22nd Annual National Association of Drug Court Professionals Training Conference June 1-4, 2016 Anaheim. CA

Presented by:

Mary Jo B. Hunter, Ho-Chunk Nation Associate Trial Court Judge

&
Nicole M. Homer, Ho-Chunk Nation Tribal Counsel

Using Collaboration to Change the "System:" The Importance of Family Wellness Courts



A little about us...

Judge Mary Jo B. Hunter

- Enrolled Member of Ho-Chunk Nation (HCN)
- Associate Trial Court Judge of the HCN Trial Court
- HCN Family Wellness Court Judge
- Former Chief Justice of the HCN Supreme Court
- Born & Raised in Wisconsin (Go Packers)
- Former Law Professor
 - Taught Child Advocacy & Indian Law

A little about

us...

Nicole M. Homer, Tribal Counsel

- I am a member of the Oneida of the Thames, Ontario, Canada, but grew up within the traditional lands of the Onondaga Nation in Syracuse, NY.
- I have been employed as an attorney with the Ho-Chunk Nation Department of Justice since December 2008.
- Prior to that, I worked/clerked/interned with California Indian Legal Services, Ho-Chunk Nation Trial Court, Native American Rights Fund (NARF), George Waters Consulting (small lobbying firm for Tribes) National Congress of American Indians (NCAI), and Indian Health Services (IHS).
- I received my J.D. from Loyola School of Law in 2006 and my B.A. in Law & Society from American University (Washington, DC) in 2003.

Workshop Objectives

- I) Learn what a Tribal Family Wellness Court is.
- 2) Understand an alternative approach to the traditional western adversarial child welfare court system- using collaboration to change the "system."
- 3) Explore ways to incorporate culture into the child welfare court system.
- 4) Learn about the struggles the Ho-Chunk Nation Family Wellness Court experienced and continues to experience as it continues in its first year in existence and third year in its grant.

Objective #1a

Objective #1b

WHAT IS A TRIBAL WELLNESS COURT?

WHAT IS A FAMILY WELLNESS/TREATMENT COURT?

What is a THTWC?

A Tribal Healing to Wellness Court is a component of the tribal justice system that incorporates and adapts the Wellness Court concept to meet the specific substance abuse needs of each tribal community. It therefore provides an opportunity for each Native community to address the devastation of alcohol or other drug abuse by establishing more structure and higher level of accountability for these cases and offenders through a system of comprehensive drug testing, treatment services, immediate sanctions and incentives, team-based case management, and community support.

Tribal Law and Policy Institute, Tribal Healing to Wellness Courts: The Judge's Bench Book I (2002 Draft).

The Tribal Model attempts to incorporate Tribal values and customs in its practices.

Ho-Chunk Nation Behavioral Health FY 2014-2015

The Ho-Chunk Nation Division of Behavioral Health provides services that meet standards of best practice in the delivery of behavioral health services and brings a uniqueness that integrates Ho-Chunk cultural values with current evidence-based practices.

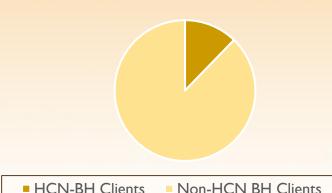
HCN-BH has six (6) clinic locations. Each of these is dual licensed by the State of Wisconsin. They are licensed under Chapter DHS 35 "Outpatient Health Clinics" and Chapter DHS 75 "Community Substance Abuse Service Standards." These six (6) clinics are located in Black River Falls, Baraboo, Tomah, La Crosse, Nekoosa, and Wittenberg.

HCN-BH assisted 37 enrolled tribal members with inpatient, detox services and outpatient services with NPD treatment funding with total costs to the Nation was \$207,038.

http://health.ho-chunk.com/docs/2015Report.pdf

Facility	Number of Clients
Black River Falls	247
Baraboo	281
La Crosse	26
Nekoosa	44
Tomah	34
Wittenberg	16
TOTAL	648

of HCN-BH Clients FY 2014-15



Two T's

Treatment

- From the participant's
 perspective, participation in a
 HTWC is a long and difficult
 journey.
- Throughout this journey the goal of the Healing to Wellness Court is to heal and rehabilitate.

