

Chapter 2: Entry into Wellness Court and Team and Participant Rules

Overview

Once a participant has been identified, the participant must be made aware of the Healing to Wellness Court rules and expectations. The “entry” sections of a Policies and Procedures Manual (P&PM) are intended to provide this notice to the participant as well as to the larger community. It may include a description of the process and requirements for being admitted into a Healing to Wellness Court, the contents of any required “agreement to participate,” the program rules, and any required fees or fines. Not only do these sections provide notice to the participant, but they also provide a guide to the Wellness Court team to ensure that the rules and due process protections are being applied consistently and uniformly. Additionally, these sections address the responsibility of Wellness Court team members for ensuring that the participant successfully enters the Wellness Court with all of the requisite notice.

Relevant Key Components

Both Key Component 2 - Referral Points and Legal Process and Key Component 3 - Screening and Eligibility address notice to participants, participant rights, and timely and appropriate clinical screening and assessment of participants.

Key Component #2: Referral Points and Legal Process

Participants enter Wellness Court through various referral points and legal processes that promote tribal sovereignty and the participant’s due (fair) process rights.

Key Component #3: Screening and Eligibility

Eligible court-involved substance abusing parents, guardians, juveniles, and adults are identified early through legal and clinical screening for eligibility and are promptly placed into the Tribal Wellness Court.

Finding from NIJ Tribal Wellness Court Study
Entry: Key Components #2 and #3¹⁶

Problems Identified:

- Participants seemed surprised by the huge time commitment required and did not fully comprehend the requirements, particularly where there was no public defender to advise the potential participant of his or her options.
- Wellness Court teams had communication problems between the team and treatment providers due to “intrinsic differences in the confidentiality of patient records versus court records.”

Lessons Learned:

- Choose participants who are motivated and ready to change their substance abuse behavior.
- Use an informed consent approach with potential participants to ensure that their due process rights are protected.
- Review the program rules regularly with participants while they are in the program.
- Have a clear termination policy in order to weed out participants who are not working the program.

Strengths & Weaknesses Reported to First Four Tribal Wellness Courts:
Entry: Key Components #2 and #3¹⁷

<u>Strengths</u>	<u>Weaknesses</u>	<u>Strength or Weakness?</u>
<ul style="list-style-type: none"> • A public defender is involved in the Wellness Court • P&PM included a “frequently asked questions” section • Team used the P&PM as a checklist 	<ul style="list-style-type: none"> • Participants were not fully apprised of the required commitment • No assessment of participants’ readiness to change • Treatment plans were not individualized • Program requirements were changed and applied retrospectively 	<ul style="list-style-type: none"> • Fast tracked participants into Wellness Court before assessing whether they were dependent on alcohol and/or drugs • Lacked clearly defined termination criteria.

¹⁶ Gottlieb, “Lessons Learned in Implementing the First Four Tribal Wellness Courts,” 17 & 19.

¹⁷ “Process and Outcome Evaluations of the Fort Peck Tribes Community Wellness Court” (December 30, 2005), “Process and Outcome Evaluations of the Blackfeet Alternative Court” (December 30, 2005), “Process and Outcome Evaluations of the Hualapai Wellness Court” (December 30, 2005), “Process and Outcome Evaluations of the Poarch Band of Creek Indians Drug Court” (December 30, 2005).

Section A: Entrance Requirements

Purpose

The purpose of this section is to describe the process and the roles and responsibilities of the Healing to Wellness Court team members in successfully transitioning an eligible adult, juvenile, parent, or guardian into the Wellness Court. This section should address the various processes for entrance, including: Who conducts the initial legal and clinical screenings and makes subsequent recommendations? Who will undertake the motivational/readiness screening undertaken? How are potential participants admitted—by judicial order or team vote? Who orients potential participants and how? Additionally, this section should address how the participant is clinically assessed and started in treatment, including: When is a clinical assessment conducted and by whom? Who works with the potential participant and his or her family to develop an individualized treatment plan?

Legal screening refers to the process in which potential participants are identified as legally eligible to participate in Tribal Healing to Wellness Court. Eligibility requirements vary by tribal court and type of Tribal Healing to Wellness Court (adult, juvenile, or family). They generally include a criminal charge, juvenile offense, or civil dependency petition involving alcohol and/or drugs. Depending on the source of program funding and/or tribal law, eligibility may turn on whether the potential participant is a non-violent offender, a non-sex offender, and/or the commission of tribal alcohol-/drug-related offenses.

Clinical screening, or a suitability test, is a determination that the potential participant has the targeted type and severity of substance use/abuse, that he or she is or will be primed to successfully participate in the program (is determined to be ready for change/motivated to change); and that the program has access to the appropriate required treatment services.

Clinical Screening vs. Clinical Assessment

Clinical Screening refers to the process in which potential participants are both *identified as suitable to participate* in Healing to Wellness Court—both in terms of participant need and available treatment services—and are *primed for a successful treatment outcome* from a clinical perspective and *before* participation in Wellness Court. Suitability begins with a screening for the presence, type, and severity of substance abuse before the participant enters the program. But the suitability screening or intake is also quasi-therapeutic in nature. Additionally, because many Wellness Courts may collapse program eligibility screening with treatment intake, the process can strongly influence whether a person completes the Wellness Court and treatment admission procedures, the selection of

appropriate treatment interventions, and the person's successful engagement in treatment.¹⁸

In light of this dynamic, treatment professionals recommend the following intake process, in addition to screening for alcohol and drug abuse: (1) assess the person's readiness for change *and apply appropriate strategies to motivate the client* to enter and participate in treatment;¹⁹ (2) establish a collaborative relationship between intake personnel and the person being screened; (3) identify and overcome barriers that discourage the person from engaging in treatment; and (4) promote the development of individualized interventions that meet each client's needs, rather than fitting the person into a pre-defined program.²⁰ This last recommendation has significant implications for how Wellness Court Phased Treatment Plans are designed in terms of what can be pre-defined and regularized, what should be variable under the direction of a treatment professional, and how the two work together.


Clinical Assessments are characterized by treatment professionals as "ongoing" and vary depending upon a client's history and needs. Clinical *screening* evaluates a person for the possible presence of a particular problem (alcohol and/or drug abuse), the seriousness of the problem, and whether and what types of further clinical assessments are needed. Clinical *assessment* is a process for defining the nature of a problem (going toward a diagnosis) and for developing specific treatment recommendations for addressing the problem. Licensed treatment professionals undertake clinical assessments in the state systems.

¹⁸ See Center for Substance Abuse Treatment, *Substance Abuse: Clinical Issues in Intensive Outpatient Treatment*, Treatment Improvement Protocol (TIP) Series 47, Department of Health and Human Services Publication No. (SMA) 06-4182, Rockville, MD: Substance Abuse and Mental Health Services Administration (SAMHSA) (2006).

¹⁹ See Center for Substance Abuse Treatment, *Enhancing Motivation for Change in Substance Abuse Treatment*, Treatment Improvement Protocol (TIP) Series 35, Department of Health and Human Services Publication No. (SMA) 13-4212, Rockville, MD: Substance Abuse and Mental Health Services Administration (SAMSA) (1999).

²⁰ See SAMHSA TIP 47, at Chapter 5.

Assessment Instruments



A wide variety of substance abuse instruments are available for use in justice systems, but the most commonly used in the Addiction Severity Index (ASI), which is used for screening, assessment, and treatment planning.²¹ Please note that two separate sections of the ASI are frequently used as clinical screening instruments.

For information on other instruments:

- Overview of Assessment Instruments (SAMHSA TIP 44, Chapter 2)
- Assessments for Readiness to Change (SAMHSA TIP 47, Chapter 5, pp. 9–10)²²
- Assessments for Persons with Child Abuse and Neglect Issues (SAMSHA TIP 36)

Assessments for Persons with Co-Occurring Disorders (SAMHSA TIP 42, Chapter 4)

Sample Tribal Wellness Court Wording

Eastern Band of Cherokee

"Cherokee Tribal Drug Court - Policies and Procedures Manual" (June 2009)

ASSESSMENT

Each potential participant must undergo the assessments to establish drug dependency and history of drug use. The Addiction Severity Index (ASI) and the Substance Abuse Subtle Screening Inventory (SASSI-3) are administered by a Certified Substance Abuse Counselor at Analenisgi.

The ASI is a multi-dimensional instrument used to diagnose, evaluate, and assess change in a participant's drug abuse patterns. It identifies personal and family background, current status, and problems in six domains.

The six areas of concentration are:

- | | |
|--------------------------------------|-------------------------------------|
| <i>* medical status,</i> | <i>* employment/support status,</i> |
| <i>* drug/alcohol use,</i> | <i>* legal status,</i> |
| <i>* Family/social relationships</i> | <i>* psychiatric status</i> |

²¹ See SAMHSA TIP 44 Substance Abuse Treatment for Adults in the Criminal Justice System, Chapter 2. The ASI is reproduced in SAMHSA TIP 38, Integrating Substance Abuse Treatment and Vocational Services.

²² Discusses Dimension 4 of ASAM PPC-2R, which assesses an individual's readiness to change for use in ascertaining an individual's readiness to change before conducting full-scale assessments and developing comprehensive treatment plans, and providing a list of brief instruments to help rapidly determine readiness to change or motivational stage.

The ASI is a cost effective, computerized tool based upon the concept that successful treatment of drug-abusing offenders must address problems which may have contributed to drug dependency.

The SASSI-3 instrument is designed to identify individuals who have a high probability of having a substance dependency disorder. Examinations of the SASSI scale scores can be used to generate hypotheses regarding severity of substance dependence, substance abuse, acknowledge substance misuse, the possible need for supervised detoxification, level of acknowledgment, emotional pain, risk of criminal behavior and focus on others rather than self.

Yavapai-Apache

“Yavapai-Apache Family Health Court - Policies and Procedures” (October 2011)

4.0 Entry into the YAFHC (Yavapai-Apache Family Health Court)

4.01

Once a Defendant has entered a plea of guilty or nolo contendere or has been found guilty of a crime, the YAFHC Administrator will conduct a background investigation to determine the applicant’s eligibility to participate in the YAFHC. The Administrator will request a Certification of Legal Eligibility from the Tribal Prosecutor.

4.02

(Insert Referral – new) [sic]

4.03

If the applicant has signed a deferred prosecution agreement to a crime that provides eligibility for the YAFHC, the Administrator will conduct an intake interview to determine if the applicant meets the conditions established Parts 3.01, 3.02, 3.03, 3.04 of these policies. If the applicant qualifies, the Administrator will assist the applicant with filling out the application and will refer the applicant to the appropriate diagnostician for assessment for mental health or alcohol or substance issues.

4.04

The application shall include the information required in Parts 3.01, 3.02, 3.03, 3.04 of these policies and shall include a Waiver of Confidentiality. A preliminary commitment on the part of the applicant to meet the terms of the YAFHC contract will be evidenced by the applicant’s compliance with YAFHC pre-admission requirements. The degree of compliance with YAFHC pre-admission requirements will be considered by the YAFHC team when considering an applicant for admission into the YAFHC.

4.05

The applicant shall have 30 days to complete the assessment process and have the assessments provided to the YAFHC Administrator.

4.06

The applicant may be incarcerated pending acceptance into the YAFHC if the Yavapai-Apache Tribal Court finds that incarceration is necessary for the safety of the applicant, the applicant's family or the community. However, if the applicant is incarcerated, the YAFHC Administrator shall arrange for the administration the necessary assessments [sic].

4.07

The YAFHC team will review the completed application, assessments and recommendations that may be provided by the diagnostician. If the YAFHC team is satisfied that the applicant meets the requirements for participation as established by these policies and has the personal commitment to fully participate in the YAFHC, then that applicant will be accepted into the YAFHC and the jurisdiction over the matter will transfer from the Yavapai-Apache Tribal Court to the Yavapai-Apache Family Health Court.

4.08

Upon notice of acceptance, the applicant will sign the Contract for participation in the YAFHC. The Contract will contain provisions established in part 3.07 of these policies.

Makah Tribe

"Makah Tribal Wellness Court: An Overview" (March 2001)

Screening Process

After receiving an offense report from the Tribal Police Department, the Tribal Prosecutor decides to charge the commission of any offense. The Tribal Prosecutor identifies the defendant's initial eligibility based on current charge(s) indicated in the complaint when filed in criminal court. The Tribal Probation Officer provides local criminal history, if any.

At arraignment, any party can provide notice to the Court of initial eligibility and petition to participate in Wellness Court as an alternative to the normal criminal prosecution. The Court will impose continued release conditions to ensure the defendants compliance with the screening process. Upon receipt of a written referral to Wellness Court, the staff screening the participant is notified of the defendant's next court hearing. Eligibility referral correspondence shall be conducted in a timely manner to the Court. The defendant is responsible for contacting Wellness Court's primary counselor for an assessment and attending subsequent appointments for orientation.

AOD Abuse Assessment

A formal assessment shall take place either prior to or in conjunction with the implementation of treatment service delivery. Basic components of the formal assessment include detailed drug use history, medical history, family history, social/economic history, and a psychological portion.

A clinical assessment is the collection of detailed information concerning the client's substance abuse, emotional and physical health, social roles, and other areas that may reflect the severity of the client's abuse of alcohol or other drugs as a basis for identifying an appropriate treatment regimen.

A second function of assessment is to initiate the process of treatment. The assessment shall conclude with an integrated summary of critical information and diagnostic impressions concerning the individual and his or her treatment needs.

Pascua Yaqui

"Drug Court Treatment" (no date)

Eligibility and Admission Criteria

1. *Must be a member or spouse of a member of the Pascua Yaqui Tribe or; a member of a federally recognized Indian Tribe and who lives on the Pascua Yaqui Pueblo.*
2. *Must be at least 18 years of age.*
3. *Must have an identifiable dependency or addiction to alcohol or other drugs or a person (who is not dependent or addicted) whose use of alcohol or other drugs brings him/her into the criminal justice system.*
4. *Must be willing to participate in Drug Court.*
5. *Within 24 hours of arrest/citation OR the next working day following an arrest/citation or filing of the police report, the Prosecutor will conduct a review of the case and determine if the individual is eligible for referral to Drug Court. The following charges may qualify an individual for Drug Court referral:*
 - A. *Drugs and Narcotics Charges*
 - I. *Drug Use*
 - II. *Paraphernalia Charges*
 - III. *Drug Dealing/Distribution to Support Addiction*
 - B. *Alcohol Use and Dependency*
 - I. *DUI/DWI Charges. Prior DUI/DWI convictions do not exclude one from being eligible.*
 - II. *Liquor Violations*
 - III. *Public Intoxications*
 - C. *Non-Violent Offenses While Under the Influence*
 - I. *Disorderly Conduct*
 - II. *Trespassing*
 - III. *Theft*

IV. Malicious mischief

6. *The Prosecutor will refer the individual to the Drug Court Program Coordinator for a substance abuse screening. The defendant can refuse to participate at any time.*
7. *The defendant must undergo a Drug Court Intake screening to determine if (s)he is appropriate for admission. The Drug Court Program Coordinator performs the intake screening. At intake the defendant will:

 - A) *Receive an orientation describing Drug Court.*
 - B) *Be assessed to determine the extent and severity of his/her problem, dependence or addiction to alcohol and/or other drugs and to recommend the level of treatment to be provided.**
8. *Within 72 hours after the intake screening, the Program Coordinator will submit to the Drug Court a written report describing the findings and recommendations. The report to the Drug Court is limited to verifying the extent of an alcohol or other drug problem, dependence or addiction and the treatment recommendations.*
9. *At the initial hearing and after the review of all relevant materials, the Judge will determine whether or not to transfer the defendant to Drug Court.*
10. *At the scheduled Drug Court Hearing, the Judge will inform the defendant of:

 - A) *His/her waiver of specific rights;*
 - B) *The expectations and conditions of participating in Drug Court;**
11. *At the Drug Court Hearing the Judge will also:

 - A) *Obtain a written commitment from the defendant of his/her desire to participate in Drug Court by having the defendant sign the Pascua Yaqui Drug Court Stipulation and Waiver form;*
 - B) *Render the final decision for Drug Court admission;*
 - C) *Schedule the admission appointment to enter Drug Court Treatment.**

Blackfeet Nation

“Blackfeet Tribal/Family/Alternative Courts – Policy and Procedure Manual for Alternative Courts” (June 2001)

Program Overview – C. Referral Process

- 4) **Vote to accept or deny:** *When an individual has been referred to the Alternative Court, has passed the initial review by the Defender and the Prosecutor, has taken the alcohol/drug assessment and found to be chemically dependent, the case will be staffed by the Alternative Court Team. Each Team member may furnish any information that they know concerning the prospective client, a vote will then be held with each member having one vote, majority rules.*

Yurok Tribal Court

"Wellness Court Program Guide" (July 2010)

Drug Court Program - Screening and Assessment

1. **Legal Screening** – Before being accepted into the program individuals need to have all legal obligations taken care of or be current with any ongoing obligations.
2. **Initial Screening** – The initial screening process entails the YWC team reviewing potential client information, e.g., their needs, wants, strengths, and resources.
3. **Clinical and Cultural Assessment** – Clients will undergo a comprehensive assessment to include substance use and abuse, mental health issues, violence and trauma history, and other needs. A culturally based assessment will be done to determine the level of engagement in traditional Yurok customs and community activities.
4. **Letter for Services** – A letter to the YTC will need to be submitted by the potential client requesting services from the YWC.
5. **Petition of Services** – A Petition will be filed with the YTC, a case number and court date will then be assigned.
6. **Court Order** – At the Court Hearing an Order will be filed accepting or denying potential clients into the YWC Program and Ordering clients to recommended treatment and/or to participate in a treatment plan.

