



# NEWSLETTER

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## DIRECTOR'S CORNER

Welcome to our first Newsletter in 2018, the beginning of our next 5th year of publishing this newsletter. We are very happy to let you know that the Substance Abuse and Mental Health Services Administration (SAMHSA) awarded us another 5-year grant to support the National American Indian and Alaska Native ATTC. For a long time it looked like SAMHSA was not going to be able to support an ATTC focused on Native American and Alaska Native issues in Behavioral Health, but in the beginning of October we started writing the grant, submitted our application in December and received the award within a month. I want to thank SAMHSA and CSAT for continuing to support the center and our efforts of supporting tribal and urban Indian behavioral health providers in the future.

The goals for the next years of our newsletter will be similar to the first five years. We would like to feature topics that are important to behavioral health in Indian country, and also share the success of programs which have implemented culturally-adapted,



evidence-based practices, as well as experience-based, culturally-informed practices in prevention and treatment of behavioral health disorders. In addition, we will support the Regional ATTCs in implementing programs to meet the needs of the Native American and Alaska Native populations. So please check out your regional

ATTCs and the programs they offer. We will introduce the center in more detail in the next issue of the newsletter.

The focus in this issue of our newsletter is on Tribal Healing-to-Wellness Courts and

Drug Courts in general. Many of our tribal clients are criminally involved when they seek treatment and are participating with the Healing-to-Wellness Courts. This newsletter is our effort to highlight an important aspect of the continuum of care, which often needs to include collaborating with Healing-to-Wellness Courts, the Native American version of Drug Courts. The National American Indian and Alaska Native ATTC started this federal fiscal year off by giving a webinar on the topic of Opiate Addiction in Indian Country to the National American Indian Court

Judges Association, in collaboration with Honorable Kim McGinnis, Chief Judge of the Pueblo of Pojoaque Tribal Court. The webinar generated a lot of interest and discussion among the participants from across the country, and underscored the importance of working closely and in a culturally-informed way with the Healing-to-Wellness Courts.

Finally, I want to introduce our staff: Stephanie BadSoldier Snow, Sean A. Bear 1st, Kate Thrams, and Shuang Wu. They will all continue to be involved in writing and publishing this newsletter. We will continue to work with consultants from tribal communities across the country, as well as our contributors to this newsletter. We look forward to working with you and we greatly appreciate your involvement.

Regards,

Anne Helene Skinstad, PhD

*"...do good for  
the people, always  
look forward, and never  
forget what happened to  
the people in the past."*

- Dr. Duane Mackey



# SELECT TOPICS ON DRUG AND WELLNESS COURTS

By: Mary K. Winters, MEd

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## Tribal Drug Courts: Background and Current Trends

History is vital to understanding the present; however, there is an important aspect of the history of drug courts that is often lost in the literature. “Therapeutic jurisprudence” is a term first introduced in 1987 by law professor David Wexler while presenting a paper to the National Institute on Mental Health, and further discussed in his paper with colleague Bruce Winick (*cited in Hora, Schma, & Rosenthal, 1998*). The term was the basis for a school of social inquiry that emphasized protection of the personal rights of mental health patients facing legal issues. They raised the question of whether the legal system, including the roles played by court personnel, contributed to positive therapeutic consequences or led to negative outcomes for such individuals (*Hora et al., 1998*).

Therapeutic jurisprudence quickly developed as a legal agent that now includes preventative law, comparative law, and family law. As an evidence-based practice, therapeutic jurisprudence has become a tool to identify and promote positive social outcomes that benefit individuals and the

communities to which they return. Today’s drug court movement owes its roots in these principles of therapeutic jurisprudence; they provide a rehabilitative path for individuals via science-informed drug treatment and rehabilitation practices.

However, a deeper look into history can trace the notion of therapeutic jurisprudence to much earlier than Wexler and Winick’s work. For more than a thousand years, this concept has been a core mechanism for maintaining harmony and tribal order in Native American and Alaska Native (NA & AN) communities. Using traditions based on culture and belief systems, indigenous justice systems used storytelling, ceremonies, and community structure to help individuals with behavioral health issues reconnect with their communities in positive ways. Punishment for a legal transgression was not the priority. Today, NA & AN Healing-to-Wellness Courts, the seat of drug courts in NA & AN communities, contribute to how the broader American justice system helps many individuals with substance use (SUD) and mental health disorders (MHS) within the legal system.

