

What are Joint Jurisdiction Wellness Courts?

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

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

Joint Jurisdiction Wellness Courts provide tribal and non-tribal individuals, and often families, with a court-supervised alternative to incarceration that emphasizes community values and culture, and allows the systems to work collaboratively and creatively toward better results for those involved in the adult and juvenile justice systems. Participants are held accountable for following the mandates of the court and are subject to graduated sanctions for failure to comply, which may include jail time. Incentives for participant progress toward individual goals are also used which can range from verbal praise to increased privileges.

How did the first Joint Jurisdiction Wellness Court come about?

Cass County is a large rural area in North Central Minnesota. It is one of the poorest counties in Minnesota and being one of four counties that overlap the Leech Lake Band of Ojibwe Reservation, it has a large Native American population. In the period from 2000-2005 Cass County was also one of the deadliest counties in the State of Minnesota for driving while impaired deaths. In early 2006, the Cass County District Court, in collaboration with the Leech Lake Tribal Court, began examining the problem of impaired driving and its devastating effects, and a set of common goals emerged. Both systems had been working to decrease the number of arrests for drunk driving, have fewer fatalities, and decrease recidivism rates, albeit in different ways. Previous efforts by both systems were not successful, and recidivism continued to exceed 60%.

It soon became very clear that, although the two systems operated differently, collaboration was the key to addressing this common problem. When examined through the lens of common goals, working together seemed much less of an insurmountable challenge. Based on their common objectives, the two jurisdictions found something on which they could work together collaboratively, and the Leech Lake-Cass County Wellness Court was formed—the first joint-jurisdiction collaboration of its kind in the country. In February 2007, the official Leech Lake Tribal Flag was permanently installed in Cass County District Court to memorialize the Joint Powers Agreement and the Wellness Court partnership. After more than a decade of operation, the Leech Lake-Cass County Wellness Court continues to enhance public safety by providing hope and opportunities for appropriate treatment with accountability thereby improving the quality of life within families and in the community.

Who serves on Joint Jurisdiction Wellness Courts?

Joint Jurisdiction Wellness Court teams consist of multi-jurisdictional, multi-disciplinary representatives from tribal, county, state, federal and community agencies. The tribal court judge and state or federal court judge preside together over hearings. The Joint Jurisdiction Wellness Court provides participants with a court-supervised alternative that emphasizes restorative justice practices, intense supervision, and treatment services. Program staff use a teamwork approach to address needs of program participants using a culture-specific, trauma-informed, strength-based, evidence-based approach.

What are the benefits of joint jurisdiction courts?

Greater intergovernmental cooperation results in better services for Indian country, is more cost effective, culturally compatible, and provides better arrest and prosecution rates. Even the most basic forms of inter-jurisdictional cooperation can save money and lives. Without question, cooperation works. In fact, where inter-governmental cooperation has become the rule, not the exception, public safety improves.

The **Leech Lake-Cass County Wellness Court**, for example, was able to reduce recidivism from over 60% to as low as 6%. The program is effective in reducing recidivism and protecting public safety while using fewer criminal justice system resources. High-risk/high-need participants (alcohol dependant individuals with more than three prior arrests) benefitted the greatest from this program. All participants were rearrested less often than the comparison group in the 2 years following program entry, and participants remained without new arrests for longer periods of time. The program has a cost-benefit ratio of 1:1.13. The accumulated *savings* of the joint jurisdictional wellness court comes to 1.9 million over a 5 year period.

The **Leech Lake-Itasca County Wellness Court** has had similarly positive outcomes. Key findings from July 1, 2013 to June 30, 2016 indicate that the percentage of Joint Jurisdiction Wellness Court participants with stable housing increased from 45 percent at the time of intake to 88 percent at the time of graduation, possession of a valid driver's license increased from 45 percent at intake to 85 percent at graduation, and 22 percent of all participants entering the Wellness Court were employed or enrolled in school, increasing to 81 percent for program graduates.