Relevant Template Petitions, Notices, Orders, and Forms

SPOKANE TRIBAL COURT
 SPOKANE TRIBE OF INDIANS
 WELLPINIT, WA 99040

Spokane Tribe of Indians,)	
Plaintiff	)	Case No. _____
v.)	
	)	PETITION FOR REFERRAL TO
_____	)	TRIBAL DRUG COURT
Defendant)	

TO: PROSECUTING ATTORNEY;
 CLERK OF THE TRIBAL COURT

I, _____, the defendant in this case petition the Court to refer of this case to the Spokane Tribal Court.

I have been charged with a non-violent crime(s) which allegedly and directly or indirectly involved the use of alcohol and/or an illegal controlled substance. Without admitting guilt or innocence, I admit I would benefit from a court supervised rehabilitation program.

I understand and agree that, by petitioning the Tribal Court for assignment of the case to the

Spokane Tribal Drug Court:

- a. I am not admitting guilt as the crime charged;
- b. I waive, for two years, my right to a speedy trial;
- c. I agree to submit to a substance abuse evaluation by a counselor at Health and Human Services;
- d. I agree to comply with the treatment recommendation of my evaluator;
- e. I may be required to submit to periodic UA's and/or BA's at the Court's expense as directed by my counselor or Tribal Probation Officer
- f. I may be required to appear in Drug Court as directed by that Court. (This could be as often as once per week or as often as the Court deems appropriate.)

- g. I will be offered information, education on Sexually Transmitted Diseases, including HIV. Clinical screening may be done at Tribal expense if I choose to have it done. The results would be kept confidential despite the waiver in [h] below unless I specifically and expressly allow the results to be sent to the Court.
- h. I authorize all my treatment providers to release to the Drug Court and its Officers any and all information relating to my evaluation, treatment and progress.
- i. I am to fully cooperate with my treatment providers. To that extent, I understand that any statements made to my treatment providers which relate to the crime charged may not be used against me at any time in a criminal proceeding in Tribal Court.
- j. If I fail to satisfactorily complete the program as recommended by my evaluator in my treatment plan, the Tribal Court may re-assign my case for prosecution on the crime(s) charged. If that occurred, I would have all rights given a defendant at arraignment. Speedy Tribal would run for 60 days after the entry of the written order reassigning my case for prosecution.
- k. If I satisfactorily complete the program as recommended by my evaluator, and complete all other requirements imposed on me by the Drug Court, the charge against me will be dismissed and the record of the charge expunged.

Dated: _____

Defendant

Attorney for Defendant

SPOKANE TRIBAL COURT
SPOKANE TRIBE OF INDIANS
WELLPINIT, WA 99040

Spokane Tribe of Indians,)	
Plaintiff	)	Case No. _____
v.)	
	)	PETITION FOR DEFERRED
_____ ,	)	PROSECUTION
Defendant)	

Comes now the defendant, _____, and petitions the Court for an Order Deferring Prosecution on the above captioned charge(s).

Defendant avers and alleges:

1. I have been charged with a crime of _____. The facts and conduct which led to the charging of this crime were caused by:
 - () Alcoholism;
 - () Drug Addiction; or
 - () Mental Problems

for which I need treatment. Factual allegations supporting the causal connection between my condition or problem and each offense charged are on page four of this Petition.

2. Unless my problem is treated, the probability of recurrence of the above charge is great, and I agree to pay for the cost of diagnosis of such problems if I am financially able to do so.
3. I have a history of problems as marked in paragraph 1 above, including those listed on page three of this Petition.
4. I agree the following documents shall be included as part of this Petition, and that they are hereby incorporated into this Petition by this reference:
 - (A) Advise and Acknowledgement of Rights; and
 - (B) Acceptance of Deferred Prosecution and Stipulation of Facts

I further understand and acknowledge that the above is a stipulation to the admissibility of the facts contained in the written police report and attachments thereto; and that said statement will be entered and used to support a finding of GUILTY if the Court later evokes the Order Granting the Deferred Prosecution.

5. I understand I am not required to submit this Petition; that I may proceed to trial, and, if found guilty, I may seek suspension of some or all of the fines and jail time that may be imposed on the condition I seek treatment. I further understand that I may seek treatment from public, tribal or private agencies at any time without regard to whether or not I am found guilty of the offense charged.
6. I have been advised that the Court will not accept a Petition for Deferred Prosecution from a person who sincerely believes that he/she is innocent of the charges or sincerely believes that he/she does not, in fact, suffer from alcoholism, drug addiction or mental problems.
7. The Petitioner further understands that if the Petition for Deferred Prosecution is approved by the Court, that said Petitioner shall not, during the duration of the deferral, drive a motor vehicle upon the public highways without a valid driver's license and proof of liability insurance in an amount not less than the established in Title 46 of the RCW or Chapter 15 of the Spokane Tribal Law and Order Code.

I certify under penalty of perjury under the laws of the Spokane Tribe of Indians that the above statements are true and correct to the best of my knowledge.

(DATE)

Defendant

Tribal Public Defender

SPOKANE TRIBAL COURT
 SPOKANE TRIBE OF INDIANS
 WELLPINIT, WA 99040

Spokane Tribe of Indians,)	
Plaintiff	)	Case No. _____
v.)	
	)	ACCEPTANCE OF DEFERRED
_____ ,	)	PROSECUTION AND STIPULATION
Defendant	)	OF FACTS

The above named defendant, having been referred for an evaluation at an approved treatment facility of alcoholism, drug addiction, or mental problem; said facility having filed its report and recommended treatment plan, the defendant does:

1. Accept and agree to pursue and complete such treatment;
2. Agree to pay the costs of treatment (if I am able to do so);
3. Agree to maintain total abstinence from alcohol and non-prescription drugs, and further will submit to a test of my breath or blood to determine the alcohol/drug concentration upon request of a law enforcement officer who has reasonable grounds to believe I was using or in possession of alcohol or non-prescription drug or was driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor;
4. Agree to be placed on probation with the Tribal Court for the duration of this deferral. If, at anytime, I am determined by the treatment center to be in non-compliance, on notice to this Court, I may be called into the court to show cause why the deferred prosecution should not be revoked.
5. I waive any right of confidentiality that may exist between the treatment center and myself. By waiving this right, I am giving the treatment center permission to communicate with the Court, the prosecutor, and my attorney about my treatment and I will file the necessary release/authorization allowing such communication by the treatment facility.
6. I understand that failure to comply with the treatment plan, or if I am convicted of an offense similar to the one deferred, or if I fail, refuse, or neglect to comply with an order or request of the Court or the Treatment Center, or violate any other term of the deferral within the statutory period, the Court may, on motion and hearing,

revoke my Deferred Prosecution at any time prior to a formal dismissal of the deferred charge(s);

- 7. I further agree that if the Court revokes the order granting this Deferred Prosecution, I stipulate and agree to the admissibility of the facts contained within the written police report, alcohol influence report forms, and any attachment thereto, and their admissibility in evidence to be used to support a finding of GUILTY. I understand, that by this process, I am giving up the right to a jury trial, the right to hear and question witnesses, and the right to testify or not to testify, and the right to appeal a finding of guilt, if later convicted on this charge.
- 8. I understand that under the Indian Civil Rights Act (25 U.S.C. 1302) and the Spokane Tribal Law and Order Code, I am entitled to a trial by jury who would determine my guilt or innocence. I understand before signing this Acceptance of Deferred Prosecution and Stipulation of Facts and Waiver that I have the right to be represented by an attorney, and that if I cannot afford an attorney, one will be appointed for me without cost or expense. I do hereby voluntarily and with knowledge of the above rights waive my right to a jury trial and consent to the trial of this case by the Court pursuant to paragraph seven (7) above;
- 9. I further agree not to operate a motor vehicle upon the public highways without a valid operator’s license and proof of liability insurance in an amount not less than established by Chapter 15, Spokane Tribe Law & Order Code as it exists now or may be hereafter amended;
- 10. I shall immediately report any violation of the above conditions to my attorney who shall as an officer of the tribal Court, disclose such violation to the Prosecuting Attorney; and further;
- 11. I will attend and satisfactorily complete the Victims Impact Panel Program if such attendance is recommended by my treatment provider.

Date

Defendant/Petitioner

Prosecuting Attorney

Attorney for Defendant

SPOKANE TRIBAL COURT
SPOKANE TRIBE OF INDIANS
WELLPINIT, WA 99040

Spokane Tribe of Indians,)	
Plaintiff	)	Case No. _____
v.)	
	)	ORDER DEFERRING PROSECUTION
_____)	
Defendant)	

THIS MATTER, having come on for hearing this date and the Court finding: That the report heretofore ordered, pursuant to SLOC, Chapter 16, recommends treatment for the defendant for:

() alcoholism; () drug addiction; or () mental problems, and proposes a treatment plan;

That the defendant has agreed to comply with the terms and conditions of the plan, and has agreed to pay the cost of the plan (if he/she can) and/or arranged for treatment; the findings of the referral agency are correct and now accepted as Court findings, and further, the Court finds that the petitioner/defendant has stipulated to the admissibility of the facts contained in the written police report; that the petitioner/defendant has acknowledged the admissibility of the stipulated facts in any criminal hearing or trial on the underlying offense(s) held subsequent to revocation of the Order Granting Deferred Prosecution; and that the petitioner/defendant’s statements were made knowingly and voluntarily;

NOW THEREFORE, IT IS HEREBY ORDERED:

1. The defendant is accepted for deferred prosecution;
2. The defendant shall comply with all the terms and conditions of the recommended treatment plan, a copy of which is attached;
3. This order shall be attached to the case file, and thereby become part thereof, which case file shall be removed from the regular Court docket and placed in the deferred prosecution file for a period of one/two years from this date, subject to removal; further prosecution of the defendant, dismissal, all pursuant to SLCO, Chapter 16 or the applicable lase of the Spokane Tribe of Indians.
4. The defendant shall be placed under supervision of the Tribal Court.

5. Reports shall periodically be forwarded by the treatment center, but not less than semi-annually. The treatment facility shall report all instance of noncompliance with the defendant’s program and shall report the successful completion of the program when it occurs.
6. The defendant is ordered to keep the Court Clerk, the treatment facility, and his attorney advised, in writing, of all changes of address.
7. The defendant shall not consume any alcohol and/or non-prescription drugs during the period of the deferral.
8. The defendant shall not commit any alcohol- and/or drug-related offenses during the period of the deferral, and further, the defendant will submit to a test of breath or blood to determine the alcohol/drug concentration upon request of a law enforcement officer who has reasonable grounds to believe defendant is in possession of or has used alcohol or a non-prescription drug or was driving or was in actual control of a motor vehicle while under the influence of intoxicating liquor or drugs.
9. The defendant shall not operate a motor vehicle upon the public highways without a valid operator’s license and proof of liability insurance in an amount not less than that established by Chapter 15 of the Spokane Tribal Law & Order Code.
10. The defendant shall successfully complete the Victims Impact Panel Program (if the underlying charge was an alcohol and/or drug related driving offense).
11. The defendant shall comply with the additional provisions as follows:

DONE IN OPEN COURT THIS ____ DAY OF _____, 199__.

cc: Prosecuting Attorney
 Defendant
 Treatment Agency
 Prosecuting Attorney

 JUDGE, SPOKANE TRIBAL COURT

SPOKANE TRIBAL COURT
 SPOKANE TRIBE OF INDIANS
 WELLPINIT, WA 99040

Spokane Tribe of Indians,)	
Plaintiff	)	Case No. _____
v.)	
	)	DISCOVERY REQUESTS
_____,	)	AND ORDERS
Defendant)	

TO: THE CLERK OF THE COURT;
 PROSECUTING ATTORNEY FOR THE SPOKANE TRIBE OF INDIANS;
 and DEFENDANT AND DEFENSE COUNSEL

The defendant, _____, requests the following be provided as discovery in the above captioned case:

1. A copy of all police reports relating to this case;
2. A copy of all written statements made by any witnesses and/or the defendant;
3. A summary of all oral statements made by any and all witnesses, and a copy of the investigating officer’s notes regarding these statements;
4. For discovery of all oral, written, or recorded statements made by the Defendant to investigating officers, or to third parties and in possession of the Plaintiff. This request includes any and all notes made by the investigating officers during or after the making of the statements, whether they be consistent or inconsistent;
5. Copies of all results of any forensic or scientific tests made or caused to be made by law enforcement or by the prosecution, whether or not such test will be introduced at trial;
6. A copy of all photographs taken by law enforcement which will be introduced at trial;
7. A copy of all documentary evidence to be introduced at trial;
8. Disclosure of the prosecutor’s theory of the case or in the alternative, a bill of particulars;
9. The disclosure of evidence in the law enforcement or prosecution’s possession favorable to Defendant on the issue of guilt (**Brady** material). This request includes any inconsistent statements of witnesses, evidence tending to implicate another, statements in the possession of law enforcement personnel of which the prosecuting attorney may or may not have knowledge, and any statement or other evidence that raise questions about the reliability or

- 10. integrity of the investigation, including the officers' credibility. The disclosure of any and all promises, plea agreements, deals, or other arrangements, oral or written, made to or with any witness, accomplice, or co-defendant;
- 11. For discovery of the names and addresses of Plaintiff's witnesses and their statements and a summary of their anticipated testimony;
- 12. For discovery of whether: (a) there was an informer involved; (b) whether he/she will be called as a witness at the trial; and (c) disclosure of the name and address of the informer;
- 13. Other request by defendant.

Defendant further requests the above requested items be provided one week prior to the defendant's pre-trial conference.

PROSECUTION REQUESTS

- 1. Disclosure of the defendant's theory of the case or in the alternative, a bill of particulars;
- 2. For discovery of the names and address of Defendant's witnesses and their statements and a summary of their anticipated testimony;
- 3. Disclosure of the defendant's theory of the case or in the alternative, a bill of particulars;
- 4. A copy of all documents which the defendant intends to introduce as evidence;
- 5. Disclosure of whether the defendant intends to provide an alibi and to produce the details of that alibi;
- 6. Disclosure of whether the defendant intends to claim mental incompetence, either to stand trial or as a defense;
- 7. Other requests.

Plaintiff further requests the above requested items be provided not less than two weeks prior to the commencement of trial.

