



JOINT JURISDICTION COURTS

*A Manual for Developing Tribal, Local,
State & Federal Justice Collaborations*

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Project T.E.A.M
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This publication is a product of Project T.E.A.M., 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.

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PREFACE

This manual is a roadmap for tribal and community leaders who want to develop joint jurisdiction courts or initiatives in their own communities. It is not intended to be a curriculum, but rather a guide, articulating the process developed in one Minnesota community and adopted by other jurisdictions, as well as providing information on creating new joint jurisdiction initiatives.

The initial part of this document identifies the benefits of intergovernmental collaboration and describes the creation of the first tribal/state joint jurisdiction court in the Nation, how it was envisioned, developed, and implemented with statistics to demonstrate its effectiveness.

Next, this document provides suggested guidelines for developing a new joint jurisdiction justice collaborative in one's own community based on identified needs, tribal and community culture, evidence-based treatment principals, articulated goals, and defined outcomes.

The third section describes two Project T.E.A.M. collaborations: a joint jurisdiction juvenile court initiative involving the Shingle Springs Band of Miwok Indians, the El Dorado County Superior Court, and county officials in California; and a joint jurisdiction adult wellness court involving the Kenaitze Indian Tribe and the city of Kenai, Alaska.

The final part of the document contains tips for the successful creation of joint jurisdiction courts and describes lessons learned during Project T.E.A.M.'s work.



Introduction

All governments struggle with the challenges of drug and alcohol abuse, gang activity, violence, truancy, unsupervised juveniles, and dysfunctional families. Both tribal and non-tribal systems have the common goals of improved outcomes for families, fewer children in out-of-home-placement, decreased incarceration, decreased recidivism, and decreased disproportionate minority contact in the courts. Unfortunately, neither system has been completely successful in reaching these goals on its own. 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. 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.

States and tribes have a range of common interests, and both are expected to protect the health, safety and welfare of their citizens. Common interests include a shared responsibility to use public resources effectively and efficiently, and to provide comprehensive services such as education, health care, and law enforcement to their respective citizens.¹ The jurisdiction of tribal courts to adjudicate matters arising in Indian country encompasses all civil and criminal matters absent limitations imposed by federal authority. Tribes have broad freedoms not enjoyed by any other governmental authority in this country. By keeping common objectives in mind, tribes and states may realize that they have more in common than in conflict and that coordination and cooperation is beneficial to all.²

Each jurisdiction, tribal and state, has tools unique to its system, and joint exercise of jurisdiction allows the systems to leverage scarce resources and achieve better results. Tribal-state cooperative agreements offer both sets of governments 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.³ These agreements also enable governments to craft legal arrangements reflecting the particular circumstances of individual Indian nations, rather than relying on uniform national rules.⁴

Greater intergovernmental cooperation often results in better services for Indian country, is more cost effective, culturally compatible, and provides better arrest and prosecution rates.⁵ Even the most basic forms of interjurisdictional cooperation can save money and lives. Without question, cooperation works.⁶ In fact, where intergovernmental cooperation has become the rule, not the exception, arrests get made, interdiction of crime occurs, and confidence in public safety improves.⁷

By working together, services to families can be strengthened and overall community wellness can be improved. But such collaboration can only work when those who have the ability to create change “reach out to each other for the good of all.”⁸ The information that follows was designed for those jurisdictions interested in collaborating for better outcomes, building relationships for greater understanding, sharing resources to achieve health and wellbeing, improving public safety, celebrating culture, embracing diversity, and working together to build a better future for whole communities.

¹ www.ncai.org/policy-issues/tribal-governance/state-tribal-relations

² Wahwassuck, Korey; Smith, John P.; and Hawkinson, John R. (2010) “Building a Legacy of Hope: Perspectives on Joint Tribal-state Jurisdiction,” *William Mitchell Law Review*: Vol. 36: Iss. 2, Article 3. Available at: <http://open.wmitchell.edu/wmlr/vol36/iss2/3>

³ *Id.* at 885-886.

⁴ *Id.* at 886.

⁵ The Tribal Law and Order Act of 2010, Ch. 4, Intergovernmental Cooperation: Establishing Working Relationships That Transcend Jurisdictional Lines, p. 105.

⁶ *Id.* at 113.

⁷ *Id.* at 100.

⁸ *Walking on Common Ground: Tribal-State-Federal Justice Systems Relationships*. p. 15.

Forging the Way

Development of the First Joint Jurisdiction Wellness Courts & Project T.E.A.M.

The Leech Lake Band of Ojibwe is located in northern Minnesota, slightly more than 200 miles from the metropolitan area of Minneapolis and St. Paul. The Band's reservation covers nearly 1,000 square miles and overlaps with four Minnesota counties: Cass, Itasca, Beltrami, and Hubbard. In 2006, Cass County was named the seventh deadliest county in Minnesota (out of 87 counties) based on impaired driving.⁹ From January 1, 2001 through December 31, 2005, Cass County experienced 32 fatalities,¹⁰ representing one death for every 901 people, compared with one death for every 12,509 people in urban Hennepin County during the same time period.¹¹ Cass County also had the worst outcomes in the state for children. Ninth graders ranked first in the state for sexually active teens, second in the state for out-of-home placements and attempted suicides, third for drinking and driving, and third for children living in poverty.¹²

Sixty-percent of residents living on the Leech Lake Indian Reservation reported having serious drug or alcohol problems, and 95 percent of

the residents reported being directly affected by alcoholism or drug abuse by a family member.¹³ Change was needed in these communities, but solutions to their problems were elusive.

In 2006, Cass County Probation Officer Reno Wells and District Court Judge John Smith, began a dialogue about finding answers to some of these problems. They decided that at least one solution would be to start a drug court, so they enrolled in training through the National Association of Drug Court Professionals (NADCP). The drug court model takes a non-adversarial approach, and includes early identification of eligible offenders, provision of a continuum of substance abuse treatment and other rehabilitation services, incentives and sanctions, frequent substance abuse testing, coordinated responses to non-compliance (and compliance), and monitoring and evaluation of program goals.¹⁴

As Judge Smith and Mr. Wells worked on development of a drug court, they realized they could not do it

Tribal Law & Order Act

The benefits of intergovernmental collaboration were recognized when, in 2010, Congress passed and the President signed the Tribal Law and Order Act, P.L. 111-211 (TLOA). The goal of TLOA is to improve public safety and justice systems in Indian country. TLOA mandates that the Departments of Justice (DOJ) and the Interior (DOI) develop, in consultation with tribal Leaders and tribal justice professionals, a long term plan to address incarceration and the alternatives to it in Indian country. DOJ and DOI obtained substantial input from justice officials, including law enforcement, courts, and corrections. DOJ and DOI conducted a series of consultations with tribal leaders across the country. They also conducted focus groups with tribal justice officials, hosted webinars, created a multi-agency Work Group on Corrections to recommend action steps, and drafted a Tribal Justice Plan for public comment. Those comments were incorporated into the final Tribal Justice Plan submitted to Congress (see LTP Executive Summary: 2). The TLOA plan includes recommendations that are the result of Commission field hearings and site visits to all 12 Bureau of Indian Affairs regions across the United States, along with hundreds of letters, emails, and other input from every corner of the country. They are intended to make Native America safer and more just for all U.S. citizens and to save taxpayer money by replacing outdated, top-down policies and bureaucracies with locally based approaches that are more directly accountable to the people who depend on them and can make them work.

⁹ MINN. OFFICE OF TRAFFIC SAFETY, OPERATION NIGHTCAP, TRIBES AND TRANSPORTATION REP, at slide 19. (on file with authors) [hereinafter TRIBES AND TRANSPORTATION].

¹⁰ *Id.* at slide 9.

¹¹ TRIBES AND TRANSPORTATION, *supra* note 9; MINN. OFFICE OF TRAFFIC SAFETY, IMPAIRED DRIVING FACTS. (on file with authors)

¹² Planning Correctional Facilities on Tribal Lands Competitive Grant: Leech Lake Band of Ojibwe (Dep't of Justice Programs approved grant, August 2008) (on file with authors).

¹³ *Id.*

¹⁴ Go to www.nadcp.org and search *key principles*

¹⁵ Excerpt from Project T.E.A.M.'s interview with Reno Wells, October 2, 2013 (on file with authors).

alone. Judge Smith and his colleagues instinctively knew that nothing could be accomplished without partnering with the Leech Lake Band, since members were so disproportionately represented in the criminal justice system. Judge Smith and Mr. Wells reached out to the Tribal Chairman of the Leech Lake Band, George Googleye, and Tribal Court Judge, Korey Wahwassuck, to ask for help. As Mr. Wells put it, “we are equal governments, if we are going to work together there has to be a respect factor there. We are both important to the endeavor so you go and ask, will you participate with us?”¹⁵

After consulting with Chairman Googleye and Judge Wahwassuck, the Leech Lake Tribal Council agreed to work with the Cass County District Court. As Judges Smith and Wahwassuck engaged with one another, they realized that the systems they represented shared common goals. Both systems wanted better for their constituencies, both systems wanted to reduce the jail population and curtail drug and alcohol abuse, and both systems knew they needed to improve relations with each other in order to make this endeavor work. Both systems knew that if drug and alcohol use could be reduced, resulting crime could also be reduced; child welfare cases could be curtailed, healing could begin, and relationships between the people of the two sovereign governments could be improved. What they also knew was that they could not accomplish their goals alone; each jurisdiction needed the other to pool knowledge, staff, and resources, and to better reflect the people and cultural practices of the populations served. They decided that since each government was sovereign, with common goals and responsibilities, it made sense to develop a joint jurisdiction court.

