



The Northern Cheyenne Tribe



The United States District Court of Montana

# Napevomohtahe tsehma'sehohta'haneto

## Joint Jurisdiction Wellness Court Manual

## DRAFT: August 2017

### Introduction

Felony offenses committed on the Northern Cheyenne Indian Reservation are prosecuted in federal court, and the vast majority of those offenses, particularly violent offenses, involve substance abuse. There are limited treatment options available for defendants prosecuted for those felony offenses, out of custody, and the options available often disqualify violent offenses and/or are unavailable on the Reservation. Lack of treatment simply ensures that offenders will recidivate, victimizing the community again and again. Incarceration is the only option currently available to the United States District Court when violations of release conditions occur, which most often occur because of substance abuse. Incarceration is expensive and does not get at the root cause of the problem, which is substance abuse. Additionally, because of the depressed economic condition of the Reservation communities, even if a defendant qualifies for treatment, it is likely that the defendant lacks transportation or money for gasoline to travel significant distances to attend treatment. And, public transportation is extremely limited because of the remote location of the Reservation.

A Wellness Court, administered in partnership between the Northern Cheyenne and the United States Attorney's Office, District of Montana, will provide a community-based treatment option for defendants who are prosecuted in federal court. Initially, the Wellness Court will serve individuals who are sentenced to participate through a recommendation from a federal pre-sentence officer, or as a special condition of the defendant's supervised release with the potential of allowing early termination of supervision upon successful completion of the Wellness Court. The Joint Jurisdiction Wellness Court would provide community-based substance abuse treatment and a level of structure, accountability, and guidance not currently available to federal defendants from the Northern Cheyenne area.

### ***Steering Committee***

The Steering Committee is comprised of executive level personnel from the below listed agencies to facilitate the process, to expeditiously resolve issues and to provide buy-in at the upper echelon, so that later committees with non-executive level personnel will be comprised of people who are confident that the head of each agency is supportive of the Wellness Court mission. The Steering Committee consists of representatives from the following agencies:

Northern Cheyenne Tribe:

- Tribal Court Judge
- Tribal Council Member Representative
- BIA Law Enforcement/Patrol Officer
- BIA Program Officer
- BIA Social Services
- Tribal Social Services
- Director of Behavioral Health
- Clinical Supervisor from Northern Cheyenne Recovery Center
- Director of Public Health

U.S. District Court, District of Montana—Billings Division

- Federal Court Judge
- U.S. Attorney
- Federal Defender
- Law Enforcement - FBI
- Chief U.S. Probation Officer
- U.S. Probation Treatment Providers

Representative from Montana Legal Services  
Business or Community Member

### ***Core Team***

The core team is a working group of people who carry out the daily tasks involved in planning, implementing and operating the Wellness Court program. The group meets regularly as a team and is comprised of the following representatives:

- Tribal Court Judge
- Federal Court Judge
- Wellness Court Coordinator
- Assistant U.S. Attorney
- Federal Probation Officer

- Tribal Probation Officer
- Tribal Cultural Specialist/Wellbriety Provider
- Spiritual Advisor
- Contracted Federal Treatment Provider

***Vision Statement***

The vision of the Napevomohtahe tsehma'sehohta'haneto Wellness Court is:

“Collaboration for a Healthy Northern Cheyenne Community”

***Mission Statement***

The Mission of the Napevomohtahe tsehma'sehohta'haneto Wellness Court is:

“To enhance quality of life by incorporating Northern Cheyenne values to accomplish rehabilitation, reduce recidivism, and provide alternatives to incarceration”

***Goals and Objectives***

**Joint Jurisdiction Wellness Team Goals:**

Goal 1: To enhance collaboration and integrate services between the Northern Cheyenne Nation, the U.S. District Court and other service providers.

Objective 1: Hold weekly core team meetings

Objective 2: Hold quarterly steering community meetings

Objective 3: Wellness court team members and justice system partners attend at least one training each year

**Individual Participant Goals:**

Goal 1: To restore a healthy, crime-free lifestyle built around sobriety, stability, spiritual and cultural well-being, and trust for participants in Joint Jurisdiction Wellness Court.