ORDER

The above numbered requests by defense are granted: _____

The above numbered requests by Plaintiff are granted: _____

Dated _____

Mary L. Pearson, Chief Judge

SPOKANE TRIBAL COURT
SPOKANE TRIBE OF INDIANS
WELLPINIT, WA 99040

Spokane Tribe of Indians,)	
Plaintiff	)	Case No. _____
v.)	
	)	ADVICE AND
_____	)	ACKNOWLEDGEMENT OF
Defendant	)	RIGHTS

I, _____, the undersigned defendant, a Petitioner for a Deferred Prosecution, hereby acknowledge that I have the following rights:

1. The right to be represented by a lawyer at all times, at public expense if necessary.
2. I have the right to a speedy and public trial by an impartial jury in the place where the crime is alleged to have been committed within 60 days of the filing of the complaint or citation.
3. I have the right to remain silent before and during trial, and I need not testify against myself; also that any statement I make can be used as evidence against me.
4. I have the right at trial to call witnesses to testify. These witnesses can be made to appear at no expense to me, but I may be ordered to pay if I am found guilty.
5. I have the right at trial to call witnesses to testify. These witnesses can be made to appear at no expense to me, but I may be ordered to pay if I am found guilty.
6. I am presumed innocent until a charge is provided beyond a reasonable doubt, or I enter a plea of guilty.
7. If I have pled not guilty, and I am convicted at trial, I have the right to appeal a finding of guilty.
8. That if I proceed to trial and am found guilty, I may seek suspension of some or all of the fines and costs, and jail time that may be ordered, upon condition that I seek treatment, and, further, that I may seek treatment from public, tribal, or private agencies at any time without regard to whether or not I am found guilty of the offense charged.

Date

Defendant/Petitioner

SPOKANE TRIBAL COURT
SPOKANE TRIBE OF INDIANS
WELLPINIT, WA 99040

Spokane Tribe of Indians,)	
Plaintiff)	
v.	)	ORDER OF RELEASE
)	
_____)	
Defendant	)	Case No. _____

The above named defendant is hereby released on the following conditions pending trial of this matter.

1. No alcohol and/or non-prescription drugs;
2. No violations of tribal law, including traffic offenses;
3. Appear at all court hearings between now and trial; and
4. Other:

Dated this: _____ day of _____, 19 _____.

Mary Linda Pearson, Chief Judge

FAILURE TO COMPLY WITH THIS RELEASE ORDER IS A CRIME WHICH MAY RESULT IN CHARGES OF CONTEMPT OF COURT AND THE ISSUANCE OF A WARRANT FOR YOUR ARREST, AND IMPOSITION OF A FINE, AND/OR JAIL SENTENCE PURSUANT TO THE SPOKANE TRIBAL LAW AND ORDER CODE.

I accept the conditions of release.

_____	_____	_____	_____
Defendant	Date	Prosecutor	Date
_____	_____		
Witness/Public Defender	Date		

SPOKANE TRIBAL COURT
SPOKANE TRIBE OF INDIANS
WELLPINIT, WA 99040

Spokane Tribe of Indians,)	
Plaintiff	)	STATEMENT OF DEFENDANT ON
v.	)	PLEA OF GUILTY AND PLEA
	)	AGREEMENT
_____ ,)	
Defendant	)	Case No. _____

TO: THE CLERK OF THE COURT and
F. DANA KELLEY, TRIBAL PROSECUTING ATTORNEY:

My Name is _____. My date of birth is _____

I am a member of the _____ Tribe.

I am charged with the crime(s) of: _____

Pursuant to this agreement, I intend to plead guilty to the crime(s) of:

The elements of each crime are: _____;

_____;

I am an Indian and the acts occurred on the
Spokane Indian Reservation.

The maximum penalty for this crime is: _____ ÷
court costs of \$25.00.

There is a mandatory minimum of: _____.

In return for my plea of guilty, the prosecutor is making the following recommendations:

By entering a plea of guilty, I understand I am giving up the following rights:

- The right to a speedy and public trial by a jury or the bench;
- The right to remain silent;
- The right to confront and cross examine witnesses against me;
- The right to present evidence on my own behalf;
- The right to have witnesses for me compelled to appear; and
- The right to appeal a finding of guilt.

I am making this plea voluntarily, knowingly, and willingly. I have been advised by my attorney of the effects of going to trial, this plea and the possible sentencing. I understand that the agreement is between the Prosecutor and myself. The judge does not have to accept this agreement. If the Court does not accept this agreement, I retain the right, but am not required, to withdraw the plea and to go to trial. No promises have been made except those listed above. No one has threatened me or coerced me into making this agreement. I admit there is a factual basis for the plea. I certify that I am not currently under the influence of alcohol or any other drug or medication which affects my awareness or thought processes.

I plead GUILTY to the crime of: _____.

Dated this _____ day of _____, 19_____.

Defendant

Michael C. Beegle
Public Defender

Prosecuting Attorney

ORDER

This court finds the plea to be freely, voluntarily, and knowingly made. The court ACCEPTS/DOES NOT ACCEPT the agreement (Or MODIFIES THE AGREEMENT WITH THE CONSENT OF BOTH PARTIES). A plea of GUILTY is/is not entered.

Date

Mary Linda Pearson, Chief Judge
Spokane Tribal Court

Date Recorded: _____

Court Clerk



**Poarch Creek Band of Creek Indians
Drug Court Information Sheet/Screening Form**

Source of Referral: _____ **Referral Date:** _____ **Screening Date:** _____

PERSONAL INFORMATION

First Name: _____ **Middle:** _____ **Last Name:** _____ **Suffix:** _____

Alias: _____

Client's Address: _____ **City:** _____ **State:** _____ **Zip:** _____

Date of Birth: _____ **Phone Number:** _____ **Alternate Number:** _____

Social Security #: _____ **Case #:** _____ **Enrollment #:** _____

DL State: _____ **DL #:** _____ **DL Status:** _____ **Place of Birth:** _____

Race/Ethnicity: _____ **African American** _____ **Caucasian** _____ **Multi-Racial** _____ **Asian / Pacific Islander** _____
 _____ **Hispanic / Latino** _____ **Native American** _____ **Other:** _____

Gender: **M/F** _____ **Marital Status:** _____ **Single** _____ **Married** _____ **Separated** _____ **Divorced** _____ **Widowed**

Ht: _____ **Wt:** _____ **Eyes:** _____ **Hair:** _____

Number of Times Moved in the Last Three Years? _____ **Comment:** _____

Length of Time at Current Primary Address? _____ **Comment:** _____

Living Arrangements: _____ **Independent** _____ **Homeless** _____ **Dependent with** _____

CRIMINAL HISTORY

Are you currently represented by an attorney? _____ **Yes** _____ **No**

If yes, list name of attorney:

Eligible Charge: Statute: _____ **Description:** _____ **Counts:** _____ **Case#:** _____

Arrest Date: _____ **Offense Date:** _____ **1st Appearance Date:** _____ **Plea Date:** _____ **Arraignment Date:** _____

Offense Categories: _____ **B&E/Home Invasion** _____ **Manufacturing/Distribution** _____ **Use/Possession**

_____ **Other Drug Offense** _____ **Property Offense** _____ **Other Traffic Offense (Criminal)** _____ **Neglect & Abuse Civil**

_____ **Neglect/Abuse Criminal** _____ **DUI of Alcohol/C.S.** _____ **1st** _____ **2nd** _____ **3rd** _____ **Other Alcohol Offense**

_____ **Non-violent Sex Offense** _____ **Other:** _____

Charge Type: _____ **Felony** _____ **Misdemeanor** _____ **Other**

Incident Offense: _____ **New Criminal Offense** _____ **VOP Technical** _____ **VOP New Criminal Offense**

Drug Court Approach: _____ **Defer / Delay** _____ **Post Sentence**

Preliminary Date: _____ **Pre-trial Date:** _____ **Adjudication Date:** _____ **Disposition Date:** _____

Sentenced: _____ **Yes** _____ **No** _____ **Sentence Date:** _____ **Disposition:** _____ **Probation Exp. Date:** _____

Jail Status: _____ **Jail** _____ **Not in Jail** _____ **Jail Admit Date:** _____ **Date Released from Jail:** _____

Prior Convictions: _____ **Yes** _____ **No** _____ **If yes:** _____ **Number of Felonies** _____ **Number of misdemeanors**

Dependency Case: _____ **Yes** _____ **No** _____ **If yes:** _____ **No Referrals** _____ **Referrals Non-Substantiated** _____ **Referral Substantiated**

Current Charge or Previous Adjudication of a Violent Crime or Sex Offense, Other Than Domestic Violence? Yes No

If Yes: What Offense: _____

Previous Adjudication for Domestic Violence? Yes No Outstanding Warrants: Yes No

Pending Criminal Charges: Yes No Prior Failures to Appear: 0 1 2 3 or more

Currently on Probation: Yes No If Yes: Probation Officer/Case Manager's Name:

Jurisdiction (County/State) of Probation: _____

Restitution owed: \$ _____ Fines owed: \$ _____

History of Prior Drug Court Participation: None Successfully Completed Transferred
 Voluntary Withdraw Unsuccessful Due to Absconding Unsuccessful Due to New Offense
 Unsuccessful Due to Program Violation

TREATMENT:

Previous Substance Abuse or Mental Health Treatment: Yes No If yes, please list dates and places treatment was received:

Are you currently attending sessions with a substance abuse treatment provider, psychologist, psychiatrist or counselor? Yes No If yes, please list name of provider: _____

SUBSTANCE ABUSE HISTORY

Prior Substance Abuse: Yes No **Prior Substance Abuse Treatment:** Yes No

IV Drug User: Yes No **History of IV Drug Use:** Yes No

Drug of Choice: Enter P-Primary, S-Secondary, A-Additional

Tobacco Alcohol Cannabinoids Other: Steroids/Inhalants

Stimulants: Cocaine Stimulants: Amphetamine Stimulants: Methamphetamine

RX: Stimulants RX: Depressants RX: Opioid Pain Relievers

Hallucinogens: LSD/Mescaline/Psilocybin Club Drugs: MDMA/Rohypnol/GHB

Dissociative: ketamine/PCP/Salvia/DXM/Spice/Bath Salts

Age Began Drugs: _____ Years Using Drugs: _____ Age Began Alcohol: _____ Years Using Alcohol: _____

Drug Type	Age at 1 st use	How often used	Date of Last use
Powder Cocaine			
Crack Cocaine			
LSD			
Marijuana			
Meth			
Opiates			
Oxycontin			
Other: _____			

MEDICAL INFORMATION:

Name of primary medical doctor: _____ Date of Last Doctor/Hospital Visit: _____

Current medical Problems: Please circle all that apply.

- | | |
|-------------------------|---------------------|
| Hearing disorders | Vision disorders |
| Eating disorder | High blood pressure |
| Low blood pressure | Heart condition |
| Asthma | Diabetes |
| Dental problems | Cancer |
| Kidney/Bladder problems | Arthritis |
| Back injury | Seizures |
| Physical disability | Mental disability |

Other: _____

Comments: _____

Current Medications: Yes No

Medications: _____

Pregnant? Yes No N/A Due Date: _____ Hospital: _____

Doctor: _____

Comments: _____

Medical Insurance: None Other Medicaid Medicare Private Carrier: _____

History of Mental Health Condition(s): Yes No Comments: _____

History of Medical Condition(s): Yes No Comments: _____

EDUCATION HISTORY:

Highest Education Completed: No High School Diploma/last grade completed: GED High School

Some Trade School Trade School Graduate Major: _____

Some College College Graduate 2 year Program Major: _____

College Graduate 4 year Program Major: _____

Advanced Degree Major: _____

Name of School last attended: _____

EMPLOYMENT HISTORY:

Employment Status: Unemployed Full-Time Part-Time

Not in Labor Force: Disabled Student

Primary Source of Support: Salary/Wages None Family Foster Care Subsidy Welfare

Veteran's Benefits Disability Retirement Social Security Workers Compensation

Other: _____

Gross Monthly Income (from all sources): \$ _____

Current or last employer: _____

Name of current or last employer: _____

Begin Date: _____ End Date: _____

Reason for Leaving: _____
 Supervisor: _____ Approximate Salary: _____
 Reliable Transportation: : Yes No Comments: _____

Prior Military Service: None Army Navy Air Force Marine Coast Guard Reserve National Guard
 Rank: _____ Discharge Status: _____ DD214: Yes/NO Registered with VA: Yes/NO

FAMILY/CHILDREN

Father's Name: _____ Deceased: Yes No
 Mother's Name: _____ Deceased: Yes No

Children

Name: _____ Living with Client: Yes No/live with: _____
 Age: _____ Attending School: Yes No School Attending: _____ Comment: _____
 Name: _____ Living with Client: Yes No/live with: _____
 Age: _____ Attending School: Yes No School Attending: _____ Comment: _____
 Name: _____ Living with Client: Yes No/live with: _____
 Age: _____ Attending School: Yes No School Attending: _____ Comment: _____
 Name: _____ Living with Client: Yes No/live with: _____
 Age: _____ Attending School: Yes No School Attending: _____ Comment: _____

Child Support: N/A Paying Current Paying Not Current Not Paying
 Custody Status: N/A Never Lost Custody Temporarily Lost Custody Regained Custody
 Rights Terminated

EMERGENCY CONTACT:

Name: _____ Relationship: _____
 Address: _____ Phone Number: _____

Name: _____ Relationship: _____
 Address: _____ Phone Number: _____

Please explain in your own words why you would like to be admitted into the Drug Court Program:

I hereby consent to communications between the Poarch Band of Creek Indians Drug Court Staff and the following named individuals:

I understand that information to be disclosed is information regarding my attendance or lack of attendance at treatment session or probation meetings, Drug testing results, my cooperation with the Drug Program and completion of the Program requirements.

 Signature of Participants Date

 Signature of Reviewer Date

**POARCH BAND OF CREEK INDIANS
DRUG COURT ADMISSIONS EVALUATION REQUEST**

(Please place copy of original in file and forward a copy to prosecutor and defense counsel)

DATE REQUEST SUBMITTED: _____ REQUESTED BY: _____

NAME: _____

SOCIAL SECURITY NUMBER: _____ DOB: _____

CASE NO(S): _____ VOP: _____ VOCC: _____

DIVISION: _____ JUDGE: _____

PROSECUTOR: _____ DEFENSE COUNSEL: _____

CRIMINAL HISTORY: _____

_____ ELIGIBLE _____ INELIGIBLE

TERMS OF ENTRY:

PROSECUTOR

DATE

I wish to enter the Poarch Band of Creek Indians Drug Court Program. I understand that my entry into the program is dependent upon availability of funded slots and entry of plea pursuant an agreement approved by the Tribe/State and the Drug Court Judge. I further understand that even after entry and acceptance of such a plea that final acceptance into the program is contingent upon approval by the Drug Court Addictions Counselor based upon an assessment usually within ten (10) days of the entry of the plea. I acknowledge that if the Addictions Counselor finds me to be an unacceptable candidate that any plea entered and/or sentence imposed will be vacated and a plea of not guilty reentered on my behalf with my case being resent on a docket of the division to which it was originally assigned. I further understand that once my plea is accepted I do not have the option of withdrawing from the Drug Court because of personal problems. I have read and understand the general information sheet attached to this form and understand that it is meant to provide general information only and may be subject to change.

DEFENDANT

DATE

I reviewed both forms with the above defendant and have discussed the Drug Court Program with this defendant who has expressed a desire to enter the program.