However, there were additional obstacles to overcome. According to Mr. Wells:

So here we are, we have two different cultures and we still can't communicate with one another. It's crazy. It doesn't make any sense. And that was one of the biggest issues that we had. Even when we started to negotiate our decision to move forward with the Chairman and the Judge,

we had tremendous resistance within our own entities. Trying to engage other agencies within our government, whether it be the social service side, the chemical side, etc. there was still tremendous resistance. I don't know if their decisions were based on the fact that it [collaboration] didn't work before, so why would it work now. And the other issue became one of dollars. Everyone wants to know what the bottom line is. What are we willing to invest and what is our return? We knew it was going to be a long term investment, but for us it didn't matter, because everything else we had tried failed. We thought we had a pretty good chance of this being successful. The most important thing for us is that the key individuals, the Chairman of the Band, the Tribal and District Court Judges, and our County Board, said we are doing this. So that was just the way that it was. If people didn't want to participate, there were potentially some ramifications for not following what your policy makers told you they were going to do.¹⁶

According to Chairman Googleye, in reference to starting a joint jurisdiction wellness court:

There were even some of our own tribal members who were opposed to it. Again, you are not always going to be able to satisfy all people. There is always going to be some resistance. We even had resistance from a member of our own tribal [government] who didn't think . . . we should be working with the counties. But it was something we were able to get past. By the way we approached it, how could you not? Not only will this benefit our tribal members with this type of court . . . but it will benefit a lot of other people as well because they are going to get to take advantage of the benefits that exist because of the [wellness] court.¹⁷

As Judge Wahwassuck and Judge Smith started their

¹⁶ *Id.*

¹⁷ Excerpt from Project Team's interview with George Googleye, October 2, 2013 (on file with authors).

joint venture they looked for guidance from other jurisdictions. The judges quickly found that even where there is willingness to collaborate, there is no magic formula for success. They hoped at first to find an existing model that they could copy so they would know how to handle the complexity of a multi-jurisdiction court. The judges searched around the country to see how other courts in similar situations were operating, only to find that collaboration of this nature was truly unprecedented; if they wished to be successful, they would need to learn together.¹⁸ Even though there was no existing model, the judges knew they could agree on the goals for their new court. Both the Cass County District Court and the Leech Lake Band of Ojibwe Tribal Court were committed to promoting sobriety, healthy individuals, healthy families, and healthy communities. When differing opinions arose, they could always look to their established goals as a beacon for direction. Their ability to focus on the end result helped facilitate the partnership, build relationships, and pull the team through challenging times.

Broad-based collaboration across disciplines was required to meet the prospective participants' needs. Social services, treatment providers, probation, law enforcement, public defenders, and prosecutors all needed to be involved and committed to the Joint Jurisdiction Wellness Court. Law enforcement was not easy to convince at the beginning. Many were skeptical of yet another program that was supposed to reduce crime. However, after seeing relationships develop and trust established between members of the county and the tribe, the level of acceptance the fledgling court achieved within the law enforcement community was nothing short of remarkable.¹⁹ Officer Ryan Fisher, who worked for both the Leech Lake Tribal Police Department and the Cass County Sheriff's Office reported, "I believe that these relationships are better today than they have ever been and I believe Wellness Court has influenced these relationships."²⁰

Minnesota's first Joint Jurisdiction Wellness Court started with a handshake and a commitment, and the policies and procedures followed. There was no

magic in starting their Wellness Court. The Wellness Court started as any new drug court would; the only difference was that the two judges sat together and the Wellness Court team consisted of representatives from both jurisdictions. Judge Wahwassuck stated that:

Since the beginning of the Wellness Court partnerships, both the District Court and the Leech Lake Tribal Court have focused on what is best for the participants in our programs and the safety of the public. These are common goals that we share. Another ingredient to success is mutual respect. We do not have to do everything the same way or believe the same ideas to respect each other. We do not always agree on what is best for our participants, but we have learned how to disagree and still reach a desirable result. The success of our participants is the best evidence of our working relationship.²¹

Because this was the first court of its kind in the country, there was no roadmap to follow. Instead of waiting for completion of a comprehensive manual, important and obvious policies were created but the rest followed from doing. As issues arose or documentation of success was warranted, policies and procedures were developed. One of the first documents created by the new court was a Joint Powers Agreement signed by each sovereign government, which declared:

Be it known that we the undersigned agree to, where possible, jointly exercise the powers and authorities conferred upon us as judges of our respective jurisdictions in furtherance of the following common goals: 1. Improving access to justice; 2. Administering justice for effective results; and 3. Fostering public trust, accountability and impartiality.

This simple, yet significant document has guided the first Joint Jurisdiction Wellness Court for nearly a

¹⁸ Wahwassuck, *supra* note 2, p. 868.

¹⁹ *Id.* at 869.

²⁰ *Id.*

²¹ *Id.* at 872.

Leech Lake/Cass County/Itasca County Outcomes

decade. The Leech Lake Tribal Council and the Board of Commissioners for Cass County also passed resolutions in support.²² Additional Memoranda of Understanding²³ were developed over time to guide the day-to-day operation of the Wellness Court.

The success of this groundbreaking joint jurisdiction court was closely watched by neighboring counties in Minnesota, and in 2007, a second Joint Jurisdiction Wellness Court was formed in collaboration between the Leech Lake Band of Ojibwe and the Itasca County District Court to work with offenders charged with controlled substance crimes.

Over time, joint jurisdiction work expanded to include a juvenile diversion program and a juvenile reentry program. These first joint jurisdiction courts significantly reduced recidivism and went on to become models of intergovernmental collaboration. The courts have been recognized nationally and even internationally, and are still operational today, despite judicial and staff turnover, tribal council and county board of commissioner administration changes, and fiscal challenges.

The Leech Lake/Cass County/Itasca County Wellness Courts are still operational after nearly a decade, despite turnover of the initial presiding judges and other key team members. And, the programs have won several national awards including Harvard Honoring Nations Award; National Association of Drug Court Professionals Cultural Proficiency Courage Award; and the National Criminal Justice Association Outstanding Tribal Criminal Justice Award, among others.

At the local level, the 2015 Alcohol & Drug Abuse Division End of Year Evaluation Report for Leech Lake/Itasca County Wellness Court found, “The process evaluation results suggest that the Wellness Court is serving participants with significant needs related to chemical health, housing, and employment. Participants’ LS-CMI scores at intake support this conclusion, with 59 percent of the participants having scores indicating high or very high need and an additional 24 percent having scores indicating medium/high needs. In regard to the impact of the Wellness Court, successful graduates had low to moderate service needs when the [sic] left the program, as measured by the LS-CMI²⁴ completed at client discharge. In addition, the majority of program graduates had stable housing and paid employment. Some of the clients who were terminated from the program also experienced program benefits, the most common of which was obtaining paid employment.”²⁵

In regards to return on investment results, graduates spent only a fraction of days incarcerated compared to their original sentences; the avoided days in jail/prison represent a savings to the judicial system. In addition, program graduates are less likely to reoffend and be incarcerated after they leave the program, generating additional savings. Successful participants are more likely to find full-time employment and pay taxes from their

²² See *Supplementary Materials* for resolutions.

²³ See *Supplementary Materials* for memoranda of understanding.

²⁴ LS-CMI is an acronym for Level of Service – Case Management Inventory.

²⁵ 2015 Alcohol & Drug Abuse Division End of Year Evaluation Report for Leech Lake/Itasca County Wellness Court (see supplementary materials for this document).

personal income. “The total economic value of these positive outcomes for the graduates of the Wellness Court at Itasca County between 2007 and 2014 is \$2,078,031.”²⁶ Further, graduates avoided at least 8,084 days in jail during the period studied; multiplying these days by the per-diem cost of jail of \$119.34 resulted in savings of \$964,745.²⁷

Not all the economic benefits of the Wellness Court program are included in the return on investment estimation. Additional benefits include: participants reduced drug use and treatment needs, increased educational achievement, and reduced health care costs and mortality. Successful graduates had on average 663 days of sobriety; a majority of graduates had stable housing and paid employment. By preventing future crimes, Wellness Court is also saving potential victims of these crimes from the associated costs. “The return on investing in the Wellness Court program are positive and show that allocating resources to this initiative makes economic sense for society and specifically to taxpayers.”²⁸

Improved relationships between the tribal and non-tribal systems was another benefit of the Wellness Courts. While there was not always agreement as to what was best for participants, the judges were building respect for each other and for the process. Jon A. Maturi, Chief Judge of the Ninth Judicial District, credits the success of the collaborative efforts to “a mutual understanding of our respective sovereignty; but, more importantly, [to] our mutual understanding of what we hold in common and our joint desire to better serve the residents of [the] County, Leech Lake and the Ninth Judicial District.”²⁹

“I believe that these relationships are better today than they have ever been and I believe Wellness Court has influenced these relationships.”³⁰ Former prosecutor Earl Maus was also skeptical at first until serving on the Wellness Court Team. Once involved

he found, “the unified tribal-state court has helped dissolve racial barriers that often exist . . . both staff and participants appear to be more trusting of each other.”³¹

As other jurisdictions across the United States and in Indian country learned about this novel judicial approach, they expressed interest in creating their own joint jurisdiction courts. Even though there was often strong interest in the benefits collaboration can provide, many jurisdictions – tribal and non-tribal – simply did not know how to begin. Others insisted that collaboration could never happen in their jurisdiction. Those involved with various systems often became entrenched in their own way of doing things, thinking that their way was the best, or only, way to do things. Collaboration between different systems seemed daunting, even if it would benefit both sides.