Team

- The court, or the team, usually consists of the judge, prosecutor, public defender or advocate, treatment specialist, probation officer, and other staff.
- These individuals work together
 as a team to assist the participant
 in completing his or her
 treatment plan requirements.
 This is accomplished through
 teamwork.
- Consensus of the Team is sought, but is not mandatory. The Judge hears the Team and makes the final decision.

Not Adversarial in Nature

- A HTWC is unlike the typical adversarial criminal court. Gone are the attributes of the adversarial system as the team focuses on the healing process instead of retribution and punishment.
- The HTWC is a team based treatment approach system.

TRIBAL LAW AND POLICY INSTITUTE, TRIBAL HEALING TO WELLNESS COURTS: THE JUDGE'S BENCH BOOK 2 (2002 Draft).

Holistic Treatment Based Approach

- The Wellness Court philosophy is centered upon healing the individual: physically, spiritually, and socially. For many tribal peoples the healing process is intertwined with the use of customary or traditional legal process and values.
 - Tribal Law and Policy Institute, Tribal Healing to Wellness Courts: The Judge's Bench Book 3 (2002 Draft).
- The Ho-Chunk Nation Healing to Wellness Court is a treatment-based, holistic approach alternative to jail, prison, and the standard probation model.
- The Justice system works cooperatively with the treatment agencies and other rehabilitation services to provide a participant with all the possible tools required to get into recovery, stay in recovery, and lead a productive, crime-free life.

Training

- I encourage anyone interested in learning more about Tribal Wellness Courts- whether adult or tribal, to visit http://www.wellnesscourts.org. You will find a plethora of resources and news regarding grant opportunities and upcoming trainings.
- The <u>Tribal Law and Policy Institute</u> will be hosting its 5th Annual Tribal Healing to Wellness Court Enhancement Training September 13-15, 2016 in Albuquerque, NM.

FWC v. HTWC

FWC

- More Often than Not-Civil in Nature
 - Typically there is a Child in Need of Protection & Services/Assistance (CHIPS/CINA) case involved.

HTWC

- More Often than Not-Criminal in Nature
 - Typically there is an underlying criminal order or probation involved.
 - However, best practice suggests, if the participant has minor children- it is a FWC case for all intents and purposes.

Would you benefit from having a FTC?

Assessing the Problem: The answer to the question of whether a drug court is needed in a particular jurisdiction depends on a determination of whether current practices and services for handling substance-addicted defendants are effective.

Many jurisdictions have approached the planning task by selecting a sample of relevant cases handled in the past.

Symptoms/Red Flags Symptoms/red flags that may suggest the need to improve the court's handling of drug offenders and potentially the utility of a drug court program can include:

- Relatively high percentage of child abuse/neglect cases related to parent substance abuse
- Relatively high percentage of children born drug/alcohol exposed
- Relatively high percentage of cases involving substance abuse
- Relatively high rates of addiction to alcohol and other drugs reflected in the population
- Relatively low rates of substance abuse treatment retention for this population
- Relatively high rates of prior cases resulting in Termination of Parental Rights (TPR) The impact of substance-abusing parents may initially be reflected in the dependency docket but generally spills over to the entire caseload of the court, in particular, domestic, juvenile, criminal, and traffic matters.

Examples of FTC Athens-Clarke County, GA

The Athens-Clarke County Family Treatment Court (FTC) is a 12-18 month program divided into four phases. A participant must complete each phase in turn as he or she works toward the ultimate goal of a healthy and speedy reunification with his or her family.

The program employs:

- -Active case management from coordinated treatment and social services teams
- -Individualized assessment
- -Comprehensive substance abuse and behavioral health treatment plans
- -Family support services and community resources
- -Consistent communication and monitoring to ensure compliance with treatment plans and goals.

About the Court

The Athens-Clarke County Family Treatment Court (FTC) was implemented in 2013 under the direction of the presiding Juvenile Court Judge, the Honorable Robin W. Shearer.