DEFENSE COUNSEL

DATE

**PASQUA YAQUI DRUG COURT TREATMENT
INTAKE ASSESSMENT**

PERSONAL DATA

NAME: _____ Age: _____ D.O.B. _____ SS# _____
Address: _____
City/State: _____ Zip: _____ Phone: _____
How long at present address: _____ Who else lives there? _____
Are you employed? _____ How long? _____ Wage/Salary: _____
Name of Employer: _____
Employer's Address: _____

SUBSTANCE ABUSE

Primary Drug: _____ Amount & Frequency: _____ How Administered: _____
Secondary Drug: _____ Amount & Frequency: _____ How Administered: _____

HEALTH/MEDICAL

Any known major medical problems? _____
Are you taking prescribed medications? _____
Name of medication, dosage, frequency? _____

MENTAL HEALTH

Have you ever been
• under psychiatric care? (if yes, when, from whom) _____
• hospitalized in a mental institution? (if yes, when/where): _____
• prescribed psychotropic medications? (if yes, when/type): _____
Have you ever attempted suicide? (if yes, give date[s], details): _____

VOCATIONAL/EDUCATIONAL

What is your educational/training history? Would you like vocational/educational counseling?: _____

SUMMARY

COURT'S DECISION: _____

Case # _____ NEXT COURT APPEARANCE _____

INTERVIEWED BY _____

DATE _____

**PASQUA YAQUI DRUG COURT TREATMENT
BIOGRAPHICAL INFORMATION SHEET**

TREATMENT ADMISSION DATE _____ COMPLETION DATE _____

FULL NAME: _____ D.O.B. _____

ADDRESS: _____ AGE _____

HOME PHONE: _____ WORK PHONE: _____ MSG#: _____

MARITAL STATUS: S M D SEP COMMON LAW AGE: _____ SEX: _____

S.S.I.# _____ ENROLLMENT #: _____

If applicable if not write N/A to the next few questions.

NAME OF PAROLE OFFICER: _____ PHONE: _____

ADDRESS: _____

NAME OF CPS COUNSELOR: _____ PHONE: _____

ADDRESS: _____

NAME OF AFTERCARE COUNSELOR: _____ PHONE: _____

ADDRESS: _____

DO YOU HAVE CHILDREN? YES OR NO HOW MANY? _____ AGES: _____

WHO HAS LEGAL CUSTODY? _____ WHERE DO THE CHILDREN LIVE NOW?

HAVE YOU EVER BEEN CHARGED WITH NEGLECT, ABUSE, CHILD ENDANGERMENT,
CONCERNING YOUR CHILDREN? (EXPLAIN): _____

DO YOU HAVE YOUR OWN HOME YES OR NO; IF NOT, WITH WHO AND WHERE DO
YOU LIVE? _____

WHICH HOSPITAL DO YOU GO TO: _____ PHONE: _____

IN CASE OF EMERGENCY, WHICH HOSPITAL WOULD WE TAKE YOU: _____

_____ PHONE: _____

IN CASE OF EMERGENCY, WHO DO WE CONTACT: _____

PHONE: _____ ADDRESS: _____

RELATIONSHIP: _____

.....
COUNSELOR ASSIGNED: _____ DATE: _____

SERVICE LEVEL ASSIGNED: _____ DATE: _____

**Navajo Nation Judicial Branch
D.A.N.A. Drug Court
Intake Assessment Form**

Client's Name: _____ Case No: _____

Mailing Address: _____

Chapter Affiliation: _____ Census No: _____

Describe physical residence location: _____

A. Present Case Status:

B. Employment and Financial Data:

C. Marital and Family Data:

D. Educational and Military Data:

E. Prior arrest and court appearances:

F. Client's current substance abuse:

G. Last Physical Examination:

H. Past History of Treatment and Counseling:

I. Prior Temporary Release and Community Services Work:

J. Traditional and Non-Traditional Background:

Recommendations: _____

Submitted by: _____

D.A.N.A. Drug Court Officer

Client's Signature: _____ Date Acknowledged: _____

**JUDICIAL BRAND OF THE NAVAJO NATION
D.A.N.A. Drug Court
Adult In-Take Screening Instrument**

PERSONAL INFORMATION:

Name: _____ aka: _____

Address: _____ City: _____ State: _____

Zip Code: _____ Telephone Number: _____

Physical residence: _____

SS#:: _____ Census No: _____ DOB: _____ Age: _____

Sex: Male or Female Height: _____ Weight: _____ Color of Eyes: _____

Place of Birth: _____ Tribe: _____ Body marks, scars, or tattoos:

_____ Name of community chapter: _____

EMPLOYMENT, MILITARY & COURT INFORMATION:

A. Employment Information: Are you employed? Yes or No. . . If yes, employer's name & place of employment: _____ Employer's phone: _____
What type of job do you do? _____ If unemployed, reason for your unemployment: _____ If unemployed, what is source of family income? _____

B. Military Data: Are you a Veteran? Yes or No. If yes, please answer the following information: Military Branch: _____ Year(s) served: _____

C. Court Information: Are you currently on probation? Yes or No. If yes, please answer the following: What Courts placed you on Probation? _____
Do you have any Outstanding "Warrant(s) or Fines" with the Navajo Nation, San Juan County, Farmington, or other Courts? Yes or No. If yes, please provide specific information: _____

Name of your Probation Officer: _____ Phone Number: _____

Provide prior arrest history with Navajo Nation, San Juan County, or State such as: DWI, DUI, PI, DC; possession of liquor, delivery of liquor, endangerment of child: _____
 _____ Are you currently facing charges or awaiting a Hearing: Yes or No. If yes, please provide specific information: _____

MARITAL AND FAMILY INFORMATION:

Marital status: Single (Never Married); Married; Separated; Divorced; Widowed: If Married:

Name of spouse: _____ No. of dependents: _____ Years Married:

_____ Age: _____ DOB: _____ Place of spouse employment: _____

Are you in a girl- or boyfriend relationship? If yes, provide name: _____

Are you in a common-law relationship? Yes or No. If yes, provide name of common-law spouse: _____ Age: _____ DOB: _____ Years living together: _____

Are you a step-parent? Yes or No. If yes, no. of step-children: _____

What are your personal religious beliefs? (Circle One) Dine Traditional Ceremonies; Native American Church (NAC); or Christian Church: What is your parents' religious belief?

_____ What is the religious belief of your spouse, common-law spouse, or girl/boyfriend? _____ How long since you attended a religious service? _____

SUBSTANCE ABUSE INFORMATION:

What substances do you regularly depend on? Alcohol, Marijuana, Methamphetamine, Cocaine: _____ At what age did you start using substances? _____

What is the reason why you use substances? (Please be specific): _____

_____ Were you ever Court Ordered to go to Treatment Facility? Yes or No. If yes, how long did you stay? (This could be days or months): _____ Name of treatment facility: _____

Are you willing to be "refer" to a treatment facility? Yes or No. If you answer no, provide reason: _____

EDUCATIONAL INFORMATION:

Highest Grade Completed: _____ Name of last school attended: _____

Are you willing to pursue your GED? Yes or No. If yes, Drug Court can refer you to a GED Program. Are you attending Post Secondary Education? Yes or No. If yes, where? _____

_____ Expected date of graduation: _____

THE IN-TAKE INFORMATION IS KEPT WITH STRICT CONFIDENTIALITY:

Submitted by: _____, Drug Court Officer

Signature of D.A.N.A. Client: _____ Date: _____

Section B: Agreement to Participate

Purpose

This section provides an effective notice to participants about what taking part in the Healing to Wellness Court Program will require, what the choices are, what a potential participant is legally agreeing to, and what will happen to the participant if he or she breaks the agreement. Wellness Courts tend to require that a potential participant read and sign an agreement to participate before being admitted into the Wellness Court. Some tribes have a written admission policy (in addition to the agreement to participate form) that sets time frames and deadlines for admitting participants, when he or she is oriented and completes the admission packet, when he or she is assigned a counselor and is assessed, and how all of these steps are documented. See the “Admission Policy” of the Pascua Yaqui Tribe, below.

A comprehensive agreement to participate includes language on treatment participation; to refrain from substance possession and use; an agreement to maintain stable housing arrangements (with assistance and approval); to refrain from violations of the law; to maintain employment, education, or job training; to attend scheduled court appearances; the right to voluntarily terminate participation; an agreement to release one’s own information and to permit the team and other agencies to communicate about it; an agreement not to disclose other participants’ information; to seek appropriate medical attention; a list of the participant rights; notice regarding home and worksite monitoring visits; a consent to law enforcement searches of the person, automobile, and residence (including alcohol and drug testing); and notice of the criminal tribal court consequences for program termination.

Sample Tribal Wellness Court Wording

Eastern Band of Cherokee

"Cherokee Tribal Drug Court - Policies and Procedures Manual" (June 2009)

Agreement of Participation

The Agreement of Participation outlines the basic rules of the program and sanctions that may be imposed by the Cherokee Tribal Drug Court Judge for failure to abide by the conditions of Cherokee Tribal Drug Court. The form is read to each participant to ensure understanding of the requirements and possible sanctions. Each Participant must sign the form prior to admission.

Little Traverse Bay Band of Odawa

"Waabshki-Miigwan Court Manual" (January 2011)

Client Agreement

Client shall read and voluntarily sign the Client Contract, Rules and Regulations, Participation Agreement, and Payment Agreement. Failure to agree to the terms within these documents can result in being ineligible for the Waabshki-Miigwan program.

*Relevant Sample Forms***CHEROKEE TRIBAL DRUG COURT AGREEMENT OF PARTICIPATION**

NAME: _____ ROLE #: _____ DOB: _____

1. **Drug Treatment and Counseling.** I will attend drug treatment and will participate in group, family, and/or individual counseling.
2. **Refrain from Further Possession or Use of Drugs.** I will not possess and/or use illicit drugs and agree to submit to frequent and random drug testing for the presence of drugs. I understand and agree that chain of custody and validity of testing procedures is not required and the results of my tests shall be admissible as evidence in Drug Court.
3. **Housing.** I understand that stable housing is necessary for my recovery and must be approved by the Drug Court staff. I agree to comply with recommendations and restrictions.
4. **Refrain From Further Violations of Law.** I will not violate laws. I understand that any violation or arrest must be reported to the Drug Court staff within 24 hours.
5. **Employment, Education and/or Job Training.** I agree to maintain approved employment and/or attend any education or job training programs to which I am referred. I will inform the Drug Court staff prior to changing employment. I agree to inform my employer of my participation in Drug Court and the possibility of a site visit
6. **Agreement to make all Scheduled Appearances.** I will provide for my own transportation and shall appear as scheduled for Drug Court sessions and all other appointments.
7. **Voluntary Termination.** I understand that I may petition the Court for termination from this program. If the Court determines that the termination petition is intelligently and voluntarily made, sentence will be imposed by the Tribal Criminal Court Judge after the Tribal Drug Court Judge issues an order for termination from the program.
8. **Exchange of information.** I understand Drug Court data is confidential. I will not discuss the program or disclose participant information without approval from the Drug Court staff. I understand the Drug Court staff will make reports to the Judge concerning my progress in treatment; that the psychologist patient/counselor-patient privileges shall not apply. I agree to release information and permit communication with outside agencies to assist in fulfilling the requirements of the Drug Court program.
9. **Medical Issues.** I agree to seek medical attention when appropriate and follow through with the recommendations. I agree to report all prescriptions with adequate documentation to the Drug Court staff.
10. **Disclosure of Program Information.** I understand for purposes of study or review of this program, some confidential information may be discussed to third parties, but that under no circumstances will this statistical data include my name, address or other personal identifying information.
11. **Confidentiality of Drug Court Participation.** I understand that any statements or disclosures I make during the course of my participation in treatment, counseling or court proceedings, in regard to drug use or drug-seeking behavior shall be held confidential. If I am terminated from this program, the fact of my participation, the results of any testing, any statements I made during the course of this program, and the reason(s) for termination shall be privileged subject to appropriate waivers of said privilege.
12. **Participants Not asked to Inform on Others.** The Court agrees that no defendant participating in this program will be requested to be an informant or encouraged to disclose information concerning any third parties as a condition of entry or completion of this program.
13. **Appropriate Behavior Among Participants.** I agree to respect the opinions and feelings of other program participants and understand verbal or physical threats or abuse will not be tolerated. I agree not to engage in any romantic or sexual relationships with other Drug Court participants while actively involved in the program.
14. **Site Visits.** I understand site visits to my home and place of employment will be conducted by Drug Court staff and/or law enforcement officers.

15. **Consent to Search:** I do consent to allow any law enforcement agency/probation to search my person, automobile, or residence. I acknowledge that any contraband which may be found may be used against me. This search may be without probable cause. I understand that I have a constitutional right but I waive that right for the purpose of ensuring my compliance with the agreement of participation executed with the Drug Court.

I understand that I must abide by the conditions of the Cherokee Tribal Drug Court, including my individual program plan, and failure to do so may result in sanctions including, but not limited to, in-patient drug treatment, community service, home incarceration, imprisonment in the county jail, or termination from the program.

Participant: _____

Date _____

Witnessed by: _____

Date _____

**Poarch Band of Creek Indians
Drug Court Participation Agreement
For Tribal Court Referred Participants**

I, _____, agree to the following as conditions of my participation in the Poarch Band of Creek Indians Drug Court:

1. I admit that I need treatment of my drug/alcohol addiction and hereby agree to comply with all conditions of the Drug Court Program.
2. Following acceptance by the Poarch Creek Indians Drug Court and review, I will report to the Tribal Court Administrator/Tribal Probation Officer/Case Manager for review of Program requirements and sign any further documents necessary to participate in the Drug Court Program.
3. I agree to a pre-screen testing for tuberculosis.
4. I agree to work with the Addictions Counselor, Tribal Probation Officer/Case Manager and any other necessary person to formulate a treatment plan.
5. I understand that I am to remain in Escambia County, Alabama, and not change my residence without obtaining permission from the court. I am required to submit my current address and telephone number to the court.
6. I understand that I must allow the Probation Officer, Case Manager, or any Law Enforcement Officer directed by the Drug Court to search my person, home, vehicle, or any other property under my control.
7. I understand that I must notify the Tribal Probation Officer/Case Manager of any medical condition that requires attendance by physician and to have my physician provide a statement in writing to the court of the medical condition, the prescribed treatment and anticipated length of time of the medical service.
8. I understand that the Drug Court Judge has the discretion to dismiss me from the Drug Court Program at any time upon finding that I have not been honest and truthful to the Court.
9. I agree to sign an individual plan for treatment and to use my best efforts to accomplish the goals and objectives as designed and said plan of treatment.
10. I shall attend all meetings as instructed by the Drug Court.
11. I understand that I may graduate from the program and a minimum of 12 months, as long as I do not have any setbacks. I also understand that I may be in the program longer than 12 months depending on my actions and pace of advancement through the Program.
12. I understand that I must schedule my treatment/support meetings each Friday for the following week. I understand that if I have to cancel or reschedule my treatment appointment it must be done within 24 hours of the scheduled appointment or I will not be allowed to reschedule the appointment until the following week.

13. I understand that if I am 15 minutes or later for any scheduled appointment, I will not be allowed to attend that meeting/appointment that day.
14. I agreed to submit to urine testing were other procedures for the testing of drug and alcohol usage.
15. I consent to open communications between Tribal Court, any medical treatment provider, my Probation Officer/Case Manager, and Drug Court staff. This consent relates to any communication, test results, opinions, observations, or other matters, otherwise privileged or not, that may be relevant to my prognosis, compliance, and progress in the Drug Court Program. I understand that this consent shall remain in effect and cannot be revoked by me until there has been a formal termination of my involvement in the Drug Court Program. I consent to a copy of this agreement and release being made available to my medical treatment provider to effectuate the disclosure of confidential information. I agree to sign any other release of information forms that may be needed in favor of the Poarch Creek Indians in order for information to be obtained.
16. I consent to the Poarch Band of Creek Indians Drug Court Team being informed of my attendance in counseling results of urinalysis and progress in any treatment programs.
17. I understand failure to attend any counseling, remain drug and alcohol free or demonstrate progress in treatment will result in a review of my case by the Poarch Creek Indians Tribal Court Team. This review will determine if I remain in the Drug Court Program or if I am removed from the Program.
18. I understand that should I not successfully complete the Drug Court Program, pending charges shall be pursued or I will be returned to the proper jurisdiction/court for adjudication or execution of sentence as if I had not been a participant in the program.
19. I understand that, if applicable, all terms and conditions of any sentencing order, pre-trial diversion agreement, bond or other agreements or orders of the Court that issued such orders shall remain in full force and effect throughout my participation in the Drug Court Program.
20. I agreed to complete weekly assignments, homework, etc., as given by the Addictions Counselor. I understand that the Drug Court Judge will be updated on my progress or lack of each week in a written report.
21. I understand that my attendance at SUPPORT MEETINGS/and/or church is encouraged. I also understand that I can only receive 1 credit per week for attending any outside meetings.
22. I understand that if I feel to comply with orders of the drug court or the rules of the Drug Court Program I may be ordered to be confined to jail or detention center.
23. I shall comply with all terms and conditions of my sentencing order or pre-trial diversion agreement, bond (i.e., pay fines, pay court costs, etc.). If applicable, I shall comply with all terms of probation provided by my Probation Officer/Case Manager and all directives of the Drug Court.
24. I agree to pay \$50.00 per month for Drug Court fees and \$25.00 per month for monitoring fees (if applicable), in addition to any and all court costs, fines and any other fees the court may assess in my case(s). (Program fees are subject to change.)

