Overview of Tribal Healing to Wellness Family Courts

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Tribal Track
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Overview

- Child Abuse & Neglect Issues in Indian Country
- Native Concepts of Family
- About Tribal Dependency (Children’s) Courts
- Overview of Family Drug Courts
- Promising Models for use in Tribal Family Wellness Courts
- Issues and Challenges in Implementing a Family Drug Court in Indian Country
High rates of child maltreatment in Indian Country today

- American Indian/Alaska Native children represent 1.6% of substantiated or indicated child abuse and/or neglect cases yet are only 1% of the population (Child Welfare League of America, 1999).

- The victimization rate for American Indian and Alaska Native children is 20.1 victims per 1,000 children of the same race, compared to a rate of 10.6 for White children (DHHS, 2001).

- There is about 1 substantiated report of a child victim of abuse or neglect for every 30 American Indian/Alaska Native children age 14 or younger, a rate about double the national rate (DOJ, 1999).

Child Neglect & Abuse Issues in Indian Country

- Histories/legacies of war, colonization, forced boarding school, and documented BIA and other non-Native employees and clergy perpetrating child maltreatment (often sexual abuse) on Native children

- Likely high numbers of adult child abuse survivors in the general tribal member populations

- Likely adult child abuse survivors in tribal leadership, service provider, and Wellness Team positions
Nexus with Substance Abuse

- “Research suggests that adults with histories of child abuse and neglect are at high risk for developing substance abuse disorders.” SAMHSA TIP 36
- “… childhood abuse and neglect issues may negatively affect clients’ chances for recovery from substance abuse.” SAMHSA TIP 36
- “…[there is an] increased likelihood of substance-abusing parents abusing their own children.” SAMHSA TIP 36

High rates of alcohol use/abuse in Indian Country today

- Native Americans and Alaska Natives at a much higher risk than other minority populations for heavy drinking, binge drinking and alcohol dependence (National Institute of Health)
- Alcohol dependence rates are higher among Native Americans than the national average (Spicer Study 2003)
  - 30% of men in from tribes in Northern Plains & Southwest (national average 20%)
  - 20% of women from Northern Plains (national average 8.5%)
- Fetal alcohol spectrum disorder rates are higher than the national average (SAMHSA)
- 11.7% of Native American and Alaska Native deaths are alcohol related (traffic accidents, alcoholic liver disease, homicide, suicide, and falls) (MSNBC)
Native Concepts of Family & Duties and Responsibilities
(over 500 federally recognized tribes with distinct languages and religions)

• More than an ethnic or cultural issue, in many tribes this is the law which is backed by federal laws (jurisdictional laws, ICWA, ASFA, etc.)

• Diverse definitions of family and extended family
  – Beyond the “nuclear, biological family”
  – Clans, bands, and ceremonial relatives

• Implications for Wellness Courts …
  – Expands Target Population (bio parents, “third parents,” kin caretakers, kin guardians and kin foster parents)
  – Who has rights to notice and an opportunity to be heard in a particular child welfare matter? (extended family)
  – Family members involved in treatment
  – Who is the proper traditional authority, mentor or healer to be involved?

Native Concepts of Family & Duties and Responsibilities (cont.)

• Diverse values and rules about the privileges, duties and obligations owed based upon how individuals are related to each other
  – Example: “Third Parents” (in some tribes a mother’s sisters are considered mother to all the sisters’ children)
  – Significant implications for the drafting and application of tribal dependency laws

• Implications for Wellness Courts
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Native Concepts of Family & Duties and Responsibilities (cont.)

- Diverse understandings of proper child-rearing and discipline
  - Example: Rites of passage (initiations) and ongoing ceremonial education and participation

- Implications for Wellness Court …
  - Can impact definition of child maltreatment
  - A consideration in the design of phased and individualized therapeutic activities and services

About Tribal Dependency (Children’s) Courts

- Docket with primary caseload in many tribal courts
- Often operate with out-dated, undeveloped tribal dependency and related laws, regulations, policies & procedures, etc. based on imposed U.S. models – still undergoing updating and cultural tailoring through law reform
About Tribal Dependency (Children’s) Courts (cont.)

• Subject to complex and specialized federal Indian legislation and accounting/reporting …
  – Jurisdictional laws
    • Civil jurisdiction over non-Indians & PL280
  – Funding laws
    • Contracting, compacting, and federal grant requirements for funding Tribal Court, Tribal Social Services, & Tribal Treatment
  – Indian Child Protection and Family Violence Protection Act, 25 USC §3201 et seq.
    • Reporting & investigation
    • State dependency proceedings involving Indian children and tribal notice, intervention, and transfer rights

About Tribal Dependency (Children’s) Courts (cont.)

