

Makah Tribal Wellness Court: *An Overview*

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*COMBINING ALCOHOL AND OTHER DRUG ABUSE TREATMENT SERVICES WITH
INTERMEDIATE SANCTIONS FOR ADULTS IN THE CRIMINAL JUSTICE SYSTEM*

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Makah Tribal Wellness Court: An Overview

Combining Alcohol and Other Drug Abuse Treatment Services with Intermediate Sanctions for Adults in the Criminal Justice System

The Makah Wellness Court is a tribal justice system that incorporates and adapts the drug court concept to meet the specific cultural needs of our Makah community. In addition, a collaborative effort must be made between the prosecuting attorney, public advocate, judge, probation officer, and public safety officers.

Overall, for the program to be effective and operational, the Wellness Court must continually address ten components: screening, assessment, treatment planning and matching, comprehensive continuum of care, case management, drug testing, accessibility of treatment, relapse prevention and response, managing information, and evaluation. These components are described throughout the overview.

Makah Wellness Court Services

The Makah Wellness Court provides a comprehensive and effective control mechanism for drug-using offenders, available to the numerous drug-using offenders on probation and living in our community. Moreover, the Wellness Court provides:

- (a) Structure and a higher level of accountability for cases through comprehensive supervision, drug testing, treatment services, immediate sanctions and incentives, and case management.
- (b) An opportunity for our community to address the devastation of alcohol or other drug abuse.

The court's array of services are provided by a consortium of addiction treatment providers, health and human service providers, and criminal justice supervision agencies linked via coordinated case management. Criminal justice personnel facilitate an offender's involvement in the program. Program management provides coordination of referrals to services for co-occurring factors.

Makah Wellness Court Mission Statement

"Our mission is to create a method of healing for the participants that will ensure a return to traditional harmony rather than a path of self-destruction."

Goals & Objectives - Laying the Foundation for Effective Treatment

"Our Goal is to Provide Quality Substance Abuse Treatment Services by Structuring Treatment Services to Deliver Optimum Outcomes."

It is recognized that the use and abuse of alcohol/drugs poses a very serious problem, it can endanger the safety of the community, and jeopardize the health, safety and well being of the individual user and all of our employees. Therefore, goals and objectives are aimed at these problems identified.

Research indicates that successful programs assist offenders change their behavior through a therapeutic emphasis; provide multiple levels of care and are longer in duration; and use the leverage of the criminal justice system to retain offenders in treatment. Further, it is important that the therapeutic setting is a place where the offender can continually access services.

The Makah Wellness Court goals and objectives are aimed toward the defendants in the criminal justice system whose criminal behavior is a result of addiction to illegal drugs and who have been unable to break their addiction through standard probation. Currently, the Makah Wellness Court objectives are to affect the participant's life circumstances by enhancing the capacity to function in the community.

Increasing linkages and cultivating strong partnerships is critical to longevity and success of our wellness court. The very foundation of success may rest on cooperative action, common goals, and willing collaboration not only among wellness court practitioners but also between the practitioners and the community and the overall length of the program. The objectives shall explicitly stress the continual improvement of service delivery by improving the performance of all staff members, prompting enhanced performance of the program, and resulting in improved service delivery. Emphasize the continual improvement of Wellness Court service delivery by improving team performance. Provide the leadership, training, and motivation to continuously improve the management and operations of Wellness Court.

An automated management information system (MIS) should be in place supporting the operation and management of the wellness court, technical assistance funding to train our staff is needed to increase productivity and minimize statistical reporting time. The integration and interoperability of information technology (IT) systems between all justice agencies and across Federal, State, and local jurisdictional boundaries is a recommendation and certainly possible with the newly found leadership in law enforcement. IT systems include automated information systems used by each of the justice system

components in their internal day-to-day business and in communicating with each other.

Our goal is to collaborate on an effective criminal justice database program that will enable the Police Department, Prosecutor, Defense Advocate, Probation Officer, Judicial Services and Wellness Court personnel to easily access and maintain. The Tribal Planning Department has committed its resources and staff to assist in the development of the database. This critical element will benefit Wellness Court by enabling a more quick and effective way of determining eligibility thereby allowing the potential clients to more swiftly enter the program and begin treatment and receiving services.

If Wellness Court is to continue to expand, generate positive outcomes for offenders, and be accepted and supported by our community that we serve, a solid body of research must stand behind the effort. Evaluations can achieve much more than simply measuring the overall success or failure of our program. Information derived from evaluations can be useful in determining how and when to modify the program, specifically eliminating ineffective components or adding needed services. Further, evaluation can be used to help gain support and to "sell" the program to funding organization.