25. I consent to the garnishment of my wages in the event that I do not pay any administrative cost or court-ordered monies within the time prescribed by the Drug Court, or at the rate of frequency ordered by the Drug Court.
26. By signing this document, I grant the Poarch Band of Creek Indians ("Tribe") and Poarch Band of Creek Indians' Drug Court a security interest in any and all (1) stipends owed to the participant for attendance at Board, Commission, Authority or Committee meetings of tribal entities, and (2) future per capita payments (otherwise known as "birthday checks") issued by the Tribe to the Participant up and until the amount of all sums owed by Participant are paid to Poarch Band of Creek Indians' Drug Court. The grant of such security interest shall also constitute a Voluntary Assignment of the per capita payments and stipends under the Tribal Code to the extent of the amounts owed. Should the Participant be in Default under this Agreement at any time, the Tribe and its Drug Court in the exercise of its rights under this Security Interest and Voluntary Assignment, shall have the right and authority upon notice of Default to the Participant, and without any further action or judicial process, to retain and withhold the per capita payment(s) and stipends otherwise payable to Participant and to pay and apply such per capita payments and stipends to itself to satisfy any amount owed because of the Default. Participant further agrees that Poarch Band of Creek Indians' Drug Court may record a Financing Statement (UCC – 1) granting the Tribe and its Drug Court a Security Interest in any and all stipends and future per capita payments provided that no such filing shall subject the construction or enforcement of this document to state law or in any way limit or restrict the Tribe's power to enforce the Security Interest and Voluntary Assignment in accordance with its terms under tribal law.
27. I further acknowledge that success in treating addiction within the context of the Drug Court Program depends on full and immediate disclosure and exchange of participant information related to treatment and legal issues between the participant and the Drug Court Team (including but not limited to the Drug Court Judge, prosecutor, defense attorney, administrator, Addictions Counselor, Treatment Personnel and Probation Officer/Case Managers) and in consideration for my acceptance into the Drug Court Program, I waive, to the extent that such as provided by rules of law, any assertion of confidentiality and any prohibition against ex-parte communication between the aforementioned Drug Court component personnel and other aforementioned informational sources.
28. I further understand that once my plea is accepted and/or I have been accepted into the program, I do not have the option of withdrawing from the Drug Court because of personal problems.
29. I agree to abide by all the terms and conditions of the Poarch Band of Creek Indians Drug Court Participant's Manual.
30. I understand that program requirements of the Poarch Creek Indian Drug Court may be modified during my participation in the Program and that I will be subject to any such changes.
31. I have read or have had read to me and understand the contents of this agreement.
32. I hereby execute this agreement intelligently, voluntarily, not under the influence of drugs and/or alcohol or duress.

Participant

Date

Probation Officer/Case Manager

Date



**Poarch Band of Creek Indians
Drug Court Participation Agreement
For State Referred Participants**

I, _____, agree to the following as conditions of my participation in the Poarch Band of Creek Indians Drug Court:

1. I admit that I need treatment of my drug/alcohol addiction and hereby agree to comply with all conditions of the Drug Court Program.
2. Following acceptance by the Poarch Creek Indians Drug Court and review, I will report to the Tribal Court Administrator/Tribal Probation Officer/Case Manager for review of Program requirements and sign any further documents necessary to participate in the Drug Court Program.
3. I agree to a pre-screen testing for tuberculosis.
4. I agree to work with the Addictions Counselor, Tribal Probation Officer/Case Manager and any other necessary person to formulate a treatment plan.
5. I understand that I am to remain in Escambia County, Alabama, and not change my residence without obtaining permission from the court. I am required to submit my current address and telephone number to the court.
6. I understand that I must allow the Probation Officer/Case Manager, or any Law Enforcement Officer directed by the Drug Court to search my person, home, vehicle, or other property under my control.
7. I understand that I must notify the Tribal Probation Officer/Case Manager of any medical condition that requires a physician and to have my physician provide a statement in writing to the court of the medical condition, the prescribed treatment and anticipated length of time of the medical service.
8. I understand that the Drug Court Judge has the discretion to dismiss me from the Drug Court Program at any time upon finding that I have not been honest and truthful to the Court.
9. I agree to sign an individual plan for treatment and to use my best efforts to accomplish the goals and objectives as designed and said plan of treatment.
10. I shall attend all meetings as instructed by the Drug Court.
11. I understand that I may graduate from the program and a minimum of 12 months, as long as I do not have any setbacks. I also understand that I may be in the program longer than 12 months depending on my actions and pace of advancement through the Program.
12. I understand that I must schedule my treatment/support meetings each Friday for the following week. I understand that if I have to cancel or reschedule my treatment appointment it must be done within 24 hours of the scheduled appointment, or I will not be allowed to reschedule the

appointment until the following week. I understand that if I am 15 minutes or later for any scheduled appointment, I will not be allowed to attend that meeting/appointment that day.

13. I agreed to submit to urine testing were other procedures for the testing of drug and alcohol usage.
14. I consent to open communications between Tribal Court, any medical treatment provider, my Probation Officer/Case Manager, and Drug Court staff. This consent relates to any communication, test results, opinions, observations, or other matters, otherwise privileged or not, that may be relevant to my prognosis, compliance, and progress in the Drug Court Program. I understand that this consent shall remain in effect and cannot be revoked by me until there has been a formal termination of my involvement in the Drug Court Program. I consent to a copy of this agreement and release being made available to my medical treatment provider to effectuate the disclosure of confidential information. I agree to sign any other release of information forms that may be needed in favor of the Poarch Creek Indians in order for information to be obtained.
15. I consent to the Poarch Band of Creek Indians Drug Court Team being informed of my attendance in counseling results of urinalysis and progress in any treatment programs.
16. I understand failure to attend any counseling, to remain drug and alcohol free, or to demonstrate progress in treatment will result in a review of my case by the Poarch Creek Indians Tribal Court Team. This review will determine if I remain in the Drug Court Program, or if I am removed from the Program.
17. I understand that should I not successfully complete the Drug Court Program, pending charges shall be pursued, or I will be returned to the proper jurisdiction/court for adjudication or execution of sentence as if I had not been a participant in the program.
18. I understand that, if applicable, all terms and conditions of any sentencing order, pre-trial diversion agreement, bond or other agreements or orders of the Court that issued such orders shall remain in full force and effect throughout my participation in the Drug Court Program.
19. I agreed to complete weekly assignments, homework, etc., as given by the Addictions Counselor. I understand that the Drug Court Judge will be updated on my progress or lack of each week in a written report.
20. I understand that my attendance at SUPPORT MEETINGS/and/or church is encouraged. I also understand that I can only receive 1 credit per week for attending any outside meetings.
21. I understand that if I am found in non-compliance with the Poarch Band of Creek Indians Drug Court rules or treatment plan, the court may impose any sanction that I voluntarily agreed to when I entered the Drug Court Program including 2–7 days in jail. I understand that I forfeit my right to an evidentiary hearing regarding a positive alcohol or drug screen, unless I am contesting the accuracy of the urinalysis. In that case, I will be entitled to an evidentiary hearing if the court has abused its discretion by not abiding by the sanctions set out in the Drug Court rules. A jail sanction will not necessarily be predicated on a finding or indirect or direct criminal contempt. I will not be entitled to an evidentiary hearing to test the validity of the Poarch Band of Creek Indians Drug Court protocol since I am entering the Poarch Band of Creek Indians Drug Court voluntarily.

22. I understand that I will only be allowed three major infractions. On the fourth infraction a motion will be filed by the Tribal Prosecutor to remove me from the program. I understand that I may remove myself from the program by signing a Request for removal from the program and waiver of a revocation hearing form.
23. I shall comply with all terms and conditions of my sentencing order or pre-trial diversion agreement, bond (i.e. pay fines, pay court costs, etc.). If applicable, I shall comply with all terms of probation provided by my Probation Officer/Case Manager and all directives of the Drug Court.
24. I agree to pay \$50.00 per month for Drug Court fees and \$25.00 per month for monitoring fees (if applicable), in addition to any and all court costs, fines and any other fees the court may assess in my case(s). (Program fees are subject to change.)
25. I consent to the garnishment of my wages in the event that I do not pay any administrative cost or court ordered monies within the time prescribed by the Drug Court, or at the rate or frequency ordered by the Drug Court.
26. By signing this document, I grant the Poarch Band of Creek Indians ("Tribe") and Poarch Band of Creek Indians' Drug Court a security interest in any and all (1) stipends owed to the participant for attendance at Board, Commission, Authority or Committee meetings of tribal entities, and (2) future per capita payments (otherwise known as "birthday checks") issued by the Tribe to the Participant up and until the amount of all sums owed by Participant are paid to Poarch Band of Creek Indians' Drug Court. The grant of such security interest shall also constitute a Voluntary Assignment of the per capita payments and stipends under the Tribal Code to the extent of the amounts owed. Should the Participant be in Default under this Agreement at any time, the Tribe and its Drug Court in the exercise of its rights under this Security Interest and Voluntary Assignment, shall have the right and authority upon notice of Default to the Participant, and without any further action or judicial process, to retain and withhold the per capita payment(s) and stipends otherwise payable to Participant and to pay and apply such per capita payments and stipends to itself to satisfy any amount owed because of the Default. Participant further agree that Porch Band of Creek Indians' Drug Court may record a Financing Statement (UCC – 1) granting the Tribe and its Drug Court a Security Interest in any and all stipends and future per capita payments provided that no such filing shall subject the construction or enforcement of this document to state law or in any way limit or restrict the Tribe's power to enforce the Security Interest and Voluntary Assignment in accordance with its terms under tribal law.
27. I further acknowledge that success in treating addiction within the context of the Drug Court Program depends on full and immediate disclosure and exchange of participant information related to treatment and legal issues between the participant and the Drug Court Team (including but not limited to the Drug Court Judge, prosecutor, defense attorney, administrator, Addictions Counselor, Treatment Personnel and Probation Officer/Case Managers) and in consideration for my acceptance into the Drug Court Program, I waive, to the extent that such as provided by rules of law, any assertion of confidentiality and any prohibition against ex-parte communication between the aforementioned Drug Court component personnel and other aforementioned informational sources.
28. I further understand that once my plea is accepted and/or I have been accepted into the program, I do not have the option of withdrawing from the Drug Court because of personal problems.

- 29. I agree to abide by all the terms and conditions of the Poarch Band of Creek Indians Drug Court Participant's Manual.
- 30. I understand that program requirements of the Poarch Creek Indian Drug Court may be modified during my participation in the Program and that I will be subject to any such changes.
- 31. I have read or have had read to me and understand the contents of this agreement.
- 32. I hereby execute this agreement intelligently, voluntarily, not under the influence of drugs and/or alcohol or duress.

Participant

Date

Probation Officer/Case Manager

Date

DRUG COURT CASE NUMBER _____

**POARCH BAND OF CREEK INDIANS DRUG COURT
CONDITIONS OF PARTICIPATION**

I AGREE TO THE FOLLOWING as a condition of my participation in Drug Court (DC),

1. *I will continue to abide by all orders, terms and conditions placed upon me by the Poarch Band of Creek Indians Tribal Court and/or any City, County, State.*
2. *I will not possess, use or consume alcohol or illegal substances, or misuse prescription medications.*
3. *I will abide by all rules and policies as set forth by the Poarch Band of Creek Indians Drug Court Program.*
4. *I agree to attend and participate in all support and treatment programs as required by the court.*
5. *I understand that if I am found in non-compliance with Drug Court policies or treatment plan, the court may impose any sanction that I voluntarily agreed to when I entered the Poarch Band of Creek Indians Drug Court including from 2–60 days in jail. I understand I forfeit my right to an evidentiary hearing regarding a positive alcohol or drug screen, unless I am contesting the accuracy of the urinalysis. In that case, I will be entitled to an additional drug test by an independent laboratory using the same specimen. A jail sentence will not be necessarily predicated on a finding of indirect or direct criminal contempt. I will not be entitled to an evidentiary hearing to test the validity of the Drug Court Protocol if I have entered the Poarch Band of Creek Indians voluntarily.*
6. *If I enter the Poarch Band of Creek Indians Drug Court Program voluntarily including referrals from other state court systems, I can ask to be removed from the Program at any time by submitting a Request for removal from the program and waiver of a revocation hearing form. If removed from the program voluntarily or involuntarily the appropriate authorities will be notified of my removal.*
7. *My progress in recovery will be monitored by the Tribal Probation Officer/Case Manager, who will submit progress reports to the Drug Court Judge. The progress reports will contain:*
 - *The result of every alcohol/drug test*
 - *Attendance of required meeting and/or counseling sessions*
 - *Participation at required treatment program activities*
 - *Adherence to the rules of Drug Court and the rules of the treatment program*
 - *Compliance with my Treatment Plan*
8. *Each of the following achievements will be considered a “compliant event”:*
 - *Attendance at court appearances*
 - *A negative result from an alcohol/drug test*
 - *Compliance with submitting to all alcohol/drug testing*
 - *Attendance/participation at required meetings and/or counseling session*
 - *Attendance/participation at required treatment program activities*
 - *Compliance with Treatment Plan*
 - *Compliance with any other tasks identified in the Treatment Plan (i.e., ability to maintain employment, obtaining a GED)*
 - *Ability to maintain housing.*

9. For each “compliant event” any of the following rewards may be granted:
- Acknowledgment by Judge
 - Reduced court fees
 - Reduced court appearances
 - A phase advancement certificate in court
 - Graduation ceremony, including picture with Judge
10. Each of the following may be considered a “non-compliant event” at the discretion of the Judge:
- Failure to make an appearance on time in Court
 - Leaving treatment program
 - Involuntary termination from the program
 - A positive result from an alcohol/drug test (a “dirty” test)
 - Failure to attend required meetings and/or counseling sessions
 - Failure to comply with the other tasks in the Treatment Plan
 - Failure to comply with the rules of the treatment program
 - A dishonest statement (written or spoken) to the WC Judge
 - Failure to comply with other tasks ordered by the WC Judge or Team
 - Failure to perform sanctions
11. For each “non-compliant event,” any of the following sanctions may be imposed:
- Reprimand from Court
 - Increased court appearances
 - Increased intensity in treatment program
 - A referral to in-patient treatment
 - Reduction in phase
 - Jail sanctions
12. If a jail sanction is imposed, I forfeit the right to an evidentiary hearing unless I am contesting the validity of the urine analysis (drug testing) and/or the court’s compliance with the Drug Court Protocol.
13. My signature on this Agreement indicates my consent to the terms and conditions set forth.
14. Should you choose to consult with your attorney, he/she will also sign this Agreement.

