



SISSETON-WAHPETON  
OYATE TREATMENT  
COURT

BJ Jones

Chief Judge and Treatment Court Judge

# Who are the Oyate?

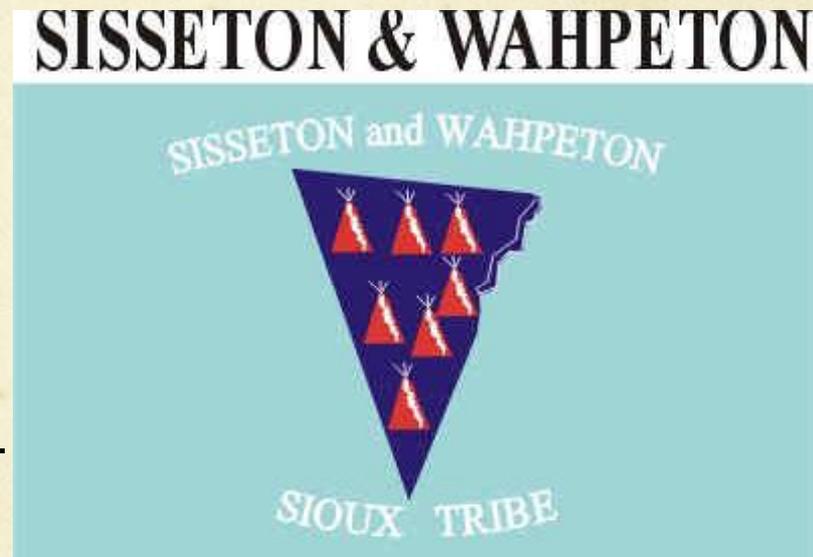
- Sisseton-Wahpeton Bands of the Dakota Sioux who inhabited primarily Minnesota and now inhabit two reservations- Lake Traverse in South Dakota, North Dakota and Minnesota and Spirit Lake who inhabits the lands near Devils Lake in North Dakota
- The history of the Dakota Sioux in Minnesota rife with conflict and historical misunderstanding
- Primarily speak the Dakota language but some Nakota

# The Oyate Now

- Approximately 13,000 members and about 80000 live on or near the Lake Traverse reservation
- Very young population
- The Lake Traverse reservation is the most fractionated reservation in the United States and is also the site of one of the most confusing jurisdictional morasses in Indian country because of the status of the reservation-  
Exist or not?

# DECOTEAU V. DISTRICT COURT

- Involved the Lake Traverse Indian reservation and the Sisseton-Wahpeton Bands
- Tribe sold some “surplus” lands to the government and the question before the Court was whether the intent of the Parties to that transaction was to disestablish the reservation
- Court seemed to rely heavily upon fact that much of the population in the area was non-Indian and the desire of that group not to be subject to tribal authority



# A Perfect Storm for a Wellness Court

- Roberts County, South Dakota has the highest rate of incarceration of natives in the South Dakota penitentiary of any county in the State
- 90% of those incarcerations are related to drug and alcohol abuse
- Tribe has concurrent jurisdiction over those offenders but State and County have concentrated law enforcement presence while Tribe is strapped for resources
- History of discrimination against natives in the state courts in South Dakota

# What the Oyate Did

- In 1997 Tribe received planning grant to look at a Wellness Court
- Initial goal of the Oyate was to assist adult 3-time DUI offenders and Juveniles with a concentration on first-time users
- Natives in State and federal Courts were not the focus of the planning grant
- After gaining Community input into the planning process through Tribe's Judicial Committee the Oyate implemented two wellness Courts in 1999- Adult and Juvenile

# What happened

- Juvenile Wellness Court did not succeed for a few reasons
  - Tribal government opted for a law and order approach due to the deaths of several youths in car accidents resulting in mandatory jail sentences for first time offenders
  - Oyate did not have an on-reservation juvenile treatment facility thus resulting in long waits for treatment services