The Family Treatment Court was organized under the Official Code of Georgia § 15-1-15 and is governed by the "Ten Key Components of Drug Courts" written by the Standards Committee of the National Association of Drug Court Professionals (NADCP) and Family Drug Court Standards for Georgia Accountability Courts developed by the Judicial Council of Georgia.

https://www.athensclarkecounty.com/5855/Family-Dependency-Treatment-Court

Examples of FTC King County, WA

Parents voluntarily enter the program and agree to increased court participation, chemical dependency treatment and intense case management in order to reunite with their children. Case review hearings initially occur every other week and then become less frequent as parents progress through the program. Incentives are awarded to recognize parents' achievements, and graduated responses are used when parents violate program rules. It is expected that parents will remain in the FTC between 12 months and two years. If a parent is unable to engage in services or maintain sobriety, the process has prepared the court for quickly finding the best solution for the children.

Through a collaborative, non-adversarial approach, the Family Treatment Court integrates substance abuse treatment and increased accountability into the process. The court's first preference is always to help make families whole or to find children a stable environment with their own relatives. Each family has an FTC team that reviews parents' participation and recommends services. The team includes: parents' attorneys, assistant attorney general, DSHS social worker, substance abuse counselor, CASA and/or child's attorney, FTC treatment specialist, FTC program manager, and the judge. This interdisciplinary team is cross-trained and works collaboratively to resolve issues.

• http://www.kingcounty.gov/courts/JuvenileCourt/famtreat.aspx

Examples of FTC Goals

King County, WA

- To ensure that children have safe and permanent homes within permanency planning guidelines or sooner;
- To ensure that families of color have outcomes from dependency cases similar to families not of color;
- To ensure that parents are better able to care for themselves and their children and seek resources to do so; and
- To ensure that the cost to society of dependency cases involving substances is reduced.

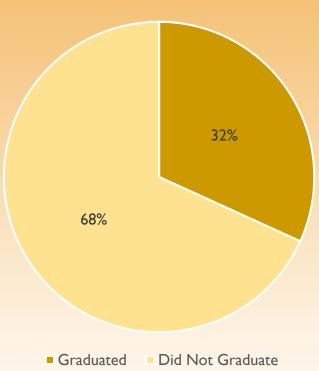
Athens-Clarke County, GA

- Break the cycle of addiction and resulting neglect through monitored service delivery.
- Limit foster care stays through ongoing case management and expedited, comprehensive permanency planning.
- Positively address and influence substance abuse in deprivation cases in order to ensure the safety and well-being of children.
- Facilitate healthy, speedy, and successful family reunification.

OJJDP Peer Learning Court Program

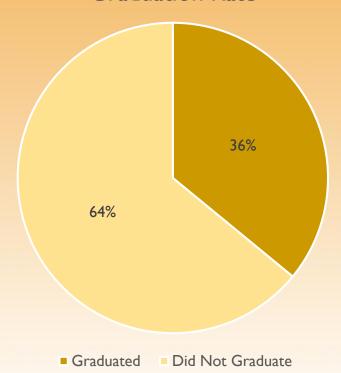
King County, WA





Baltimore City, MD

Graduation Rate



Baltimore City, MD Reunification Rate

- In 2008 there was an independent outcome and cost study of the Baltimore City Family Recovery Program by NPC Research.
- While there was only a 36% graduation rate spanning the entirety of the program from 2005 until about 2013-14, the 2008 study showed that there was greater reunification for FTC families.

64% reunification for FTC families

VS.

36% reunification for non-FTC families.

May 2012 Research Update (NADCP)

According to the "Research Update on Family Drug Courts," by Douglas B. Marlowe, J.D., Ph.D. and Shannon M. Carey, Ph.D., the research is showing that Family Drug (Wellness) Courts not only work, but work better than the traditional child welfare system:

- Continued substance abuse by a custodial parent is associated with longer out-of-home placements for dependent children and higher rates of child revictimization and terminations of parental rights;
- FDC is among the most effective programs for improving substance abuse treatment initiation and completion in child welfare populations;
- Treatment completion rates were 20 to 30 percentage points higher for the FDC participants than for the comparison participants;
- Family reunification rates were approximately 20 to 40 percentage points higher for the FDC programs than for the comparison groups;
- The children of the FDC participants also **spent significantly less time in out-of-home placements** in the majority of the evaluations, typically averaging fewer months in foster care;
- Several evaluations reported cost savings for FDC resulting from a reduced reliance on out-of-home child placements;
- The more days parents or guardians attended substance abuse treatment, the more likely they were to be reunified with their children;
- Parents who completed substance abuse treatment were five times more likely to be reunified with their children;
- Participants in FDC focus groups indicate they perceived their interactions with the judge to be especially critical to their success;
- At least a dozen methodologically defensible evaluations conducted in eight U.S. states and London by independent scientific teams offer convincing evidence that FDCs produce clinically meaningful benefits and better outcomes than traditional family reunification services for substance-abusing parents.

Research Update on Family Drug Courts, NEED TO KNOW (Nat'l Ass'n of Drug Ct. Prof'ls, Alexandria, V.A.), May 2012, at 2-7.

Objective #2

UNDERSTAND AN ALTERNATIVE APPROACH TO THE TRADITIONAL WESTERN ADVERSARIAL CHILD WELFARE COURT SYSTEM- USING COLLABORATION TO CHANGE THE "SYSTEM."

HCN FWC Overview

- The HCN FWC is a comprehensive alternative court designed to improve child safety and well-being by providing parents access to drug and alcohol treatment, frequent judicial monitoring of their sobriety, and individualized services to support the whole family unit.
- Participation is 100% voluntary.
- If a parent fails to complete the requirements of each phase, or are making insufficient progress, they may move back phases or be discharged unsuccessfully from the program.
- Parents begin in Phase I and move through each phase according to their individual progress made until they complete Phase 5 and graduate. Each participant is evaluated on a case-by-case basis. Failure to make progress and/or graduate may result in children being placed in a long term guardianship.

Two Main Models

The Two-Judge Model (Parallel)

- In this model, the Child Protection Court is separate from the "Treatment Court."
- One judge presides over the CHIPs case, where the primary focus is on permanency. These cases remain on the regular CHIPs docket.
- Another judge presides over the Treatment Court proceedings.

The One Judge, One Family Model (Integrated)

- In this model, both CHIPs and substance use (AODA) issues are addressed by one consistent judge. Because of the judge's involvement in both proceedings, he/she remains acutely aware of Tribal Court permanency timelines and other family issues which contribute to both cases.
- The child welfare agency and treatment providers (case managers) play crucial roles in both models by developing child welfare and treatment plans that address services, supports, and assisting with reunification (or in the alternative permanency options if reunification is not plausible).

NADCP 10 Key Components

- 1. Integration of alcohol and other drug treatment services with justice system case processing.
- 2. Use of a non-adversarial approach by prosecution and defense that promotes public safety while protecting any participant's due process rights.
- 3. Identification of eligible participants early with prompt placement in the program.
- 4. Access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
- 5. Monitoring of participants effectively by frequent alcohol and other drug testing to ensure abstinence from drugs or alcohol.
- 6. Use of a coordinated strategy with a regimen of graduated sanctions and rewards to govern the court's responses to participants' compliance.
- 7. Ongoing close judicial interaction with each participant and supervision of progress for each participant.
- 8. Monitoring and evaluation of the achievement of program goals and the program's effectiveness.
- 9. Continued interdisciplinary education in order to promote effective Healing to Wellness Court planning, implementation, and operation.
- 10. The forging of partnerships among other Drug Treatment Courts, public agencies, and community-based organizations to generate local support.

FWC GOALS

Vision Statement

The Ho-Chunk Nation Family Wellness Court strives to prevent the out-of-home placement of Ho-Chunk children resulting from abuse and neglect related to alcohol and other drug abuse and to actively support community members by encouraging healthy, spiritual, and sober lifestyles that will result in positive role models for future generations.

Mission Statement

 The Ho-Chunk Nation Family Wellness Court is committed to the well-being and healthy lifestyles of families affected by substance abuse. Family members are provided individualized therapeutic programs designed to strengthen individuals, families, and the community through Ho-Chunk traditional values and spiritual healing.

