



Understanding Healing to Wellness Courts: Cultural Context for Collaborative Courts

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Objectives of Today's Presentation

Discuss :

History of jurisdiction and Tribal court development in California

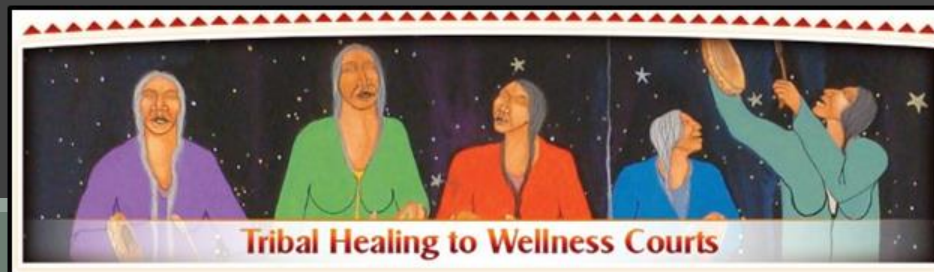
The rise of Tribal Healing to Wellness Courts

Restorative justice as a reincorporation of traditional jurisprudence

How culturally-based services can promote healing and wellness

How culturally-based services are incorporated into Healing to Wellness Courts

Examples of Healing to Wellness Courts in California



Origin of Tribal Judiciaries



Divergence of Values:

Tradition leadership models emphasize dispute resolution, rather than executive or legislative duties

- Goal was consensus as opposed to ascertaining guilt
- Facilitator as opposed to decision-maker

1883

- *Ex Parte Crow Dog*
- Code of Federal Regulation (CFR) Courts
- Designed to mimic western models
- Heightened need for inter-tribal/Indian-non-Indian dispute resolution

INSTITUTE FOR GOVERNMENT RESEARCH
STUDIES IN ADMINISTRATION

THE PROBLEM OF INDIAN ADMINISTRATION

Report of a Survey made at the request
of Honorable Hubert Work, Secretary
of the Interior, and submitted to him,
February 21, 1928

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Modern Tribal Courts

1934 – Indian Reorganization Act

- "Permits" tribes to organize and draft constitutions
- Many tribes assumed judicial functions, replacing CFR courts

Opportunity

- For a system that is more responsive to tribal needs and under tribal control
- To resurrect traditions and customs

Many courts apply large bodies of written law, as well as custom and tradition.



California

Contact: genocide – missions, gold rush

1850- An Act for the Government and Protection of Indians

1953 - Public Law 280 – federal law imposed on tribes and California

- Increased role for state criminal justice systems
- Virtual elimination of the special federal criminal justice role,
- Numerous obstacles to individual Nations in their development of justice systems, and
- An increased and confusing state role in civil related matters
 - Not civil/regulatory
 - Civil/Adjudicatory

1956-1964 – California Rancheria Termination Acts

California Tribal Courts



- 22 Tribal Courts serving 39 Nations
- Varying stages of "development"
- Various models often depending on services available in community

Modern Challenges

CRIMINAL JURISDICTION

- ICRA
- *Oliphant*
- VAWA
- TLOA

RESTRICTIONS ON FUNDING

- *Los Coyotes*



Rise of Healing to Wellness Courts



Court

Child
Welfare

Treatment

Supervision

Needs

Ability to communicate between silos

Warm hand-off

Motivation

Inclusion of the family on the case plan and status

Recognition of children and their needs

Expression that we care about this

- individual,
- their well-being,
- the well-being of the children, and
- the well-being of the family unit

Tribal Healing to Wellness Courts



The term “Healing to Wellness Courts” was adopted to

- (1) incorporate two important Indigenous concepts - Healing and Wellness; and
- (2) promote wellness as an on-going journey.