Participant

Date

Participant’s Attorney (Optional)

Date

Tribal Probation Officer/Case Manager

Date

**PASCUA YAQUI DRUG COURT TREATMENT
ADMISSION AGREEMENT**

1. I recognize my need for assistance and hereby apply for admission to the Pascua Yaqui Drug Court Treatment (PYDCT).
2. It is understood that my admission and continued service is dependent upon my needing such assistance and my willingness to help myself, including completing treatment tasks assigned to me.
3. I understand that it is my responsibility to maintain abstinence and contribute to the success of my treatment and participate in the program activities.
4. I agree to remain alcohol and drug free and not to have them in my possession.
5. It is understood that Pascua Yaqui Drug Court Treatment is dedicated solely to the physical and social rehabilitation and the spiritual growth of those persons who are in need of such assistance.
6. I understand that Pascua Yaqui Drug Court Treatment is prohibited from serving as my guardian, or accepting power of attorney for its clients. It is further understood that under no circumstances can Pascua Yaqui Drug Court Treatment be under any obligation to me; and that I am a beneficiary and not an employee of Pascua Yaqui Drug Court Treatment.
7. I agree for myself, my heirs, or assigns, that should any accident occur involving personal injury to myself, or loss or damage to my property, during my treatment at Pascua Yaqui Drug Court Treatment, to hold Pascua Yaqui Drug Court Treatment free and harmless from any and all liability in connection therewith.
8. I understand that if I am discharged for not complying I will be referred back to the court and my original charges will be prosecuted.
9. I understand that I will be subject to periodic tests for possible alcohol or drugs either by the use of breathalyzer or a urine test.
10. I agree to have at least one family, other relative, or friend participate along with me in the treatment process.

Client Signature: _____ Date: _____

DC Judge: _____ Date: _____

PYDCT Staff Signature: _____ Date: _____

**PASCUA YAQUI DRUG COURT TREATMENT
ADMISSION POLICY**

POLICY

This serves to guide the admission, documentation, and duties of staff and to effectively process new clients into PYDCT.

PROCEDURE

1. New clients must begin the admission process within 24 hours following the Drug Court Judge's decision to admit the client into the program.
2. The client must complete the program admission packet, which contains the following forms: Biographical Information, Admission Agreement, Contract for Treatment, Clients Rights, Confidentiality of Alcohol and Drug Abuse Client Records, and Confidentiality Agreement. To be completed day one of admission.
3. The above documents will be inserted into the client's treatment file, along with an intake summary (See Documentation Policy).
4. The client will be given a packet that includes the following information: Welcome Letter, PYDCT Guidelines, PYDCT Treatment Description, Grievance Procedure and 12-Steps. This information will be provided on day one.
5. The client will be provided with an orientation session to discuss the above information, the tasks that will follow admission and to answer any questions the client may have.
6. The client will be assigned a primary counselor who will, by the 3rd day, meet with the client and provide the client with the Phase One Criteria, Petition Procedure and treatment plans (See Documentation Policy) that will range from 30 to 60 days. An orientation to these documents and tasks will be provided to the client.
7. The client will be introduced to PYDCT staff and peer group.
8. The primary counselor and client will fill out the Comprehensive Assessment form by the 4th and 5th day the client entered PYDCT. This form will be placed in the treatment file (See Documentation Policy).
9. The primary counselor will complete the scheduling and documentation of treatment activities.

Section C: Program Rules

Purpose

This section informs participants about their court and treatment hearing/group times and venues and lays the ground rules for their attendance and participation. There appears to be a difference between what might be called a program participation contract (the “agreement to participate”) and daily program guidelines (or “program rules”), although some Healing to Wellness Courts may conflate the two into one document. Program rules tend to be about notice of where to be and when, and to promote responsibility, accountability, and respect. They tend to include things like a pledge to remain alcohol and drug free, to respect others, to be on time, to call and notify if late or going to be absent, to dress appropriately, not to commit violence, threaten others, or engage in intimidating behavior, not to smoke/chew tobacco, abide by rules about phone calls, not to bring food or drinks in court/group, etc.

Sample Tribal Wellness Court Wording

Pascua Yaqui

"Drug Court Treatment" (no date)

PYDCT Client Guidelines

As a client of the Pascua Yaqui Drug Court Treatment, you are asked to read and familiarize yourself with these written guidelines. These guidelines are here to create and keep a positive, safe, and alcohol- and drug-free environment.

1. *Remain alcohol and drug free. If you are suspected of being under the influence, you will be required to submit to an alcohol and drug test, and may not be allowed to participate for the day and/or until the issue is resolved. Refusal to submit to a test will be considered a non-compliant matter.*
2. *Please respect others.*
3. *Be on time and attend scheduled program and treatment activities. This shows you are being responsible. Your treatment schedule will be based on whether you are employed or unemployed.*
4. *If you will be late or will not be attending scheduled activities, call and notify staff and give the reason for your being late or for you not attending that day. For medical reasons you may be requested to provide a doctor’s notice [sic]. Be aware that the reason for your being late or not attending may not be considered a valid*

reason and may be a non-compliant matter. Emergency cases may be handled according to the situation.

- 5. Dress appropriately, clothes that have drug, alcohol, sexual, and/or any negative message or symbols are not allowed; you will be asked to return home and change clothing. Also, clothes that are physically revealing are not allowed.*
- 6. No violence, threats, or intimidating behavior. Any of these acts will result in either of the following: Staff confrontation, mediation, report to the authorities, or addressed by the Drug Court Judge. Consequences may vary from verbal awareness to discharge from the program.*
- 7. Unless it is previously arranged, no one else is to attend the program with you.*
- 8. While in treatment, you are requested to give your full attention and participation to the treatment program.*
- 9. You must remain in the program; unauthorized leaves will be considered a non-compliant matter.*
- 10. For leave (vacation, cultural, emergency, personal, etc.), please make arrangements with the program staff and/or Drug Court Judge. Fill out a leave form as detailed as possible.*
- 11. This is a no smoking facility; if you smoke, please do so in designated areas and during breaks.*
- 12. If you chew tobacco, please do so during breaks and dispose of fluids in a container or other appropriate place.*
- 13. Phone calls will be allowed during breaks and only with the approval of the staff member. You must monitor your calls, limit to 10 minutes. We prefer you take care of some of these calls on your own time. Your phone call request may be denied based on the excessive use and/or type of call.*
- 14. If you will be seeing a doctor or going to the hospital, inform your primary counselor or program staff. If you are going to get prescribed medication, you will be advised to consult with your doctor to seek prescribed medication that is non-narcotic; this only applies in cases where the option is possible and applicable. Not communicating this can cause problems for you when you are tested for drugs.*
- 15. Food or drinks are not allowed while in group or individual counseling. During other activities, it is at the discretion of the staff.*
- 16. In case of fire or other emergency requiring evacuation of this facility, follow the procedures; you will be orientated to these.*

17. *If you are cited or arrested for another charge, inform the program staff as soon as possible.*
18. *There are other guidelines, which will be discussed with you in regards to group participation, sessions, and the treatment service.*
19. *All petitions to graduate to a higher phase must be reviewed and approved with the drug court judge and team, and PYDCT staff.*
20. *Treatment plans may change based on your progress which is defined as either compliant or non-compliant.*
21. *The following is a short list of what compliant and non-compliant issues are:*

COMPLIANT

- Clean and sober*
- Follows treatment plan*
- Listens in groups, participates*
- Receives feedback from others*
- Avoids slippery places*
- Obeys laws*

NON-COMPLIANT

- Continues to use AOD*
- Misses sessions, group, etc.*
- Disruptive, argues, etc.*
- Closes up, refuses to listen*
- Goes to bars, hangs out with users*
- Arrested/cited or criminally involved*

Fort McDowell Yavapai Nation

"Fort McDowell Adult Wellness Court Policies and Procedures Manual" (March 2015)

WELLNESS COURT - PROGRAM RULES

PARTICIPANTS WILL BE REQUIRED TO ABIDE BY THE FOLLOWING RULES:

1. *All participants must appear in court before the Wellness Court Judge every Thursday at 3:00 P.M. unless otherwise notified. The purpose of the weekly Wellness Court hearing is to discuss the participant's progress in the program. Failure to appear in court as required may result in an arrest warrant being issued and sanctions being imposed.*
2. *Participants are NOT excused from attending (1) weekly court hearings, or (2) treatment sessions, unless they speak personally with the Tribal Court Case Manager, Program Coordinator, or their Counselor, and get permission directly. (Leaving a phone message, or any other kind of message, that you are not coming to court or to your scheduled treatment session, does not authorize permission to miss court or treatment.)*
3. *Do not schedule appointments/activities during scheduled court hearings or treatment*

sessions.

4. *All participants will provide the Wellness Court Coordinator, Case Manager, and Therapist with a current and active phone number.*
5. *Participants must submit, in advance, written requests to the committee for permission to attend overnight activities or events outside of the community.*
6. *All participants must remain in court until all cases are heard. The only exception to this rule is when a participant has provided a written request to the Wellness Court Committee prior to the hearing. No last minute requests (i.e., during the Wellness Court hearing) will be granted.*
7. *During the Wellness Court hearing the Judge will call the Participant before the bench and address his or her progress or lack thereof in court. Cases are called in random order decided by the Judge. The Judge reserves the right to call any case in a closed setting depending on the circumstances.*
8. *All information (i.e., drug test results, new arrests, etc.) discussed in court during hearings is confidential and may not be discussed with any person outside of Wellness Court. In other words, any participant who hears something in court and reveals confidential information to any person outside of the Wellness Court will be subject to sanction and may be subject to an offense of Disobedience of a Lawful Court Order or Contempt of Court.*
9. *Participants are responsible for their own transportation to and from all court hearings, treatment sessions (i.e., alcohol and drug education classes, individual and family counseling sessions and other scheduled activities).*
10. *The participant must attend all weekly scheduled treatment counseling sessions. This includes any and all scheduled recreational activities, alcohol/drug education classes, individual and family counseling sessions. This also includes any other activities or appointments that may be developed during the course of his or her participation in the program.*
11. *Participants must be on time for all treatment sessions, recreational activities, community work service, and weekly court hearings. If late, the participant may not be allowed to attend/participate in a scheduled activity, (i.e., counseling, education classes, group sessions etc.), and will be considered to have missed that session. Contact the Counselor or Case Manager if there is a possibility of tardiness or missed session. Names and phone numbers of emergency contacts will be provided. Generally, only a verified medical matter is a reasonable excuse.*
12. *The Participant must submit to weekly direct observation random drug tests (urine, saliva, breath, or other appropriate means of monitoring) to determine if he/she has been using illegal drugs or alcohol. The Participant must submit to testing upon request or as directed by the Wellness Court or Committee Member. The Participant's refusal to provide a sample will be considered a positive test for substance abuse.*

13. *A positive drug test, refusal to test or failure to immediately respond to a phone call request for a drug test will be grounds for an arrest warrant, immediate apprehension, and 48 hours incarceration for the first infraction, a minimum of 72 hours for the second and subsequent infractions. Additional sanctions may also be imposed at the next regularly scheduled court hearing.*
14. *The Participant must tell any medical professional who is treating them that they are in recovery. All prescriptions and over-the-counter medications information must be provided to the Case Manager/Program Coordinator at the earliest convenience but no later than 24 hours. If the participant is prescribed a narcotic prescription, as defined by the Federal Law, an additional appointment with a doctor that specializes in addiction will be required. Coordinator and Case Manager may request a count of prescription pills daily.*
15. *Participants will not consume any form or brand of energy drink during their program. (i.e., RedBull, 5 Hour Energy Shot, Monster, Rockstar, or similar drink).*
16. *The Participant shall perform a minimum number of community work service in each phase of the program. (The minimum number of community work hours and frequency required is identified in each of the phase requirements.)*
17. *To verify that community work service was performed, a Participant will be required to provide a signed form. Each Participant is responsible for obtaining forms from the Case Manager or Program Coordinator. Participants will present the completed/signed forms to the Case Manager or Program Coordinator by the designated due date. A Participant will NOT be allowed to fill out the form on the day of court.*
18. *The Participant shall actively participate and progress in their individualized fitness plan developed by the Fitness Coach at Wassaja Memorial Clinic. To verify fitness compliance, a Participant will be required to provide a signed form. (The minimum number of activity hours required is outlined by the Fitness Coach.)*
19. *The Participant shall be responsible for the cost of court-ordered home electronic monitoring (HEM), secure, continuous, remote alcohol monitor (SCRAM), and global positioning system (GPS).*
20. *All Participants are required to comply with a curfew established by the Wellness Court Committee. The Fort McDowell Police Department, Program Case Manager, Program Coordinator, and Team Members will monitor curfew and house arrest compliance.*
21. *All participants are subject to random house and curfew checks by Wellness Court Team, Probation and Fort McDowell Police including the K-9 Unit. Compliance includes consent to search home and/or surrounding areas, vehicle, cell phone, or personal property (including but not limited to wallet, purse, bag, computer, flash drives, disk or other storage media) searches.*
22. *Participants must dress appropriately at all times while participating in Wellness Court activities, including Wellness Court hearings, treatment sessions, and recreational activities. Clothing bearing drug or alcohol related themes, gang affiliation, obscene or vulgar*

- messages are considered inappropriate. Clothing such as shorts, cutoff pants, midriff tops, and flip-flops are also considered inappropriate. Accessories such as sunglasses and hats are not to be worn inside the courtroom unless medically required.*
- 23. Participants shall not use profanity and other vulgar or rude language during Wellness Court activities; this includes all court hearings, treatment sessions, community work service, and recreational activities.*
 - 24. Violence, harassment, or other inappropriate behavior among participants or other individuals will not be tolerated. Such behavior may result in termination from the program.*
 - 25. Participants shall comply with all reasonable commands and directives of the Tribal Court Case Manager, Program Coordinator, Treatment Counselors, Probation Officer, Court Bailiff, Wellness Court Committee members, and Police Officer during all Wellness Court activities.*
 - 26. Wellness Court terms and conditions (i.e., court appearances, treatment sessions, recreational activities or other court ordered activities) have priority over all other activities, including sports.*
 - 27. All Participants must be respectful and courteous to others, including other Participants, their spouses/immediate family, members of the Wellness Court Committee, and court staff during all Wellness Court hearings, treatment sessions, and recreational activities.*
 - 28. The participant will be required to have all program fees/costs paid in full prior to being released from the program. Fees/costs include drug testing, book fees, home electronic monitoring, fines, restitution, incarceration costs, etc.*
 - 29. Participants understand that Wellness Court Program rules, policies and procedures are subject to modification as deemed necessary by the Wellness Court Committee and/or Judge.*

Little Traverse Bay Band of Odawa

"Waabshki-Miigwan Court Manual" (January 2011)

Rules and Regulations

Prohibited Acts

- *Waabshki-Miigwan participants shall not violate any city, state, Tribal or federal law. Any arrest or contact with police must be reported to LTBB Tribal Probation Officer within twenty-four (24) hours.*
- *Participants shall not commit any acts of violence or threats of violence or engage in belligerent behavior.*
- *Romantic relationships among participants are strongly discouraged*

- *Participants shall not have in their possession, use, sell, distribute, or have under their control, any paraphernalia or drug except as prescribed by a licensed physician.*
- *Participants shall not use or possess any alcoholic beverage nor shall they be present at any establishment where the greater part of revenue is generated by the sale of alcoholic beverages.*
- *Participants shall not attend any program requirement while in the possession of a weapon of any form including firearms or knives.*
- *Participants shall not refuse to comply with any reasonable program requirement.*
- *Participants shall not miss any scheduled program/counseling appointments, drug court appearances, urine screens, or self-help meetings without proper notification.*
- *Participants shall not refuse to cooperate with all Drug Court personnel at each level and strive to progress through each level to the best of their ability.*

Required Acts

- *Be honest to yourself and to the Drug Court Team.*
- *Attend all counseling sessions and be on time. In the event a participant is unable to attend, the participant will call his or her counselor or the Tribal Court. At least twenty-four (24) hours in advance to reschedule the appointment within one week.*
- *Attend all Drug Court appearances and be on time.*
- *Maintain the confidentiality of all other drug court participants.*
- *Submit to onsite screening upon the request of LTBB Court Staff.*
- *Submit any required reports to the Drug Court, as ordered.*
- *Keep the Drug Court informed of a current address and phone number. The participant shall not change address or phone number without notifying the Court within forty eight (48) hours.*
- *Comply with the guidelines of the 30/30/30 program as outlined in the Waabshki-Miigwan Manual. Each participant will provide proof of employment, employment search, community service, or school grades to the Drug Court. Report any changes of status within one week.*
- *Submit to any rehabilitative, medical, or psychological program, as directed by the Drug Court.*
- *Pay all costs, restitution, fines, etc., ordered by Tribal Court as laid out in program policy.*
- *Pay all Drug Court Program fees, as agreed to as a result of any financial assessment.*
- *Make satisfactory progress in the program as measured by each level requirement.*

Section D: Confidentiality

Purpose

The purpose of this section is to provide legally effective notice and to obtain legally sufficient participant consent with respect to federal confidentiality laws for Healing to Wellness Court functions. We recommend using the NDCI template administrative order and consent form below. We recommend further that team members enter into a memorandum of understanding (MOU) that details the information that will be shared, by whom, and for what limited purpose, that it contain the acknowledgment of team members as to the applicability of and adherence to federal and tribal laws, and that it contain file access limitations and storage standards.

