

TRIBAL HEALING TO WELLNESS COURTS AS RESTORATIVE JUSTICE



Tribal Healing to Wellness Court

www.wellnesscourts.org
wellness@tlpi.org

GRACE CARSON, JD, TRIBAL LAW AND
POLICY INSTITUTE



▶ ROADMAP

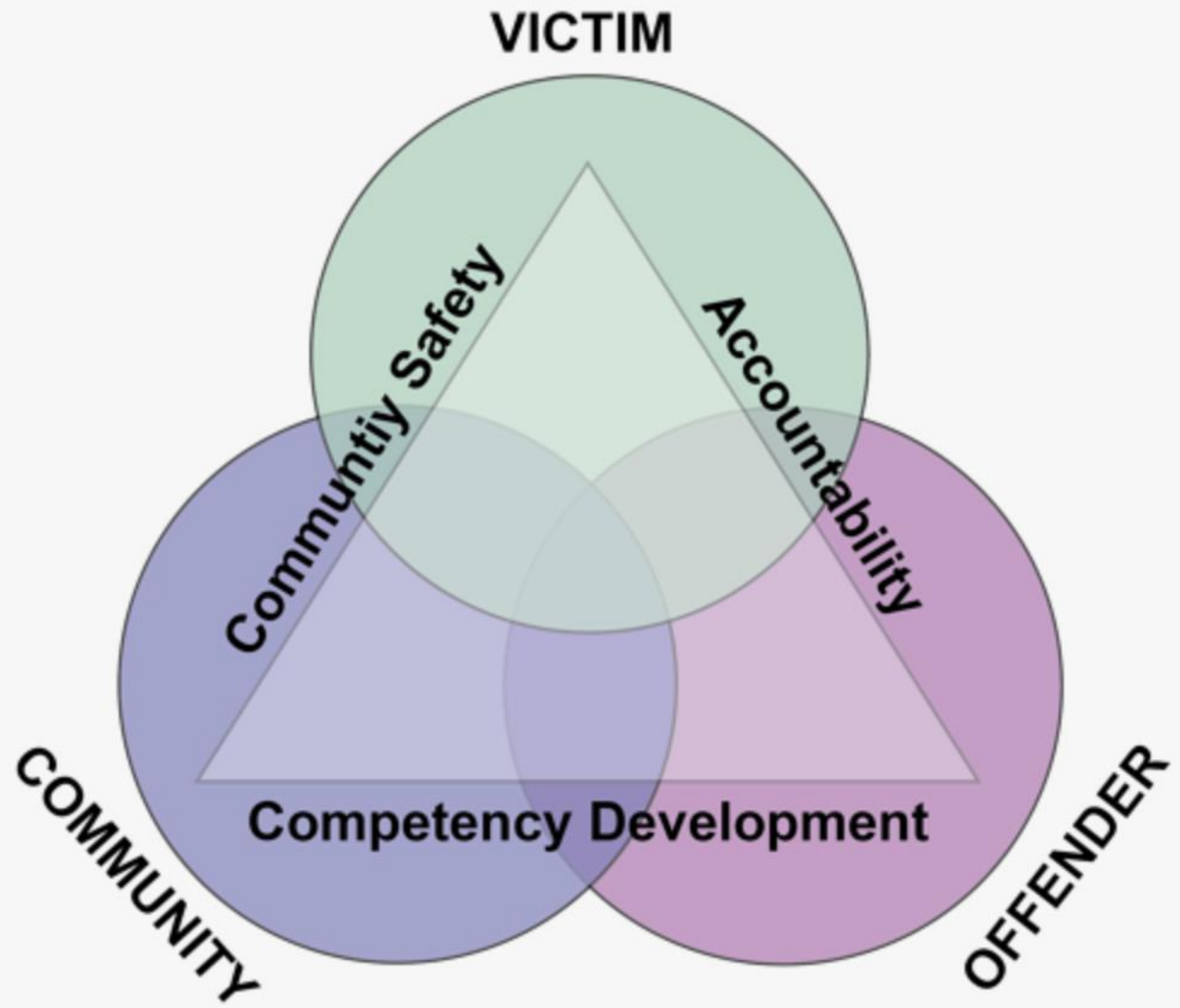
- What is restorative justice?
- Why does restorative justice matter?
- How does restorative justice relate to Tribal Healing to Wellness Courts?
- Ways to increase restorative justice in Tribal Healing to Wellness Courts



▶ RESTORATIVE JUSTICE (RJ)

- Restorative justice (RJ) is an approach to justice that attempts to restore harm at its roots.
- RJ can take many forms, but it ultimately prioritizes community safety.
- RJ views harm as a community issue—a harm to one person is a harm to the entire community.
- Accountability from the perpetrator of harm is necessary.
- RJ is directly derived from Indigenous peoples and tribes' traditional ways of practicing justice.