Objective 1: 70% of program participants graduate from the Joint Jurisdiction Wellness Court within 3 years

Objective 2: Within a year of enrolling in the Joint Jurisdiction Wellness Court, participants will:

- Acquire sober housing (achieving this goal will depend on availability of housing resources, but will be tracked)
- Form positive social and community connections—100% of participants

- Be engaged in one of the following—100% of participants:
  - Employment
  - Educational program
  - Job training/skills development

Objective 3: 100% of participants participate in at least one spiritual/cultural activity per month while in the program

Objective 4: 100% of participants engage in substance abuse treatment services immediately

Objective 5: Participants will have a minimum of 1 meeting per month with federal probation officers and a minimum of 1 contact per week with tribal probation officers

Objective 6: 90% of participants will have 180 consecutive days of sobriety by the end of their first year of the program.

**Community Goals:**

Goal 1: To educate and involve the community in the joint jurisdiction Wellness Court

Objective 1: Hold at least one community meeting a year

Goal 2: To increase public safety and reduce crime in the community

Objective 1: Reduce criminal offenses on the Northern Cheyenne Reservation by 7% within three years

Objective 2: Reduce federal incarceration of Northern Cheyenne residents on federal supervision by 20% within 3 years

Objective 3: 50% of Joint Jurisdiction Wellness Court participants will not have a gross misdemeanor or felony violation within 3 years of graduation

***Structure/Model***

The Napevomohtahe tsehma'sehohta'haneto Wellness Court model is a felony-level joint jurisdiction court admitting individuals at the sentencing stage, or individuals returning to the community under post-sentence supervised release.

***Referrals***

The Wellness Court will serve individuals who are ordered to participate through a recommendation from a federal pre-sentence officer, or as a special condition of the defendant's supervised release with the potential of allowing early termination of supervision upon successful completion of the Wellness Court. The Joint Jurisdiction Wellness Court will provide community-based substance abuse treatment and a level of structure, accountability, and guidance not currently available to federal defendants from the Northern Cheyenne area.

Referrals can be made by any of the following individuals:

- Judges
- Assistant U.S. Attorneys
- Public Defenders

- Federal Probation Officers
- U.S. Pretrial Services

### ***Target Population***

The target population for the Wellness Court will be offenders that are:

- Residents of the Northern Cheyenne Reservation
- Convicted of a federal crime
- Drugs or alcohol were involved during the commission of the offense or a history of substance abuse

### ***Eligibility Criteria***

The guidelines that the Wellness Court uses to identify and enter offenders into the program are as follows:

- Must have a chemical dependency assessment diagnosis of chemically dependent.
- Must be physically and mentally able to actively participate in the program.
- Must be willing to sign a treatment contract to undergo drug treatment which includes, but is not limited to, regular urine screens, group and/or individual counseling, or other recommended treatment. Every participant must sign designated releases of confidentiality.
- Must be able to make arrangements to attend treatment at a scheduled time.
- Must be a resident of the Northern Cheyenne Reservation
- Must be an adult.
- Must be charged or convicted of a federal crime.
- Must be willing to accept sanctions of the Wellness Court judges which may include incarceration, community services, increased reporting to court and/or probation officer, and increased attendance at community support meetings, such as AA or NA.
- Must be willing to abide by program rules.

### ***Disqualifications***

Individuals may be excluded from participation in the Wellness Court if they do not consent to participate or do not follow through with scheduled assessments, programs, testing, and other requirements of the Joint Jurisdiction Wellness Court. Participants must consent to waiving confidentiality for the purposes of Wellness Court operations. Wellness Court core team and steering committee members will agree to protect participant's right to privacy outside of court proceedings.

### ***Assessment***

As this is a joint jurisdiction court, Wellness Court participants will be assessed for their individualized treatment needs by both U.S. Probation's treatment provider and treatment providers from the Northern Cheyenne Recovery Center and, as recommended, Northern Cheyenne Behavioral Health or Northern Cheyenne Public Health. The treatment providers will

work to develop an individualized treatment plan that optimizes services for the individual. Each participant will have an individualized treatment plan to guide them through the court phases, and treatment plans will be regularly assessed and updated based on participant progress.

