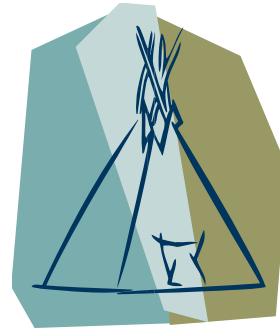


Overview of Tribal Healing to Wellness Family Courts

NADCP Annual Conference
July 2011
Tribal Track
Pat Sekaquaptewa & Donna Humetewa



9/1/2011

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Overview

- Child Abuse & Neglect Issues in Indian Country
- Native Concepts of Family
- About Tribal Dependency (Children's) Courts
- Overview of Family Drug Courts
- Promising Models for use in Tribal Family Wellness Courts
- Issues and Challenges in Implementing a Family Drug Court in Indian Country



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High rates of child maltreatment in Indian Country today

- American Indian/Alaska Native children represent 1.6% of substantiated or indicated child abuse and/or neglect cases yet are only 1% of the population (Child Welfare League of America, 1999).
- The victimization rate for American Indian and Alaska Native children is 20.1 victims per 1,000 children of the same race, compared to a rate of 10.6 for White children (DHHS, 2001).
- There is about 1 substantiated report of a child victim of abuse or neglect for every 30 American Indian/Alaska Native children age 14 or younger, a rate about double the national rate (DOJ, 1999).

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Child Neglect & Abuse Issues in Indian Country

- Histories/legacies of war, colonization, forced boarding school, and documented BIA and other non-Native employees and clergy perpetrating child maltreatment (often sexual abuse) on Native children
- Likely high numbers of adult child abuse survivors in the general tribal member populations
- Likely adult child abuse survivors in tribal leadership, service provider, and Wellness Team positions



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Nexus with Substance Abuse



- “Research suggests that adults with histories of child abuse and neglect are at high risk for developing substance abuse disorders.” SAMHSA TIP 36
- “... childhood abuse and neglect issues may negatively affect clients’ chances for recovery from substance abuse.” SAMHSA TIP 36
- “...[there is an] increased likelihood of substance-abusing parents abusing their own children.” SAMHSA TIP 36

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High rates of alcohol use/abuse in Indian Country today

- Native Americans and Alaska Natives at a much higher risk than other minority populations for heavy drinking, binge drinking and alcohol dependence (National Institute of Health)
- Alcohol dependence rates are higher among Native Americans than the national average (Spicer Study 2003)
 - 30% of men in from tribes in Northern Plains & Southwest (national average 20%)
 - 20% of women from Northern Plains (national average 8.5%)
- Fetal alcohol spectrum disorder rates are higher than the national average (SAMHSA)
- 11.7% of Native American and Alaska Native deaths are alcohol related (traffic accidents, alcoholic liver disease, homicide, suicide, and falls) (MSNBC)

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Native Concepts of Family & Duties and Responsibilities

(over 500 federally recognized tribes with distinct languages and religions)

- More than an ethnic or cultural issue, in many tribes this is the law which is backed by federal laws (jurisdictional laws, ICWA, ASFA, etc.)
- Diverse definitions of family and extended family
 - Beyond the “nuclear, biological family”
 - Clans, bands, and ceremonial relatives
- Implications for Wellness Courts ...
 - Expands Target Population (bio parents, “third parents,” kin caretakers, kin guardians and kin foster parents)
 - Who has rights to notice and an opportunity to be heard in a particular child welfare matter? (extended family)
 - Family members involved in treatment
 - Who is the proper traditional authority, mentor or healer to be involved?

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Native Concepts of Family & Duties and Responsibilities (cont.)

- Diverse values and rules about the privileges, duties and obligations owed based upon how individuals are related to each other
 - Example: “Third Parents” (in some tribes a mother’s sisters are considered mother to all the sisters’ children)
 - Significant implications for the drafting and application of tribal dependency laws
- Implications for Wellness Courts
 - Expands Target Population (bio parents, “third parents,” kin caretakers, kin guardians and kin foster parents)
 - Who has rights to notice and an opportunity to be heard in a particular child welfare matter? (extended family)
 - Family members involved in treatment
 - Who is the proper traditional authority, mentor or healer to be involved?

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Native Concepts of Family & Duties and Responsibilities (cont.)



- Diverse understandings of proper child-rearing and discipline
 - Example: Rites of passage (initiations) and ongoing ceremonial education and participation
- Implications for Wellness Court ...
 - Can impact definition of child maltreatment
 - A consideration in the design of phased and individualized therapeutic activities and services

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About Tribal Dependency (Children's) Courts

- Docket with primary caseload in many tribal courts
- Often operate with out-dated, undeveloped tribal dependency and related laws, regulations, policies & procedures, etc. based on imposed U.S. models – still undergoing updating and cultural tailoring through law reform

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About Tribal Dependency (Children's) Courts (cont.)