Project T.E.A.M. was created to help other jurisdictions create their own collaborative courts by attacking public safety issues through the lens of common goals and shared challenges. This manual was developed based on the work of the first two joint jurisdiction courts in Minnesota, and the experiences of Project T.E.A.M. as it helped establish joint jurisdiction courts in California and Alaska.³² It is intended as a guide to help jurisdictions create their own joint jurisdiction courts, by identifying common goals and challenges, and building on them until a working system is in place. Stakeholders can individualize the process and build a court to fit their particular needs.

²⁶ *Id.* at 22.

²⁷ *Id.* at 23.

²⁸ *Id.* at 13.

²⁹ Wahwassuck, *supra* note 2, p. 872.

³⁰ *Id.* at 869.

³¹ *Id.* at 870.

³² These two pilot sites were the Shingle Springs Band of Miwok Indians/El Dorado County Superior Court (near Sacramento, California), and Kenaitze Indian Tribe/Kenai Court System (Kenai, Alaska).

Building a Joint Jurisdiction Court or Initiative

Project T.E.A.M. works with each pilot site for approximately eight months to get their court or initiative off the ground. The work begins with conference calls between Project T.E.A.M. staff, the judges who volunteer to lead the local effort, and their respective court staffs. Initial conference calls are held to identify leadership's vision for the court. In California, the judges chose to focus on a program for juveniles and their families. In Alaska, the judges chose to develop a program for adult drug and alcohol offenders. Throughout the eight-month process, Project T.E.A.M. held regular phone conferences with both local leadership teams.

The next step was to identify stakeholders and invite them to attend planning meetings. Project T.E.A.M. facilitated three separate, two-day meetings in each jurisdiction to gather stakeholders to design and implement a joint jurisdiction court. The identification of stakeholders was important and the success of these meetings can be attributed at least in part to the large number of individuals who participated in these meetings and the various perspectives they brought. The planning meetings in both California and Alaska included participants from the judiciary, the district attorney's office, the public defender's office, law enforcement, probation/supervision, treatment providers, and others. Before the first on-site meetings, the Wilder Collaboration Inventory was administered to measure the site's readiness for collaboration and to get baseline data for later comparison.

Once the stakeholders had been identified and invited, Project T.E.A.M. worked with the local leadership to develop an agenda for the first meeting. Our meeting content varied somewhat based on local needs, but the initial meetings in both California and Alaska included a traditional opening, relationship development, establishing rules for communication, defining vision and mission for the

initiative, developing goals, sharing what worked in other jurisdictions, and mapping the current system. Extensive notes were taken throughout all meetings and conference calls, typed up, and shared with all stakeholders prior to the next meeting.

Project T.E.A.M.'s second meeting at each pilot site started with a traditional opening, followed by a review of the notes of the previous meeting; identifying training opportunities; discussing the local culture and how to integrate language, traditional values, and cultural ceremonies into the court; a discussion of the phases the initiative would go through; determining a target population; deciding on who would be disqualified from the initiative; deciding how referrals would be made; discussing incentives and sanctions; discussing the requirements for graduation; and discussing fees. Again, extensive notes were taken and distributed to stakeholders for review prior to the following meeting.

Prior to the third meeting with each pilot site, Project T.E.A.M. created a draft manual for site stakeholders based on the information compiled at the first and second meeting. The third and final meeting started with a traditional opening, followed by a review of the notes of the previous meeting and a lengthy discussion of the site's draft manual. Project T.E.A.M. reviewed the draft manual line by line to assure there was consensus among all stakeholders as to content. Often, further discussion and revision was needed. The meeting then moved into a discussion regarding hiring a court coordinator and any other needed positions, followed by discussion on developing committees and sub-committees, rallying resources, and measuring results. The final meeting concluded with a traditional closing. Any needed revisions to the manual were distributed to all stakeholders and Project T.E.A.M. continued to be available to answer questions as needed.

The following sections outline in more detail the process used to create the Leech Lake/Cass County/Itasca County Joint Jurisdiction Courts; steps that Project T.E.A.M. adopted, built on, and used to help pilot sites create their own joint jurisdiction courts. Each section describes the process, and provides suggestions for success.

1 Understand & Build Collaboration

Collaboration of individuals and organizations is at the heart of developing joint jurisdiction courts and can often be the hardest part to initiate. Historical trauma, land disputes, litigation, and more all contribute to distrust of the other jurisdiction and those working inside the systems. However, by reaching out, even to one other individual and getting to know one another goes a long way in reducing tensions and developing relationships. Collaboration of governments truly does begin by developing relationships of two, or more, people and focusing on common goals. Even in the midst of conflict, or aftermath of litigation, relationships can grow and blossom.

One of the best ways to eliminate distrust between people is to have them work together on a common project.³³ Building a partnership between jurisdictions eventually requires trust and a willingness to openly communicate. The collaborative process is intended to move participants away from the traditional definition of power as control or domination, towards a definition that allows for shared authority. “The fact that full-blown collaboration has blossomed in an environment (in Minnesota) where deeply ingrained ill will once prevailed, bears witness to the fact that fundamental systems change is possible.”³⁴

The Wilder Research Center defines collaboration as “a mutually beneficial and well-defined relationship entered into by two or more organizations to achieve

common goals,”³⁵ as well as “a jointly developed structure and shared responsibility; mutual authority and accountability for success; and sharing of resources and rewards.”³⁶

The Center has identified 20 factors that influence the success of collaboration related to the environment, membership characteristics, process and structure, communication, purpose, and resources.³⁷ Wilder has devised a Collaboration Factors Inventory worksheet³⁸ which can be used to evaluate the readiness of jurisdictions planning develop a joint-jurisdiction court. Depending on the resulting scores more time may need to be spent developing relationships before developing structure.

SUGGESTIONS FOR BUILDING COLLABORATION

INVITE someone from another jurisdiction, preferably someone in a similar position to your own, to share a cup of coffee or a meal together.

DISCUSS goals for your jurisdiction and invite the other person to do the same.

IDENTIFY similar and overlapping goals.

AGREE to meet again to discuss appropriate next steps, even if it is to continue conversation and work on building a stronger relationship.

GRADUALLY INVITE others in positions of authority to join you to discuss overlapping goals and the possibility of partnership.

INCLUDE judges as participants at the beginning of the collaborative process since they have the authority to convene stakeholders.

³³ Wahwassuck, *supra* note 2, p. 871.

³⁴ *Id.*

³⁵ Collaboration-what makes it work/Paul W. Mattessich, Marta Murray-Close, Barbara R. Monsey.-2nd ed., p. 4.

³⁶ *Id.*

³⁷ *Id.* at 7.

³⁸ See *Additional Resources*.

2 Gather Stakeholders

Judges are the natural leaders for a joint jurisdictional collaborative. They have inherent authority and are likely to have legitimacy both with the members of the collaboration as well as the community. However, it is important to also have a cross-section of members from all groups that will be affected by the proposed collaborative change. For a criminal adult court, collaborative members would likely include judges, the district attorney and public defenders, law enforcement, probation/parole, treatment providers, administrators, elders, cultural leaders, and others. For a juvenile delinquency court these same individuals may be in the collaborative but would likely also include school personnel, social workers, and those who work specifically with a juvenile population. Significant representation from both the tribal and non-tribal systems is important. Ideally, participants in the collaborative planning process should have decision making authority in their respective agencies.

Regarding logistics, a comfortable room should be provided, and it is beneficial to meet on tribal lands to promote cultural understanding. Many of the local/state/federal stakeholders may never have set foot in a tribal courtroom, or observed tribal government at work. Often times, cultural artifacts and Native artwork are on display, cultural events may be taking place, and cultural values are signified by what hangs on the walls. This provides an educational opportunity for many of the gathered stakeholders. Opportunities for informal conversation should also be facilitated, such as frequent coffee breaks which allow people to get to know each other. Lunch, on-site, should be provided for the same purpose. A traditional opening by an elder or cultural representative(s) is another opportunity for educating local/state/federal partners, but most importantly it sets an appropriate tone for a significant event that is about to take place. At the end of the day, meetings are also closed in a traditional way.

GET all stakeholders to the table with authority to make decisions, preferably the judiciary, heads of agencies, directors of organizations, board chairs, university researchers, etc.

SEND an invitation for the meeting but also pick up the phone and personally invite those that may have some reluctance in attending.