▶ RESTORATIVE JUSTICE PRINCIPLES

1. Crime (or harm) is a violation of people (including the perpetrator of harm) and relationships.
2. Victims and the community are central to the justice process.
3. A primary focus of a justice process is to assist victims and address needs.
4. The secondary focus is restoring the community to the degree possible.
5. All human beings have dignity and worth.





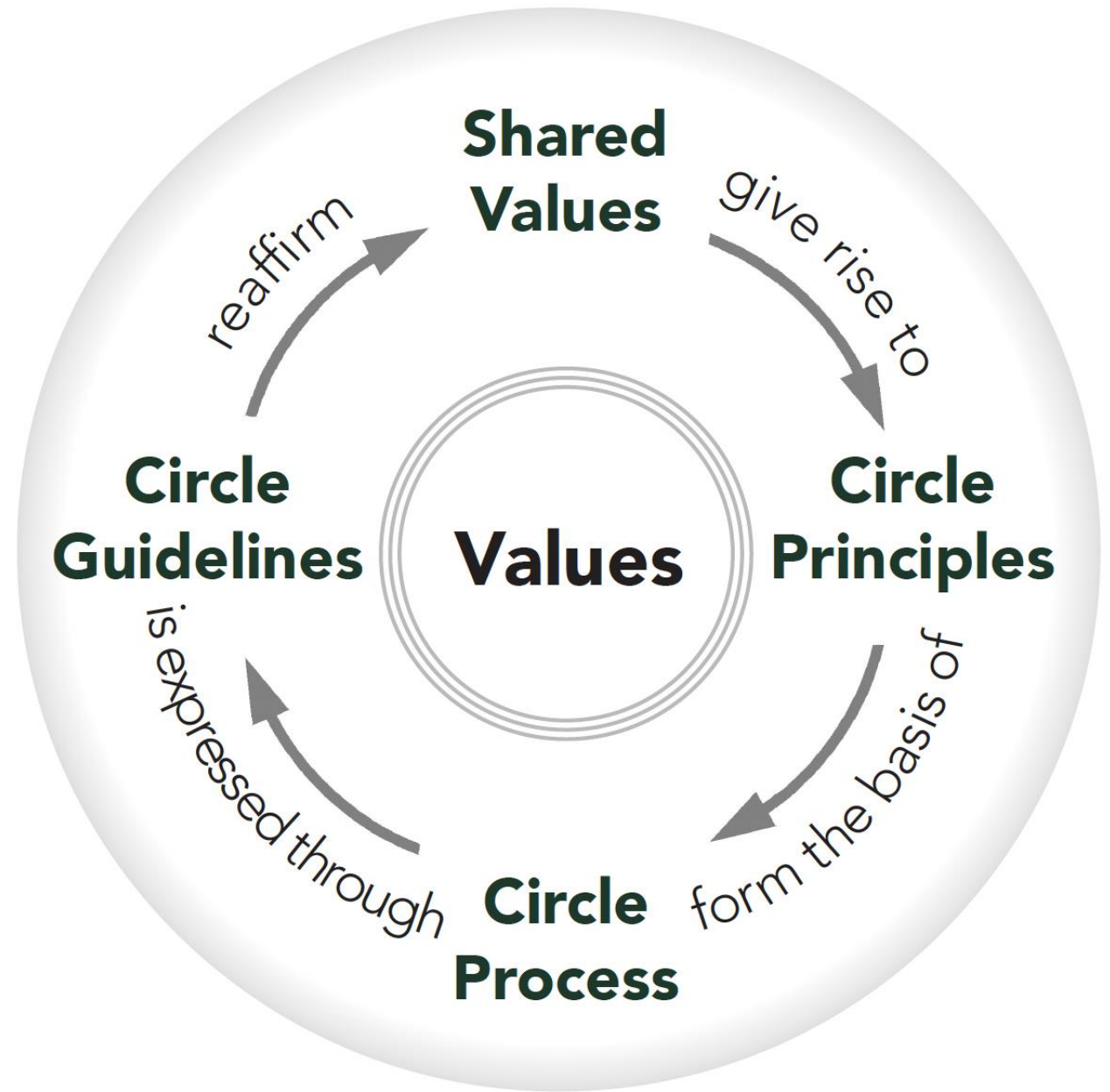
How Restorative Justice Works

▶ PEACEMAKING

- Peacemaking is one traditional way of practicing RJ, though Peacemaking is still evolving as tribes themselves evolve.
- Peacemaking can be most simply described as a process where people can talk together to resolve conflict. Though, it is not one size fits all. It is a cultural practice that varies in each tribe.
- Peacemaking is a community-based process that addresses the concerns of all interested parties.
- Peacemaking is about more than just resolving conflict, it's also about preventing conflict.
- Peacemaking is really hard work, and there are no shortcuts. But the hard work is what makes it good work.



Peacemaking and Circles



The General Circle Format

1

**Creating
the foundation
for dialogue**



- Welcome
- Opening ceremony
- Introduction / check-in (round)
- Guidelines consensus (keepers or round)
- Storytelling round
- Acknowledgement of those present
- Clarifying the purpose of the Circle

2

**Expressing
needs and
interests**



- Communicating feelings
- Identifying needs, interests, or shared vision
- Summary

3

**Exploring
options**



Circle addresses:

- Interests / issues (rounds)
- Options (rounds)
- Possible consensus for action plans (keepers)

4

**Building
consensus or
a sense of
unity**

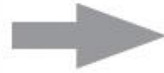


Circle identifies:

- Points of agreement or common ground (rounds)
