Tribal Law and Policy Institute Tribal State Collaboration Webinar Series

Tribal Healing to Wellness Courts: Intergovernmental Collaboration

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Objectives of Today’s Presentation

• Goal: Spark ideas of what kinds of collaboration are possible
  • Brief discussion about collaboration mechanics
  • Provide examples of collaborations tribes have engaged in with their state and local partners

• Goal: Have a Discussion
  • What kinds of collaborations would you like to see?
  • What support would help you make them happen?
Why Collaborate Generally?

- Tribal jurisdiction is limited and complex
- Cases/service providers in multiple jurisdictions
- Funding streams with limited scope/difficult to access/limited to one jurisdiction
- State/local agencies struggle to provide culturally-appropriate services and ancillary services
Sovereignty is the ability to regulate the community within a territory.

It is also the responsibility to do so.
Why Collaborate within Wellness Courts?

• Deliver culturally appropriate services/ increase cultural competency/literacy
• Provide geographically relevant services
• Enhance supervision
• Coordinate multiple case plans
• Leverage legal incentives
• Maximize shared resources
• Respond to unique community needs
• Stay ahead of issues
• Increase funding opportunities
• Coordinate jurisdictional authority to provide necessary treatment and supervision
• Build positive relationships that can benefit other programs
• Exercise sovereignty
Kinds of Collaboration

- Informal
- Unwritten
- Broad MOUs
- Detailed MOUs
- Formal Protocols
Informal Collaborations

Advantages

• More efficient – less bureaucracy
• Plasticity: quickly adapt
• Requires fewer resources
• May not require legislative or executive approval
• Can be a steppingstone

Disadvantages

• Easily dismantled, particularly by staff turnover
• No/limited enforcement mechanism
• Difficult to apply to complex issues with multiple stakeholders
• Difficult to bring to scale, i.e. serve large number of participants
• Ripe for a perception of unfairness
• Limits the role of other team members, and thereby their buy-in and ability to contribute or innovate
Formal Agreements

**Advantages**
- Clearly defined tasks and roles
- Increased accountability
- Survives staff turnover
- Added assurance
- Increased perception of fairness
- Leverages the full resources of each partner
- Models collaboration between agencies/governments

**Disadvantages**
- Slow implementation process
- Increased rigidness – difficult or slow to amend
- Lack of clear funding stream
- Liability concerns
- A failed formal agreement can chill future collaborations attempts
Formal Agreement Considerations

Pre- or Post-Adjudication
- Equal protection
- Retention of carrot and stick
- Coordination between attorneys

What triggers a referral? How will tribal members be identified?

Will probation and Wellness Court case plans/requirements be consolidated?

What authority will the Tribe have to issue incentives and sanctions?

Discharge – What's the incentive? Who authorizes?

Communication – How is case progression communicated? How is prior case info shared?
Levels of Interaction

WELLNESS COURT COLLABORATION

Minimal Cooperation: There are some efforts to provide help to the other jurisdiction so that both operate more efficiently.

Full Cooperation: The governments work together so that they each operate at maximum efficiency, but their operations are completely independent.

Collaboration: Each government is operating at high efficiency and actively seeking to help external governments through positive interaction.

Co-Creation: At this level each government is working collaboratively with other governments to co-create systems and tools that can be used to maximize the results for each—a joint effort.
Minimal Cooperation
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<td>Paiute Indian Tribe of Utah Naloxone Training Program</td>
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Full Cooperation
Yurok Tribe

- 2012 MOUs with 2 counties to transfer adult nonviolent criminal and juvenile delinquency cases to tribal court for supervision and services
- Humboldt County
  - Transfer is optional
  - Joint supervision with Yurok as lead
- Del Norte County
  - Concurrent jurisdiction over juvenile cases
  - Adult cases – county notifies Yurok so case can be diverted to tribal court who screens them for eligibility in wellness court
Pueblo of Pojoaque Intertribal Wellness Court

- Collaboration
  - With neighboring Pueblos - accepted into program if eligible offense
  - With neighboring county - Wellness court as a condition of probation
  - With reentry programs - Sober living apartments

- No formal referral process
- Updates back to referring source
- Regular communication
National Judicial Opioid Task Force – Sample Court Transfer Agreement

• Acknowledging that treatment and program outcomes are often more successful for Native offenders when they are provided services that are culturally appropriate, the Conference encourages, in a 2019 resolution, more state-tribal collaboration, including the use of transfer agreements from state courts to Tribal Healing to Wellness Courts.

• **Sample Memorandum of Understanding for Tribal Healing to Wellness Court Case Transfers**
Collaboration
Chickasaw Nation Recovery Resource Services

- Pontotoc County
  - The first rural state drug court in Oklahoma
  - Serves approximately 130 participants, a third are Native.
- Informally, the Chickasaw Nation provided transportation and case management services for the court.
- 2014 MOA with the County
  - Chickasaw Nation’s holistic services became fully integrated into the drug court for all participants
  - Full-service substance abuse treatment
  - Assessment services
  - Recovery outpatient services and
  - Recovery intensive outpatient services
• MOU with Partridge House - inpatient treatment
• Franklin County Probation - joint supervision
• Akwesasne Justice Program and the Akwesasne Mohawk Police - information sharing and procedures for home visitation across international border
Co-Creation
The First Joint Jurisdiction
Step

  - A handshake and a commitment
  - Joint Powers Agreement
Bamenim Anishinaabeg Approach

Tribal Court Case Management Team

Culture-specific; trauma-informed, strengths-based; family oriented; based on Ten Principles of Wraparound Process

Focus on co-occurring disorders (mental health/substance abuse)

Sustainability through reimbursement for services
Joint Jurisdiction
Wellness Court Teams

• Judges – State District Court Judge & Tribal Court Judge
• County Attorney
• Public Defender – Regional Native Public Defense Corp.
• Probation/Supervision – MN Dept. of Corrections and County Probation
• Law Enforcement – County Sheriff & Leech Lake Police
• Treatment Assessor/Provider – Leech Lake Outpatient & Private Treatment Providers
• Coordinator/MIS – 9th Judicial District and County Probation
Shingle Springs Band of Miwok Indians and El Dorado County, CA
Shingle Springs Joint Jurisdiction
Family Wellness Court

• Hears: juvenile justice, child welfare, domestic violence (as part of a dependency, child custody, protective order petition, and criminal cases)

• Judges preside over all cases jointly

• One unified proceeding
  • Avoid conflicting orders
  • Address the entirety of the families’ issues in a holistic fashion

• Emphasize culturally-appropriate restorative justice practices

• Wrap-around continuum of care
Challenges

- Historical conflicts between Tribe and County
- PL-280
  - Increased conflicts
  - Decreased Tribal justice system development
- Still lack of trust in both communities
- Tribal Youth getting lost in the system
  - Charter School
  - Juvenile records
Henu’ Community Wellness Court

Joint-jurisdictional therapeutic court

Serves adults, Native or non-Native, who face legal trouble stemming from substance use,

Focusing on drug and alcohol offenders
Families may be involved in dependency cases

Optimal Outcomes

Lifetime sobriety
Healthy Family Reunification
Avoid future involvement with criminal justice system and/or incarceration
Yurok/Humboldt
Yurok/Del Norte
Hoopa/Humboldt

Joint jurisdiction
family wellness
courts

Written
Infrastructure

Tribal Resolution

Joint powers
agreement

Focus addressing
families affected by
pre-natal exposure


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

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