HOLD the meeting on tribal lands to educate partners regarding tribal customs and to build respect.

ARRANGE for a comfortable meeting room, because people will be sitting for a long time; preferably a minimum of two days for the first meeting. Provide refreshments and morning, lunch, and afternoon breaks.

OPEN AND CLOSE meetings in a traditional way; it provides an element of respect for the process and the stakeholders who are participating in the meeting.

SUGGESTIONS FOR GATHERING STAKEHOLDERS

3 Establish Ground Rules for Communication

Prior to beginning discussion, establish ground rules for communication. It may be that use of the circle process and a talking piece is appropriate, other groups may prefer that a facilitator call on individuals who wish to speak, other groups may adopt guiding principles that help set a tone in which to navigate discussion. One group³⁹ adopted a commitment to using the Four Agreements as presented by Miguel Angel Ruiz in his book of the same name: 1) be impeccable with your words, 2) don't take things personally, 3) don't make assumptions, 4) always do your best. Additionally, the group adopted the following concepts to guide their discussion:

- Commitment to transparency in sharing information
- Commitment to open dialogue, a safe space to

³⁹ The Shingle Springs Band of Miwok Indians and El Dorado County, California.

contribute

- Agreement to honor our words and our commitments
- Agreement to stay focused on our mission and goals
- Remember why we are here—our youth and families

Finally, rather than adopt a universal policy of confidentiality in regards to what was shared during the meeting, the participants agreed on the ability of any participant to request confidentiality at any time.

In whichever way participants choose to guide their discussions, group leaders or facilitators should commit to creating an environment of openness to talk and share ideas, and should effectively communicate this commitment to the group. Setting a tone of a judgment free environment, where people are encouraged to think outside the box and freely express their ideas, is critical to establishing a new initiative.

SUGGESTIONS FOR SETTING GROUND RULES

DEFINE your own rules for communication or adopt what others have created.

INVOLVE everyone, which may be accomplished by going around the room and asking each person to contribute.

BE RESPECTFUL of each person, and what they have to say, even if you don't agree with their position.

4 Define Vision & Mission

The difference between a vision and a mission statement can sometimes be confusing. Developing a vision statement entails identifying the optimal goal or reason for existence of a group or organization. A vision statement describes how the group would look in its future successful state of being; it

communicates where an organization wants to be. A mission statement, on the other hand, describes what a group will do in the present to attain its future vision; it describes how an organization will get to where it wants to be.

Once the necessary stakeholders are at the table, a traditional cultural opening has been conducted, and communication ground rules have been established, the parties need to unite around a collaborative vision and mission. Such preliminary work provides the collaborative with a common sense of purpose and identity, provides long-term direction, and communicates both internally and externally what the collaborative is about.

Developing a vision statement can sometimes feel like an exercise to be checked off a to-do list. However, a strong vision statement, developed by the entire group serves as an important declaration of intent to make change. A well drafted vision statement can prevent the group from veering off course and can help remind the group of their initial intent and reason for existence. One group's vision statement is: One safe, strong community of thriving families created through trust and healing.⁴⁰

One of the fundamental questions for any group or organization is, "what is our purpose?" A mission statement provides purpose and direction for the stakeholders. It should be aspirational in reach, yet also clear and specific enough to define the stakeholders' work. The value of a mission statement comes only when all stakeholders can internalize it and use it as a kind of organizational compass. For example, the mission of Leech Lake/Cass County is: 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.

There are many ways of developing group vision and mission statements. One method Project T.E.A.M. used was to go around the room and have each person give one word that describes what they want the group to accomplish in the future. All words were

⁴⁰ *Id.*

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written on a white board, whittled down to a few, and combined until they formed the vision the group had for future success. The process used to create a mission statement was the same except that a few words or a sentence was offered instead of just one word.

DISCUSS the issues facing both sovereigns and how the initiative wants to see such problems addressed. It may be drugs, drunk driving, out-of-home placements, all of the above, or other issues.

DEVELOP a vision statement which is a future goal the group intends to attain. It is a tag line of sorts that can be easily remembered and repeated. It communicates where the group or initiative wants to be in the future.

DEVELOP a mission statement which is what the group intends to do in the present to accomplish its future mission. If the group veers off course, a mission statement helps to redirect the group and refocus on the agreed upon mission.

SUGGESTIONS FOR DEFINING MISSION & VISION

- Arrests are up
- Treatment beds all have waiting lists
- Probation is required to arrest for certain violations
- Judges have discretion in imposition of some fines/fees
- There is a need for better communication between departments
- There is a need for new hires or new positions

By mapping the current process, all stakeholders learn the details of the system, where cases get backlogged, how to navigate treatment agencies, what is legally required when an offender is on probation or parole, etc. By understanding the nuances of how the system operates, stakeholders can better identify needs, establish goals, and collaborate regarding system change.

CREATE a hypothetical case as a group exercise, and map how it currently proceeds through the system, from time of arrest, charge, or removal of a child through to resolution of the proceeding.

INCLUDE in the map how much time elapses between each event, which stakeholders come in contact with the offender/respondent, what types of cases require mandatory fines, fees, or jail time, what substance abuse and mental health treatment services are available, what resources are available through each court and the community, etc.

MAP a hypothetical case after the court's framework is developed to determine how the case will proceed with two systems (tribal and non-tribal) working together.

SUGGESTIONS FOR MAPPING THE CURRENT SYSTEM

5 Map the Current System

It is crucial to map the current system and then to identify opportunities for improvement. Stakeholders often have an excellent understanding of their own organizations, yet are often lacking critical information of other organizations that impact the system as a whole. The mapping process helps each stakeholder understand how the entire system works, and how each organization fits into the system.

By mapping the current system, all stakeholders are involved in creating a flow chart, identifying steps in the process, timelines between events, stakeholders involved, applicable laws and regulations, resources and lack thereof. This is an opportunity for stakeholders to identify their role in the system but also for each person to understand their function in the whole. Stakeholders may learn, for example, that:

6 Develop Goals

Collaborative goals provide four basic functions⁴¹:

- Guidance and direction
- A template for short and long-term planning
- Motivation and inspiration
- A way to evaluate performance

Collaborative goals tell stakeholders where the collaboration is going and how it plans to get there. When stakeholders need to make difficult decisions, they can refer to these goals for guidance. Goals promote planning to determine how goals will be achieved. Employees often set goals in order to satisfy a need; thus, goals can be motivational and increase performance. Evaluation allows a collaborative to compare its actual performance to its goals and then make any necessary adjustments.⁴²

Goals also affect individual performance through a variety of mechanisms⁴³:

- Goals direct action and effort toward goal-related activities and away from unrelated activities
- Goals energize stakeholders, challenging goals lead to higher stakeholder effort than easy goals
- Goals affect persistence, stakeholders exert more effort to achieve high goals.
- Goals motivate stakeholders to use their existing knowledge to attain a goal or to acquire the knowledge needed to do so.

Goals should be specific, measurable, attainable, realistic, and time-bound, otherwise known as S.M.A.R.T. goals. Instead of developing goals that call for “reduced recidivism,” devise goals such as “drug and alcohol related driving offenses will be reduced by 25% within two years of the Joint Jurisdiction Court’s start date.” Instead of developing a goal

that “all program participants will have a substance abuse evaluation completed,” instead state that “all program participants will have a substance abuse evaluation completed within 30 days of entering the program. “In order to reduce criminal behavior and recidivism, Leech Lake/Cass County developed S.M.A.R.T. goals such as the following:

1. Seventy percent of participants will graduate from the program within 3 years of their start date.
2. Seventy percent of participants will have 90 consecutive days of sobriety by the end of their first year in the program.
3. Ninety percent of participants will not experience a driving impaired violation within 1 year after graduation.

SUGGESTIONS FOR DEVELOPING GOALS

ESTABLISH goals that provide direction, facilitate planning, motivate, and help evaluate performance of the initiative.

ASK group members to articulate goals they would like to see the initiative adopt.

TURN stated goals into SMART goals.

IDENTIFY current data needed to develop a baseline in which to measure goals against in the future.

7 Utilize Established Trainings

Training in the area of drug and alcohol courts, Tribal Healing to Wellness Courts, and other evidence-based training programs can be very helpful to stakeholders. Trainings include using a combination of judicial monitoring and effective treatment to compel drug-using offenders to change their lives. The trainings use a team approach to address an offender’s addiction; teach a structured, holistic,

⁴¹ Barney, Jay B., Griffin, Ricky W.. The Management of Organizations. Boston: Houghton Mifflin Company, 1992.

⁴² *Id.*

⁴³ Locke, Edwin A., Latham, Gary P. “Building a Practically Useful Theory of Goal Setting and Task Motivation: A 35-Year Odyssey.” American Psychologist 57, no. 9 (2002): 705–717.

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and phased approach to treatment with intensive supervision and testing; incorporate the values of culture and tradition; use a system of rewards and consequences to encourage behavior modification; and collect, monitor, and evaluate participant and program data.

Stakeholders are encouraged to attend trainings together, if possible. Spending time with one another outside of the workplace helps to solidify relationships and creates informal learning opportunities. Two exceptional trainings are offered annually. The Tribal Law and Policy Institute offers a Tribal Healing to Wellness Training⁴⁴ (see wellnesscourts.org) and the National Association of Drug Court Professionals⁴⁵ also offers a drug court training (see nadcp.org).

