Building Stronger Families & Brighter Futures – The Unique Adaptations of the Family Drug Court and Family Tribal Healing to Wellness Courts to Better Serve Children, Families, and Communities
Acknowledgement

This presentation is supported by:

The Office of Juvenile Justice and Delinquency Prevention Office of Justice Programs
(2016-DC-BX-K003)

&

Bureau of Justice Assistance
(2016-DC-BX-K006)

Points of view or opinions expressed in this presentation are those of the presenter(s) and do not necessarily represent the official position or policies of OJJDP or the U.S. Department of Justice.
Learning Objectives

• Highlight the achievements and challenges of the Family Drug Court and Tribal to Wellness Court movements as adaptations of the drug court model

• Explore the unique role and importance of Tribal justice systems, family and holistic approach to recovery, and cultural values embedded in Tribal to Wellness Courts

• Increase knowledge and cultural competency to better serve Tribal and Native American families in your jurisdiction
Our Approach

- Seek to facilitate the sharing of resources so that Indian Nations and tribal justice systems have access to cost effective resources which can be adapted to meet the individual needs of their communities.

- Strive to establish programs which link tribal justice systems with other academic, legal, and judicial resources.
Our Mission

To improve safety, permanency, well-being and recovery outcomes for children, parents and families affected by trauma, substance use and mental health disorders.
How many children in the child welfare system have a parent in need of treatment?

- Between 60–80% of substantiated child abuse and neglect cases involve substance use by a custodial parent or guardian (Young et al., 2007)
- 61% of infants, 41% of older children who are in out-of-home care (Wulczyn, Ernst, and Fisher, 2011)
- 87% of families in foster care with one parent in need; 67% with two (Smith, Johnson, Pears, Fisher, and DeGarmo, 2007)
In 2015, parental alcohol or other drug use was identified as a reason for removal for 34.4% of children nationally.

The total number of children entering out-of-home care has been increasing since 2012.

In 2012 there were 397,301 children in out-of-home care.

That number increased to 427,910 by 2015.
Percent of Children with Terminated Parental Rights by Reason for Removal in the United States 2015

<table>
<thead>
<tr>
<th>Reason</th>
<th>Percent</th>
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<tbody>
<tr>
<td>Neglect</td>
<td>68.2%</td>
</tr>
<tr>
<td>Parent Alcohol or Drug Abuse</td>
<td>39.3%</td>
</tr>
<tr>
<td>Parent Unable to Cope</td>
<td>19.0%</td>
</tr>
<tr>
<td>Physical Abuse</td>
<td>15.0%</td>
</tr>
<tr>
<td>Inadequate Housing</td>
<td>13.0%</td>
</tr>
<tr>
<td>Parent Incarceration</td>
<td>7.6%</td>
</tr>
<tr>
<td>Abandonment</td>
<td>6.3%</td>
</tr>
<tr>
<td>Child Behavior</td>
<td>4.7%</td>
</tr>
<tr>
<td>Sexual Abuse</td>
<td>4.9%</td>
</tr>
<tr>
<td>Child Disability</td>
<td>3.4%</td>
</tr>
<tr>
<td>Child Alcohol or Drug Abuse</td>
<td>2.9%</td>
</tr>
<tr>
<td>Relinquishment</td>
<td>1.9%</td>
</tr>
<tr>
<td>Parent Death</td>
<td>1.1%</td>
</tr>
</tbody>
</table>

Source: AFCARS Data, 2016
Note: Estimates based on all children in out of home care at some point during Fiscal Year
Addiction in Indian Country

• Cigarette Addiction 52% - highest among all other ethnic groups
  – Childhood trauma increases smoking risks
  – Daily smokers are 5 times more likely to abuse alcohol
• Alcoholism is at an all time high among Native people
• Most violent crimes committed in Indian country involve alcohol/drugs on both the part of the offender and the victim
First Family Drug Courts Emerge – Leadership of Judges Parnham & McGee