- Next steps (keepers)

5

Closing



- Summary: agreement / next steps (keepers)
- Check-out (round)
- Closing ceremony

▶ WHY DOES RESTORATIVE JUSTICE MATTER?

- Tribes are currently the leaders in RJ.
- Historically, tribal RJ has been intentionally limited by the federal government as a means of eliminating tribal sovereignty.
- RJ is a way for tribes to practice tribal sovereignty and self-determination.
- Restorative justice gets to the root of harm caused in communities by healing and restoring the perpetrator of harm, the person harmed, and the entire community.
- For Tribal Healing to Wellness Courts, this looks like healing those with substance use disorder (SUD) at its root.



▶ RJ AND TRIBAL HEALING TO WELLNESS COURTS (HTWCS)

- Wellness Courts were implemented by tribes to address the prevalence of maladaptive drug use in their communities.
- Tribes saw that the Western adversarial criminal legal system was not getting to the root of the reason why maladaptive drug use was prevalent in their communities.
- Tribes saw that historical/generational trauma, childhood trauma, and other issues specific to Native people were often the cause of SUD in their communities.



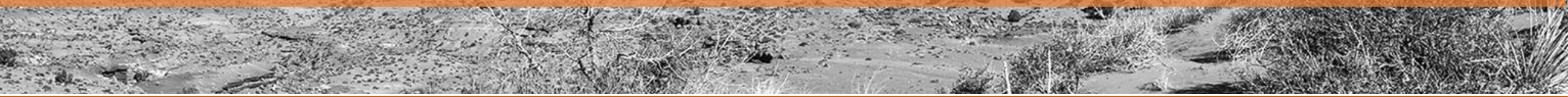
▶ RJ AND TRIBAL HEALING TO WELLNESS COURTS (HTWCs)

- Tribes saw that these root issues that were specific to Native people needed solutions that were specific to target them—solutions rooted in each tribe’s culture, spirituality, and knowledge.
- Tribes turned to the therapeutic and restorative justice found in Drug Courts, but implemented their own culture and values into the process.
- Today HTWCs integrate traditional concepts of healing and community involvement toward healing, rather than punishing, their addicted tribal members.
- This is restorative justice in action.