## **Contemporary Look**

Healing-to-Wellness courts for tribal communities benefit from resources provided by the Tribal Law and Policy Institute (TLPI) (<http://www.home.tlpi.org/>). TLPI is a non-profit organization whose aim is to support the enhancement of justice in Native American communities via education, research, training, and technical assistance. One of their initiatives is to support the Tribal Healing-to-Wellness Courts ([http://www.tribal-institute.org/lists/drug\\_court.htm](http://www.tribal-institute.org/lists/drug_court.htm)). TLPI provides technical assistance to strengthen existing Healing-to-Wellness Court programs, and provides the field with state-of-the-art resources on effective strategies for addressing offenders with SUD in Tribal Healing-to-Wellness Courts.

Tribal Healing-to-Wellness Courts seek to include the following ten ingredients:

### **1. Focus on Healing the Individual and the Community**

Tribal Healing-to-Wellness Court brings together alcohol and substance used treatment, community healing resources, and the tribal justice process by using a team approach to achieve the physical and spiritual healing of the individual participant, and to promote Native nation-building and the well-being of the community.

### **2. Entry Through Legal Referral Points**

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

### **3. Provide Screening and Eligibility Services**

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 Healing-to-Wellness Court.

### **4. Provide Treatment and Rehabilitation**

Tribal Healing-to-Wellness Court provides access to holistic, structured, and phased treatment for substance use disorders, and rehabilitation services that incorporate culture and tradition.

### **5. Offer Intensive Supervision**

Participants are monitored through intensive supervision that includes frequent and random testing for alcohol and substance use, while participants and their families benefit from effective team-based case management.

### **6. Use of Incentives and Sanctions**

Progressive rewards (or incentives) and consequences (or sanctions) are used to encourage participant compliance with the Tribal Healing-to-Wellness Court requirements.

### **7. Includes Judicial Interaction**

Participants receive ongoing involvement of a Tribal Healing-to-Wellness Court judge with the Tribal Wellness Court team and staffing, and ongoing Tribal Wellness Court judge interaction.

### **8. Provide Monitoring and Evaluation Components**

Process measurement, performance measurement, and evaluation are tools used to monitor and evaluate the achievement of program goals, identify needed improvements to the Tribal Healing-to-Wellness Court and to the tribal court process, determine participant progress, and provide information to governing bodies, interested community groups, and funding sources.

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## **9. Continuing Interdisciplinary and Community Education**

Continuing interdisciplinary and community education promote effective Tribal Healing-to-Wellness Court planning, implementation, and operation.

## **10. Interaction of the Team**

The development and maintenance of ongoing commitments, communication, coordination, and cooperation among Tribal Healing-to-Wellness Court team members, service providers and payers, the community and relevant organizations, including the use of formal written procedures and agreements, are critical for Tribal Wellness Court success.

### **Effectiveness of Drug Courts**

The vast majority of adult drug court evaluations, including the most rigorous evaluations, find that participants have lower recidivism rate than non-participants.

Typically, recidivism rates are 30-50% lower for drug court participants compared to non-participants, and these effects can last up to three years. For drug courts that accept only non-violent offenders, even lower recidivism rates are found, and positive effects are similarly found in Driving-While-Intoxicated (DWI) drug courts. However, smaller positive recidivism rates are associated with juvenile drug courts (*Mitchell et al., 2012*).

A review of literature by Rossman and colleagues (*Rossman et al., 2011*) found several other positive benefits of drug courts. Compared to non-participants, drug court participants:

- report significant reductions in relapse into substance use, including higher rates of abstinence; significant

reductions in criminal behavior, including lower rates drug possession, drug sales offenses, DWIs, and property-related crime;

- have significantly lower official re-arrest over 24 months;
- report significantly greater improvements in several of life-function domains, including lower rates of unemployment, and fewer needs for educational and financial services;
- report significantly lower levels of family conflict, and modest, but non-significant better employment rates

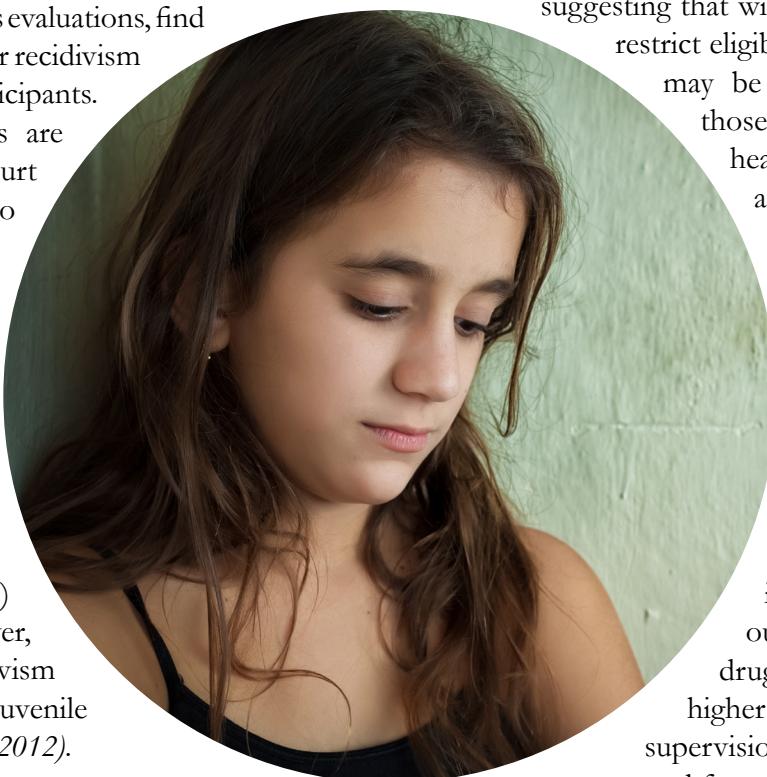
The authors also looked to see if the literature provides any insights as to whether the positive effects of drug courts are linked to certain categories of offenses. This analysis was not fruitful; nearly all categories of offenders benefitted comparably from the drug court intervention, suggesting that widespread drug court policies to restrict eligibility to narrow sub-populations

