



Joint Jurisdictional Overview

Background

Jurisdiction is exercised jointly when a tribal court judge and a state or federal court judge come together to simultaneously exercise their respective authority. By bringing together justice system partners and leveraging resources to promote healing and protect public safety, the judges are able to work toward common goals: improved outcomes for families, fewer children in out-of-home-placement, decreased incarceration, decreased recidivism, and decreased disproportionate minority contact in the courts. Tribal-state cooperative agreements offer both governments the opportunity to coordinate the exercise of authority, share resources, and deliver services in more efficient and culturally relevant ways.

The first joint jurisdictional court in the Nation was established in 2006 when the Leech Lake Band of Ojibwe Tribal Court teamed up with Minnesota's Ninth Judicial District's Cass County District Court to form a unique problem-solving drug court. Since then, a number of other jurisdictions have blended tribal healing to wellness courts and collaborative courts to create joint jurisdictional courts that address a range of issues facing Tribal and non-Tribal communities.

In California, the Yurok Tribe and the Humboldt Superior Court came together with justice partners and established the Family Wellness Court to address the intersection of substance abuse and child welfare. Through a successful grant application by the Northern California Tribal Court Coalition, Judge Abby Abinanti, Chief Judge, Yurok Tribal Court, and Judge Darren McElfresh, Presiding Judge, Del Norte Superior Court, have established a steering committee to adapt the Family Wellness Court to serve Yurok Tribal members living in Del Norte County.

State courts have historically placed the focus on the symptoms of drug and alcohol abuse and are generally not equipped to deal with the root causes of these problems. While, tribal courts place more focus on the root causes but may not have the resources to effectively treat them. For this reason, when both jurisdictions come together, as equal partners, and empower families to make healthy decisions and break the cycle of addiction and child abuse & neglect, family outcomes necessarily improve.

How the Family Wellness Court Works

- Voluntary

Instead of going to state court, families may elect to have their dependency cases heard by the Joint Jurisdiction Family Wellness Court. This allows two judges (one state judge and one tribal judge) to preside over the family's case together.

- **Healing journey**

The two judges listen to the family and empower participants to direct their own journey. This is guided by these six principles:

1. Preserving dignity and promoting respect;
2. Returning to harmony, healing the whole family;
3. Peer and extended family support team;
4. Culturally appropriate strategies;
5. Community engagement; and
6. Therapeutic model that promotes opportunities for self-healing.

- **Family Wellness Team Approach**

The team includes the family, the judges, a family mentor, social workers from the Yurok Social Services and the Humboldt County Department of Health and Human Services, a clinical case manager, and others whom the family identifies as family supports.

The team may also include court staff, attorneys, substance use disorder treatment providers, public health nurse, mental health treatment providers, traditional knowledge holders and healers, elders, education and employment representatives, community representatives and more, depending on the family's circumstances and needs.

- **Family Wellness Plan**

The team and the family work together to create a wellness plan that is strength-based, culturally responsive, and uniquely tailored to meet the needs of the family. The plan will include goals, steps to meet those goals, who will help along the way, what to do when things don't go well, and a timeline for achieving each step and reaching each goal. These plans will be regularly updated with the family, and will include progress, milestones reached, barriers, and the steps taken to deal with those barriers.

- **Regular Family Team Staffing Meetings and Court Hearings**

Right before court, the team will review the wellness plan with the judges. Following this review, the judges will hold an informal hearing.

The judges will take the time with each participant to recognize the behavioral milestones reached. The judges will recognize that no one is perfect and there will be times when families stumble in their healing journey. When this happens, the judges and family wellness team, are there to help the family make things right. The judges may ask questions so that opportunities for self-healing¹ might be identified and to help motivate the family to make

¹ Some of these include recognitions (akin to incentives) may include ride to dances, food baskets, fishing trips, invitation to participate with those who prepare the dances, raffles, gift cards, books (recovery or other), fun family activities, like the zoo, or ones that the family and team come up with together.

things right.² This process allows a family member the opportunity to recover from their stumble.

In addition to these informal hearings, there are state statutory court hearings where parents and children are represented by counsel. These hearings start of every other week and are reduced as participants progress in their healing. The number of court hearings depends upon which phase of Family Wellness Court the family is in.

- Phases

The Court has four phases:

1. Trust;
2. Belonging;
3. Settling Up; and
4. Maintenance and Transition to Lifelong Healing.

Conclusion

Tribal members benefit from this joint jurisdictional approach because services are tailored to meet the needs of the whole family, in the community; the judges and treatment team are focused on preserving and retaining the unity of the family; opportunities for self-healing are developed with the family; substance abuse is treated as a disease that is both preventable and treatable; cultural activities are viewed as protective factors and built into the parents' recovery plan; and families walk along their own unique path, grounded in Yurok values and traditions, to recover, heal, and grow.

RESOURCES

1. Joint Jurisdictional Courts:

- The New Face of Justice: Joint Tribal-State Jurisdiction, Washburn Law Journal (Vol. 47, No. 3, Spring 2008)
- Building a Legacy of Hope: Perspectives on Joint Tribal-State Jurisdiction, William Mitchell Law Review (Vol. 36 , Issue 2, 2010)
- "Joint Jurisdiction Courts: A Manual for Developing Tribal, State & Federal Justice Collaborations" (2nd Edition) Available at www.walkingoncommonground.org

2. Tribal Healing to Wellness Courts:

- Tribal Healing to Wellness (produced by Tribal Law and Policy Institute) www.wellnesscourts.org/tribal-key-components/index.cfm

3. Problem-solving, Collaborative Courts:

- Family Dependency Treatment Courts (produced by CA Association of Collaborative Courts and American Bar Association)

² Making Things Right (instead of sanctions- the focus is on what triggered the misstep, acknowledging good decisions in poor moments, and supports to manage personal challenges). Some possibilities include increased frequency of court hearings, returning to an earlier phase, community contributions (participants identify and create opportunities, which empower the participant/family and are restorative), creating a relapse response and safety plan, or other action that the family identifies with their team.

- www.ca2c.org/defining-drug-courts-ten-key-components/
- <https://cff-cav56vrdcl.netdna-ssl.com/wp-content/uploads/2018/07/Seven-Common-Ingredients-for-Family-Treatment-Courts.pdf>