ENCOURAGE stakeholders to be trained in the area of drug/alcohol courts, Tribal Healing to Wellness Courts, or other evidence-based training programs.

Exceptional trainings are offered annually through the Tribal Law and Policy Institute and the National Association of Drug Court Professionals.

Stakeholders may want to attend trainings together, if at all possible, so they learn the same information, have opportunities for informal learning, and to continue to build relationships.

SUGGESTIONS FOR USING TRAININGS

relationships. It can be a healing and learning experience for everyone involved, participants and court team members.

Culture is often integrated in the name of the joint jurisdiction court or initiative. Naming of the court is important and can express traditional values of the community. Traditional values are the underlying foundation of the court and serve as guiding principles for both stakeholders and participants. In the Leech Lake/Cass County Court, native participants can engage in naming ceremonies if they do not have an Indian name. Community feasts and traditional ceremonies are often held at graduation ceremonies, program incentives can include cultural activities, and requirements of community service can be to serve elders in the community. Culture is a protective factor and should be supported and nurtured throughout program development and implementation.

SUGGESTIONS FOR INTEGRATING CULTURE

INFUSE culture in the planning, development, and implementation of your court or initiative.

Cultural ceremonies and activities can be powerful incentives. Serving elders in the community can be used in the program to fulfill community service requirements, or to redirect participants who are not following program requirements.

CONSIDER the local culture when naming your court or initiative. It can have a significant impact on the community.

8 Integrate Culture & Its Healing Properties

Culture is inherent in the entire process of joint jurisdiction work. Culture is part of the process, both in creating the court, and in defining its procedures. Joint jurisdiction courts can be a key in helping people reconnect and helping people learn about their values, tradition and how to restore

9 Determine the Target Population/Eligibility Criteria

Who does the joint jurisdiction court intend to serve? Will it be a juvenile court or an adult court? Will it serve families involved in child welfare cases or serve drug addicted adults involved in the criminal justice

⁴⁴ See *Supplementary Materials* for the 10 Key Principles of Tribal Healing to Wellness Courts.

⁴⁵ See *Supplementary Materials* for the 13 Key Principles of the National Association of Drug Court Professionals Drug Treatment Courts.

system? If the proposed participant doesn't meet all criteria, will the Core Team be allowed to review the participant (see paragraph below) for possible waiver of disqualification from the program? These are all questions that stakeholders need to decide.

SUGGESTIONS FOR DETERMINING POPULATION

DETERMINE who the court will serve and why.

IDENTIFY the criteria for who will be admitted into the program.

DECIDE if potential waivers will be allowed for those that don't meet all the requirements.

10 Decide Who Will be Disqualified From the Court or Initiative

Some courts automatically disqualify a person from entering Wellness Court or other initiatives if the applicant has a violent history; some courts make acceptance decisions based on a case-by-case analysis. What are the new joint jurisdiction court's criteria for disqualification? Will violent offenders be excluded? Those with histories of drug dealing?

SUGGESTIONS FOR DISQUALIFICATIONS

DETERMINE whom the court will not serve, and why.

IDENTIFY the criteria for whom will be excluded from the program.

11 Identify Phases of the Court

Phases simply refer to the different parts of the program a participant goes through; milestones to be accomplished. For example, a three-phase program was developed by the Leech Lake/Cass County Court including a Treatment Phase lasting three to 6 months, a Transition Phase lasting 6 to 12 months, and a Living Well phase lasting 6 to 18 months. The

first phase focuses on completing treatment and following recommendations, attending Wellness Court weekly, obtaining work or enrolling in school or volunteer work, and submitting to random urinalysis and seeing probation multiple times a week. The second phase builds on phase one and includes surrounding oneself with community supports, making amends to victims, reducing court attendance to bi-weekly, and reducing the number of random urinalyses. The third phase focuses on maintaining progress and giving back to the community. Court attendance is reduced to monthly appearances; random urinalysis and probation contacts are also reduced. In order to graduate from Wellness Court, participants are required to show an understanding of their addiction and a plan for relapse prevention, have 180 days of continued sobriety, be gainfully employed or enrolled in vocational/academic training, have stable housing, make all court and treatment appointments, and have reached the goals of their individualized case plan.

A joint jurisdiction court should be designed to reflect the needs of the target population that the court will serve. The program model (e.g. Juvenile, Adult, or Family) can have an impact on how long each phase will last. For example, if the court will serve entire families versus one individual, more time may be required in each phase, and may require a focus on different issues. Developing courts can look to what has been done by other jurisdictions and modify their programs. Phases can always be adjusted later as the court develops and the needs of the program and participants are identified. Examples of procedures from other joint jurisdiction courts are included in the *Supplementary Materials*.

LOOK to the manual of other joint jurisdiction courts for inspiration in developing phases.

DECIDE how long each phase will last and what requirements the participants must complete in each phase.

PROVIDE names to the phases that reflect the focus of what is to be accomplished. For example the “treatment phase” of one court is very explicit and focuses on initiating and maintaining sobriety; the “mastery” phase of another court focuses on skill development and enriching one’s life.

REMEMBER that development of a joint jurisdiction court is a fluid process. Don’t get stuck developing perfect policies and procedures, they will likely change as the court progresses.

SUGGESTIONS FOR IDENTIFYING COURT PHASES

13 Determine Incentives & Sanctions

Incentives and sanctions must be predictable, fair, consistent, and administered in accordance with evidence-based principles of effective behavior modification.⁴⁶ Incentives of the Leech Lake/Cass County/Itasca County Wellness Courts include verbal recognition and praise, applause, phase advancement, decreased restrictions, court appearance priority, and gift certificate cards. Sanctions of the Wellness Courts include verbal reprimands and warnings, verbal or written apologies to the judges and other participants, community service, additional chemical testing, court hearings and/or support meetings, being moved back a program phase, or jail.

SUGGESTIONS FOR INCENTIVES & SANCTIONS

ENSURE that administered incentives and sanctions are predictable, fair, and consistent.

Incentives don’t have to be grand or require a monetary outlay. Verbal praise or decreased restrictions are possible incentives.

Similarly, sanctions don’t have to be severe. A written apology or increased testing may be appropriate sanctions, depending on the nature of the violation.

12 Determine How Referrals Will be Made

How will participants be referred to the joint jurisdiction court? Some courts have chosen to limit referrals to those made by prosecutors or probation officers. Other courts have opened the referral process to allow almost anyone to make a referral. Regardless of where the referral comes from, it should be sent to the Court Coordinator, who will review it and send it on to the Core Team (see Section 17 below), if appropriate.

SUGGESTIONS FOR REFERRAL PROCESS

DETERMINE from where or from whom referrals will be accepted.

Referrals will be reviewed by the Court Coordinator and, if appropriate, will be sent on to the Core Team for review.

The Core Team shall make the final determination regarding whether one is accepted into the court program or initiative.

14 Determine Graduation/ Commencement Requirements

The Leech Lake/Cass County/Itasca County Wellness Courts require participants, prior to graduation, to prepare written responses to a graduation questionnaire which shows that they understand their personal problems with addiction, criminal behavior, and relapse prevention. The participant must have been sober for a minimum of 180 days preceding graduation, be gainfully employed, have reached the goals of their individualized case plan, and other requirements. Graduation should be a special event, honoring the graduating participant through community feasts, cultural ceremonies,

⁴⁶ National Association of Drug Court Professionals (NADCP) (2013). [Adult Drug Court Best Practice Standards](#), Volume 1, p. 26.

speakers, a graduation certificate, recognition by the tribal chairperson, and more.

DETERMINE requirements for participant graduation. What length of documented, continuous sobriety will be required of participants? Is gainful employment a condition of graduation?

MAKE the graduation ceremony special and memorable so the participant has something to look forward to and something to remember.

CONSIDER utilizing graduates as volunteer mentors for other participants, if appropriate.

SUGGESTIONS FOR COMMENCEMENT

16 Identify a Court Coordinator

The Court Coordinator plays a critical role in a joint jurisdiction court. Court Coordinators need to be competent, efficient, and good with people. A Court Coordinator may be the first person most encounter when dealing with your court. He or she will be responsible for taking referrals, forwarding the referrals on to the Core Team (see section below), managing files, entering data, managing a busy caseload, and having contact with participants, judges, community members, elders, board members, law enforcement, treatment providers, and many others.

SUGGESTIONS FOR COURT COORDINATOR

HIRE or appoint a Court Coordinator to help organize people, events, and documents for your initiative.

HIRE or appoint a Court Coordinator that is able to efficiently and effectively manage competing priorities.

HIRE or appoint a Court Coordinator that is a good at interacting with a wide variety of people.

15 Determine Whether to Charge Fees

Some courts and initiatives charge participants a program fee. The Leech Lake/Cass County court charges \$400 per participant, payable in weekly installments, and participants must pay a minimum of five dollars each week. The joint jurisdiction court must determine whether fees should be charged and what they will be used for. For example, fees can be used to purchase participant incentives, journals, graduation gifts, or pay for community feasts. Fees can also be used to advertise the court, help offset costs of stakeholder training, or pay for a program evaluation.