• Subject to complex and specialized federal Indian legislation and accounting/reporting (cont.) …
  – Adoption & Safe Families Act and the Fostering Connections to Success and Increasing Adoptions Act, 42 USC §§620 et seq. & 670 et seq.
    • Funding of foster & adoptive placements via states or directly to tribe (limits reunification and expedites TPR and permanency, special provisions for kin foster and kin adoptive placements in Indian Country)
  – Indian Civil Rights Act, 25 USC § 1301 et seq.
    • Civil rights in tribal court
  – Tribal Law and Order Act, Public Law 111-211
    • Civil rights in tribal court
About Tribal Dependency (Children’s) Courts (cont.)

- Often operate with lay judges and paraprofessional treatment providers
- Usually under-funded and under-resourced
- Operated by committed, hardworking local people trying to avoid burn-out and a revolving door of outside professionals and subcontractors

Overview of Family Drug Courts
About Family Drug Courts*

- a.k.a. “Family Drug Treatment Courts” (“FDTC”)
- Over 300 non-tribal operational nationally
- ~3 tribal operational nationally – THEY ARE NEW!

*Building the Evidence Base for Family Drug Treatment Courts: Results from Recent Outcome Studies, Drug Court Review, Volume VI, Issue 2 (2009)

About Family Drug Courts (cont.)

- Targeted at …
  - Parents (families) involved in the child welfare system
  - Where the parent(s) have substance abuse problems
- Tend to exclude cases that …
  - Involve child fatalities or sexual abuse
  - Involve serious mental illness (parent or guardian)
  - Involve voluntary rather than court-ordered participation with Child Protective Services
  - Are being immediately moved toward Termination of Parental Rights
  - Involve parental incarceration that would preclude attendance at the FDTC
Goals of a Classic Family Drug Court*

- **Support parental sobriety**  
  (primary focus of FDTC Team)

- **Family reunification**  
  (primary focus of Dependency Judge & Child Welfare)

- **Child safety**  
  (primary focus of Child Welfare)

*Building the Evidence Base for Family Drug Treatment Courts: Results from Recent Outcome Studies, Drug Court Review, Volume VI, Issue 2 (2009)

Basic Components of a Classic Family Drug Court*

- **Team includes ...**
  - Judge (Dependency Judge if integrated, Drug Court Judge if parallel)
  - Child Welfare Provider
  - Treatment Provider

*Building the Evidence Base for Family Drug Treatment Courts: Results from Recent Outcome Studies, Drug Court Review, Volume VI, Issue 2 (2009)
Basic Components of a Classic Family Drug Court (cont.)

- Integrated* vs. Parallel Judging models (*preferred)
- Child removed or monitored in the home
- Frequent court hearings
  - (example, initially weekly with diminishment as parent progresses)
- Drug testing
- Intensive judicial monitoring
- Rapid entry into substance abuse treatment (expedited and for a shorter period for parent if child removed)
- Provision of timely wrap-around services
- Rewards and sanctions linked to service compliance
- Drug Court Program typically lasts ~ 1 year
- Graduation ceremony

Tribal Wellness Court Process
(Family Wellness Court)

<table>
<thead>
<tr>
<th>Report of Harm</th>
<th>Investigation &amp; Substantiation</th>
<th>Screenings *Legal *Clinical *Readiness</th>
<th>Referral &amp; by Consent to WC OR CINA Petition Filed</th>
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<tr>
<td></td>
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<td></td>
<td>Preliminary Hearing(s) Adjudication</td>
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- Court supervision of child in home pending successful completion of WC
- Court takes temporary physical and legal custody of child pending successful completion of WC

Initial Wellness Hearing
- Clinical Assessment & Development of Individualized Phased Treatment Plan

Obtained Wellness Hearing
- Semi-Monthly Wellness "Staffings" & Wellness Hearings

9/1/2011 19

9/1/2011 20
Basic Components of Treatment

- Intensive Outpatient Treatment (SAMHSA TIPs 47 & 36) PLUS …
  - Parenting Education
  - Family Case Management
  - Need to additionally screen for and assess childhood abuse or neglect*
    - If positive screening, participant should be offered a comprehensive mental health assessment and trauma-related assessments
    - Screening can provoke or exacerbate a psychological emergency that will need to be addressed
  - Counseling for childhood abuse or neglect by a treatment provider with specialized training
  - Potentially treatment for posttraumatic stress disorder, major depression, or mood disorders