# Adult Wellness Court

- Got very busy very fast and within first two years of program had average of 20 participants, most of whom had been convicted of 3<sup>rd</sup> offense DUI and drug offenses
- Tribe received two enhancement grants from DOJ and also funding under the IASAP program to expand its program
- Was one of two Tribes who were studied by the University of Arizona under a program designed to assess effectiveness of IASAP program

# Expansion of program

- Oyate still concerned about its members in state courts so in 2004 the Oyate met with state and federal court and law enforcement officials and invited collaboration on its Wellness Court
- Resulted in a joint effort to lower incarceration rates of Oyate members by permitting them and other natives who are subject to incarceration in state and federal prisons to complete the Wellness Court as an alternative
- Expanded the Wellness Court dramatically resulting in hundreds of new referrals and many success stories

# Who the Oyate accepts into its Wellness Court now

- Any native convicted in Tribal Court of 3<sup>rd</sup> offense DUI or Class One drug offense
- Any native convicted in state court of felony Drug or Alcohol conviction, including violent offenses, who receives a suspended imposition of sentence
- Any native convicted in state court who receives a suspended execution of sentence
- Oyate members who are paroled from state prison who are still under at least one year of supervised release
- Oyate members convicted in federal court of drug and alcohol offenses who receive supervised time

# How the Process works

- A referral is made, usually by a defense attorney or Court Judge, to the Treatment Court coordinator
- Treatment Court Team meets to discuss new referrals and those persons already in program
- If accepted State or Tribal Court imposes either suspended imposition of sentence or suspended execution and the person starts the process by signing the Treatment Court contract

# What is the philosophy of the Treatment Court

- Utilizes the principles of the Red Road approach to alcohol and drug dependence, while incorporating many of the AA principles
  - Addiction is the result of some trauma to individual, family or Tribe that has distorted the natural world
  - Heal from the trauma and a healthy lifestyle is an option
  - Addiction is not necessarily an illness that one always has, but healing is possible
  - Some persons are not amenable to healing under this model

# Who are the Team Members

- Judge
- Treatment Court Coordinator- Court Counselor
- Law Enforcement Representative
- Elder
- Treatment Court Providers
- Prosecutor
- Public Defender
- Other Team Members have come and gone for various reasons

# What does the Program look like

- 4 phase program- Treatment, Aftercare, Healing, Wellness
  - Phase One- Intensive Treatment, Mental Health Counseling, Obtain Sponsor, Reflection, Court Twice Per month
  - Phase Two- Aftercare- Transitioning from Treatment Back into Community, Spiritual Activity, Court Once Per Month, 2x weekly meetings with Coordinator, UA's and PBT's. Work, Meetings
  - Phase Three- Healing, Same as Two except More One on One Counselling
  - Phase Four- Wellness- Mentoring Others and Self-Reflection- Same as Two - Followed by Graduation
  - Once graduated if tribal court conviction it is expunged and if state court eligible for expungement

# Has it Been a Success?

- Statistically speaking maybe not- About 350 persons have graduated but equal number have not- Many sent to prison but recidivism rates for those remaining in and completing much less than those sent to prison and returning
- Many graduates have been quite successful, including two court employees, spiritual leader in Canada, Tribal Administrator, Tribal Payroll director, Prison Guard
- Average graduate has been relieved of 4.5 years of prison time and had 2.5 children- success reverberates into future generations

# Sanctions We Use

- Started out using jail as a sanction for almost everything, now use it sparingly – We can jail even those persons referred by state courts and federal courts by contract
- Wake-up Sessions- one on one sessions with relapse examination
- Public Speaking
- Community Service
- Ultimate sanction of course is revocation of suspended sentence and jail or prison time

# Incentives We Use

- Ultimate incentive is staying out of prison or jail
- Tribal Driving Permits
- Group acknowledgement
- Employment- Casinos have been extremely helpful in this regard

# Issues We Encountered along the way

- Sobriety of team members?
- How to communicate violations with state and federal officials?
- Different contract requirements for participants- started out with everyone does the same but we have modified that to fit needs
- Punishing for positive UA's?