- Subject to complex and specialized federal Indian legislation and accounting/reporting ...
 - Jurisdictional laws
 - Civil jurisdiction over non-Indians & PL280
 - Funding laws
 - Contracting, compacting, and federal grant requirements for funding Tribal Court, Tribal Social Services, & Tribal Treatment
 - Indian Child Protection and Family Violence Protection Act, 25 USC §3201 et seq.
 - Reporting & investigation
 - Indian Child Welfare Act, 25 USC § 1901 et seq.
 - State dependency proceedings involving Indian children and tribal notice, intervention, and transfer rights

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About Tribal Dependency (Children's) Courts (cont.)

- Subject to complex and specialized federal Indian legislation and accounting/reporting (cont.) ...
 - Adoption & Safe Families Act and the Fostering Connections to Success and Increasing Adoptions Act, 42 USC §§620 et seq. & 670 et seq.
 - Funding of foster & adoptive placements via states or directly to tribe (limits reunification and expedites TPR and permanency, special provisions for kin foster and kin adoptive placements in Indian Country)
 - Indian Civil Rights Act, 25 USC § 1301 et seq.
 - Civil rights in tribal court
 - Tribal Law and Order Act, Public Law 111-211
 - Civil rights in tribal court

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About Tribal Dependency (Children's) Courts (cont.)

- Often operate with lay judges and paraprofessional treatment providers
- Usually under-funded and under-resourced
- Operated by committed, hardworking local people trying to avoid burn-out and a revolving door of outside professionals and subcontractors

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Overview of Family Drug Courts



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About Family Drug Courts*

- a.k.a. “Family Drug Treatment Courts” (“FDTC”)
- Over 300 non-tribal operational nationally
- ~3 tribal operational nationally – **THEY ARE NEW!**

*Building the Evidence Base for Family Drug Treatment Courts: Results from Recent Outcome Studies, Drug Court Review, Volume VI, Issue 2 (2009)

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About Family Drug Courts (cont.)

- Targeted at ...
 - Parents (families) involved in the child welfare system
 - Where the parent(s) have substance abuse problems
- Tend to exclude cases that ...
 - Involve child fatalities or sexual abuse
 - Involve serious mental illness (parent or guardian)
 - Involve voluntary rather than court-ordered participation with Child Protective Services
 - Are being immediately moved toward Termination of Parental Rights
 - Involve parental incarceration that would preclude attendance at the FDTC

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Goals of a Classic Family Drug Court*

- **Support parental sobriety**
(primary focus of FDTTC Team)
- **Family reunification**
(primary focus of Dependency Judge & Child Welfare)
- **Child safety**
(primary focus of Child Welfare)

*Building the Evidence Base for Family Drug Treatment Courts: Results from Recent Outcome Studies, Drug Court Review, Volume VI, Issue 2 (2009)

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Basic Components of a Classic Family Drug Court*



- **Team includes ...**
 - Judge (Dependency Judge if integrated, Drug Court Judge if parallel)
 - Child Welfare Provider
 - Treatment Provider

*Building the Evidence Base for Family Drug Treatment Courts: Results from Recent Outcome Studies, Drug Court Review, Volume VI, Issue 2 (2009)

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Basic Components of a Classic Family Drug Court (cont.)

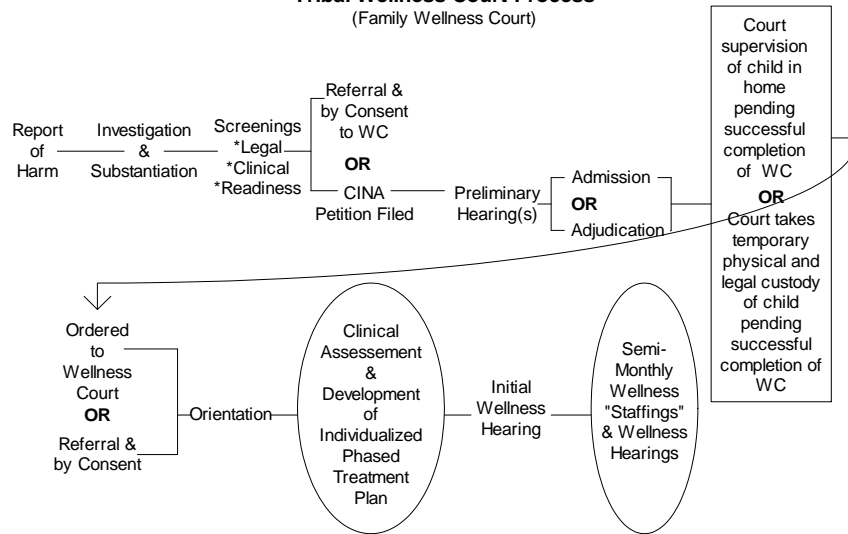
- Integrated* vs. Parallel Judging models (*preferred)
- w/child removed or monitored in the home
- Frequent court hearings
 - (example, initially weekly with diminishment as parent progresses)
- Drug testing
- Intensive judicial monitoring
- Rapid entry into substance abuse treatment (expedited and for a shorter period for parent if child removed)
- Provision of timely wrap-around services
- Rewards and sanctions linked to service compliance
- Drug Court Program typically lasts ~ 1 year
- Graduation ceremony