may be counter-productive. However, those showing symptoms of mental health disorders, like narcissism and depression and excluding antisocial personality disorder, evidenced smaller reductions in drug use and crime than those without these issues.

Another interesting analysis looked at dosage of drug participation. Do drug court clients who receive more of certain services and interventions display better outcomes? The data indicate that drug court clients who received higher levels of judicial praise, judicial supervision, and case management reported fewer crimes and fewer days of drug

use, after statistically controlling for variables related to client risk for these behaviors. In addition, drug court clients who participated in at least 35 days of treatment for substance use disorders, had fewer crimes and fewer days of drug use at follow-up.

The positive findings of drug courts are impressive and very encouraging. Moreover, drug courts are cost-effective.



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It is estimated that drug courts save an average of nearly \$6,000 per participant, returning a net benefit of at least \$2 for every \$1 of cost (*Roszman et al., 2011*). But the cost-benefit may not be enough for some communities because such benefits are typically not realized until later. The up-front costs of drug courts are relatively high; they have large program investments including costs for drug tests, judicial status hearings, time with case managers, and treatment for substance use disorders. These costs are higher than are the standard costs for business-as-usual processing of cases.

### ***Effectiveness of Healing-to-Wellness Courts***

Karen Gottlieb evaluated the first four tribal Healing-to-Wellness courts (TWC) funded under the Tribal Drug Court Initiative (*Gottlieb, 2005*). The TWCs were the adult Blackfeet Alternative Court, the juvenile Fort Peck Community Wellness Court, the adult and juvenile Hualapai Wellness Court, and the adult Poarch Band of Creek Indians Drug Court. The evaluation concluded the following.

1. Whereas each TWC began with strong and enthusiastic committed team to the TWC concept, implementation required adjustments along the way.
2. Each TWC exhibited many strengths and experienced numerous successes.
3. Common barriers to successful implementation included decreased participation over time by non-court team members; poor communication with treatment providers; poor understanding of required program commitment by many stakeholders at contract signing; inconsistent sanction application; high staff turnover (especially judges); and inconsistent and weak monitoring and supervision.
4. More evidence of a positive “Healing-to-Wellness court effect” was observed in adults but not in juveniles, and a significant predictor of success was graduation from the program.
5. However, three-year recidivism rates were relatively high, ranging from 50-64% in the adult courts and over 90% in the juvenile courts).
6. Unfortunately, the necessity of federal funding was a key for program sustainability three of the four TWCs ceased operation when federal funding ended.



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### ***Juvenile Drug Courts***

Nearly half of youth in the juvenile justice system report a substance use disorder (*Teplin et al., 2002*), and these systems have become the primary source of referral for adolescents entering treatment for substance use disorders (*Ives et al., 2010*). Early approaches to address the problem involved adapting adult drug court models, by adjusting them to the appropriate age groups, and including developmentally suitable methods and tools (e.g., use of adolescent assessment tools; family involvement in counseling services) (*Belenko, 2001*). Just applying an adult drug court model to adolescents would be clinically unwise. Adolescents with a substance use disorders differ from adults in numerous ways, such as being in earlier stages of cognitive development, possibly developmentally impacted, cognitively and emotionally, by the substance abuse (e.g., more comfortable with concrete reasoning and less apt at abstract reasoning) and more susceptible to peer influences.

Recently, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) initiated a project to identify juvenile drug treatment court (JDTC) guidelines, with the aim to provide courts with research-based guidelines for maximizing the effectiveness of juvenile drug courts. On the next page is the list of OJJDP’s seven guidelines (*OJJDP, 2016*).