Tribal Drug
Court

Healing to
Wellness
Court

Decolonized Justice

- Not a new method
 - Crime and conflict were traditionally addressed through non-adversarial and consensus methods
- Holistic healing
 - Western methods individualize
 - criminal justice and
 - healing
 - Community vision is what guides Native people



Adversarial Court vs. Wellness Court

Event-oriented

Case-specific

Sentence is uniform

Service providers interact via referral

Offender is removed from the community

Post-sentencing supervision is punitive intended to “catch” violations

Neutral judge

Process-oriented

Person-specific

Case plan is individualized

Service providers interact directly

Participant remains in the community; reintegration

Supervision is intended to support participant and reinforce treatment

Involved Judge

10. Sustained
Team,
Community, &
Nation Building

1. Team, Community, &
Nation Building

9. Enduring
Knowledge

3. Eligibility

Healing to Wellness
Court
Key Components

2. Entry

8. Keeping &
Telling Stories

4. Healing and
Treatment

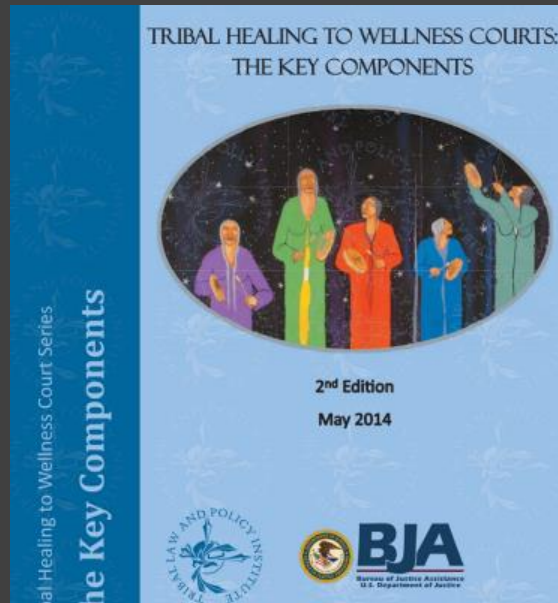
7. Respectful
Communication

5. Support &
Supervision

6. Discipline &
Encouragement

Tribal Key Components

www.WellnessCourts.org



Tribal Key Components recognize

- Community involvement
- Family relationships and involvement
- Culture and Tradition
- Exercise of Tribal Sovereignty

Family court docket →
dependency cases where
parental substance abuse is
a primary factor

Promotes long-term stabilized
recovery to enhance the
possibility of family
reunification

Tension: Goal is reunification,
but focus is on children

Family Healing to Wellness Courts

Family Wellness Court Outcomes

Higher Treatment
Completion Rates

Shorter Time in
Foster Care

Higher Family
Reunification
Rates

Lower Termination
of Parental Rights

Fewer New Child
Welfare Petitions
after Reunification

Lower Criminal
Justice Recidivism

Cost Savings per
Family

Timely access to assessment and treatment services

How is the individual referred for assessment?

How long does it take to go from referral to assessment?

Who conducts the assessment and what tools are used?

How is information communicated to the parent? To the child welfare staff? To the courts? Are the appropriate consents in place and consistently signed?

What happens if the parent doesn't show for assessment?

What are the next steps if treatment is indicated? If treatment is not indicated?

If the persons/systems/agencies conducting the assessments are not the same as the ones providing treatment, is there a warm hand-off?

Improved family-centered services and parent-child relationships

Recognizes that addiction is **a family disease** and that recovery and well-being occurs **in the context of families**

Parent Recovery

Focusing on parent's recovery and parenting are essential for reunification and stabilizing families



Child Well-Being

Focusing on safety and permanency are essential for child well-being



Customs and Traditions in Healing to Wellness Courts

CULTURAL IDENTITY



WHAT DOES IT
MEAN TO BE
NATIVE?

ANCESTRY;
CITIZENSHIP

KINSHIP;
COMMUNITY;
BELONGING;
COLLECTIVE
RESPONSIBILITY

MULTI-CULTURAL –
TWO-WORLDS

Loss of Connection

Generations of intentional, systemic cultural destruction

- War, disease, enslavement, and genocide
- Removal and large-scale loss of land; loss of economy
 - Reservation system
 - Allotment
- Assimilation policies
 - Criminalization of religion and cultural practices
 - Boarding schools
 - Termination
 - Relocation
 - Large-scale, disproportionate removal of Native children



Loss of Connection

The nature of substance addiction is anti-social

For many tribal communities, this also means anti-community

For many of our participants, this loss of connection is generations-deep

Culturally-Based Treatment

Regain a practical ethnic identity

Gain a healthy social network committed to the participants' recovery

Make a religious, spiritual, or moral recommitment to themselves and their community

Reengage in recreational/volunteer or vocational activities

Gain a social role in the community

Strengths-based!

WAABSHKI-MIIGWAN

Culture. Family. Community. HOPE!