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Tribal Wellness Court Process (Family Wellness Court)



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Basic Components of Treatment

- Intensive Outpatient Treatment (SAMHSA TIPs 47 & 36) PLUS ...
 - Parenting Education
 - Family Case Management
 - Need to additionally screen for and assess childhood abuse or neglect*
 - If positive screening, participant should be offered a comprehensive mental health assessment and trauma-related assessments
 - Screening can provoke or exacerbate a psychological emergency that will need to be addressed
 - Counseling for childhood abuse or neglect by a treatment provider with specialized training
 - Potentially treatment for posttraumatic stress disorder, major depression, or mood disorders



9/1/2011 *Requires specific training/tools and access to additional treatment resources

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Therapeutic Issues for “Team Members”

(“countertransference reactions” – the counselor’s own personal issues)

- Managing one’s reactions when working with clients with childhood abuse and neglect histories ...
 - Establish clear and consistent boundaries
 - Empower vs. “do for”
 - Develop a trusting relationship by ...
 - Not personalizing negative responses
 - Be open, consistent, and nonjudgmental
 - Seek direction or support through supervision or peer-support when counselor feels anxious or depressed
 - Recognize personal and professional limitations and refer client to other services
 - Minimize burnout
 - Avoid meeting with large numbers of clients without adequate support or supervision
 - Maintain healthy personal lifestyles
 - Do not work in isolation
 - Tribal/treatment agencies must give their counselors appropriate support, imparting a sense of vision, the importance of the work and its impact on society



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Documented Treatment Outcomes of State FDTCS*



- Parents entered treatment more quickly
- Parents spent more days in treatment
- Parents had longer wait times to permanency
- Children spent more time with their parents and fewer days in out-of-home placements
- Children more likely to be reunited with their families

*Building the Evidence Base for Family Drug Treatment Courts: Results from Recent Outcome Studies, Drug Court Review, Volume VI, Issue 2 (2009)

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Promising Models for use in Tribal Family Healing to Wellness Courts



- Mentor Moms (Santa Clara County)
- Head Start or similar services
- Parenting classes
- Use of CASA's for conducting individual family meetings (Suffolk County)
- Foster Grandparent Mentors (Washoe County)
- Transitional Housing Service (Santa Clara County)

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Issues and Challenges in Implementing a Family Drug Court in Indian Country

- Tribal Wellness Court leaders and teams are often engaged in (and are responsible for) larger institution and nation-building efforts beyond the standard compartmentalized “drug court” realm
 - Creates a birds-eye view of systems and potential for wider systems change within tribal government and society
 - But leadership and service providers stretched thin
 - Reality of “we are all we have got” and “if we don’t do something, no one will” in face of resource, education, & training/licensing deficits

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Issues and Challenges in Implementing a Family Drug Court in Indian Country (cont.)

- Successful assertions of tribal jurisdiction over non-Indian parents is complex and limited
- Under-developed tribal dependency laws, regulations, & policies and procedures
- No or insufficient funding for child welfare and treatment services (big implications for ability to do investigations, home visits, reports to the court, and the full array of assessing and treating participants)
- Federal funding to tribes for basic foster/adoptive care (Title IV-E) services hard to get and tied to limited reunification services, expedited TPR and permanency, thus shorter periods for treating parents

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Issues and Challenges in Implementing a Family Drug Court in Indian Country (cont.)

- Need for cultural tailoring of target population, kinds family members involved in treatment, and use of traditional authorities, mentors, and healers
- Need to include and properly structure traditional and/or cultural therapeutic activities and services within a continuum of care to prevent relapse of participants
- Care not to mandate traditional/cultural participation and to have options for diverse cultural and religious views/values



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Issues and Challenges in Implementing a Family Drug Court in Indian Country (cont.)

- Many tribes lack a tribal social services entity which may require state CPS representatives to serve on the team, further requiring the negotiation of inter-governmental agreements (which usually requires more \$\$\$)
- Many tribes lack tribal treatment services which may require that federal/state/private treatment providers serve on the team, thus requiring the negotiation of inter-governmental agreements and third-party contracts (\$\$\$)
- Getting cooperation (team membership, service provision, monitoring) of Indian Health Service providers and BIA law enforcement difficult

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Issues and Challenges in Implementing a Family Drug Court in Indian Country (cont.)

- No or limited \$\$\$ to subcontract the services of licensed treatment providers to undertake clinical assessments and to provide mental health treatment
- Given incidence of Native adult child maltreatment survivors and Native adults in recovery – as leaders and service providers we are **healing ourselves while healing others** – which **requires** some **special training and precautions**



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Discussion Topics

- Parallel vs. Integrated Judging
- Implications for Family Wellness Team Policies & Procedures & Participant Handbooks
- Screening for eligibility & suitability across Wellness Court dockets
- Family members & Tribal Council
- Tribal AG/Prosecutor/Presenting Officer buy-in
- Family Wellness Team view that there should be more “referrals”
- Managing “counter-transference” and other burnout issues

"Thank You"



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