SUGGESTIONS FOR DETERMINING FEES

DECIDE whether or not participant fees are something the court should charge.

If so, determine an appropriate fee and break in into small amounts payable in increments.

DETERMINE what the fees will pay for: training, incentives, graduation, etc.

17 Develop Steering Committee, Core Team & Subcommittees

STEERING COMMITTEE

The Steering Committee is the policy and planning body for the joint jurisdiction court. It makes decisions on policy and procedures and meets quarterly for one to two hours. Steering Committee membership generally includes judges; council members from the tribe and city or county; the Court Coordinator; legal representatives from the district attorney's office, the public defender's office, and perhaps a CASA advocate or child welfare attorney; and probation, law enforcement, treatment services, social services, mental health services, and other agencies that may be involved in the court. It may also be advantageous to have a member of the

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business community involved as well.

CORE TEAM

The Core Team meets prior to each court session to discuss client status, including whether the participant is attending treatment, therapy, or groups as ordered; whether the participant is maintaining sobriety; whether the participant is actively seeking employment, etc. The Core Team also prepares for court by deciding beforehand what an appropriate sanction or incentive may be for a participant who has violated a condition of the court or accomplished something positive. Core Team meetings are estimated to take one hour, followed by a one hour court session. Membership will generally include judges, case managers and treatment providers, the Court Coordinator, law enforcement, and attorneys.

POLICIES & PROCEDURES SUBCOMMITTEE

Many policies, procedures, and forms must be established and revised as the court develops, such as participant contracts, referral forms, court rosters, release forms, the court's manual, and a participant manual. Examples of these documents can be found in the **Supplementary Materials** section of this manual. It will be much easier for someone to create new policies if they have been involved in the planning process. Also, utilize existing state and tribal resources and reach out to other jurisdictions that may have policies and procedures already in place that can be adapted.

DATA SUBCOMMITTEE

Tracking data allows the court to monitor participant success and program success. The Leech Lake/Cass County Wellness Court uses a simple but effective spreadsheet or roster (see **Supplementary Materials**) that tracks length of time in the program, which phase of the program the participant is in, length of sobriety, results of urinalysis tests, sanctions imposed, amount of participant fee still owed, next report date, and general notes such as the participant's birthday or if they are not required to appear in court. Factors that should be measured at intake and discharge include the risk level of each participant, their criminal history, their housing situation, their employment records, and whether participants have a valid driver's license. A cost/

benefit analysis can be conducted by measuring the number of days of incarceration avoided for each participant, savings from reduced recidivism, and benefits to the county from taxes contributed by employed participants. It may be helpful to partner with a university or foundation that can help the court collect and analyze data (see Section 19 below).

PUBLIC RELATIONS SUBCOMMITTEE

It is important to create interest and excitement about any new court. A joint jurisdiction court is unprecedented in most states. Be proud of the work you do with other stakeholders and share information about it with county and tribal boards, Supreme Courts, the community, etc. When the new court is ready to go operational, advertise this fact on local radio and television stations, have a community feast to celebrate, and consider a public ceremony such as the flag installation ceremony done by the Leech Lake/Cass County/Itasca courts. They installed the Leech Lake Band of Ojibwe flag in the courtroom of the state district court and the Chamber of Commerce, along with a smudging ceremony and a parade between the two buildings. Community celebrations should reflect the culture of the population the court serves.

SUGGESTIONS FOR COMMITTEES

ASK for volunteers to serve on subcommittees in which they have interest and/or expertise.

UTILIZE community resources for assistance such as local university or colleges, other therapeutic courts, the chamber of commerce, businesses, and local radio or television stations.

UTILIZE Project T.E.A.M. or existing joint jurisdiction courts for information, assistance and guidance.

18 Rally Resources for Sustainability

Securing funding is necessary for the survival of a joint jurisdiction court. A grant may provide funds for program development, training, and initial implementation, but securing long-term funding is essential for sustainability. Partnering with the business community, including Rotary International, the Chamber of Commerce, employers, local radio and television stations, foundations, and others will go a long way in securing program funding, procuring incentives such as gift cards or movie tickets, helping participants find jobs, identifying volunteers, and promoting the joint jurisdiction court throughout the community.

It is important to determine whether programs and services utilized as part of the joint jurisdiction court are eligible for Medicaid funding. If they are not eligible, work with appropriate officials to determine how a provider can become eligible to bill for services. It may be a complicated process initially, but the revenue stream can allow for sustained, reimbursable services.

SUGGESTIONS FOR RALLYING RESOURCES

SEEK OUT available grant funds for development, training, implementation, evaluation, etc.

WORK with the business community to procure participant incentives, help locate job opportunities, identify volunteers, and to promote the court.

DETERMINE if service providers are Medicaid eligible for funding; if not, work with your state to become eligible.

19 Measure Results

Collecting and analyzing appropriate data is a critical piece for identifying results, securing funding, and maintaining sustainability.

Evaluation of any court is an on-going process with three general goals:

1. Evaluate the court processes—Is the court operating efficiently and effectively? (e.g., are participants being informed of their court option in a timely manner, and if they enroll do they receive their assessments and services in a timely manner? Is the required data obtained and recorded? Do court team members have the information they need to do their jobs?)
2. Evaluate participant outcomes—Is the court effective at achieving its goal of better participant outcomes? Are there any particular parts of the court intervention that are associated with better outcomes? (e.g., intensity of treatment or number of visits, type of services provided, nature of originating “offense” or incident?)
3. Evaluate satisfaction with the court—Are court clients and the community at large satisfied? Are court team staff satisfied?

Collecting quality data/information should allow you to evaluate the court’s performance in these three areas above. There are three sources of data for evaluation:

1. Quantitative data—e.g., data that is directly measurable and comparable. Examples include assessment scores, “units” of services received, and pass/fail results on drug tests.
2. Qualitative data—Information that cannot be easily measured, for example, a written incident report from law enforcement or probation, a participant petition to move between phases, or a participant exit interview.
3. Survey data where a certain population (clients or community) are all asked the same questions and average scores are calculated. Surveys may also include “qualitative” data or open response questions.

Partnering with a local university or college to help with data design, collection and analysis can also be

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invaluable in ensuring sustainability, as what gets measured is more likely to get funded.

SUGGESTIONS FOR MEASURING RESULTS

USE the Wellness Court Roster, as an example, for tracking data and modify it as court needs dictate (see *Supplementary Materials* for Roster).

CONSULT with a local university or college to assist the court in identifying the outcomes to measure and appropriate data to collect.

CONSULT with other jurisdictions for information and advice on data collection and analysis.

ADAPT sample policy and procedure manuals included in the *Supplementary Materials* to fit the needs of a new joint jurisdiction court.

CIRCULATE the draft to stakeholders for review and comment.

If concerns arise regarding content, bring the issue back to the large planning group for discussion and resolution.

If questions persist, reach out to others for assistance. A list of resources is included in the *Supplementary Materials*.

SUGGESTIONS FOR DRAFTING MANUAL

20 Draft a Policy & Procedures Manual

With the information gathered in the steps above, a policy and procedure manual can be drafted for the court (several examples are included in the *Supplementary Materials*). Once an initial draft is complete, circulate it to stakeholders involved in the planning stages for review. If concerns are raised about content it would be wise to bring the concern back to the whole planning group for discussion and resolution. Remember that the manual is a living document. It will likely be reviewed and revised many times over during the first few months after the court goes operational, and over the following years.

Project T.E.A.M.'s Joint Jurisdiction Court Pilot Sites

SHINGLE SPRINGS BAND/ EL DORADO COUNTY

The Shingle Springs Band of Miwok Indians and the Superior Court of El Dorado County received a training and technical assistance grant from the U.S. Department of Justice, Bureau of Justice Assistance, provided through Project T.E.A.M. They wanted to develop a joint jurisdiction court based on the Leech Lake/Cass County/Itasca County models, to better serve system-involved young people and their families living on or near the Shingle Springs Rancheria. Chief Tribal Court Judge Christine Williams and Superior Court Presiding Judge Suzanne Kingsbury intended to create a program that would not only address issues facing tribal youth and their families, but would also serve as a model for other tribal and state jurisdictions in California.

The judicial leadership and system-involved partners, with the assistance of T.E.A.M. consultants, were able to create a collaborative Family Wellness Court called Kuch'im:upushnu':anu:sh. The name was selected in consultation with the Shingle Springs language committee and tribal elders.⁴⁷ This program provides system-involved youth and their families with a court-supervised alternative to incarceration that emphasizes restorative justice practices through a wrap-around continuum of care consisting of prevention, intervention, and post-adjudication services. Program staff use a teamwork approach to address needs of program participants using a culture-specific, trauma-informed, strength-based, and evidence-based approach.

Individualized case plans measure and address

participants' criminogenic needs, which include: antisocial/pro-criminal attitudes, values, and beliefs; pro-criminal associates; temperament and personality factors; a history of antisocial behavior; family factors; and low levels of educational, vocational, or financial achievement. While some of these factors cannot be changed or influenced (e.g., prior record or family history of criminality), others can be. These "dynamic" factors include who a person associates with, that person's attitudes and values; lack of problem-solving skills; substance use; and employment status. These factors are correlated with recidivism, and all can be targeted for change.