Eligibility and AOD Abuse Screening

A *clinical screening* is a preliminary gathering and sorting of information used to determine if an individual has a problem with AOD abuse, and if so, whether a detailed clinical assessment is appropriate. Wellness Court screening is performed by personnel in the criminal justice system, the wellness court's primary counselor and program coordinator. This screening filters out individuals who have medical, legal, or psychological problems that must be addressed before they can fully participate fully in treatment. The screening process is designed to determine who can benefit from treatment and which general category of treatment is appropriate for the individual.

Eligibility Criteria

The Wellness Court treatment program shall provide services appropriate to the specific needs of the individual. It is possible to screen out an individual, however a referral will be made to another treatment program that can provide the specialized assessment and treatment that individual needs. Wellness Court's eligibility criteria include alcohol/drug related adult offenders in our jurisdiction, excluding violent offenders (as defined by Section 2203 of the Crime Act) and those convicted of a sex offense.

Screening Process

After receiving an offense report from the Tribal Police Department, the Tribal Prosecutor decides to charge the commission of any offense. The Tribal Prosecutor identifies the defendant's initial eligibility based on current charge(s) indicated in the complaint when filed in criminal court. The Tribal Probation Officer provides local criminal history, if any.

At arraignment, any party can provide notice to the Court of initial eligibility and petition to participate in Wellness Court as an alternative to the normal criminal prosecution. The Court will impose continued release conditions to ensure the defendant's compliance with the screening process. Upon receipt of a written referral to Wellness Court, the staff screening the participant is notified of the defendant's next court hearing. Eligibility referral correspondence shall be conducted in a timely manner to the Court. The defendant is responsible for contacting Wellness Court's primary counselor for an assessment and attending subsequent appointments for orientation.

AOD Abuse Assessment

A formal assessment shall take place either prior to or in conjunction with the implementation of treatment service delivery. Basic components of the formal assessment include detailed drug use history, medical history, family history, social/economic history, and a psychological portion.

A *clinical assessment* is the collection of detailed information concerning the client's substance abuse, emotional and physical health, social roles, and other areas that may reflect the severity of the client's abuse of alcohol or other drugs as a basis for identifying an appropriate treatment regimen.

A second function of assessment is to initiate the process of treatment. The assessment shall conclude with an integrated summary of critical information and diagnostic impressions concerning the individual and his or her treatment needs.

Management, Structure, and Staff

The Wellness Court concept provides the court with structural accountability, both to the agencies and personnel administering the court and treatment program, and to the offender in treatment. Structural accountability means that Wellness Court personnel and their respective agencies take responsibility for the success or failure of an offender to complete the treatment program. The Wellness Court builds this accountability into the structure of the treatment process because the Wellness Court is solely responsible for the defendant and the program.

"In a structurally accountable system, participating agencies share program responsibilities and are accountable to each other for program effectiveness, with each participant directly linked to, dependant

on, and responsible to the other."

Considering the nature of the business, such as client-based behaviors, teambuilding is essential. Currently, the potency of drugs is higher than ever. Research has shown that drugs actually change the structure of the brain, supporting facts that addiction is a chronic relapse disease.

Judicial Supervision

The Wellness Court Judge is the central and most critical role of the Wellness Court Structure. The Judge will explain the defendant's legal rights and options and the program requirements at the defendant's first court appearance. Upon acceptance to the program, the participant is subject to intensive judicial supervision, treatment program requirements and drug testing.

Initial Wellness Court appearances are on a weekly basis. The direct interaction between the Judge and the participant weekly increases awareness and the accountability of the participant's day-to-day behavior. For example, if a participant has a positive drug test, the Judge can immediately impose the appropriate sanction, up to and including jail time.

The weekly appearances also monitor the accountability of the wellness court staff and other tribal programs and services. If a participant is not receiving services, the matter will be quickly assigned for follow up from the team.

The Judge can effectively monitor the participant's treatment through the Counselor's treatment report. If there are repeated positive drug test results, the Judge can review the treatment plan and determine what sanctions are appropriate or recommend an evaluation of the effectiveness of the treatment plan. On the other hand, if the participant is progressing well in their treatment, the Judge can give recognition and reward the participant for their progress in their recovery.

Alcohol and other Drug Abuse Treatment

Research has identified critical factors that increase the effectiveness of programs and services for offender populations, including conducting assessments, using specific treatment placement criteria, using treatment readiness, targeting offenders based on social harm, lengthening treatment duration, establishing a continuum of care, using behavioral contracts, using drug testing and other monitoring services, and using behavioral incentives and sanctions (Anglin and Hser, 1990; Prendergast, 1995;

Gendreau, 1996; Taxman, 1998).