Six Common Ingredients Identified

Grant Funding – OJJDP, SAMHSA, CB

Practice Improvements – Children Services, Trauma, Evidence-Based Programs

Systems Change Initiatives

National Strategic Plan
Institutionalization, Infusion, Sustainability

1994

2002

2004

2007

2014

Next

FDC Movement

10 Key Components and Adult Drug Court Model
What have we learned?
How Collaborative Policy and Practice Improves

5 Rs

- Recovery
- Remain at home
- Reunification
- Re-occurrence
- Re-entry
FDC Outcomes

- Higher treatment completion rates
- Shorter time in foster care
- Higher family reunification rates
- Lower termination of parental rights
- Fewer new CPS petitions after reunification
- Lower criminal justice recidivism
- Cost savings per family
Studies Show Equivalent or Better Outcomes:

- Co-occurring mental health problems
- Unemployed
- Less than a high school education
- Criminal history
- Inadequate housing
- Risk for domestic violence
- Methamphetamine, crack cocaine, or alcohol
- Previous Child Welfare Involvement

Who do FDCs Work For?

(e.g., Boles & Young, 2011; Carey et al., 2010a, 2010b; Worcel et al., 2007)
Tribal Courts

Prior to European contact, Indigenous peoples practiced various forms of meaningful dispute resolution.

1883: First modern iteration of tribal courts: “Courts of Indian Offenses” (CFR)

1934: Indian Reorganization Act: permitting tribes to organize and adopt constitutions under federal law.

Today: tribal justice systems are diverse in concept and character. At various stages of development.
Complex Jurisdictional Framework

Criminal and Civil Jurisdiction is complex; often depends on the

- Indian status of the offender/defendant
- Indian status of the victim/plaintiff
- Location of the offense/act
- The nature of the offense/act

Additional factors include

- Federal prosecutorial discretion
- Development of the Tribal Court and/or Tribal Code
- Possible state jurisdiction (e.g. PL 280)
- Joint Powers Agreements and/or Memorandums of Understanding
Tribal Healing to Wellness Courts

Healing to Wellness Courts are tribal drug courts.

Particular interest in addressing alcoholism, especially in a non-adversarial nature.

The term “Healing to Wellness Courts” was adopted to:

1. Incorporate two important Indigenous concepts - Healing and Wellness; and
2. Promote wellness as an on-going journey.
Cultural Sensitivity

- Cultural competency is a critical principals of care
- Not all tribal customs and traditions are the same
- Not all methods of seeking traditional healing are the same
- Not all Indian people will be open to participating in cultural orientated activities
- Must give careful consideration on the team’s approach to cultural teaching and customs in their programs
State 10 Key Components and the Tribal 10 Key Components

In 1997, the National Association of Drug Court Professionals (“NADCP”) developed *Defining Drug Courts: The Key Components*, a guide to prescribe the basic operational characteristics that all drug courts should share as benchmarks for performance.

However, it became apparent that the state key components may be inappropriate to the tribal context.

Therefore, in 2003, the Tribal Law and Policy Institute (“TLPI”), reoriented and generalized the state key components as relevant to the tribal setting to allow for tailoring in different geographic, demographic, jurisdictional, and cultural tribal contexts.
Treatment of Alcohol/Drug Use & Trauma Among Native American’s

• Wellness Court process is not a new method
  • Crime and conflict were historically addressed through customary and traditional methods

• Traditional Native people focus on community
  • Modern ways are individualized
  • Community vision is what guides Native people
The Big 7

Key Family Drug Court Ingredients
Key Ingredients for FDCs

- System of identifying families
- Timely access to assessment and treatment services
- Increased management of recovery services and compliance with treatment
- Improved family-centered services and parent-child relationships
- Increased judicial oversight
- Systematic response for participants – contingency management
- Collaborative non-adversarial approach grounded in efficient communication across service systems and court

Sources: 2002 Process Evaluation and Findings from 2015 CAM Evaluation
Important Practices of FDCs

How are they identified and assessed?

How are they supported and served?