Family, broadly defined, is an important part of Kuch'im:upushnu':anu:sh. A young person is only as healthy as his family environment. A youth may leave a treatment program after a period of abstinence from substances only to return to a home where drugs and alcohol are prevalent. The Kuch'im:upushnu':anu:sh court is based on voluntary participation but the young person and his or her family must agree to be held accountable through family service agreements and court orders. By signing a consent form, the parents agree to participate in the joint jurisdiction court, which can provide services, but also administer sanctions to participants for lack of compliance.

Because it is the intent of the Kuch'im:upushnu':anu:sh court to promote legal, individual, and family wellness, wrap-around services⁴⁸ are an important part of the program. The foundation of this approach involves cultural, strength-based, collaborative decision-making among service providers and the family, resulting in joint,

⁴⁷ Kuch'im:upushnu':anu:sh is derived from the Miwok words: Kuch'im:u, meaning "well, properly, or in a well-behaved manner"; -pushnu', meaning "to become or to transform one's self"; -anu, a tense marker indicating something has already occurred (the idea of intention of the transformation); and sh, meaning "he, she, or it."

Project T.E.A.M Pilot Sites

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.

The Kuch'im:upushnu'anu:sh court initially decided to create a four-phase court model including: 1) trust, 2) belonging, 3) mastery, and 4) generativity. A few months into implementation they decided that these four phases were difficult for youth to comprehend and changed their court to a three-phase model including 1) honesty, 2) accountability, and 3) initiative.

The first phase requires youth to be honest about their issues; their drug and alcohol use; family matters; mental health; school attendance; and the ability to follow the rules of home, school, and community. The court requires them to honestly complete an in-depth social service assessment and follow resulting recommendations. During this phase youth and family members will develop greater insight into their own risk and needs and follow developed treatment plans.

During the second phase, youth and family members focus on removing barriers to success, developing skills, and enriching their lives. Individuals may be required to make amends through apologies, payment of fines and restitution, or completion of community service. One may participate in a Vision Quest, further develop educational or vocational plans, and gain financial skills.

In the third phase, participants will continue to work on healing and healthy behaviors as well as preparing to transition out of the court system. They will continue to focus on educational/vocational skills, identifying support people and systems, developing a family contract, youth behavioral plans, and coparenting plans. Participants may mentor others, help elders, or give presentations on their experience with the Family Wellness Court.

Examples of incentives include praise and recognition, decreased restrictions, gift certificates, phase advancement, and a big family outing which may include a trip to Disney Land. Sanctions may include verbal reprimands, participant apologies and amends, community service, imposition of curfews, phase regression, and others.

THE KENAITZE INDIAN TRIBE/ KENAI, ALASKA

The Kenaitze Indian Tribe (KIT) faced many obstacles that prompted them to seek the assistance of Project T.E.A.M. The KIT Tribal Court had struggled in seeking concurrent jurisdiction in criminal cases involving American Indian/Alaska Native (AI/AN) individuals on Indian land because of Public Law (PL) 280. Prior to PL 280, criminal jurisdiction was shared between federal and tribal governments, and states had no authority in criminal cases involving tribal members or AI/AN individuals. The passage of PL 280 in 1953 granted Alaska and five other states criminal jurisdiction in cases involving tribal members and AI/AN individuals. The situation was complicated by tribal land issues in Alaska. Lands set apart for natives under the Alaska Native Claims Settlement Act are not designated as Indian country as established by the Supreme Court in *Alaska v. Native Village of Venetie Tribal Government* (1998). This left KIT's Tribal Court with no jurisdictional authority to prosecute crimes that occurred in Indian Country (federal reservations, Indian allotments⁴⁹) because federal reservations except for the Annette Island Reserve, simply do not exist in Alaska.

PL 280 prevented the Tribal Court from routing AI/AN individuals away from the justice system and into culturally appropriate, highly effective wellness treatment programs. The law also undermined tribal sovereignty by conferring the State of Alaska concurrent jurisdiction in criminal matters involving AI/AN individuals and inadequately funding tribal justice systems (tribal courts) throughout the Nation.

⁴⁸ Burns, E.J., Walker, J.S., Adams, J., Miles, P., Osher, T.W., Rast, J., VanDenBerg, J.D. & National Wraparound Initiative Advisory Group (2004). Ten principles of the wraparound process. Portland, OR: National Wraparound Initiative, Research and Training Center on Family Support and Children's Mental Health, Portland State University.

⁴⁹18 U.S.C. §1151.

The Tribal Law and Order Act (TLOA) authorized tribal courts to enhance sentencing authority on criminal matters and the 2013 reauthorization of the Violence Against Women Act (VAWA) authorized tribal courts to prosecute both Indian and non-Indian men who abuse AI/AN women through domestic violence, dating violence, and violation of protection orders. These new tools will help tribes and tribal courts to maintain law and order in their communities. But prevailing attitudes concerning the efficacy and authority of tribal courts in Alaska as well as KIT's limited capacity⁵⁰ to prosecute non-Indian perpetrators of crime kept the Tribal Court from seeking concurrent jurisdiction in criminal cases. For over 60 years, PL 280 has kept KIT's Tribal Court from establishing tribally owned and operated law enforcement agency, correctional facilities, and the residential treatment programs required by the community's most vulnerable populations.

The impact of these service gaps affected non-tribal members of the community as well. Many local judges, private health providers, and state law enforcement officials acknowledged that the Tribal Court's lack of concurrent jurisdiction in criminal matters created a justice system that was, at best, unresponsive to the needs of the AI/AN populations involved in criminal offenses. The Tribal Court was completely unequipped to prevent risky behavior and rampant recidivism among AI/AN populations with co-occurring disorders.

To address these challenges, KIT Chief Judge Kimberly Sweet created a collaboration of local judges, including Superior Court Judges Anna Moran and Eric Smith, Kenai Superior Court Judge Charles Huguelet, and Magistrate Judge Jennifer Wells. They discussed the implementation of recent State of Alaska Supreme Court rule changes that encourage tribal Circle Sentencing for AI/AN adults involved in criminal cases and welcome the collaboration of tribal courts in joint jurisdictional criminal cases. Through two meetings on a therapeutic drug court workgroup and a set of state-tribal judges collaborative meetings, Judge Sweet and the KIT

Tribal Court worked with local/state judges to develop clearly defined goals and objectives for ongoing and future collaboration.

Initially, the goal of the KIT Tribal Court's joint jurisdictional collaboration with the State of Alaska was to develop an effective concurrent jurisdiction process to serve AI/AN individuals involved in criminal court cases, including individuals with drug abuse, alcohol abuse, and co-occurring disorders. The objectives of the collaboration were to improve the recidivism rate of AI/AN offenders on the Kenai Peninsula by at least 15% by 2016 and to route at least 30% of AI/AN offenders with drug or alcohol use issues to treatment in Healing to Wellness initiatives in 2015-16.

When KIT applied for Project T.E.A.M. assistance, it proposed joint jurisdictional collaboration with the Superior Court in Kenai for AI/AN individuals involved in drug or alcohol abuse offenses. This included individuals with co-occurring disorders and their families. KIT's Tribal Court was developing Tribal Healing to Wellness programs for both youth and adult populations and planned to make every effort to provide effective, holistic and efficient sentencing, diversion, treatment, and recovery services for offenders and their families. Proposed key partners in the establishment of a joint jurisdiction Healing to Wellness collaboration included tribal court judges, tribal circle representatives, local state court judges, Alaska Supreme Court judges, the Alaska Legal Services Corporation, local law enforcement, Department of Juvenile Justice representatives, partners from the school system, and local and state behavioral health providers, including KIT's Department of Behavioral Health. Judge Moran would lead collaborative efforts for the state courts, as she was already involved in developing protocols and procedures for concurrent jurisdiction with Judge Sweet.

The KIT/Kenai group understood that the willingness of local and statewide judges to participate in the joint jurisdictional collaboration would greatly affect

⁵⁰ KIT currently has no operational jails, holding cells, law enforcement or treatment facilities that could be utilized as part of a criminal justice/Healing to Wellness program.

Project T.E.A.M Pilot Sites

project success. Grant resources for Tribal Healing to Wellness programming would be equally important so AI/AN individuals who had substance or alcohol abuse problems could be diverted into treatment and recovery programs. Finally, buy-in from the tribal community, AI/AN populations, and non-tribal members would create program support and community-wide accountability.

The planning team knew that there would be barriers to project implementation, despite recent gains in community support for concurrent jurisdiction and despite the passage of crucial legislation such as TLOA and VAWA reauthorization. Even with these potential barriers, judicial leadership, government, and local partners, with the assistance of Project T.E.A.M. consultants, were able to create a new joint jurisdiction court called Henu' Community Wellness Court. Expected to begin taking participants in the summer of 2016, the Henu' Community Wellness Court will provide tribal and non-tribal individuals and families with a court-supervised alternative that emphasizes values and culture. The program's continuum of care consists of prevention, intervention, and post-adjudication services. Program staffs use a teamwork approach to address needs of program participants using a values/culture-specific, trauma-informed, strength-based, and evidence-based approach.

