

# Wellness Court Code Development



Code  
Considerations

Entry &  
Discharge

Operations

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# Code Considerations

## Structure of the Wellness Court

- Docket of the Judiciary
- Condition of Probation
- Diversion Program

## Benefits

- Stability
- (Limits on ) Authority
- Codifies Restorative Justice

## Structure of the Tribe

- Role of the Code
- Separation of powers
- Structure of other tribal agencies

## Disadvantages

- Unreflective of Tribal norms
- Slow to change
- Can be more adversarial

FORMALIZING HEALING TO WELLNESS COURTS IN TRIBAL LAW

## FORMALIZING HEALING TO WELLNESS COURTS IN TRIBAL LAW



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Tribal Healing to Wellness Courts: [www.WellnessCourts.org](http://www.WellnessCourts.org)  
Tribal Law and Policy Institute: [www.Home.TLPI.org](http://www.Home.TLPI.org)  
Tribal Court Clearinghouse: [www.TLPI.org](http://www.TLPI.org)

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# Foundations of the Wellness Court

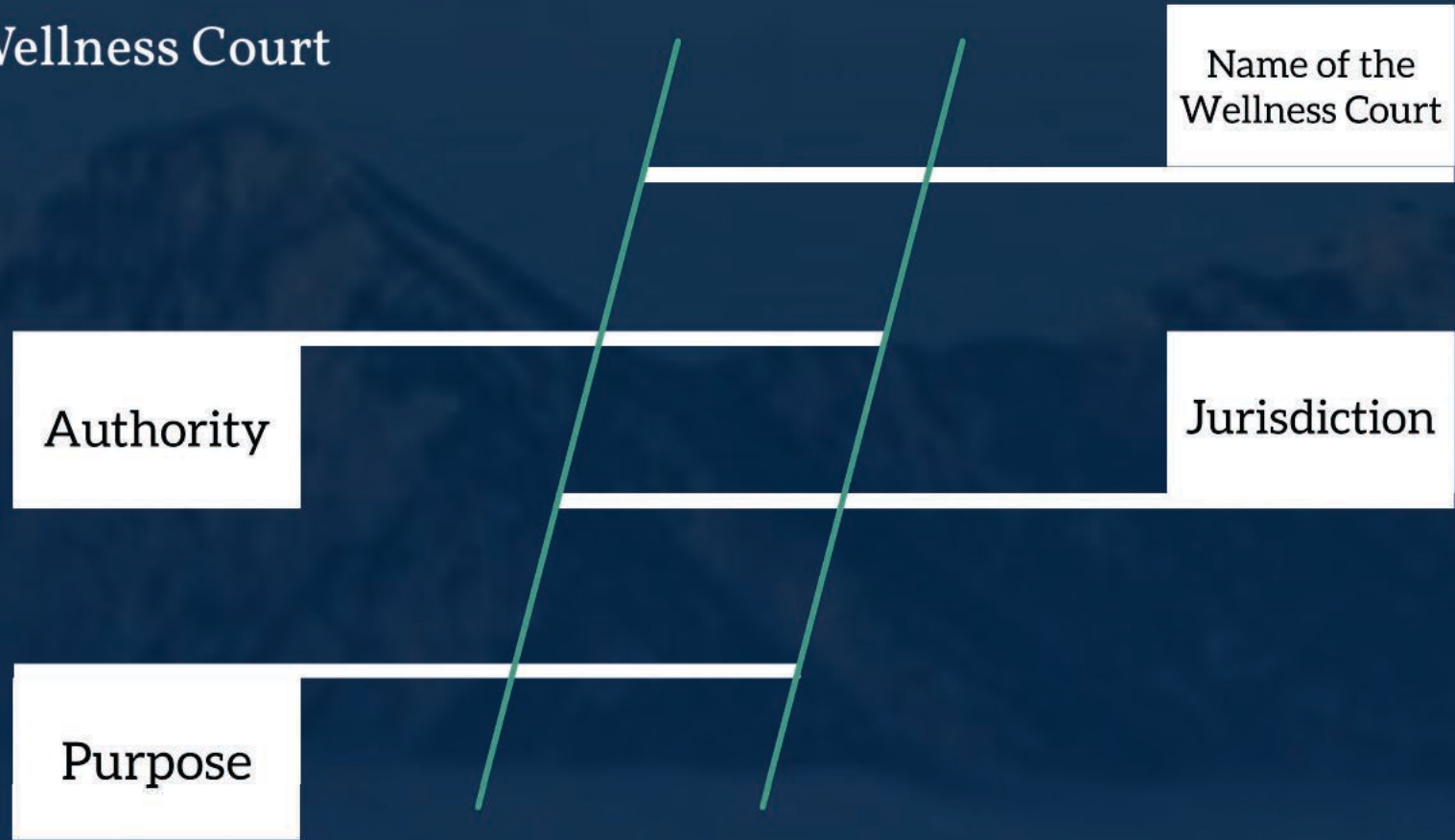
Establishing  
the Court

Entry

Discharge

# Considerations

Establishing the Wellness Court



# Establish

There is hereby established for the Tribe a court to be known as the Healing to Wellness Court.