## *Office of Juvenile Justice and Delinquency Prevention's guidelines for maximizing the effectiveness of juvenile drug courts*

- 1. Focus the JDTC philosophy and practice on effectively addressing substance use and criminogenic needs to decrease future offending and substance use, and to increase positive outcomes.*
- 2. Ensure equitable treatment for all youth by adhering to eligibility criteria and conducting an initial screening.*
- 3. Provide a JDTC process that engages the full team and follows procedures fairly.*
- 4. Conduct comprehensive needs assessments that inform individualized case management.*
- 5. Implement contingency management, case management, and community supervision strategies effectively.*
- 6. Refer participants to evidence-based substance use treatment, to other services, and for prosocial connections.*
- 7. Monitor and track program completion and termination.*

## *Additional Resources*

National Center for Juvenile and Family Court Judges ([www.ncjfcj.org](http://www.ncjfcj.org)). This resource includes numerous handbooks, a comprehensive webinar series, and an opportunity to participate in a learning collaborative project.

Tribal Healing-to-Wellness Courts: The Judicial Bench Book (2016). The role of the Healing-to-Wellness Court differs dramatically from the adversarial trial court judge, both in mechanics and in philosophy. In Wellness Court, the judge serves as the captain or the coach of the team, focused on healing and collaboration. This publication orients and serves the Wellness Court judge while on the bench. The first section provides examples of key component performance in relation to component principles. The second section overviews key Wellness Court processes and procedures. Both sections include Bench Cards intended to serve as tools that package relevant information in an abbreviated format.

Tribal Healing-to-Wellness Courts: The Policies and Procedures Guide (2015). This publication is viewed as the “quintessential tool” for the Healing-to-Wellness Court. It provides an overview of the key considerations for what should be included in the manual, including team roles and responsibilities, phase systems, alcohol and drug testing, and statutory provisions. Rather than detailing one “model” manual, this publication provides excerpts from over fifteen operational manuals in order to preview the level of legal and cultural diversity that is possible within a Healing-to-Wellness Court.

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### *Our unknown potential*

*To become more than we were yesterday, we must go beyond our fears today  
so that we might embrace our yet unknown potentials of tomorrow.*

- Sean A. Bear



National American Indian & Alaska Native

ATTC

Addiction Technology Transfer Center Network  
Funded by Substance Abuse and Mental Health Services Administration

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## *International Women's Day: Renew Women's Pride in their Sacredness*

*presented by:*

*Anne Helene Skinstad, PhD; and  
Stephanie BadSoldier Snow, Meskwaki Tribal Nation*

MAR  
28

Register: [https://naianattc.adobeconnect.com/mar28\\_18/event/registration.html](https://naianattc.adobeconnect.com/mar28_18/event/registration.html)

1-2 pm Eastern · 12-1 pm Central · 11 am - 12 pm Mountain · 10-11 am Pacific · 9-10 am Alaska



# TREE



Within different teachings of the Native American tribes, trees are considered our standing brothers and sisters, yet people and beings can also be seen as a tree. Our roots represent where we came from, rooted within Mother Earth in Balance and Harmony, and how we have been fed in our past. Knowledge, teachings, and practices, can be seen as the food or sustenance that has helped us grow, mature, and evolve to how we are today. Like a tree, if our roots are held deep and in strong soil and teachings, the tree will grow strong. Being rooted in loose soil or still searching for strength, sustenance, or knowledge, will hinder us and we may lose balance in life and fall.

The leaves can be likened to our hair, which collects light and energies from the Creator and sky. The branches may be seen like our appendages. The bark, as our skin, which may be smooth, rough from harshness, hardened from battle, or thorny which keeps others away. We may stand tall, or hindered by the elements we have foregone. We may stand alone in silence, strength, or as a group to support one another, although there may be a danger within the forest if larger trees take life supporting light or knowledge from us or stop our growth. Our environment may also be too crowded which may cause undue stress or be unable to give support and the proper space and care to grow.

Having our roots in correct and supportive beliefs about the world, others, and ourselves assists further growth. This allows for healthy growth throughout our lives. If we grow up with false beliefs about our environments and ourselves, this may stunt the confidence in ourselves, as well as life, or the world we live in. Because of varied ages and wisdom learned by years of experience, various stages of life may too be hindered till we obtain the correct ideology.

Too often, teens looking for identification root themselves in the support given by their peers, which may not be conducive to their own future, only to learn the harshness that comes from learning that way. While young, if we can take in the knowledge from positive adults, we can better learn the information and build our roots deep in life-supporting knowledge, allowing us to spread our branches and grow to heights originally hidden to us, allowing us the light from the Creator that will reveal so much more. Therefore, we must take the example of our standing brothers and sisters, rooting ourselves deep within the wisdom, positive practices, and beliefs of our ancestors so we might grow beyond the boundaries known to man.

*Sean A. Bear*

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