The Henu' Community Wellness Court model is a strength-based, un'ina (person)-centered, family-focused model, grounded in values and culture, based on data-driven decision making and measureable outcomes. Staff will 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 will be AI/AN, 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.

The Henu' Community Wellness Court planning team chose a four-phase recovery model that includes a trust phase, belonging phase, living well phase,

and restorative phase. The first phase (Trust) lasts 120 days and orientates participant to the program, helps identify the particular challenges facing the participant, and puts together a plan that will help participant conquer his or her addiction and related issues. This first phase will require participants to meet with the Court on a weekly basis. During this phase, the participant will develop a Life Change Plan based on assessments completed and information collected on the individual participant and his/her family. Drug and alcohol testing shall be conducted; Dena'ina, Athabascan, and other Native teachings, activities and ceremonies may be performed; and incentives and sanctions shall be forthcoming based on compliance or non-compliance of court orders.

The second phase (Belonging) lasts 120 days and will help create a community of sober living through support people and community programs, as well as helping participants to take responsibility for their actions and make better life choices. This phase will require participants to meet with the Court on a bi-weekly (every other week) basis. During this phase, participants will gain greater insight into their own risks and needs and continue working on developing life change plans

The third phase (Living Well) lasts 120 days and supports participant in making amends, learning new skills, and gaining confidence in maintaining a sober lifestyle. This phase will require participant to meet with the Court on a monthly basis. During this phase, participants will focus on removing barriers to success, developing skills, and enriching their lives.

In the fourth phase (Restorative), which lasts 180 days, participants will be responsible for giving back to the community and mentoring those early on in their struggle with addiction. This fourth phase will require participants to meet with the Court monthly. During this phase, participant(s) will continue to work on healing and healthy behaviors as well as preparing to transition out of the court system.

In terms of words of advice, I still would stress with anyone who is setting up a collaborative court to not feel as if every contingency needs to be addressed or every loose end tied up before getting started. Having subject matter expert committees working on different areas is critical (e.g., forms, legal sanctions and incentives). Having good, user-friendly, multijurisdictional forms is a must. Service providers need to have forms for reporting to the court which provides necessary information while still protecting confidentiality to the extent possible. It is necessary to constantly evaluate manuals and other components of the program to make sure they are still accurate and relevant.

*Hon. Suzanne N. Kingsbury
Superior Court Judge
Eldorado County Superior Court*

Insight from Current Judges

The American justice system can be a difficult system to escape for anyone who enters. Take into account the modern worldview of the tribal population in America, which is almost certainly informed by historical trauma, often including negative encounters with the American justice system, and you can see tribal people becoming institutionalized from a young age without the tools to leave the system. In the Shingle Springs Band of Miwok Indians Tribal Court, we see cycles of incarceration within the community, within families, with our tribal youth. The effect of incarceration is far-reaching and long-lasting. A proactive approach is needed to break this cycle of incarceration and empower tribal members, their families and their communities to improve not only their lives and their communities, but to improve the justice system approach overall.

That is what the Shingle Springs Band of Miwok Indians and the Superior Court of El Dorado County is attempting to do with the collaborative, wraparound approach of the Family Wellness Court. The information we have shared, through steering meetings, case staffing meetings and trainings has increased awareness on both sides of the collaboration. On a systemic level, we all have a better understanding about our systems, our families, our people and how we can all approach problems together to create better outcomes for everyone. On a case level, more reliable and relevant information about each case means better decisions from the court and better outcomes for the participants. It's a start, and we are all proud of what we have accomplished so far.

A note on tribal sovereignty: as a member of the Yurok tribe myself, a graduate of law school with a degree in Indian law, and a licensed attorney with a career representing tribes, I respect tribal sovereignty. The inherent sovereignty that is the foundation of all tribal communities must be protected and respected above all, lest we lose everything we have fought so hard to retain. The Shingle Springs Band of Miwok Indians and the Superior Court of El Dorado County collaborative, joint jurisdiction court model strengthens tribal sovereignty. Our model was thoughtfully developed and does not limit or compromise tribal or state jurisdictions in any way. If anything, it has expanded tribal jurisdiction and increased access to resources on both sides of the collaboration. In a Public Law 280 state like California, the county has jurisdiction over all offenses committed on or off the reservation. Under the Indian Child Welfare Act, the tribe can hear juvenile matters in the tribal court; however, for the Shingle Springs Band of Miwok Indians and many other tribes in California, that would mean sacrificing county resources, from staffing to foster care funding, that we currently rely on. Under this model we sit together on the reservation and hear all the cases together as a team. One desired outcome of exercising our concurrent jurisdiction together as a team is that no one slips through the cracks to be lost in the system, undetected.

*Hon. Christine Williams
Chief Judge
Shingle Springs Band of Miwok Tribal Court*

Project T.E.A.M.'s Lessons Learned

One of the mantras of Project T.E.A.M. is a piece of advice Judge Wahwassuck received years ago from her then 9-year old son as she was preparing to give a speech to a fairly diverse group. As she was considering how to address the assembly, her son said, *It's easy Mom, all you have to do is tell them to:*

- *Be proud of who you are*
- *Open your mind*
- *"Learn each other"⁵¹*
- *Don't be afraid*

Some of the important principles we learned during Project T.E.A.M.'s work included the following:

- Determine what your goals are. Is the goal to reduce drug offenses? DWI offenses? Property crimes? Juvenile delinquency? Are you trying to create a problem-solving court, a diversion program?
- Create a plan for accomplishing your goals.
- Determine what institutions or people can help you accomplish your goals (i.e., another judge, a law enforcement entity, a treatment provider), and define what you need from them (i.e., money, services, facilities).
- Find the person in each organization who will be the best liaison (i.e., the tribal chairperson or tribal council/county board of commissioners, the tribal judge or state judge).
- Discover the culturally appropriate way to approach your liaison. Is there a person who should introduce you and set up a meeting? Where should the meeting be held? What format should you use? What is the respectful way to greet your liaison? Should a gift be presented? Understand and embrace cultural differences.
- Discuss honestly what your needs are and why

you need help. Include what you are trying to accomplish and why accomplishing it is a good idea. Include the risks for your partner that you have foreseen in your planning process.

- Follow-up on the meeting. Do you both understand the shared and common vision? Have you developed a process for additional meetings or additional steps? Are your aims and objectives realistic?
- Acknowledge the existence of separate organizational aims and objectives and explore how they connect to jointly agreed-upon aims and objectives.
- Ensure a level of commitment on the part of both partners.
- Develop a process for working out the inevitable conflicts.
- Develop and maintain trust.
- Develop clear partnership working arrangements.
- Recognize the opportunity for learning experiences and sharing good practices.
- Publicize your success.
- Remember that systems don't collaborate, people do: face to face relationships are crucial.
- Acknowledge the challenges faced by both systems and work together to develop strategies to overcome them.
- Recognize that each partner brings its own strengths and experiences and accept that each faces its own challenges and obstacles.
- Remain flexible.
- **DON'T BE AFRAID TO TRY SOMETHING NEW!**

⁵¹ As Judge Wahwassuck's son described it, he could "learn about" something by watching television or reading a book; but to "learn each other" you have to look people in the eyes.

Supplementary Materials

The following supplementary materials are available on our [website](#).

1. Leech Lake Tribal Council/Cass County Board of Commissioners Resolutions in Support of the Joint Powers Agreement
2. Additional Memoranda of Understanding
3. 2015 Alcohol and Drug End of Year Evaluation for Leech Lake/Itasca County
4. Participant Roster
5. Examples of Joint Jurisdiction Manuals
6. Tribal Healing to Wellness Courts: the 10 Key Components
7. National Association of Drug Court Professionals: the 13 Key Principles of a Drug Treatment Court

Additional Resources

[Bureau of Justice Assistance, U.S. Department of Justice.](#)

[A Circle of Healing for Native Children Endangered by Drugs.](#) Office for Victims of Crime, video training series (2014).

Folsom-Smith, C. (2010). [Walking on Common Ground: Tribal-State-Federal System Relationships](#) (A Publication of the National Tribal Judicial Center, National Judicial College).

[Project T.E.A.M.](#) (Together Everyone Achieves More) website.

[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.

[State and Tribal Courts: Strategies for Bridging the Divide.](#) A Publication of the Center for Court Innovation, 2011.

[Tribal Healing to Wellness Courts: the Key Components.](#) A Publication of the Tribal Law and Policy Institute and the Bureau of Justice Assistance, U.S. Department of Justice, 2nd Edition, May 2014.

Wahwassuck, K. (2008). [The New Face of Justice: Joint Tribal-State Jurisdiction.](#) Washburn L.J., 47: 733.

Wahwassuck, K. Smith, J.P. & Hawkinson, J.R. (2010). [Building a Legacy of Hope: Perspectives on Joint Tribal-State Jurisdiction.](#) W. Mitchell L.R. 36, 2.

[Walking on Common Ground.](#) Los Angeles, CA: Tribal Law & Policy Institute.

[Wilder Collaboration Factors Inventory Worksheet.](#)

[13 Key Principles of a Drug Treatment Court.](#) First identified in 1997 by the National Association for Drug Court Professionals and later modified.