Two federal statutes regulate the disclosure of participant alcohol and drug treatment information in the drug court context, the Health Insurance Portability and Accountability Act (HIPAA) (and their 2002 regulations),²³ and the Drug Abuse Prevention, Treatment and Rehabilitation Act.²⁴ HIPAA created a privacy rule that prohibits covered entities from disclosing health information without proper consent or authorization. The Drug Abuse Prevention, Treatment and Rehabilitation Act and its regulations provide for the confidentiality of patient records "maintained in connection with the performance of any program or activity relating to substance abuse, education, prevention, training, treatment, rehabilitation or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States."²⁵

Although the provisions of HIPAA do not apply to drug courts, law enforcement, or probation officers,²⁶ the National Drug Court Institute recommends that drug courts issue administrative orders requiring that treatment providers disclose relevant treatment information to the drug court team, and that drug court participants sign a consent form that meets HIPAA requirements.²⁷ See sample template NDCI administrative order and consent form, below.

²³ Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936; 45 C.F.R. Parts 160-164.

²⁴ Public Health Services Act of 1944, 42 U.S.C. §290 dd.

²⁵ 42 U.S.C. §290dd-2.

²⁶ THE NATIONAL DRUG COURT INSTITUTE'S DRUG COURT JUDICIAL BENCHBOOK (February 2011), pp. 183-184 (citing John Petrila, National GAINS Center, *Dispelling the Myths About Information Sharing Between the Mental Health and Criminal Justice Systems* (2007); and 45 C.F.R. §165.512(k)(5)).

²⁷ THE NATIONAL DRUG COURT INSTITUTE'S DRUG COURT JUDICIAL BENCHBOOK (February 2011), p. 184.

**Excerpts from the NDCI Drug Court Judicial Benchbook²⁸
(citations omitted)**

D. [§9.6] What Is a Program Covered by Federal Confidentiality Laws?

The federal confidentiality law applies to any “program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States.” The definition has two components: (1) that the program involves substance abuse education, treatment, or prevention, and (2) that it is regulated or assisted by the federal government. Involving substance abuse education, treatment, or prevention is quite broad because it includes not only diagnosis and treatment, but also referral for treatment. Thus, a court employee who administers an alcohol or other drug screening and assessment or a judge who orders substance abuse treatment as a condition of probation or drug court participation arguably brings the court within the ambit of the federal definition of program. The second part of the definition is equally as broad because it covers both direct and indirect funding and assistance. The regulations include, inter alia, (1) any entity being a recipient of any federal funds, including funds not used for alcohol or other drug diagnosis, treatment, or referral; (2) activities conducted by a state or local governmental unit, which through revenue sharing or otherwise receives federal funds that could be (but are not necessarily) spent on a substance abuse program; or (3) a program that receives tax exempt status or the program has donors who receive income tax deductions for contributions to the program. Thus, any state or local court system would almost certainly qualify as being a recipient of federal assistance.

Irrespective of whether the drug court meets the two tier qualification for being a federally assisted program, the drug court judge is undoubtedly going to be the recipient of treatment information protected by federal confidentiality laws. When a court receives information protected by the federal confidentiality laws, the court is prohibited from redisclosing such information, absent a proper consent or those limited authorized disclosures permitted without consent. Hence, it is prudent to assume that the federal confidentiality laws apply when operating a drug court.

E. [§9.7] What Information Is Protected?

The federal confidentiality laws apply to all records relating to the identity, diagnosis, prognosis, or treatment of any patient in a substance abuse program. Thus, 42 U.S.C. § 290 dd applies to information that either reveals the identity of a person receiving treatment or discloses that a person is receiving, has received, or has applied to receive substance abuse treatment services. Drug-testing results alone are not protected information, unless used for the diagnosis, treatment, or referral for treatment. Because of the therapeutic use of drug-testing results, the drug court should generally consider them as covered by the federal confidentiality laws.

F. [§9.8] How Can Protected Information Be Shared?

²⁸ *Id.* at Chapter 9, Confidentiality, pp. 181-94.

The general rule is that for participants in alcohol and drug treatment programs, patient-identifying information cannot be shared. However, the federal regulations carve out exceptions. Information can be shared where there is proper written consent. Under limited circumstances, where there is no consent, there exist permissive and mandatory disclosures. The alternatives will be discussed in turn.

1. [§9.9] Consent

There are two requirements for procuring a valid consent, the advisement and the actual consent. The advisement must contain the following notices:

- 1. A header with the following statement: "This notice describes how medical and drug and alcohol related information about you may be used and disclosed and how you can get access to this information. Please review it carefully."*
- 2. A citation to both HIPAA and the confidentiality law and regulations.*
- 3. A description, including at least one example, of the types of uses and disclosures that the program is permitted to make for treatment, payment, and health care operations (include only those permitted under 42 CFR Part 2).*
- 4. A description, including at least one example, of each of the other purposes for which the program is permitted or required to disclose PHI without the individual's consent (this should include only those permitted under 42 CFR Part 2, including a warning that information can be released if the patient commits or threatens to commit a crime on program premises or against program personnel) and that the program must report suspected child abuse or neglect.*
- 5. A statement that other uses and disclosures will be made only with the individual's written consent and that the individual may revoke this consent.*
- 6. A statement of the individual's rights and a description of how the individual may exercise his or her rights.*
- 7. A statement that the program is required by law to maintain the privacy of and to provide individuals with notice of its legal duties and privacy practices.*
- 8. A statement that the program is required to abide by the terms of the notice.*
- 9. A statement that the program reserves the right to change the terms of the notice, and a description of how the program will provide individuals with a revised notice.*
- 10. A statement that (1) a violation of 42 CFR Part 2 is a reportable crime and that (2) under HIPAA, individuals may complain to the program and to the Department of Health and Human Services (HHS) if they believe their privacy rights have been violated, together with (3) a description of how the complaint may be filed.*
- 11. The name, title, and telephone number of a contact for further information.*
- 12. The date on which the notice became effective.*

In the criminal justice context, consent cannot be revoked. Conversely, HIPAA requires that consent can be revoked. However, if the drug court has issued an appropriate order, it can still obtain the needed treatment participation information.

The elements of the written consent are as definite as the notice. The consent form requires ten elements:

- a. The name or general designation of the program(s) making the disclosure.*

- b. *The name of the individual or organization that will receive the disclosure.*
- c. *The name of the patient who is the subject of the disclosure.*
- d. *The purpose or need for the disclosure.*
- e. *A description of how much and what kind of information will be disclosed.*
- f. *The patient's right to revoke the consent in writing and the exceptions to the right to revoke or, if the exceptions are included in the program's notice, a reference to the notice.*
- g. *The program's ability to condition treatment, payment, enrollment, or eligibility of benefits on the patient agreeing to sign the consent, by stating either (1) that the program may not condition these services on the patient signing the consent, or (2) the consequences for the patient refusing to sign the consent.*
- h. *The date, event, or condition upon which the consent expires if not previously revoked.*
- i. *The signature of the patient (and/or other authorized person).*
- j. *The date on which the consent is signed.*

In the criminal justice context, expiration of the consent may be conditioned on an event instead of a date. Thus, expiration may be conditioned upon the drug court participant's successful completion of or termination from the program. Once the consent form has been completed, the participant must be informed that the information disclosed is protected by federal law and that any further disclosures (redisclosure) must be made in accordance with 42 CFR, Part 2. Disclosures that are permitted pursuant to a valid consent form include information that can be used for a probation revocation, including alcohol or other drug-use admissions

Although not explicitly required, the drug court should employ practices that will ensure the participant's consent is knowingly obtained and entered into voluntarily. The participant should have the opportunity to consult a lawyer before executing the consent.

Because of potential literacy concerns, the notification and consent and redisclosure prohibition should be read to the participant before execution. When appropriate, the consent should be translated for the participant. The participant should be asked to reexecute the consent during program participation when there is a change in drug court team membership and to rectify any situation where the participant was still using drugs when the original consent was obtained. Finally, the various team members should enter into a memorandum of understanding (MOU) that details the information which will be shared, by whom, and for what limited purpose. The MOU should also contain the acknowledgment of team members as to the applicability of and adherence to federal and state confidentiality laws including those related to redisclosure. Of particular significance, are the limitations upon prosecutorial use of information gained from treatment programs and in staffing. The MOU should also include file access limitations and storage standards.

[§9.10]

In addition to the practices surrounding the execution of the consent and the team execution of the MOU, the court should consider certain additions to the consent. First, the participant should admit he or she was advised and had the opportunity to have counsel present. The consent could also contain language acknowledging sobriety and understanding. Finally, in the consent form, the participant should recognize that the

courtroom is public and the potential exists for disclosure of confidential information during open court proceedings.

NDCI Template HIPPA Order²⁹

**NDCI EXHIBIT 1.
HIPPA ORDER**

IN THE _____ COURT

_____, STATE OF _____

(County, District)

Case No. _____

People of the)	
State of _____)	
	)	ORDER RE:
Plaintiff,)	
v.	)	Limited Release of
	)	Specific Substance
_____	)	Abuse Treatment Records
Defendant.)	

This matter is before the court for consideration of the limited release of specific substance abuse treatment records. The court makes the following findings:

1. On _____ (Date), the defendant was accepted into/referred to the _____ Drug Court.
2. As a condition of participation in the drug court program, the defendant must attend substance abuse treatment and the drug court team must monitor the defendant’s progress in substance abuse treatment.
3. The defendant has voluntarily and knowingly signed a HIPAA and 42 C.F.R. Part 2 compliant release.
4. The information necessary to monitor the defendant’s progress in substance abuse treatment includes:
defendant's diagnosis, defendant’s urinalysis results defendant’s treatment attendance or nonattendance, defendant’s cooperation with treatment, defendant’s progress in treatment, and defendant’s prognosis. This treatment information is the minimum necessary to carry out the purpose of the disclosure. *See* 45 C.F.R. § 165.502(b)(11) and 42 C.F.R. § 2.13(a).

²⁹ *Id.* at 191.

It is therefore ordered that:

1. (_____ [Name of treatment provider]) shall provide to the members of the drug court team (as reflected in the HIPAA/42 C.F.R. Part 2 Consent to Release Form or team member replacements) the following information:
defendant's diagnosis, defendant's urinalysis results defendant's treatment attendance or nonattendance, defendant's cooperation with treatment, defendant's progress in treatment, and defendant's prognosis.
2. The named treatment provider shall continue to provide the treatment information until defendant's successful completion of or termination from the drug court program or further court order, whichever shall first occur.
3. The drug court team shall not redisclose the information received pursuant to this Order, except as may be provided by law.

SO ORDERED this _____ day of _____, 20_____.

Judge

NDCI Template Consent for the Release of Confidential Information³⁰

CONSENT FOR THE RELEASE OF CONFIDENTIAL INFORMATION:

CRIMINAL JUSTICE SYSTEM REFERRAL

I, _____ (Name of defendant), authorize (initial whichever parties apply):

[The ABC Alcohol and Drug Treatment Program]
(Name of general designation of program making disclosure)

[The Probation Department] employees supervising my case

[The Case Managers] employees supervising my case

(Name of the appropriate drug court)

(Name of prosecuting attorney)

(Name of criminal defense attorney)

(Other)

to communicate with and disclose to one another the following information (nature and amount of the information as limited as possible):

_____ my diagnosis, urinalysis results, information about my attendance or lack of attendance at treatment sessions, my cooperation with the treatment program, prognosis, and

The purpose of the disclosure is to inform the person(s) listed above of my attendance and progress in treatment.

I understand that my alcohol and/or drug treatment records are protected under the federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2, and the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 45 C.F.R. Parts. 160 & 164. I also understand that I may revoke this consent at any time except to the extent that action has been taken in reliance on it, and that in any event this consent expires automatically as follows:

³⁰ *Id.*

[Specify the date, event, or condition upon which this consent expires. This could be one of the following:]

_____ There has been a formal and effective termination or revocation of my release from confinement, probation, or parole, or other proceeding under which I was mandated into treatment, or

_____ (Specify other time when consent can be revoked and/or expires)

I understand that I might be denied services if I refuse to consent to a disclosure for purposes of treatment, payment, or health care options, if permitted by state law. I will not be denied services if I refuse to consent to a disclosure for other purposes.

I recognize that my review hearings are held in an open and public courtroom and it is possible that an observer could connect my identity with the fact that I am in treatment as a condition of participation in drug court. I specifically consent to this potential disclosure to third persons.

I understand that if I refuse to consent to disclosure or attempt to revoke my consent prior to the expiration of this consent, that such action is grounds for immediate termination from drug court.

I have been provided a copy of this form.

I acknowledge that I have been advised of my rights, have received a copy of the advisement, and have had the benefit of legal counsel or have voluntarily waived the right to an attorney. I am not under the influence of drugs or alcohol. I fully understand my rights and I am signing this Consent voluntarily.

Dated: _____
Signature of Drug Court Participant

Witness: _____
(position)

**PROHIBITION ON REDISCLOSURE
OF CONFIDENTIAL INFORMATION**

The notice accompanies a disclosure of information concerning a client in alcohol/drug treatment, made to you with the consent of such client. This information has been disclosed to you from records protected by federal confidentiality rules (42 C.F.R. Part 2). The federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 C.F.R. Part 2. A general authorization for the release of medical or other information is **NOT** sufficient for this purpose. The federal rules restrict any use of this information to criminally investigate or prosecute any alcohol or drug abuse patient.

Sample Tribal Wellness Court Wording

Navajo Nation

"D.A.N.A. Program Procedures Manual" (August 2000)

X. DANA Process - E. Confidentiality

All Navajo Nation, State, and Federal laws regarding confidentiality shall be observed and practiced by all personnel working with the DANA program.

Makah Tribe

"Makah Tribal Wellness Court: An Overview" (March 2001)

Confidentiality of Alcohol & Drug Abuse Patient Records

The confidentiality of alcohol and drug abuse patient records maintained by this program is protected by federal law and regulations. Generally, the program may not say to a person outside the program that a patient attends the program, or disclose any information identifying a patient as an alcohol or drug abuser unless:

- 1. The patient consents in writing;*
- 2. The disclosure is allowed by a court order; or*
- 3. The disclosure is made to medical personnel in a medical emergency or to qualified personnel for research, audit, or program evaluation.*

Violation of the federal law and regulations by a program is a crime. Suspected violations may be reported to appropriate authorities in accordance with federal regulations.

Federal law and regulations do not protect any information about a crime committed by a patient either at the program or against any person who works for the program or about any threat to commit such a crime.

Federal laws and regulations do not protect any information about suspected child abuse or neglect from being reported under state law to appropriate state or local authorities.

Cass County Leech Lake Band of Ojibwe

"Wellness Court Procedure Manual Ninth Judicial District" (July 2014)

Confidentiality Statement

Any program that specializes, in whole or in part, in providing treatment counseling or assessment and referral services for clients with alcohol or drug problems must comply with the Minnesota state and federal confidentiality regulations.

The Wellness Court Team must adhere to the Minnesota Government Data Practices Act and other applicable laws and policies relating to their respective departments. The Wellness Court clients must be informed of privacy rights in writing and are required to sign releases upon entering the program and be provided a copy. Information that is protected federal confidentiality regulations may always be disclosed after the client has signed a proper consent form. Said forms are signed upon admission to Wellness Court and treatment providers to facilitate information sharing.