HCN FWC Team

- Judge- HCN Trial Court Judge Mary Jo Hunter
- FWC Clerk of Court- Shelley Wilkinson
- FWC Clinician- Ruth Garvin
- FWC Clinician- Curtis Tindall
- Parent/Defense Counsel- Atty. Rick Niemeier/Atty. Bill Gardner
- Prosecutor- Atty. Nicole M. Homer
- Traditional Court Elder- Morgan WhiteEagle
- Clan Mothers Elder- Charity Thunder
- VRNA Program- Diane Hofstedt
- Child and Family Services- Anne Burns, MSW

~Other than the Judge, each Team member brings reports, information, and processes from their respective disciplines to the table.

Collaborative Team Approach

- HCN Behavioral Health- to provide tools required to get participant into recovery and stay in recovery.
- HCN Social Services- to provide case plan progress reports, visitation, and referrals based upon the identified needs and strengths of each individual family.
- Vocational Rehabilitation for Native Americans (VRNA)- to support participants in their efforts to lead independent lives through employment.
- HCN Traditional Court and Clan Mothers- to provide cultural knowledge, resources, and perspective when dealing with Ho-Chunk families.
- HCN Department of Justice- to hold participants accountable to the rules and requirements of the program.
- Parent Counsel- to represent the participants' interests and advocate for their rights during staffings and court.

Child Protection Jurisdiction

 We obtain jurisdiction one of two ways. We either initiate the child protection case ourselves in Tribal Court, or we transfer in an Indian Child Welfare Act (ICWA) case. We typically transfer only Jackson County cases for the time being, but that is because of grant language which specifies residency in Jackson County.

Family Wellness Court Authority

HCN CONSTITUTION

ARTICLE VII - JUDICIARY

Section I. Composition of the Judiciary.

There shall be a Supreme Court of the Ho-Chunk Nation, a Trial Court of the Ho-Chunk Nation, such other lower courts of special jurisdiction as deemed necessary by the Legislature, and other forums of special jurisdiction for traditional dispute resolution as deemed necessary by the Legislature.



Family Wellness Court Authority

HCN Judiciary Establishment Act, I HCC § I

Section 15. Family Wellness Court.

The Judiciary shall provide for the establishment, operation, and funding of the Nation's Family Wellness Court to assist the Judiciary in providing alternatives to prosecution and incarceration for Tribal Members and their families who are criminal offenders who abuse alcohol or other drugs and are the subject of a Child in Need of Protection and Services (CHIPs) action in the Ho-Chunk Nation Trial Court, or in a CHIPs case which could be transferred to tribal trial court where the abuse of alcohol or other drugs is a factor. This program is based upon principles of restorative justice that takes into account the traditions, culture, and customs of the Nation. The Judiciary may re-name the Family Wellness Court taking into consideration the traditions, culture and customs of the Nation.

Family Wellness Court Code

We are currently in the process of having our Family Wellness Court Code addressed by the HCN. The HCN Legislature typically places legislation out for 45-Day Comment period. At which point they will reconvene to have further discussions and/or adopt the legislation.

This will hopefully become 4 HCC § 16, to follow the Healing to Wellness Court Code.

Eligibility Standards

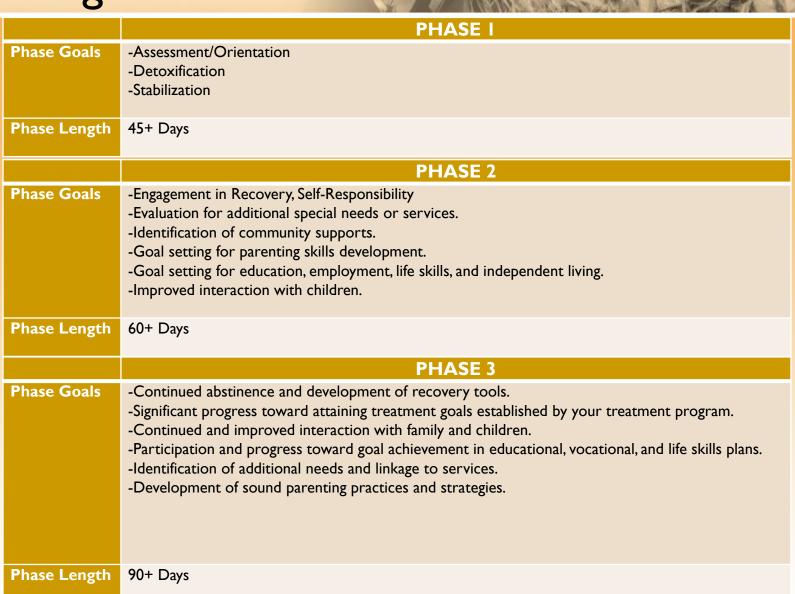
Potential candidates meeting the following criteria will be considered for admission to the Ho-Chunk Nation Healing to Wellness Court Program.

