

# Understanding Joint Tribal–State Jurisdiction

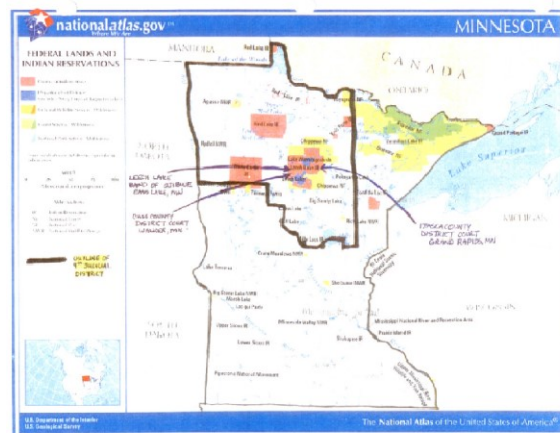
Project T.E.A.M. –  
Hon. Korey Wahwassuck  
Jennifer Fahey, J.D., M.A.



## Where it all began....

“Poverty, addiction, and hopelessness know no jurisdictional boundaries”

## Minnesota's Ninth Judicial District



## Leech Lake Tribal Court

- ▶ Created in late 70's as Conservation Court
- ▶ 1980 added ICWA cases
- ▶ By 2006, handling civil, traffic, conservation, housing, dangerous dog, child protection, truancy, minor consumption, curfew (TCAP grantee)
- ▶ Added in 2009-10 - Tax Code, Family Law (divorce/custody), Probate
- ▶ No criminal codes - "building incrementally"
- ▶ Use of technology - Interactive Videoconferencing

## State of Minnesota

- ▶ Public Law 280 State
- ▶ Native Americans overrepresented in juvenile and adult justice systems
- ▶ 21.7% of incarcerated youth are Native American

## Native Americans are only 1.3% of Minnesota's Population, but....

- ✓ Account for 32% of all arrests in Northern Minnesota
- ✓ Make up 26% of the people on felony probation in MNDOC's Northern District
- ✓ Make up 47% of people on felony probation in the Ninth Judicial District
- ✓ **MINNESOTA HAS MORE NATIVE AMERICANS ON PROBATION THAN ANY OTHER STATE**

## Cass County

- ▶ 21% increase in felony DWI's between 2000-2005
- ▶ Cass County worst outcomes in state for children - 9th graders
  - ▶ 1st for sexually active teens
  - ▶ 2nd for out-of-home-placement and attempted suicides
  - ▶ 3rd for drinking and driving
  - ▶ 3rd for children living in poverty

## Itasca County

- ▶ 2004 – meth caused 33% increase in jail costs
- ▶ July 2005 – 94% of all people booked into jail had methamphetamine in system or possession
- ▶ 2005 – meth possession accounted for 64% of felony drug charges
- ▶ 2005–2007 – felony drug possession charges increased 57%
- ▶ 2008 – added to list of “13 deadliest counties”

“We are the self in self-government, and we have to organize ourselves to get the job done. We have to take our own vision for the future and make it happen.”

– Satsan

## Tribal Court -State Court Collaborative Model

- I. Getting Started - *"A Million and One Gooses Why If You'll Hunt"*  
*(or, "You can't pound square pegs into round holes")*



- II. Opening Lines of Communication - *"Finding Common Goals"*



- III. Exploring Collaboration - *"Finding Common Ground"*



## Common Goals

- ▶ Reducing disproportionate minority contact
- ▶ Fewer children in out of home placement
- ▶ Addressing the epidemic of drug and alcohol abuse



## **BAMENIM ANISHINAABEG – “Care for the People”**

Adult Wellness (DWI/Drug) Courts  
Juvenile Diversion  
Juvenile Delinquency  
Juvenile Reentry

## Bamenim Anishinaabeg Approach

- ▶ Tribal Court Case Management Team
- ▶ Culture-specific; trauma-informed, strengths-based; family oriented; based on Ten Principles of Wraparound Process
- ▶ Focus on co-occurring disorders (mental health/substance abuse)
- ▶ Sustainability through reimbursement for services

## Joint Jurisdiction Adult Wellness (DWI/ /Drug) Courts

- ▶ Judges – State District Court Judge & Tribal Court Judge
- ▶ County Attorney
- ▶ Public Defender – Regional Native Public Defense Corp.
- ▶ Probation/Supervision – MN Dept. of Corrections and County Probation
- ▶ Law Enforcement – County Sheriff & Leech Lake Police
- ▶ Treatment Assessor/Provider – Leech Lake Outpatient & Private Treatment Providers
- ▶ Coordinator/MIS – 9th Judicial District and County Probation
- ▶ First Joint Tribal-State Jurisdiction Wellness Courts in nation