How are cases and outcomes monitored?
1 System of Identifying Families
Challenges & Barriers

- Target population unclear
- Restrictive and/or subjective eligibility criteria
- Screening and identification conducted late
- Lack of utilization of standardized screening protocols
- Referral process with weak hand-offs, lack of tracking
Since *timely* engagement and access to assessment and treatment matters:

How can identification and screening be moved up as *early as possible*?
A Model for Early Identification, Assessment, and Referral

CWS Safety and Risk Assessment
AOD Screening & Assessment

Referral into CWS Hotline

Timely Referral to FDC or appropriate LOC

Detention Hearing

Jurisdictional-Dispositional Hearing

Typical Referral to FDC or Other LOC

Status Review Hearing
What makes effective protocols?

- Shared mission and vision—agreement and understanding of target population and expected outcomes
- Clear and consistent referral process—preferably warm hand-off
- Coordinated case planning, information sharing
- Timely and ongoing communication and follow-up
- Understanding of and attention to competing “clocks”—timeframes—recognizing that time is of the essence
Timely Access to Assessment and Treatment Services
Timely, Structured, and Integrated

Effective FDCs develop joint policies and practice protocols that ensure timely, structured, and integrated screening and assessments.
Questions to Consider with an Assessment Protocol

- How is the individual referred for assessment?
- On an average, how long does it take to go from referral to assessment?
- Who conducts the assessment and what tools are used?
- What additional information from child welfare and other partners would be helpful in understanding the needs of the parent, child, and family?
- How is information communicated to the parent? To the child welfare staff? To the courts? Are the appropriate consents in place and consistently signed?
- What happens if the parent doesn’t show for assessment?
- What are the next steps if treatment is indicated? If treatment is not indicated?
- If the persons/systems/agencies conducting the assessments are not the same as the ones providing treatment, is there a warm hand-off?
Diagnosing Substance Use Disorders

The FDC should ensure that structured clinical assessments are congruent with DSM-V diagnostic criteria.

Experimental Use

- NO USE
- USE/MISUSE
- MILD
- MODERATE
- SEVERE

DSM-V Criteria (11 total)

2-3
4-5
6+
Early engagement in treatment is crucial. Strategies to improve timely access include:

- Screening and identification
- Service linkage and matching to parent need
- Warm hand-off to assessment
Reunification Timetables

- Consider...not all Tribal Social Services operate under the ASFA Timelines
  - Must file termination of parental rights when a child has been in foster care for 15 of the last 22 months
  - Must have permanency hearing no later than 12 months after the child has entered foster care
  - Title IV-E – Yes
  - Title IV-B – No
“Here’s a referral, let me know when you get into treatment.”

“They’ll get into treatment if they really want it.”

“Don’t work harder than the client.”

“Call me Tuesday.”
Key Family Drug Court Ingredients

Increased Management of Recovery Services and Compliance with Treatment
Recovery is a process of change through which individuals improve their health and wellness, live self-directed lives, and strive to reach their full potential.

Access to evidence-based substance use disorder treatment and recovery support services are important building blocks to recovery.

Recovery is not treatment!
## Four Major Dimensions

<table>
<thead>
<tr>
<th>Health</th>
<th>Home</th>
<th>Purpose</th>
<th>Community</th>
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</thead>
<tbody>
<tr>
<td>Overcoming or managing one’s disease(s) or symptoms and making informed, healthy choices that support <strong>physical</strong> and <strong>emotional</strong> well-being</td>
<td>Maintaining a <strong>stable and safe</strong> place to live</td>
<td>Conducting <strong>meaningful</strong> daily activities, such as a job, school or volunteerism, and having the independence of income and resources to participate in society</td>
<td>Having relationships and social <strong>networks</strong> that provide support, friendship, love, and hope</td>
</tr>
</tbody>
</table>
Rethinking Treatment Readiness

Rethinking “rock bottom”

Addiction as an elevator

“Raising the bottom”
Rethinking Engagement

If you build it, will they come?

