



# Joint Jurisdiction Courts Needs Assessment Summary<sup>1</sup>

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Tribal, state, federal and local courts face overlapping jurisdictions, common challenges, and resource limitations. To address these concerns, several jurisdictions have come together in a joint jurisdiction model that acknowledges the autonomy of both jurisdictions, while sharing resources for better outcomes for everyone.

Joint jurisdiction courts are the result of tribal court judges and state or federal court judges exercising their respective authority simultaneously, bringing together justice system partners to promote healing and protect public safety. Joint exercise of jurisdiction allows the systems

## Beginnings....

*In 2006, a state court judge and a tribal court judge started the first joint jurisdictional court with just a handshake and a common goal of reducing the number of alcohol and drug related traffic fatalities in their region. In the beginning, the urgency of a shared problem prompted them to convene stakeholders and begin a conversation. At the time, these judges stood at the headwaters: no other tribal court or state court had pooled their resources and exercised their jurisdiction simultaneously to improve outcomes. There was no “how-to” manual, no technical assistance, and no funding available for such an approach. They took a leap of faith, remained flexible, and stayed focused on their shared vision for a better way. In the end, they created a completely new system of justice: one that grew into a national model of intergovernmental collaboration.*

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.

Since the first joint jurisdictional court was created in 2006, a joint jurisdictional movement has taken off across the country. Eighteen different tribal and nontribal justices have applied the joint jurisdictional process and philosophy and

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operationalized justice systems that meet their own local needs. This has sparked a growing interest among other jurisdictions to learn how to embark on a similar journey as co-equals to better address their own community concerns.

### **Needs Assessment Survey**

To better understand the needs of joint jurisdiction courts, in September 2019, the [Tribal Law and Policy Institute](#), in collaboration with the [Bureau of Justice Assistance](#), disseminated a needs assessment survey to the joint jurisdiction courts known to be operational. The needs assessment survey responses showed that these courts share similar characteristics and face similar challenges. A full report was developed (see [www.WalkingOnCommonGround.org/Resources-Tools.cfm](http://www.WalkingOnCommonGround.org/Resources-Tools.cfm)) that goes into detail about several shared characteristics, including:

- ✓ **Leadership** was crucial for development.
- ✓ Joint jurisdiction courts need **effective technical assistance**.
- ✓ They each have knowledge of **promising practices** from healing-to-wellness and problem-solving courts, which they blended.
- ✓ New ways of delivering justice are **grounded in each tribe's culture**.
- ✓ These courts addressed the **root causes** of the problems facing the court participants.
- ✓ They **broke down silos** and improved collaboration.
- ✓ All applied **sustainability and quality control** strategies.

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. The survey also revealed that courts face similar challenges in planning, staffing, geographic distance, and lack of funding for direct services and training.

### **Overview of Lesson Learned**

The lessons learned from this needs assessment can be synthesized into three basic takeaways:

#### **1. "Place" Determines the Model: One Size Does Not Fit All**

Justice is not, and should never 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. All respondents **focused on root causes** of a shared problem they wished to address. Unacceptable rates of out-of-home placements, truancy, attempted suicides, fatalities related to drinking and driving, and incarceration 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 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, the 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. 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.

While many of the existing courts use a “wellness court” model, the type of model depends entirely upon local needs and goals. 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. Several of these courts started with one case type and expanded to add other case types, because the court participants taught them that life problems do not neatly fit into separate case types. Many discovered how to leverage and maximize resources upstream, eliminating the need to file cases, and others have shared decision-making at different procedural points in a given case, showing us that this philosophy and approach reimagines justice on a spectrum.

## **2. The Joint Jurisdictional Approach is Effective**

Assessment results showed that the nine 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 services necessary to effect lasting change in these communities. Some of the improved outcomes included:

- **lower recidivism rates**
- **lower school discipline and higher graduation rates**
- **increased family preservation rates**
- **reduced incarceration rates**
- **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 trust that is crucial to making lasting change in people’s lives. Now that these courts have operated for some time, we are seeing intergenerational changes.

### 3. Flexible Funding is Needed

Funding for these courts must be customizable and under local control. The leaders and stakeholders play a key role in each of these court's identity, creation, and maintenance, so it is critical that they have the tools and resources to shape how they evolve.

Responding courts identified collaboration planning and peer-to-peer learning opportunities as key **start-up funding** priorities; and they identified the following **implementation funding** needs: (1) court coordinator positions; (2) gap services; and (3) annual costs associated with increased time for judge/clerk/direct services to handle the new docket. Two key areas for **sustaining and growing** these courts emerged from the survey results: (1) educational opportunities (court site observations, cross-training, and mentoring) that foster collaboration among separate justice systems and their partners and (2) a variety of capacity building and replication ideas.

The courts in the survey also indicated that they benefited from an experienced facilitator or other technical assistance provider well versed in the jurisdictional complexities of the region. These facilitators and providers helped the courts employ start-up, implementation, and sustainable strategies and arranged for the type of readiness, community engagement, planning, and training the collaboration needed to learn about joint jurisdictional courts and facilitate cross-cultural exchanges.

The full needs assessment report provides additional details. The joint jurisdiction courts participating in the survey showed us that collaboration does not just happen; it is people driven and must be supported if it is to be successful. The full needs assessment report details the support needed to replicate new joint jurisdiction courts and to ensure sustainability of this promising strategy in intergovernmental collaboration.

The full report, *Joint Jurisdiction Courts: Needs Assessment Findings*, can be found at [www.WalkingOnCommonGround.org/Resources-Tools.cfm](http://www.WalkingOnCommonGround.org/Resources-Tools.cfm).