborate, people do
- Focus on why we come together and our common goals
THE POWER OF ONE

Change begins with me, with you, with us.

- Carolyn Yoder
Resources

- Technical Assistance Providers
- Tribal Policy and Institute Needs Assessment Report
- Project T.E.A.M. “How-To” Manual
- California Judicial Council Toolkit for Judges
Additional Reading

- “The New Face of Justice: Joint Tribal-State Jurisdiction”

- “Building a Legacy of Hope: Perspectives on Joint Tribal-State Jurisdiction”

- “Tribal and State Courts: Strategies for Bridging the Divide” Center for Court Innovation

- “Promising Strategies: Tribal-State Court Relations” and
  “Promising Strategies: Public Law 280”
  Tribal Law and Policy Institute/Bureau of Justice Assistance (March 2013)
Contact Information

Hon. Korey Wahwassuck
Korey.Wahwassuck@courts.state.mn.us

Jenny Walter
jenny@hedgerwalter.com