Effective FDCs focus on effective engagement
The Impact of Recovery Support On Successful Reunification

We know more about:

- Recovery Support Specialists
- Evidence-Based Treatment
- Family-Centered Services
- Evidence-Based Parenting
- Parenting Time
- Reunification Groups
- Ongoing Support
Key Family Drug Court Ingredients

4

Improved Family-Centered Services and Parent-Child Relationships
Family-Centered Approach

Recognizes that addiction is a family disease and that recovery and well-being occurs in the context of families.
Family Recovery, Parent and Child Well-Being

**Parent Recovery**
Focusing on parent’s recovery and parenting are essential for reunification and stabilizing families

**Child Well-Being**
Focusing on safety and permanency are essential for child well-being

**Child and Family Well-Being**
Because children stay home, go home or find home
What is the Relationship Between Children’s Issues and Parent’s Recovery?
Focusing Only on Parent’s Recovery Without Addressing Needs of Children

Can threaten parents’ ability to achieve and sustain recovery, and establish a healthy relationship with their children, thus risking:

- Occurrence/Recurrence of maltreatment
- Entry/Re-entry into child welfare system and out-of-home care
- Relapse and sustained sobriety
- Additional substance exposed infants
- Additional exposure to trauma for child/family
- Prolonged and recurring impact on child well-being
Strategies and Techniques to Integrate Family into Court and Treatment Process

• Find opportunities for team members to have conversations with members of families

• Implement an evidence-based practice that includes parent-child time as the required parenting component

• Review records and assessments with family members

• Observations/Home visits

• Family Functioning Instruments: open ended questions, strengths-based
PFR Project Goals

Expand the **service array** for FDC families

Strengthen the **capacity** of FDCs to implement and sustain a family-centered approach

Identify **breakthrough strategies** that support a family-centered approach

Evaluate the **progress and challenges** with implementing such an approach

Disseminate **lessons learned** to advance the field
How Did PFR1 Grantees Expand Services?

Added evidence-based programs

- SafeCare
- Strengthening Families Program
- Trauma Focused Cognitive Behavioral Therapy
- Child Parent Psychotherapy
- Celebrating Families
- Parents as Teachers

Added a Children's Services Coordinator

- Improved access to and coordination with existing services
- Tracked services received by children
How did PFR1 Grantees Improve FDC Operations?

Implemented Milestones

- Indicators of progress including parent-child services
- Replaced phases

Expand case staffings to address the needs of the family rather than focus on the individual parent

- Added liaisons from treatment, mental health, children’s mental health, EBP providers

Provided cross-systems training

- Solution Focused Trauma Informed Care
- Motivational Interviewing

Utilized the NCFAS as a case planning tool
Lessons Learned from PFR1

Governance Structure

• Regular and ongoing meetings
• Involvement from various levels to improve direct services and barrier bust

Collaborative Capacity

• Improve information sharing
• Expand partnership to include other key systems
  – Mental Health
  – Public Health
  – Domestic Violence Providers
Lessons Learned from PFR1

Performance Monitoring and Evaluation Capacity

• Monthly data capture sheets
• Contextual data
• Development of internal capacity for data collection, performance monitoring, and evaluation
  – Using data to improve practice and policy
  – Using data to discuss outcomes that help sustain the FDC
• Support from the PFR Evaluation Team
Gila River Indian Community Family Drug Court

New PFR 2 Grantee

Will be implementing Family Wellness Court strategies in the coming three years
The FDC team and partners hope to implement a program that teaches the FDC participants:

• Better ways to cope with their role as parent and mentor to their children, and

• How to engage in healthy dialogue and conversations between the parents and child
• The new parenting program needs to incorporate more of the Akimel O’Odham and Pee Posh cultures and traditional ways of parenting.

• Concern that participants did not have a strong, consistent parent in their life to teach them how to be a parent. Subsequently, they also lack the understanding of how to interact and play with their children.

• The FDC is seeking funding to pay for the **FDC Case Manager** who is the parenting provider for all FDC participants. The FDC recently purchased the **Nurturing Parenting** program to be used as the parenting component of the FDC.
Here’s What We Know

- Child Welfare cannot solve this problem from within child welfare.
- Substance use and child maltreatment are multi-generational problems that can only be addressed through a cross-system collaborative approach.
- Treatment must be family-centered and focus on both parents’ and children’s needs; Family Well-Being.
Rethinking Readiness

How will we know?