- I. Reside in Jackson County;
- 2. Proposed participants will have admitted to the general neglect ground of the Children's Code: "[a] child whose parent(s), guardian(s), or legal custodian(s) neglects, refuses or is unable for reasons other than poverty to provide necessary care, food, clothing, medical or dental care, or shelter so as to seriously endanger the physical or mental health of the child." HOCAK NATION CHILDREN AND FAMILY ACT, 4 HCC § 3.20a(I)(I);
 - 1. We will accept ICWA case transfers if the general neglect ground of Wisconsin Chapter 48 is admitted to, as it is essentially the same language. Wis. Stat. 48.13(10).
- 3. Participants must agree to abide by the Ho-Chunk Nation Family Wellness Court Program rules;
- 4. Must meet diagnostic criteria for substance abuse or dependency; and
- 5. Must not be a violent offender pursuant to federal guidelines 42 U.S.C.A. § 3797u-2 (this is due to our federal grant monies).

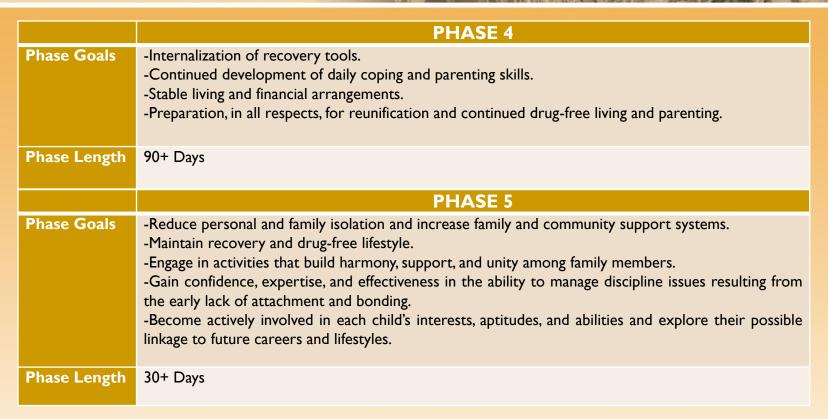
Case Monitoring

- There are frequent FWC hearings to review parental compliance.
- It further provides parent with a sense of continuity with the Court- as opposed to only going in every 6 months.
- The team provides progress reports for each scheduled staffing & court date.
- In Court, the Judge may ask the parent, the Clinician, the Case Coordinator, or other team members involved in the parent's treatment, about their progress and their needs.
- If a parent is doing well, the Judge will encourage them and help them progress to the next phase in the program.
- If a parent failed to comply with any of the requirements of the FWC, the Judge may impose a sanction.
- Treatment also has the ability to issue therapeutic responses- that are different than sanctions.
- The Judge may also change the parent's Wellness Plan according to a parent's needs and progress after considering the advice of the experts on the team.

Phase-Based Program



Phase-Based Program



Staffings

- Staffing, or team consideration of a participant's progress, is critical to the Family Wellness Court process. These meetings provide the team an opportunity to discuss the participant's progress with his/her wellness plan and wellness journey. The judge should be prepared to offer suggestions regarding participants and render final decisions when disputes arise among core members - unless the Court's procedure allows for another method. In most wellness courts, the judge must also approve or decline the sanctions and incentives recommended by the Core Team.
- Staffings are <u>CONFIDENTIAL</u>. Only Team members will be permitted to attend Staffings, and information shared during a Staffing must not be shared with anyone outside the Team.