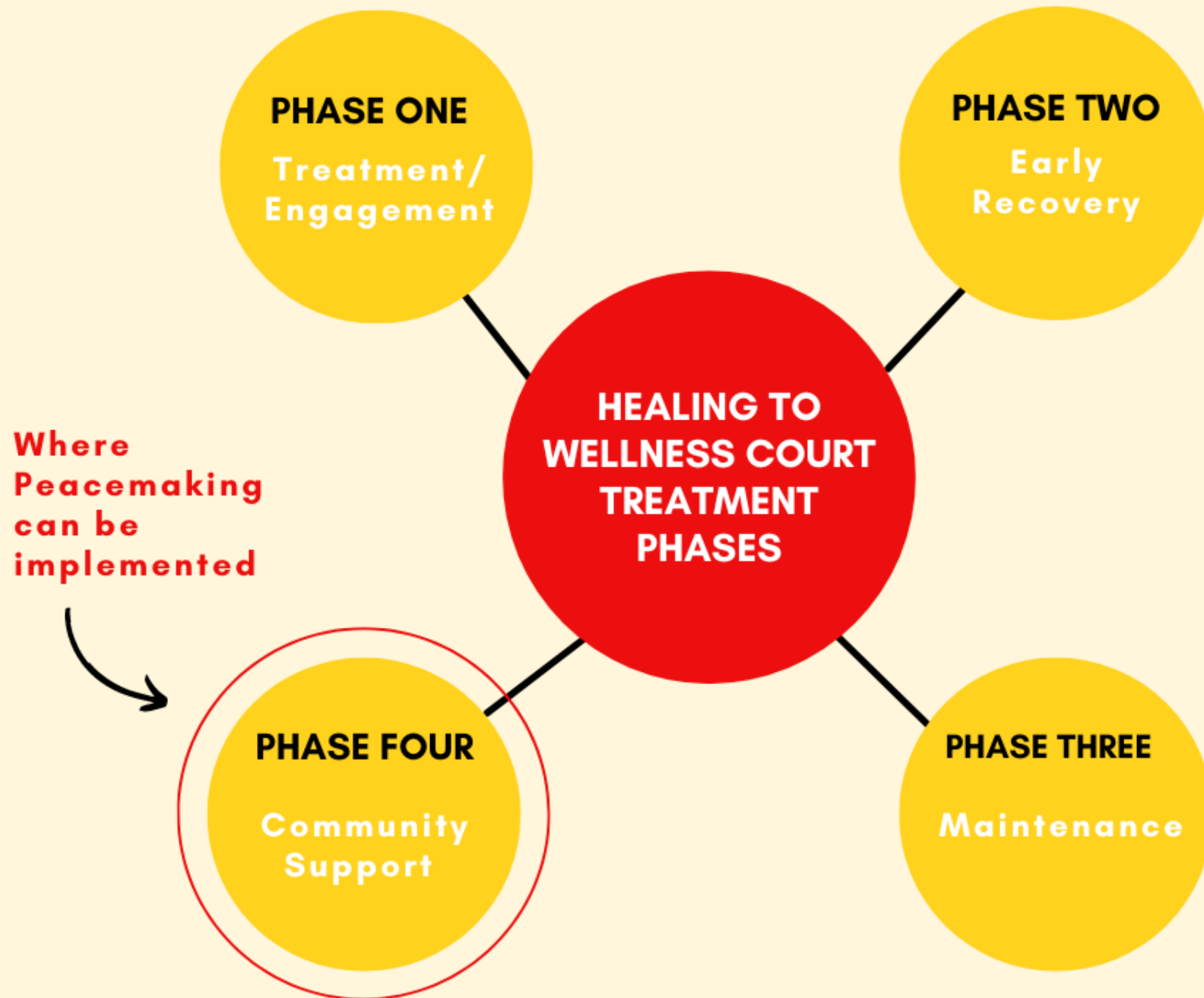




Ways to Increase RJ in HTWCs



Tribal Law & Policy Institute
www.Home.TLPI.org





QUESTIONS?

Tribal Healing to Wellness Court

www.wellnesscourts.org

wellness@tlpi.org





CONTACT

GRACE CARSON, JD
GRACE@TLPI.ORG

Tribal Healing to Wellness Court

www.wellnesscourts.org

wellness@tlpi.org