- Attendance vs. behaviors
- Compliance vs. adherence
- Safe vs. perfect
- Relapse vs. lapse
- Recovery vs. remission
Impact of Parenting Time on Reunification Outcomes

- Children and youth who have regular, frequent contact with their families are more likely to reunify and less likely to reenter foster care after reunification (Mallon, 2011)

- Visits provide an important opportunity to gather information about a parent’s capacity to appropriately address and provide for their child’s needs, as well as the family’s overall readiness for reunification.

- Parent-Child Contact (Visitation): Research shows frequent visitation increases the likelihood of reunification, reduces time in out-of-home care (Hess, 2003), and promotes healthy attachment and reduce negative effects of separation (Dougherty, 2004).
Importance of a Cross-Systems Response

• Effective family interventions require **collaboration** to facilitate meaningful and sustainable family involvement and successful individual and family outcomes

• Interventions are most effective when implemented within the context of a **coordinated, cross-system approach**

• Interventions should consider children’s and family’s ecology—extended family, peers, school and neighborhood

• Parental substance use and child abuse are often **multi-generational problems** that can only be addressed through a **coordinated approach across multiple systems** to address needs of both parents and youth
Key Family Drug Court Ingredients

5 Increased Judicial Oversight
Therapeutic Jurisprudence

- Engage directly with parents vs. through attorneys
- Create collaborative and respectful environments
- Convene team members and parents together vs. reinforcing adversarial nature of relationship
- Rely on empathy and support (vs. sanctions and threats) to motivate

The Judge Effect

• The judge was the single biggest influence on the outcome, with judicial praise, support, and other positive attributes translating into fewer crimes and less use of drugs by participants (Rossman et al., 2011)

• Positive supportive comments by judge were correlated with few failed drug tests, while negative comments led to the opposite (Senjo and Leip, 2001)

• The ritual of appearing before a judge and receiving support, accolades, and “tough love” when warranted and reasonable, helped them stick with court-ordered treatment (Farole and Cissner, 2005, see also Satel 1998)
Systematic Response for Participants – Contingency Management
Three Essential Elements of Responses to Behavior

1. Addiction is a brain disorder

2. Length of time in treatment is the key. The longer we keep someone in treatment, the greater probability of a successful outcome

3. Purpose of sanctions and incentives is to keep participants engaged in treatment
• FDC’s goal is safe and stable permanent reunification with a parent in recovery within time frames established by ASFA

• Responses aim to enhance likelihood that family can be reunited before ASFA clock requires an alternative permanent plan for the child
Setting Range of Responses

- FDC team should develop a range of responses for any given behavior, and should be consistent for individuals similarly situated (phase, length of sobriety time)

- Avoid singular responses, which fail to account for other progress

- Aim for “flexible certainty” – the certainty that a response will be forthcoming united with flexibility to address the specific needs of the individual
Proximal vs. Distal Responses

- Timing is everything; delay is the enemy; how can you as a team work on this issue?
- Intervening behaviors may mix up the message
- Brain research supports behavioral observation; dopamine reward system responds better to immediacy
Impact on Children and Families

- Accountability is focused on parents
- Court must consider impact of a response on children and family as a unit
- Visitation should be determined solely on basis of child’s safety and best interest (vs. parent sanction or reward)
Responses to Behavior

<table>
<thead>
<tr>
<th>Safety</th>
<th>Therapeutic</th>
<th>Motivational</th>
</tr>
</thead>
<tbody>
<tr>
<td>• A protective response if a parent’s behavior puts the child at risk</td>
<td>• A response designed to achieve a specific clinical result for parent in treatment</td>
<td>• Designed to teach the parent how to engage in desirable behavior and achieve a stable lifestyle</td>
</tr>
</tbody>
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Collaborative Non-Adversarial Approach Grounded in Efficient Communication Across Service Systems and Court
Effective, timely, and efficient communication is required to monitor cases, gauge FDC effectiveness, ensure joint accountability, promote child safety, and engage and retain parents in recovery.
Barriers to Effective Cross-Systems Communication