The Mission of the WAABSHKI-MIIGWAN (White Feather) Program is to implement a collaborative partnership among the community, service providers, court and adults who face substance abuse challenges and to restore holistic balance using Odawa values and teachings as envisioned by our ancestors to spark the healing and rehabilitation of non-violent addicted offenders.



Little Traverse Bay Bands
of Odawa Indians
Tribal Court
Healing to Wellness Concepts

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Key Component 1: Individual and Community Healing

Little Traverse Bay Bands of Odawa
Indians' White Feather story

Key Component 4: Treatment and Rehabilitation

Wellness Courts utilize clinical best practices, including

- phased treatment,
- individual counseling,
- group counseling,
- cognitive behavioral therapies,
- support groups,
- family therapies
- residential treatment

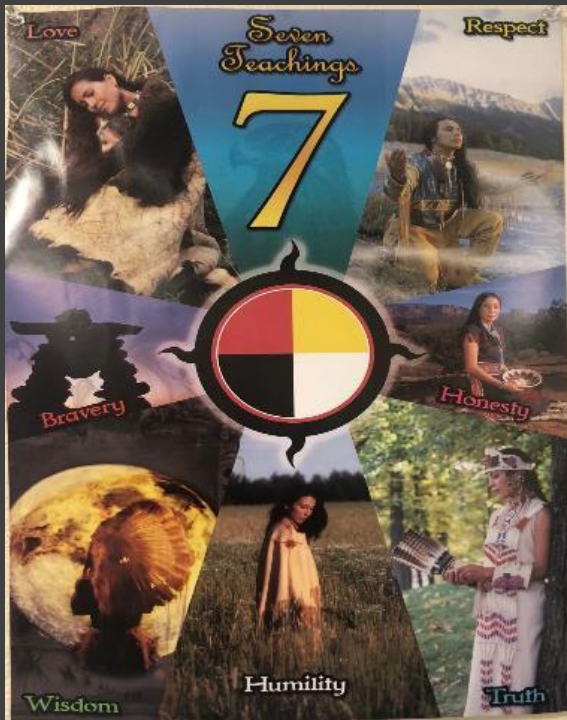


Key Component 4: Incorporating Culture and Tradition

Formal native healing
treatments, such as

- White Bison/Wellbreity
- Cultural Advisor on staff
- Fatherhood/
Motherhood is Sacred
- Positive Indian Parenting





Key Component 4: Incorporating Culture and Tradition

Smudging

Traditional gifts

Feasts

Name ceremony

Native language

Genealogy assignment

Craft classes

Cultural class/activity attendance requirement



Key Component 5:
Intensive Supervision

Service projects for
elders

Service projects for
cultural centers,
language programs

Building the sweat
lodge

Meal preparation

Community event
clean-up



Graduation Honoring

Feast

Family engagement

Community engagement

Blanket ceremony

Traditional gift

Key Component 7: Judicial Interaction





Inter- Jurisdictional Collaboration



Shingle Springs Band of Miwok Indians and El Dorado County, CA

Shingle Springs Joint Jurisdiction Family Wellness Court

- Hears: juvenile justice, child welfare, domestic violence (as part of a dependency, child custody, protective order petition, and criminal cases)
- Judges preside over all cases jointly
- One unified proceeding
 - Avoid conflicting orders
 - Address the entirety of the families' issues in a holistic fashion
- Emphasize culturally-appropriate restorative justice practices
- Wrap-around continuum of care



Hoopa/Humboldt

Yurok/Humboldt

Yurok/Del Norte



- Joint jurisdiction family wellness courts
- Focus addressing families affected by pre-natal exposure
- Why Created?
 - Recognition that current child welfare system was failing families
 - Commitment to do better





Yurok/Humboldt
Yurok/Del Norte
Hoopa/Humboldt

- Written Infrastructure
 - Tribal Resolution
 - Joint powers agreement
 - Manual
 - Forms

Partners Tribal and County

Courts and legal community

Primary, Obstetric and Gynecological Care, Pediatricians

Prevention and Treatment of Mental Health and Substance Use Conditions

Parenting and Family Support

Infant Health and Safety

Infant and Child Development

Spiritual and Cultural Services

Child Welfare

Courts

- Relations and obligations

Doctors

- Ceremony

Parenting and Family Support

- Gatherings and Events

Treatment Providers

- World view based on balance and harmony

Integrating Values and Traditions

The Tribal Law and Policy Institute

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WellnessCourts.org

www.Home.TLPI.org



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