## Family Drug Court

- ▶ Child Protection Involvement in Tribal Court or State Court
- ▶ Open to Tribal Members and Non-Indians living on Leech Lake Reservation
- ▶ Participants enter Joint Jurisdiction Wellness Court

## Juvenile Diversion Program

- ▶ Open to Tribal Members and Non-Indians living on Leech Lake Reservation
- ▶ Cass County Probation provides supervision under cross-appointment order
- ▶ Leech Lake members make up Diversion Board
- ▶ Circle format with team and family problem-solving together

## Juvenile Delinquency

- ▶ Cases originate in Cass County District Court or Leech Lake Tribal Court
- ▶ Courts work together under Joint Powers Agreement
- ▶ Leech Lake Tribal Court exercises expanded jurisdiction over PARENTS
- ▶ Individualized “service” plans
- ▶ Leech Lake Tribal Court case managers provide services
- ▶ Cass County Probation provides supervision under cross-appointment order

## Juvenile Re-Entry

- ▶ Cases originate in Cass County District Court or Leech Lake Tribal Court
- ▶ Youth placed involuntarily in inpatient treatment or juvenile detention facility
- ▶ Cass County Probation provides risk/needs assessments and notifies Leech Lake
- ▶ Leech Lake Wraparound Care Coordinator/ Advocates begin working with youth/family before placement, continue after return

## Other Agreements

- ▶ Joint Powers Agreement with State for Leech Lake Police services for Wellness Court
- ▶ Contract with 9th Judicial District for Guardian ad litem services
- ▶ Incarcerated parents can appear by ITV in Tribal Court for child protection hearings
- ▶ Memorandum of Agreement between Cass County and Leech Lake for Wellness Court and Juvenile Restorative Justice Program (Leech Lake flags presented to Cass County Board of Commissioners)
- ▶ Regular Joint Meetings between Leech Lake Tribal Council and Boards of Commissioners
- ▶ Cross Appointment of Cass County Probation Agents





## Benefits of Collaboration

- ▶ Leverage scarce resources
- ▶ Make new funding sources and services available
- ▶ Direct hand in healing while protecting public safety
- ▶ Cultural Understanding – Eliminate “us v. them” attitude
- ▶ Strengthen services to families
- ▶ Increase public trust and confidence
- ▶ Expand jurisdiction
- ▶ Lower recidivism and stop the revolving door of the criminal and juvenile justice systems

“The execution of the Joint Powers Agreements between the Tribal Court and State District Courts...are an important example of how broader inter-governmental relations can begin to come full circle back to that of co-equal sovereigns.”

–Leo Brisbois (White Earth Ojibwe)  
Federal Magistrate Judge/former  
President of Minnesota State Bar  
Association

## A National Model

2010 Harvard Honoring Nations Award

2010 Minnesota Corrections Association President's Award

2011 National Association of Drug Court Professionals Cultural Proficiency Courage Award

2012 National Criminal Justice Association Outstanding Tribal Criminal Justice Program

2012 Minnesota Association of Counties Award

Resolutions by National Organizations  
Encouraging Collaboration with Tribal Courts –

- ▶ National Association of Drug Court Professionals (2010)
- ▶ National Council of Juvenile and Family Court Judges (2011)
- ▶ Conference of Chief Justices (2011)

**But how do WE  
get started??**



## Project T.E.A.M.

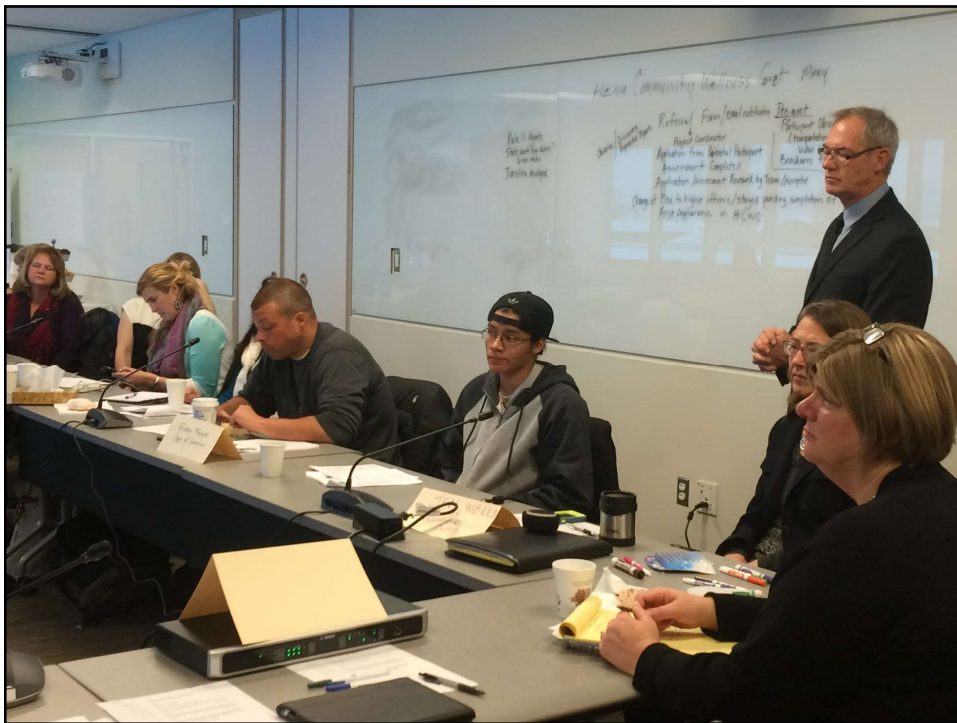
Project TEAM is dedicated to helping tribes and local governments create, implement and manage joint jurisdiction collaborations. Our goals are to improve justice outcomes while building positive community relationships