FWC Hearings

- While Staffings are confidential and attended solely by team members, hearings are attended by all participants at one time.
- The status hearing provides the judge, as well as the team, an opportunity to interact with participants and monitor how they are complying with their individual treatment plan.
- Status hearings are not formal in the traditional courtroom sense.
 They serve as a forum for the judge to interact and have a dialogue with each participant.
- We hold our hearings in our Traditional Courtroom, which is a circle format. The judge is right there in the circle amongst the team and participants.
- We currently hold hearings every other week, but will call emergency hearings as needed. As the participants begin to move further along in the Phases, their attendance may be bumped down.

Objective #3

EXPLORE WAYS TO INCORPORATE CULTURE INTO THE CHILD WELFARE COURT SYSTEM.

Team

- Our team is made up Ho-Chunk tribal members, other tribal members, and non-Indians.
- As such, we seek out tradition and custom training, as well as seek to ensure we have strong cultural leaders on the team itself.
- We have formerly been provided training on the kinship and clan system- and will likely continue to receive refresher updates.
- We attempt to learn participants' Ho-Chunk names, in an attempt to utilize them during court sessions.

Team Members



Morgan E. WhiteEagle
Traditional Court Member since 1995
Native American Church

Team Members



Charity Thunder
Social Services Employee: Clan Mothers

Cultural Survey

 HCN Behavioral Health performs a cultural survey tool to gauge where each participant falls on the cultural spectrum.

Cultural Event Attendance

We require a minimum of one cultural event to be attended by the participants during each Phase. Some examples include:

- Language Classes
- Pow Wows (Particularly the NYE Sobriety Pow Wow)
- Traditional Feasts or Ceremonies
- Cultural Craft Classes (dress making, belt making, ribbon shirt, beading, etc...)
- Attending Traditional Story-Telling sessions
- Cultural Trivia or Language Trivia events
- Attending Traditional Court sessions
- Attending Clan Mothers sessions

Groups

- We attempt to utilize curriculum and create groups that have a strong cultural component.
- For example, one of the Phase I groups was the Fatherhood Is Sacred® & Motherhood Is Sacred© group sessions.

Traditional Teachings of the Medicine Wheel

- A Creative Tool for Individuals and Organizations to learn about self and seven teachings in Native American context. Training engages participant creativity and program solving by bringing about a transformation of "self" while deepening the participant's knowledge and relations with our living earth—it's abundant life, system and wisdom.
- "The wellness of the individual is inseparable from harmony within the family and community." The Medicine Wheel symbolizes the personal power within ourselves which enables one to become more whole and complete. It helps us to understand ourselves as well as life itself, steering us toward a positive direction in life and assisting us in an alignment of the physical, mental, emotional and spiritual realities.

Mending Broken Hearts

 Learn about intergenerational trauma and ways to work through grief and loss. Healing from unresolved grief and intergenerational trauma, examining the way our belief system shapes our grieving process, identification of cultural traditions and practices that can enhance the healing process and healing unresolved grief in the community.



Objective #4

LEARN ABOUT THE STRUGGLES THE HO-CHUNK NATION FAMILY WELLNESS COURT EXPERIENCED AND CONTINUES TO **EXPERIENCE AS IT CONTINUES IN ITS FIRST YEAR IN** EXISTENCE AND THIRD YEAR IN ITS GRANT.

Where are we at?

- The HCN FWC Team meets weekly.
- We hold Court every 2 weeks, with emergency sessions as needed.
- We continue to attend annual trainings and conferences.
- We have 5 participants. With one pending.
- 4 mothers, I father, (I couple).
- We have three participants in Phase II and two in Phase I.
- We utilize M.A.T.- Vivitrol.
- Our Code is being presented to the HCN Legislature.
- Our Participant Handbook and SOPs are living documents, whereby we are continually updating them as we learn new things.

Our Thoughts...

If you think this can help your Tribe- DO IT!!!!

Thank You! Q&A

Mary Jo B. Hunter,
Associate Trial Court Judge

Ho-Chunk Nation

Trial Court

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