By working together, services to families are strengthened and overall community wellness is improved. Joint Jurisdiction Wellness Courts reduce recidivism and improve public safety in the community; facilitate improved relations between the tribe and local communities; and enhance and make available services to both jurisdictions that were previously only available to only one. The systems are able to leverage scarce resources by working together. Joint Jurisdiction Wellness Courts also lead to greater cultural understanding and cooperation between the two jurisdictions, and lead to greater trust and confidence in both judicial systems because the collaboration seeks to help people rather than punish them. Collaborative efforts between the courts also lead to area agencies and governments collaborating on projects that impact both the tribes and local communities. For example, the Leech Lake Joint Powers Agreements made possible plans for development of shared facilities and resources, collaboration on other types of cases, and fostered other opportunities that brought economic growth to the Leech Lake Reservation, including a state-of-the-art, first-of-its-kind Regional Justice and Public Safety Center with adequate space to host judges from other tribal, state,

and federal courts to hold hearings in cases, as well as road and other construction projects in cooperation with neighboring counties overlapping the reservation.

How have joint jurisdiction courts grown?

No one imagined when the first joint jurisdiction court was formed that it would be the first step in a remarkable change of course in the relationship between the state court and the tribal court and between the governments, or that it would go on to become a national model of intergovernmental collaboration. Since their inception in 2006, the joint jurisdiction courts have been recognized as a promising practice and are being formed throughout the country to combat the effects of the drug and alcohol epidemic and to address public safety. PROJECT TEAM is a group of professionals dedicated to helping tribes and local governments create, implement, and manage joint jurisdiction collaborations. Our goals are to improve justice outcomes in the community, to use resources more efficiently and effectively through collaboration and partnerships, and to help repair traditionally difficult relationships between tribes and U.S. governmental bodies.

Examples of additional joint jurisdiction courts include:

St. Regis Mohawk-US and Canadian courts, New York State, local jurisdictions (New York)

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

Shingle Springs Band of Miwok-Eldorado County Superior Court (California)

The Shingle Springs Band of Miwok Indians and the Superior Court of El Dorado County created a collaborative Family Wellness Court called Kuch'im:upushnu':anu:sh. The Family Wellness Court hears a wide range of cases, including; juvenile, child welfare, domestic violence (as part of a dependency, child custody, protective order petition), family, and criminal. Prior to the Family Wellness Court approach being instituted, the state court and the tribal court would hear these cases separately, frequently resulting in conflicting orders, and working at cross purposes or not addressing family issues in a holistic way. The Family Wellness Court breaks down these barriers and maximizes the use of resources to address cultural, historical, and intergenerational traumas. Because it is the intent of the Kuch'im:upushnu':anu:sh court to promote legal, individual and family wellness, wrap around services are an important part of the program. The foundation of this approach involves cultural, strength-based, collabora-

tive decision making among service providers and the family, resulting in joint, outcome-based decisions for the individual needs of the young person and his or her family, with a focus on services being provided in his or her cultural community.

Kenaitze Indian Tribe-Kenai Court (Alaska)

A joint-jurisdiction state-tribal community wellness court for the Kenai Peninsula was authorized through a cooperative effort of the state of Alaska and the Kenaitze Indian Tribe. Tribal officials joined representatives of the Alaska Court System and the state Department of Law on October 20, 2016 to sign a government-to-government memorandum of understanding in support of creating the Henu' Community Wellness Court. Alaska Governor Scott Walker attended the ceremony. The court targets drug and alcohol offenders, including those in families with Children in Need of Aid cases, living within the Kenaitze Tribal service area. Defendants charged with property crimes are also considered, if the offense is drug related. The Henu' Community Wellness Court went operational and started taking participants in the spring of 2017. The Henu' model is a strength-based, un'ina (person)-centered, family-focused model, grounded in values and culture, based on data-driven decision making and measurable outcomes. Staff work closely with individuals and families to identify their strengths as well as needs and together create a values/culture-based Life Change Plan to help the individual and/or family meet their short and long term goals. While not all Participants are Alaska Native/American Indian, the court's model uses the Kenaitze Indian Tribe Traditional Values Wheel as its foundation. Living according to these Traditional Values brings balance and healing to one's life, whether that person is a tribal member or not.