# Jurisdiction

The Wellness Court is a Trial Court of Special Jurisdiction with jurisdiction to hear all cases referred to it pursuant to Tribal Law.

The Wellness Court may exercise jurisdiction over individuals who:

1. Meet the eligibility criteria of the Wellness Court Policies and Procedures Manual; and
2. Are accepted for admission by the Wellness Team.


# Diversion Program

The Healing to Wellness Court shall be a deferred sentencing program established to divert those offenders with substance abuse problems away from the regular Court system and toward a more holistic approach, which involves a treatment-oriented perspective.

# Authority

The Wellness Court shall have the authority to issue all orders necessary to ensure the safety, well-being, and rehabilitation of individuals who come within or consent to its jurisdiction. The Wellness Court shall have the power to implement all the duties, responsibilities, and remedies set out in this Code, including the power to enforce subpoenas and orders of restriction, fines and orders of restitution, contempt, confinement and detention, and other powers as appropriate.





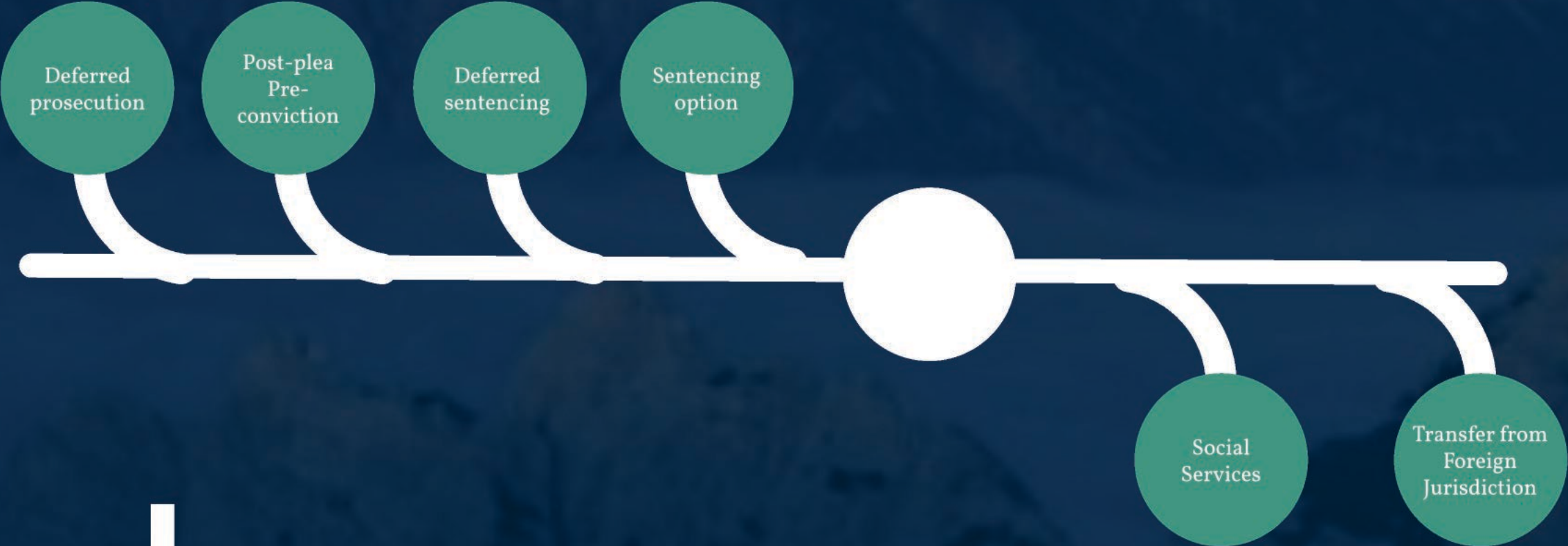
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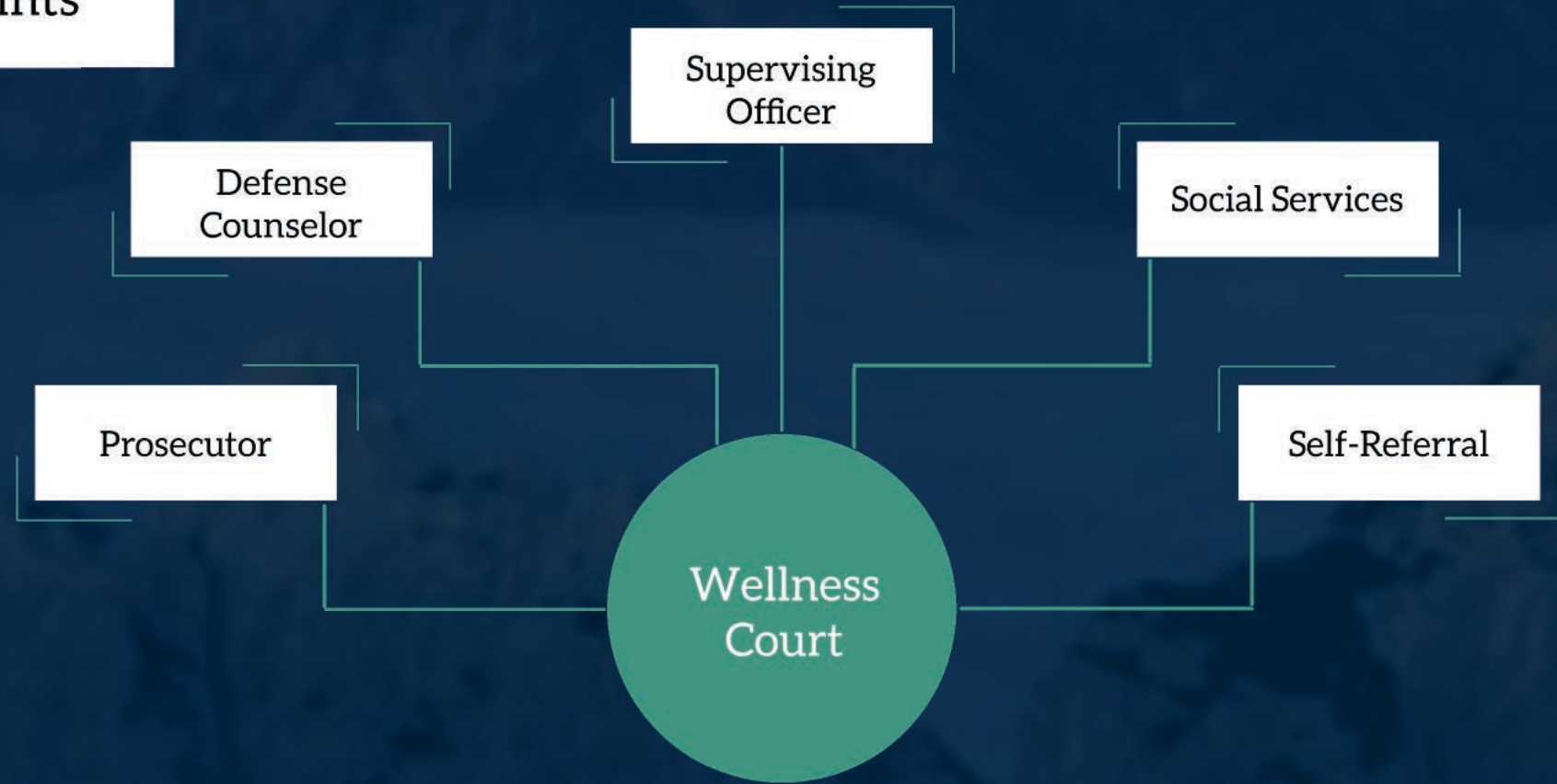
Discharge