*Requires specific training/tools and access to additional treatment resources

Therapeutic Issues for “Team Members”

("countertransference reactions" – the counselor’s own personal issues)

- Managing one’s reactions when working with clients with childhood abuse and neglect histories …
  - Establish clear and consistent boundaries
  - Empower vs. “do for”
  - Develop a trusting relationship by …
    - Not personalizing negative responses
    - Be open, consistent, and nonjudgmental
  - Seek direction or support through supervision or peer-support when counselor feels anxious or depressed
  - Recognize personal and professional limitations and refer client to other services
  - Minimize burnout
    - Avoid meeting with large numbers of clients without adequate support or supervision
    - Maintain healthy personal lifestyles
    - Do not work in isolation
  - Tribal/treatment agencies must give their counselors appropriate support, imparting a sense of vision, the importance of the work and its impact on society
Documented Treatment Outcomes of State FDTCs*

- Parents entered treatment more quickly
- Parents spent more days in treatment
- Parents had longer wait times to permanency
- Children spent more time with their parents and fewer days in out-of-home placements
- Children more likely to be reunited with their families

*Building the Evidence Base for Family Drug Treatment Courts: Results from Recent Outcome Studies, Drug Court Review, Volume VI, Issue 2 (2009)

Promising Models for use in Tribal Family Healing to Wellness Courts

- Mentor Moms (Santa Clara County)
- Head Start or similar services
- Parenting classes
- Use of CASA’s for conducting individual family meetings (Suffolk County)
- Foster Grandparent Mentors (Washoe County)
- Transitional Housing Service (Santa Clara County)
Issues and Challenges in Implementing a Family Drug Court in Indian Country

• Tribal Wellness Court leaders and teams are often engaged in (and are responsible for) larger institution and nation-building efforts beyond the standard compartmentalized “drug court” realm
  – Creates a birds-eye view of systems and potential for wider systems change within tribal government and society
  – But leadership and service providers stretched thin
  – Reality of “we are all we have got” and “if we don’t do something, no one will” in face of resource, education, & training/licensing deficits

Issues and Challenges in Implementing a Family Drug Court in Indian Country (cont.)

• Successful assertions of tribal jurisdiction over non-Indian parents is complex and limited
• Under-developed tribal dependency laws, regulations, & policies and procedures
• No or insufficient funding for child welfare and treatment services (big implications for ability to do investigations, home visits, reports to the court, and the full array of assessing and treating participants)
• Federal funding to tribes for basic foster/adoptive care (Title IVE) services hard to get and tied to limited reunification services, expedited TPR and permanency, thus shorter periods for treating parents
Issues and Challenges in Implementing a Family Drug Court in Indian Country (cont.)

• Need for cultural tailoring of target population, kinds family members involved in treatment, and use of traditional authorities, mentors, and healers

• Need to include and properly structure traditional and/or cultural therapeutic activities and services within a continuum of care to prevent relapse of participants

• Care not to mandate traditional/cultural participation and to have options for diverse cultural and religious views/values

• Many tribes lack a tribal social services entity which may require state CPS representatives to serve on the team, further requiring the negotiation of inter-governmental agreements (which usually requires more $$$)

• Many tribes lack tribal treatment services which may require that federal/state/private treatment providers serve on the team, thus requiring the negotiation of inter-governmental agreements and third-party contracts ($$$)

• Getting cooperation (team membership, service provision, monitoring) of Indian Health Service providers and BIA law enforcement difficult
Issues and Challenges in Implementing a Family Drug Court in Indian Country (cont.)

• No or limited $$$ to subcontract the services of licensed treatment providers to undertake clinical assessments and to provide mental health treatment

• Given incidence of Native adult child maltreatment survivors and Native adults in recovery – as leaders and service providers we are healing ourselves while healing others – which requires some special training and precautions

Discussion Topics

• Parallel vs. Integrated Judging
• Implications for Family Wellness Team Policies & Procedures & Participant Handbooks
• Screening for eligibility & suitability across Wellness Court dockets
• Family members & Tribal Council
• Tribal AG/Prosecutor/Presenting Officer buy-in
• Family Wellness Team view that there should be more “referrals”
• Managing “counter-transference” and other burnout issues
“Thank You”