- Discipline-specific training
- Legal mandates and administrative codes
- Lack of trust between the systems
- Competing timelines
- Caseload volume
- Confidentiality provisions
Monitoring Cases

- Case Staffings
- Family Team Meetings
- Judicial Oversight
- More frequent review hearings
- Responses to behavior
Monitoring Outcomes

System Walk-Through
Assess effectiveness of system in achieving its desired results or outcomes

Data and Info Walk-Through
Who collects data, where is it stored, who uses it, who “owns” the data, levels of access
Managing Cases

- Case management
- More frequent review hearings
- Judicial oversight
- Responses to behavior
- Case staffings
- Drug testing
Drug Testing

- Drug testing is most frequently used indicator for substance use in CWS practice
- Test results may influence decisions on child removal, reunification and Termination of Parental Rights
- Courts often order drug testing as a standard protocol for parents in the child welfare system
- Lack of standardized recommendations for drug testing in child welfare practice

What Questions Can Drug Testing Answer? ...& What Can it Not?

• **CAN**
  - Whether an individual has used a tested substance within a detectable timeframe

• **CANNOT**
  - A drug test alone cannot determine the existence or absence of a substance use disorder
  - The severity of an individual’s substance use disorder
  - Whether a child is safe
  - The parenting capacity and skills of the caregiver
Legal Considerations
Adoption and Safe Families Act (PL 105-89)

1997

ASFA
Time Clock
Tribal Considerations

Consider Reunification Timelines
ASFA; Title IV – E?
Title IV-B

Termination of Parental Rights?
Permanent Guardianship
Customary Adoption
Court Collaboration

- Diversion courts
- Recognition of tribal court judgments
- Family law
- Truancy and other juvenile matters
- Indian Child Welfare Act (ICWA) cases
- Motor vehicle licensing
- Child support enforcement
- Enforcement of protection orders
- Recognition of customary marriages
- Probation and reentry support
- Registration and management of sex offenders
Opportunities for Collaboration in Wellness Court

Transfer Agreement for eligible participants

Provision of drug testing and other oversight services

Sharing of database information

Consultation for particular subject matter (e.g. cultural activity or treatment)

Consultation for particular participants

Joint team members (probation, behavioral health, treatment)

Communication between Coordinators

Observation of each other’s hearings
Resources
10 Key Components (1997)
http://www.ndci.org/sites/default/files/ndci/KeyComponents.pdf

Tribal 10 Key Components of Wellness Courts
http://www.wellnesscourts.org/tribal-key-components/index.cfm

Family Drug Court Practice Guidelines (2013)
View the Recorded Webinar!!
Family Drug Court Online Tutorial

- Self-pace learning
- Modules cover basic overview of FDC Model
- Certificate of Completion

@ www.cffutures.org
TRANSITIONING TO A FAMILY CENTERED APPROACH:
Best Practices and Lessons Learned from Three Adult Drug Courts
2015 Special Issue

Includes four Family Drug Court specific articles presenting findings on:

• Findings from the Children Affected by Methamphetamine (CAM) FDC grant program
• FDC program compliance and child welfare outcomes
• Changes in adult, child and family functioning amongst FDC participants
• Issues pertaining to rural FDCs

www.cwla.org
Children Affected by Methamphetamine Brief

• Overview Children Affected by Methamphetamine (CAM) grant program (funded by SAMHSA from October 2010 – September 2014)

• Key implementation lessons learned

• Highlights safety, permanency, recovery, and well-being outcomes for the 1,850 families served during the first three years of the grant
Matching Service to Need: How Family Drug Courts Identify, Assess and Support Families to Achieve Recovery, Safety, and Permanency

A Practice Brief presented by Children and Family Futures
Lake Forest, California
June 2016

Visit www.cffutures.org to download a copy
Family Drug Court Peer Learning Court Program

- King County, WA
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- Jefferson County, AL
- Dunklin County, MO
- Jackson County, MO
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