Criminal



| Entry

## Referral Points



# Eligibility

Widen/Narrow the Scope

Criminal history

Connection to substance abuse

Funders' limitations

Process for Determining Eligibility

Legal screening

Clinical screening

Time limitations

## Due Process Considerations



Waiver of right to speedy trial

Stipulations to preserve evidence for deferred prosecutions

Access to Counsel within Wellness Court?

## Conditions of Entry

Restraint on substance use and alcohol, mandatory drug testing

Restraint on liberty, such as curfew, restrictions on living arrangements, required attendance to programs, court, and treatment

Waiver of HIPAA confidentiality



# Foundations of the Wellness Court

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# Discharge Process



Successful Graduation

Neutral Discharge

Termination



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# Wellness Court Operations

Team Roles &  
Responsibilities

Wellness  
Court  
Procedures

Wellness  
Court Hearing

Incentives and  
Sanctions

# Team Roles and Responsibilities

#1

Team Composition

#2

Responsibilities of each team member, particularly the Judge

#3

Establishment of the Wellness Court coordinator

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# Wellness Court Procedures

Establish the  
Policies and  
Procedures

Treatment Plan

Case  
Management

Supervision

Records

Drug Testing

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# Do these hearings differ from other court proceedings?

- Modified Rules of Evidence
  - Not a court of record
  - Confidentiality or privilege protections
- Mandatory participant and/or team member attendance
- Informal procedures
- Open or closed to the public
  
- Staffing
  - Establish and exempt from ex parte requirements

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# Incentives and Sanctions

- Notice that they could be ordered
  - A "such as" list
  - An exclusive list
- Deviation from sentencing guidelines
- Procedure (or lack thereof) for incarceration as a sanction

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# Thank you!

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