Healing the Family: Tribes and Counties Working Together Within the Family Treatment Court and Family Tribal Healing to Wellness Court

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National Center on Substance Abuse and Child Welfare

Bringing Systems Together for Family Recovery, Safety, and Stability

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Learning Objectives

1. Highlight the achievements and challenges of the Family Treatment Court and Tribal Healing to Wellness Court movements as adaptations of the drug court model

2. Explore the unique role and importance of tribal justice systems, family and holistic approach to recovery, and cultural values imbedded in Healing to Wellness Courts

3. Increase knowledge about the referral and other partnership considerations between tribes and counties

- **Neglect**: 68.1%
- **Parent Alcohol or Drug Use**: 39.5%
- **Parent Unable to Cope**: 17.5%
- **Physical Abuse**: 14.1%
- **Inadequate Housing**: 13.0%
- **Parent Incarceration**: 7.5%
- **Abandonment**: 6.1%
- **Sexual Abuse**: 4.7%
- **Child Behavior**: 4.3%
- **Child Disability**: 3.0%
- **Child Alcohol or Drug Use**: 2.7%
- **Relinquishment**: 1.3%
- **Parent Death**: 1.1%

**Note**: Estimates based on **all children in out of home care at some point** during Fiscal Year

**Source**: AFCARS Data, 2016
What have we learned?
What Can Be Achieved When Systems Work Together

5Rs

**REUNIFICATION**
Children stayed less days in foster care and reunified within 12 months at a higher rate

**RECOVERY**
Parents accessed treatment more quickly

**REPEAT MALTREATMENT**
Fewer children experienced subsequent maltreatment

**REMAIN AT HOME**
More children remained at home throughout program participation

**RE-ENTRY**
Fewer children who reunified returned back to foster care
Tribal justice systems are diverse in concept and character. At various stages of development.

- Complex criminal and civil jurisdictional framework.
- Restorative justice model fits neatly within indigenous concepts of consensus-driven justice and healing.

Tribal Healing to Wellness Courts
Key Ingredients for FDCs

- System of identifying families
- Timely access to assessment and treatment services
- Increased management of recovery services and compliance with treatment
- Improved family-centered services and parent-child relationships
- Increased judicial oversight
- Systematic response for participants – contingency management
- Collaborative non-adversarial approach grounded in efficient communication across service systems and court

Sources: 2002 Process Evaluation and Findings from 2015 CAM Evaluation
Key Ingredients for FDCs

1. System of identifying families

2. Collaborative non-adversarial approach grounded in efficient communication across service systems and court

Sources: 2002 Process Evaluation and Findings from 2015 CAM Evaluation
How are families identified, assessed, and referred?

How are families and parent-child relationship supported?

How is information shared and family progress monitored?

Discuss > Identify Next Step
Key Family Drug Court Ingredients

1 System of Identifying Families
Challenges & Barriers

- Target population unclear
- Restrictive and/or subjective eligibility criteria
- Screening and identification conducted late
- Lack of utilization of standardized screening protocols
- Referral process with weak hand-offs, lack of tracking
Since *timely* engagement and access to assessment and treatment matters:

How can identification and screening be moved up as *early as possible*?
What makes effective protocols?

• Shared mission and vision—agreement and understanding of target population and expected outcomes

• Clear and consistent referral process—preferably warm hand-off

• Coordinated case planning, information sharing

• Timely and ongoing communication and follow-up

• Understanding of and attention to competing “clocks”—timeframes—recognizing that time is of the essence
Key Family Drug Court Ingredients

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Collaborative Non-Adversarial Approach Grounded in Efficient Communication Across Service Systems and Court
“Here’s a referral, let me know when you get into treatment.”

“They’ll get into treatment if they really want it.”

“Don’t work harder than the client.”

“Call me Tuesday.”
Barriers to Effective Cross-Systems Communication

- Discipline-specific training
- Legal mandates and administrative codes
- Lack of trust between the systems
- Competing timelines
- Caseload volume
- Confidentiality provisions
Strategies to Improve Team Communication

- Case Staffings
- Family Team Meetings
- Judicial Oversight
- More frequent review hearings
- Responses to behavior
Participant Experience

Systems Walk-Through
Assess effectiveness of system in achieving its desired results or outcomes

Data and Info Walk-Through
Who collects data, where is it stored, who uses it, who “owns” the data, levels of access
Tribal Considerations

Reunification Timelines

• ASFA timelines may or may not apply, depending on tribal child welfare funding.

Termination of Parental Rights

• Some tribes take a values-based stance against ever terminating parental rights.

• Instead, they may use permanent guardianship and/or customary adoption.
ICWA Active Efforts

• State courts must use “active efforts” to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. 25 U.S.C.§ 1912(d).

• Active efforts has been defined to include assisting the parents with utilizing housing, financial, transportation, mental health, substance abuse, peer support, and other community resources and inviting representatives of the Indian child’s tribe to participate in providing support services. 25 C.F.R. § 23.2.
1997 Adoption and Safe Families Act (PL 105-89)
For many Native Nations, the termination of parental rights is contrary to traditional and/or contemporary cultural practices, religion, and law.
Application of ASFA to Tribes?

Depends...

**Title IV-E**: provides funds for child welfare services

Under 42 U.S.C. 675(5)(E), Native Nations **need to have laws** that require filing a petition to terminate parental rights:

- When a child has been in foster care for the designated amount of time (at least fifteen of the previous twenty-two months);
- Where a court has determined that the child is abandoned; or
- When the parent has committed a designated crime that constitutes “aggravated circumstances”
Application of ASFA to Tribes?

**Title IV-B**: provides funds for child welfare services

- Must submit 5-Year Child and Family Services Plan

- Sign assurances that Tribe is providing a compliant case review system with § 475(5) (which includes ASFA requirements)
BUT... a tribe can use some other type of permanent placement such as guardianship or relative care when appropriate.

**Customary Adoption:**
- Establishes a permanent legal relationship between a child and adoptive parent(s);
- Allows for continued contact between the child and the original parent/family instead of terminating parental rights; and
- Orders a permanent suspension of the rights of the birth parent to provide for the care, custody, and control of their child
Q&A and Discussion
Resources & Next Steps
A Training & Technical Assistance Resource Guide

This Resource Guide outlines an array of training and technical resources developed by the Center for Children and Family Futures (CCFF) to support the three goals of the National Strategic Plan for Family Drug Courts:

• Ensure Quality Implementation
• Expand the Reach of FDCs
• Build the Evidence Base
Wellness Court Trainings

• **Healing to Wellness Court Enhancement Training**
  - August 28-30, 2018 ~ Albuquerque, NM
  - [EnhancementTraining.org](http://EnhancementTraining.org)

• **California Collaborative Courts Conference**
  - September 12-14, 2018 ~ Sacramento, CA

• **Montana Statewide Drug Court Conference**
  - October 22-24, 2018 ~ Billings, MT

Find events and past materials at:
[WellnessCourts.org](http://WellnessCourts.org)
WellnessCourts.org

- The Tribal 10 Key Components
- Publication Series
- Webinar Series
- Tribal-Specific Research
- Federal Funding Announcements
- Listing of all Healing to Wellness Courts
- Subject-Matter specific Wellness Court Resources
The Tribal Law and Policy Institute

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