Northern Cheyenne-US District Court (Montana)

The Northern Cheyenne and the United States District Court in Montana are in the final planning process of developing a joint jurisdiction court to serve Northern Cheyenne adult members who have been charged with a felony level crime involving drug or alcohol use. The Court is agreeable to considering serving individuals involved in a crime of violence. Initially, participants may enter the program after serving a sentence (reentry) or prior to a conviction (diversion). The tribal judge and the federal judge will hear cases together either in person or through inter-active television. Provision of services will be provided by both the Tribe and the federal government. The tribal judge and the federal judge will take the bench together or will each participate through interactive television since the jurisdictions are over 100 miles from each other.

Ho Chunk Nation-Jackson County (Wisconsin)

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

	Tribe	Fed/ State/ Co./ Local	Serves Adult A Juvenile J Family F	Name of Court	Date of Operation	Features of the Joint Jurisdiction Courts
1	Leech Lake Band of Ojibwe	Cass County, MN	A	Wellness Court	2006	<ul style="list-style-type: none"> * Participants may be Native or Non-Native adult offenders convicted of a drug or alcohol offense. * Operates under a 57 word joint powers agreement * Uses ITV so participants may appear at either court house * Has reduced participant recidivism from 60% to 6%
2	Leech Lake Band of Ojibwe	Itasca County, MN	A	Wellness Court	2007	<ul style="list-style-type: none"> * Participants may be Native or Non-Native adult offenders convicted of a drug or alcohol offense. * Operates under a joint powers agreement * Flag of the Leech Lake Band was installed in the county district court * The state supreme court attended the flag installation ceremony

	Tribe	Fed/ State/ Co./ Local	Serves Adult A Juvenile J Family F	Name of Court	Date of Operation	Features of the Joint Jurisdiction Courts
3	St. Regis Mohawk	US, Canada, New York, Town of Bombay	A	Wellness Court	2009	<ul style="list-style-type: none"> * Participants are members of any federally recognized tribe, at least 16 years old (18 for federal charges) and are charged with a non-violent alcohol/drug related offense * Tribal court provides client supervision and provision of services * Tribal partnerships include US and Canada, New York state and local communities
4	Shingle Springs Band of Miwok	El Dorado County, CA	J, F	Family Wellness Court	Spring, 2015	<ul style="list-style-type: none"> * Designed to serve juveniles and their families through delinquency, truancy, or dependency (child protective services) proceedings. * Have a joint powers agreement in place

	Tribe	Fed/ State/ Co./ Local	Serves Adult A Juvenile J Family F	Name of Court	Date of Operation	Features of the Joint Jurisdiction Courts
5	Kenaitze Indian Tribe	Kenai, Alaska Court System	A	Henu Community Wellness Court	January 2017	<ul style="list-style-type: none"> * The court targets adult drug and alcohol offenders, living within the Kenaitze Tribal service area. * On October 20, 2016 a government-to-government memorandum of understanding was signed in support of creating the Henu' Community Wellness Court. * Alaska Governor Scott Walker attended the ceremony.
6	Northern Cheyenne Nation	US Dist Court, Billings, MT	A	Pevah Mohta Ho Ho Manest Court	TBD	<ul style="list-style-type: none"> * Currently in final planning process of developing a joint jurisdiction court involving adults charged with a felony offense involving drugs/alcohol * Crimes of violence will be considered on a case by case basis * Henu means "willingness to work, cooperation, helpfulness"