A proper consent form must be in writing and must include all of the following:

- the name or general description of the program(s) making the disclosure; t
- the name or title of the individual or organization that will receive the disclosures; t
- the name of the client who is the subject of the disclosure; t
- the purpose or need for the disclosure; t
- how much and what kind of information will be disclosed; h
- a statement that the client may revoke the consent at any time, except to the extent that the program has already acted upon it; a
- the date, event, or condition upon which the consent expires if not previously revoked; t
- the date and signature of the client. t

Little Traverse Bay Band of Odawa

"Waabshki-Miigwan Court Manual" (January 2011)

Ethics and Confidentiality

The fundamental concern of the Waabshki-Miigwan program is addressing alcohol and substance abuse through treatment. Federal requirements and any tribal policies regarding confidentiality of client records must be considered. To properly address the confidentiality rights of participants, the Waabshki-Miigwan team must incorporate confidentiality regulations into its policies and procedures. Confidentiality regarding substance abuse treatment is protected by United States Code and the Code of Federal regulations. Therefore, all treatment providers and team members are bound by confidentiality guidelines.

The Waabshki-Miigwan team can share information regarding participants by obtaining written consent from each participant or through court order. Participants can sign a "Release of Confidential Information Form" where the participant gives his/her consent,

in writing, allowing treatment providers and team members to share and disclose information regarding substance abuse issues.

Additionally, the purpose and conditions of the Release of Confidential Information Form should be explained to the participant by a member of the Waabshki-Miigwan Team (defense, probation, prosecution). It is important for the participant to understand the duration of the consent and that consent may be revoked, but that revoking consent may affect his or her ability to remain in the Wellness Court Program.

Because participants are involved in group counseling, it is essential that they respect the confidentiality of other participants. They should agree not to disclose sensitive information discussed during sessions. This topic will be addressed in the Client Contract and the initial orientation. Also, measures must be taken by the team to ensure that information disclosed is relevant, reliable, and limited to the scope of the program and that it takes place in a professional forum.

In the event that a court staff member and a client should come in contact outside of a professional setting, communication should not take place unless initiated by the drug court participant.

Finally, Tribal law and regulations do not protect any information about suspected child abuse or neglect from being reported under tribal law to appropriate state or local authorities. Other instances of mandated reporting are in case of emergency, or threats to harm self or others.

Blackfeet Nation

"Blackfeet Tribal/Family/Alternative Courts – Policy and Procedure Manual for Alternative Courts" (June 2001)

D. General Program Policies

(1) Contract (SEE ATTACHMENT #1)

Each client will be required to read, understand, and sign the Confidential Contract.

Relevant Sample Forms

District Court of Navajo Nation
P.O. Box 1168
Shiprock, New Mexico 87420
(505) 368-1270
FAX (505) 368-1288

THE NAVAJO NATION
JUDICIAL BRANCH

Family Court
P.O. Box 1168
Shiprock, New Mexico 87420
(505) 368-1287/1286
FAX (505) 368-1288

**JUDICIAL BRANCH OF THE NAVAJO NATION
DANA DRUG COURT PROGRAM
CONSENT FOR RELEASE OF CONFIDENTIAL INFORMATION**

I, _____, authorize _____ to receive
(Name of Client) (Name of Treatment Provider)
from and disclose Confidential Information to the Navajo Nation Judicial Branch DANA Drug Court Program. Confidential information will include: history of alcohol and Drug use, Substance Abuse and Mental Health issues and other treatment provision; for the purpose of assisting the Navajo Nation Judicial Branch DANA Drug Court Program to conduct an effective treatment process for said client.

I understand that my records are protected under the Federal and State Confidentiality Regulations (42 CFR Part 2); Indian Health Services (42 CFR 2.31 (b)) Alcohol and Drug Abuse, Patients Rights and Accessing Health Information; Department of Behavioral Health (42 CFR Part 2, Section 2.31 (a) and 2.33); and cannot be disclosed without my written consent unless otherwise provided. I understand I may revoke this consent at any time except to the extent that action has been taken in reliance on it and that in any event this consent expires automatically in One Full Year unless otherwise specified below.

Other expiration specification: _____

Executed this _____ Day of _____, 2000/2001

Signature of Client: _____

Signature of Witness: _____ Title: _____

Signature of Drug Court Officer: _____

Revised 11/27/00

Consent for the Release of Confidential Information

Makah Wellness Court Referral

I, _____, hereby consent to communication between the **Makah Wellness Court Program Staff** including: Judge(s), the primary Counselor, and other treatment providers, Prosecutor, Public Safety, Defense Advocate, Adult Probation Officer, Wellness Court Coordinator, and Support Specialist II.

The purpose of, and need for, the disclosure authorized herein is to inform the named parties of my eligibility and/or acceptability for substance abuse treatment services and my treatment attendance, prognosis, compliance and progress in accordance with the drug court’s monitoring criteria.

Disclosure of this confidential information may be made only as necessary for, and pertinent to, hearings and/or reports concerning my current charges.

I understand that my records are protected under the federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2, and cannot be disclosed without my written consent and that recipients of this information may redisclose it only in connection with their official duties.

Date

Name

Cass County/Leech Lake Wellness Court Release of Information

Consent to Release Confidential Information for the Criminal Justice System and Related Agencies

I, _____ DOB: _____, hereby consent to and authorize communication between all Law Enforcement Agencies in Cass County, Cass County/Leech Lake Wellness Court Program, the Wellness Court Judges, the Cass County Attorney’s Office, the Cass County Probation Department, the Ninth Judicial District Public Defender’s Office (or private attorney _____), Cass County Health and Human Services, Leech Lake Band of Ojibwe, Minnesota Department of Corrections, my treatment program _____), my mental health worker(s) _____, and District Court Administration. The following information related to my attendance and participation in the Cass County/Leech Lake Wellness Court Program. The nature of and need for the disclosure is to inform the Wellness Court, treatment providers and Human Services Agencies listed above of attendance and progress in treatment. The information is needed to develop and implement an assessment, diagnosis, and treatment plan; to provide continuity of care through interagency communication and referral; and to assist in the case management of my progress. Information will be gathered from the above agencies and shared between representatives of these agencies. The extent of information to be disclosed is the recommendation of my chemical use assessment, my attendance or lack of attendance at treatment sessions, drug testing results, my cooperation with the treatment program, completion of program, and assessment information required for local, state, and national research.

Disclosure of the confidential information may be made only as necessary for, and pertinent to, hearings, and/or reports concerning the Cass County/Leech Lake Wellness Court. I understand that this information may be discussed in open court.

I understand that this consent will remain in effect until I have revoked the consent, until there has been a formal and effective termination of my involvement with the Wellness Court Program or upon my successful completion of the Wellness Court requirements or upon sentencing for violating the terms of my Wellness Court involvement. I understand that if I revoke the consent while enrolled in Wellness Court it will result in my termination from Wellness Court.

Federal regulations regarding the confidentiality of alcohol, and drug abuse client records precludes anyone from making further disclosure of this information without specific written consent of the client (statue 42 CFR, Part 2)b

Signature: _____ Date: _____
Client

Signature: _____ Date: _____
Witness

**BLACKFEET
TRIBAL/FAMILY/ALTERNATIVE**



P.O. BOX 1170, BROWNING, MT 59417
406-338-5061 FAX 406-338-2722

THE BLACKFEET TRIBE,) **CASE NO.99AC0036**

PLAINTIFF,)

)

-VS-

)

CONFIDENTIAL CONTRACT

)

DEFENDANT,)

This agreement made and entered into this 29th day of June, 1999, between the Blackfeet Tribe by Prosecutor Wendy Running Crane, and defendant _____, upon the advice and consent of his/her counsel.

It appearing that the offenses in this case are such that the public safety does not demand or require that the said defendant suffer the penalties of Law imposed upon him/her at this time.

THEREFORE: In consideration of the diversion to the Alternative Court Program, it is hereby admitted and agreed by the said defendant and counsel as follows:

1. That I admit that there is probable cause for the offenses charged by the complaining witness and the complaints or citations on file herein and hereby admits that I did in fact do the acts in violation of the Law and Order Code or Ordinance charged in the complaint(s) or citation(s). I hereby waive my rights to confronting witnesses against me on these charges, to have a trial by jury, my right against self-incrimination, my right to an attorney, my right to a bond, and my right to an appeal.
2. That I agree to the terms and conditions of this CONTRACT and to ANY sentence which may result from the guilty plea entered herein in order to complete the Blackfeet Tribal Alternate Court Program with entitled court retaining continuing jurisdiction over me and my fulfillment of the terms of the CONTRACT.
3. I **will not** violate any Federal, State, or Tribal Laws.
4. I **will not** drink any alcoholic beverages or use any non-prescription drugs.
5. I **will** maintain contact with the Blackfeet Tribal Alternative Court Probation Officer(s) as needed and present any future problems or concerns as soon as possible.

- 6. I **will** be responsible for my actions.
- 7. I **will** appear in Blackfeet Tribal Drug Alternate Court as directed and will pay a Ten Dollars (\$10.00) court fee for each court session.
- 8. I **will** submit to a Urinary Analyze (UA) or a blood test as requested by Court or Law Enforcement Personnel and will be responsible for paying a fee of ten dollars (\$10.00) if the results test positive, further, I agree to abide by all test results.
- 9. I **understand** that this contract is in effect from this date until I complete the Drug Alternate Program or until I resign or I am expelled.
- 10. I **agree to** fulfill all of the above contract terms and conditions in order to complete my probation. Further if I fail to abide by this contract or if I am **arrested and charged with an alcohol/drug or violent offense by a Law Enforcement Officer**, I understand that my probation officer will be required to file a PROBATION VIOLATION report that the court.
- 11. I **agree** that I will be subject to the maximum sentence for the offenses as listed in the Blackfeet Law and Order Code and Ordinances if a Probation Violation is filed by my Probation Officer. I further agree that any delay in the SENTENCING for reasons of implementation of this CONTRACT will not constitute grounds for asserting that my constitutional rights have been violated in any manner and I further agree that any delay has arisen only at the specific request of me and my counsel.
- 12. In consideration of the defendant complying with all of the above terms, conditions, and provisions of this agreement, the Blackfeet Tribal Prosecutors and the Blackfeet Tribe, for their part, agree that for a period of one (1) year, that may be extended if needed, from the date hereof, they will defer the imposition of the sentence on the charges to which the defendant hereby pleads guilty, subject to the terms of this agreement. They further agree that at the successful completion of all conditions of said CONTRACT, the Blackfeet Tribal Defenders and the Blackfeet Tribe will move the Court to dismiss with prejudice, the charges referred to herein and on file in the court and the Court will dismiss said charges. Defendant at that time may request that the guilty plea be withdrawn and the Court will grant such a request, and the record of this conviction will be expunged.
- 13. The Blackfeet Tribal Prosecutor agrees that the defendant does not breach this CONTRACT agreement by violations of minor traffic laws, etc., but this agreement does include all criminal actions covered in the Blackfeet Law and Order Code.

IT IS SO DATED THIS _____ DAY OF _____, 1999.

DEFENDANT

DEFENDER, PETE SELLARS

PROSECUTOR, WENDY RUNNING CRANE

Fort McDowell Yavapai Nation
Wellness Court Program

10755 N. Fort McDowell Road, Suite 1
Fort McDowell, AZ 85264
Fax (480) 789-7605

Program Coordinator: Ron Warber
Phone: (480) 789-7619

Case Manager: Chloe Selina
Phone: (480) 789-7616

Limited Consent to Release Confidential Information

Name

Date of Birth

Court Case Number

AUTHORIZATION

I hereby authorize the court, tribal police, prosecutor, education, substance abuse therapist and the probation officer to release information to the Wellness Court Committee for the purpose of determining my eligibility into the Adult Wellness Court Program. The information will be limited to:

- Criminal Complaint
- Police Report
- Criminal History Background
- Tribal Enrollment Information
- Educational and Employment Records
- Clinical Screening to determine if appropriate for Substance Abuse Treatment

I certify that this request is made freely, voluntarily, and without coercion. I understand that I may revoke this authorization at any time. I understand that this consent will automatically expire (60) days from the date of signature unless I express written revocation at an earlier date.

Printed Name of Wellness Court Participant

Signature of Wellness Court Participant

Date

Address

Phone

Defense Attorney/Advocate

Date

Section E: Fines, Fees, and Court Costs

Purpose

The purpose of this section is to provide an effective notice about any required fines, fees and/or court costs required to be paid by Healing to Wellness Court participants. A number of Healing to Wellness Courts use these mechanisms to defray the costs of their Tribal and Wellness Court operations. In the state system, some states have likewise attempted to cover the costs of alcohol and drug treatment services through participant user fees and/or to assess reasonable fees for participation. However, state programs found that “the minimal amount of monies created ... were not enough to sustain a drug court program.”³¹ We recommend that Wellness Courts, likewise, develop an alternate or additional sustainability strategy.

Sample Tribal Wellness Court Wording

Poarch Band of Creek Indians

"Poarch Band of Creek Indians Drug Court Program Participant's Manual" (April 2014)

XXL. Payment of Fees

Before being admitted into the Drug Court Program, Drug Court will stress the requirement of payment of all administrative fees. Drug Court will require an administrative fee of \$50.00 per month for as long as the participant is in the program. Participants will also be charged \$25.00 per month for the use of a monitoring device as long as monitoring is required by the Court. Participants may be allowed to perform community services in lieu of payment with the approval of the Drug Court Judge. Community service in lieu of payment shall be in addition to any other community service in which a participant is already assigned (uncompensated community service). In extenuating circumstances, participants will be allowed to deduct fines/fees from their per capital distributions. A participant will only be allowed to sign a voluntary assignment for fines and/or fees two (2) times for Drug Court Administrative fees. All fines/fees must be paid in full prior to a participant advancing into another phase of the Program.

The Participant shall grant the Poarch Band of Creek Indians (“Tribe”) and Poarch Band of Creek Indians’ Drug Court a security interest in any and all (1) stipends owed to the Participant for attendance at Board, Commission, Authority, or Committee meetings of tribal entities, and (2) future per capital payments (otherwise known as “birthday checks”) issued by the Tribe to the Participant up and until the amount of all sums owed by

³¹ Dennis A. Reilly and Atoundra Pierre-Lawson, *Ensuring Sustainability for Drug Courts: An Overview of Funding Strategies*, in NATIONAL DRUG COURT INSTITUTE MONOGRAPH SERIES 8, 12 (2008), quoting State of Mississippi Drug Court Coordinator Joseph Carter.

Participant are paid to Poarch Band of Creek Indians' Drug Court. Therefore, the Drug Court shall have authority to garnish a participant's wages, future per capita payments, and stipends owed to the tribal member for attendance at board, commission, and authority or committee meetings for tribal entities to insure prompt payment of fees/fines.

Navajo Nation

"D.A.N.A. Program procedures Manual" (August 2000)

X. D.A.N.A. Process - F. Program Fees

1. *All fees required shall be paid by the client. This includes:*
 - A. *D.A.N.A. program participation fees of \$15.00 a month or community service.*
 - B. *Peacemaking fee of \$60.00 per session.*
 - C. *Drug/Alcohol testing fees of \$5.00 per test.*
 - D. *Assessment fees.*
 - E. *Commutation fees.*

2. *These program fees can be waived upon the request of an indigent client.*

Little Traverse Bay Band of Odawa

"Waabshki-Miigwan Court Manual" (January 2011)

Fines, Fees, and Court Costs

Fines and Fees are determined by the Judge on a case-by-case basis depending on a participant's infractions and needed services.

Relevant Sample Forms

MAKAH DRUG COURT PARTICIPANTS

FINANCIAL ASSESSMENT

EMPLOYMENT _____

If not employed,

SOURCE OF INCOME _____

MONTHLY INCOME AMOUNT _____

If not able to pay entrance fee because of little or no income, the Court can waive the fee.

If not able to pay the monthly fee of \$25.00, please explain and the Court can waive the monthly fee.

REMINDER:

The only other payment is a sanction used for an unclean urine drug screen, which is \$7.50.