Available services for the participants include various levels of alcohol or other drug (AOD) treatment in different settings:

- (a) AOD abuse screening and assessment services for offenders with various levels of AOD abuse problems and identification of concurrent needs for monitoring
- (b) Screening and assessment tools that appear appropriate for our offender population are identified to help facilitate treatment planning
- (c) Job readiness is a brief job-training program that attempts to promote participant's work ethic; motivation and communication skills needed to be successful in a work environment.
- (d) Drug education group designed to educate clients about the effects of drugs and alcohol and the process of addiction.
- (e) Relapse prevention teaches participants to identify early warning signs of relapse and encourages alternatives that are more appropriate.
- (f) AA/Self-help support groups give wellness court participants a long-term or life-long support system of other recovering addicts and alcoholics.
- (g) Moral Reconciliation therapy (MRT) a comprehensive, systematic attempt to treat substance abusers from a purely cognitive behavioral perspective.

Case Management

Case management is provided by program staff, after acceptance into the Wellness Court each participant is periodically assessed to ensure their treatment plan and services are suitable. Weekly status update reports are submitted for the case staffing, where any compliance or non-compliance issues, or progress risk factors are considered to determine case status.

Participant progress as measured by phase requirements, are reported weekly by treatment providers, probation officer, judge, and program coordinator. Demographics such as participant characteristics, employment background, and any criminal history are documented during the screening and assessment process.

The Treatment Plan will be developed and completed by the Wellness Court Counselor and the patient and submitted to the Makah Wellness Court. Treatment planning will include but not be limited to medical and addiction counseling, individual counseling, group therapy, and family therapy if necessary. The Wellness Court Counselor refers all participants to the Neah Bay Indian Health Clinic during the comprehensive assessment, and when appropriate for HIV/Aids, hepatitis, TB and STD's, comprehensive pregnancy care, including prenatal care and parenting classes.

Drug Testing

Every Makah Wellness Court participant is required to submit to random urine drug screening. Each participant has signed and acknowledged the Makah Wellness Court Rules & Regulations, and a Treatment Agreement; each includes the agreement to drug screening.

The Adult Probation Officer will be responsible for the coordination, monitoring, and service provision of random urine drug screening. Moreover, each participant must keep designated staff informed of their whereabouts.

Random urine drug screening is periodic, unannounced urine and breath tests of participants. Random testing is administered to participants unannounced, but occurs no less than twice a week during the first several months of beginning program participation. Frequency thereafter will vary depending on progress in the program. The random testing process includes:

Within 30-minutes of being notified, each participant must be present and accounted for in the Probation Officer's Office at the Adult Correctional Center.

Notice to appear for a drug screen will be either by telephone or by personal service.

All attempts to notify will be documented. If you cannot be notified within 24-36 hours, an Order to Show Cause/Warrant to Arrest will be issued.

Sanctions and Incentives

Our program responds to relapses by using progressive sanctions for noncompliance with program phase requirements. A measured, and consistent, yet flexible approach to the different kinds of program noncompliance moves the participant steadily toward sobriety.

Prior to completion of the first program phase, sanctions will be imposed at the discretion of the team. All sanctions will result in a review of the individual treatment plan, and a revision to that plan accordingly.

Graduation Requirements

Graduation requirements are contained within each program phase and those include financial assessment updates and drug court fees paid, urine drug screening, drug court appearances, counseling and group requirements.

Makah Wellness Court
CONFIDENTIALITY OF ALCOHOL & DRUG ABUSE PATIENT RECORDS

The confidentiality of alcohol and drug abuse patient records maintained by this program is protected by federal law and regulations. *Generally*, the program may not say to a person outside the program that a patient attends the program, or disclose any information identifying a patient as an alcohol or drug abuser *unless*:

1. The patient consents in writing;
2. The disclosure is allowed by a court order; or
3. The disclosure is made to medical personnel in a medical emergency or to qualified personnel for research, audit, or program evaluation.

Violation of the federal law and regulations by a program is a crime. Suspected violations may be reported to appropriate authorities in accordance with federal regulations.

Federal law and regulations do not protect any information about a crime committed by a patient either at the program or against any person who works for the program or about any threat to commit such a crime.

Federal laws and regulations do not protect any information about suspected child abuse or neglect from being reported under state law to appropriate state or local authorities.

Consent for the Release of Confidential Information
Makah Wellness Court Referral

I, _____, hereby consent to communication between the **Makah Wellness Court Program Staff** including: Judge(s), the primary Counselor, and other treatment providers, Prosecutor, Public Safety, Defense Advocate, Adult Probation Officer, Wellness Court Coordinator, and Support Specialist II.

The purpose of, and need for, the disclosure authorized herein is to inform the named parties of my eligibility and/or acceptability for substance abuse treatment services and my treatment attendance, prognosis, compliance and progress in accordance with the drug court's monitoring criteria.

Disclosure of this confidential information may be made only as necessary for, and pertinent to, hearings and/or reports concerning my current charges.

I understand that my records are protected under the federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2, and cannot be disclosed without my written consent and that recipients of this information may redisclose it only in connection with their official duties.

Date

Name

1 Judge Jeffrey S. Tauber, California Center for Judicial Education and Research, Drug Courts: A Judicial Manual 9 (1994)