Project supported by grant from Bureau of Justice Assistance; grant management by Oregon State Health and Science University

## T.E.A.M. Planning Process

- ▶ Facilitated meetings with stakeholders
- ▶ 2–3 days of consecutive meetings
- ▶ Agree on ground rules to ensure everyone has a voice in planning
- ▶ Create program manual based on program designed by site participants





## The First T.E.A.M. Pilot Site.....



## KUCH'IM:UPUSHNU':ANU:SH

- ▶ VISION: One safe, strong community of thriving families created through trust and healing
- ▶ MISSION: Joining together to provide justice through trust, respect, and love by empowering youth and families to create positive change

## GOALS

- ▶ Administer justice in a safe and supportive environment
- ▶ Reduce incarceration
- ▶ Reduce crime and prevent re-offenses
- ▶ Improve public safety
- ▶ Empower and support our youth and families
- ▶ Promote self-sufficiency through positive behavioral change
- ▶ Promote community and family connections

## GOALS, con't

- ▶ Create more effective, cooperative interventions
- ▶ Foster positive community relations
- ▶ Celebrate cultural diversity and understanding



## The Second T.E.A.M. Pilot Site.....





## Henu' Community Wellness Court

- ▶ **VISION:** Transforming lives for a healthier community.
- ▶ **MISSION:** Supporting wellness and rehabilitation for those in need through a cooperative justice program to create a safe and healthy community.

## GOALS

- ▶ A safer and healthier community
- ▶ Building innovative and effective justice solutions through collaboration
- ▶ Reduce incarceration
- ▶ Better treatment outcomes and sustained healing and wellness by breaking cycles
- ▶ Successful rehabilitation to sustain crime reduction, reduce recidivism and reduce collateral consequences
- ▶ More families recruited and an emphasis on helping children
- ▶ Promote self-sufficiency for a more productive community
- ▶ Embracing cultural values
- ▶ Building connections and relationships through respect





And coming soon.....



## Lessons Learned

- ▶ Remember...change is hard
- ▶ Systems don't collaborate, people do
- ▶ Helpers have their own histories of trauma – acknowledge it, own it, and work on it
- ▶ Focus on common goals
- ▶ **DON'T GIVE UP!!!!**

## Resources

- ▶ Project T.E.A.M. “How-To” Manual
- ▶ Technical Assistance Providers
- ▶ Tribal Law and Policy Institute  
Walking on Common Ground  
Website



## Additional Reading

- ▶ “The New Face of Justice: Joint Tribal–State Jurisdiction”  
Washburn Law Journal (Vol. 47, No. 3, Spring 2008)
- ▶ “Building a Legacy of Hope: Perspectives on Joint Tribal–State Jurisdiction”  
William Mitchell Law Review (Vol. 36 , Issue 2 2010)
- ▶ “Tribal and State Courts: Strategies for Bridging the Divide”  
Center for Court Innovation
- ▶ “Promising Strategies: Tribal–State Court Relations” and  
“Promising Strategies: Public Law 280”  
Tribal Law and Policy Institute/Bureau of Justice  
Assistance (March 2013)

## Wise advice from a 9-year-old

- ▶ Be proud of who you are
- ▶ Open your minds
- ▶ “Learn” each other
- ▶ **DON'T BE AFRAID**

## Contact Information

### ▶ Project T.E.A.M. Website

<http://www.ohsu.edu/xd/research/centers-institutes/evidence-based-policy-center/stakeholder-engagement/project-team.cfm>