	Tribe	Fed/ State/ Co./ Local	Serves Adult A Juvenile J Family F	Name of Court	Date of Operation	Features of the Joint Jurisdiction Courts
7	Ho Chunk Nation	Jackson County, WI	A, F	Healing to Wellness Court	January 2012	<ul style="list-style-type: none"> * Participants include adult and juvenile Ho Chunk members struggling with drug/alcohol addiction * The goals of the court collaboration are to refine alcohol/drug dependency programs, address participant substance abuse, reduce cost to society by creating good citizens, and effectively deal with co-occurring disorders which usually accompany addiction
8	Yurok Tribe	Del Norte and Humboldt Counties, CA	A	Wellness Court	2010	<ul style="list-style-type: none"> * Participants include non-violent, adult members of the Yurok Tribe struggling with addiction * The court collaboration strives to reduce recidivism, expand concurrent jurisdiction, assist Yurok offenders in reintegrating from confinement to community, and provide for the cultural and spiritual needs of Yurok members

How are joint jurisdiction courts funded?

Joint Jurisdiction Courts have been funded through a variety of sources including Coordinated Tribal Assistance grants, grants through the Bureau of Justice Assistance, state grants, reimbursement for provision of licensed services through Medicaid, foundation grants and community donations.

What resources are available for joint jurisdiction courts?

By working collaboratively, opportunities for funding joint jurisdiction courts are enhanced. The joint jurisdiction approach of the Wellness Courts makes it possible to seek funding through each entity separately or as a joint endeavor. This allows flexibility in the approach to funding to sustain operations. In these times of scarce financial resources, the cooperative efforts between the courts also make it possible for agencies and governments to support each other's grant applications. Funding to sustain joint jurisdiction courts can also come from each of the entities (tribal, federal, state, county) involved, thus spreading the cost between them and reducing the financial impact on any one entity.

ADDITIONAL RESOURCES:

Fahey, J., Wahwassuck, K., Leof, A., & Smith, J. (2016). *Joint Jurisdiction Courts: A Manual for Developing Tribal, Local, State & Federal Justice Collaborations*. Portland, OR: Project T.E.A.M., Center for Evidence-based Policy, Oregon Health & Science University

Korey Wahwassuck, "The New Face of Justice: Joint Tribal-State Jurisdiction," 47 Washburn L.J. 733 (2008), <http://washburnlaw.edu/publications/wlj/issues/47-3.html>

Korey Wahwassuck, John P. Smith, and John R. Hawkinson, "Building a Legacy of Hope: Perspectives on Joint Tribal-State Jurisdiction," 36 W. Mitchell L.R. 2, (2010), <http://open.wmitchell.edu/cgi/viewcontent.cgi?article=1338&context=wmlr>

Christine Folsom-Smith, *Walking on Common Ground: Tribal-State-Federal System Relationships* (A Publication of the National Tribal Judicial Center, National Judicial College), <https://www.walkingoncommonground.org/files/Background%20%20WOCG%202010.pdf>

"State and Tribal Courts: Strategies for Bridging the Divide," (A Publication of the Center for Court Innovation, 2011). <http://www.courtinnovation.org/sites/default/files/documents/StateAndTribalCourts.pdf>

"Promising Strategies: Tribal-State Court Relations," (A Publication of the Tribal Law and Policy Institute and the Bureau of Justice Assistance, U.S. Department of Justice, March 2013), https://www.walkingoncommonground.org/files/TLPI%20Promising%20Strategies%20Tribal-State%20Court%20Relations_FINAL_Updated%208-15-13.pdf

"A Circle of Healing for Native Children Endangered by Drugs." Office for Victims of Crime, video training series (2014), <http://ojp.gov/programs/circleofhealing.htm>

Project T.E.A.M. (Together Everyone Achieves More) Website: <http://www.ohsu.edu/xd/research/centers-institutes/evidence-based-policy-center/stakeholder-engagement/project-team.cfm>