### ***Phases of the Wellness Court***

The Wellness Court is designed in phases. This program is designed to have three core phases leading to graduation and a fourth, maintenance phase where participants demonstrate their ability to maintain sobriety and wellness in their recovery.

#### **Phase 1 (Treatment Phase)**

Objective: Building rapport between the client and the court staff, achieving sobriety and clear headedness, demonstrating honesty, and addressing any family dynamics that might impede an individual's recovery.

Duration: Minimum of 3 months.

Hearings: Weekly

Requirements for completing phase 1:

- Completing a treatment plan
- Attending weekly court hearings
- Maintaining 60 days of continuous sobriety
- Adhering to all other supervision conditions including drug testing and home visits
- Remaining law abiding with no violations of the Tribal Law and Order Code or other laws
- Obtaining a sponsor (as in Alcoholics Anonymous Programs), a mentor (as in Wellbriety treatment programs), or an identified support person who will assist in recovery and relapse prevention

#### **Phase 2 (Transition Phase)**

Objective: To further develop recovery skills to maintain sobriety and work on the individualized treatment plan.

Duration: Minimum of 4 months.

Hearings: Bi-weekly

Requirements for completing phase 2:

- Attending bi-weekly court hearings
- Maintaining 90 days of continuous sobriety
- Adhering to individualized treatment plan
- Obtain employment, enroll in school, or perform community service work
- Make progress toward obtaining or reinstating a driver's license when appropriate
- Attend community support meetings

- Continue to work with a sponsor, mentor, or identified support person
- Adhering to all other supervision conditions including drug testing and home visits
- Remaining law abiding with no violations of the Tribal Law and Order Code or other laws

### **Phase 3 (Living Well Phase)**

Objective: To develop skills to live well in sobriety.

Duration: Minimum of 4 months

Hearings: Monthly

Requirements for completing phase 3:

- Attending monthly court hearings
- Maintaining 120 days of continuous sobriety
- Adhering to individualized treatment plan including attending support meetings and working with a sponsor, mentor or identified recovery support
- Maintain employment, enrollment in school, or continue community service work
- Complete a financial planning class
- Adhering to all other supervision conditions including drug testing and home visits
- Remaining law abiding with no violations of the Tribal Law and Order Code or other laws
- Work with treatment providers to “make amends” as appropriate
- Submit a petition to graduate to the court including a safety/relapse prevention plan

### ***Graduation Criteria***

To graduate from the Wellness Court, individuals must complete all three phases of the program and:

- Maintain at least 180 days sobriety
- Have a continuing care/safety/relapse prevention plan prepared as noted in phase 3
- Prepare a reflective statement on what they learned from the program and deliver it to the court
- Complete the courts exit questionnaire
- Maintain a relationship with a sponsor, mentor, or identified support person
- Have a stable living environment and sober relationships
- Remain law abiding with no violations of the Tribal Law and Order Code or other laws
- Adhere to all requirements of their supervision plan

### ***Commencement***

The participants will be eligible for commencement from the program when they have successfully progress through all three phases of the program and completed the pre-graduation questionnaire. The Wellness Court Team will determine when the participants are ready for

commencement. At commencement, there will be a special ceremony and acknowledgement by the Wellness Court.

#### **Phase 4 Community Wellness Phase**

Objective: For the individual to demonstrate their ability to maintain sobriety and wellness after completion of the Wellness Court program.

Duration: Minimum of 90 days

Hearings: No court hearings, but Wellness Court Coordinator will check-in with participants via phone

Requirements:

- Maintain sobriety
- Return to the Wellness Court and present to incoming participants as requested. Individuals may share their personal stories of recovery and offer advice or support to the current Wellness Court participants
- Remain law abiding with no violations of the Tribal Law and Order Code or other laws
- Adhere to all requirements of their supervision plan with U.S. Probation and Tribal Compliance Officers

The intention of the Wellness Court is that participants will complete this phase and be contributing, sober and well members of the Northern Cheyenne Community.

#### ***Wellness Court Alumni***

While Wellness Court participants are expected to graduate from the Wellness Court program, the Wellness Court Team recognizes that participants who are living a life free from alcohol and other drug use still have a need for continual support and Wellness Court Alumni will be encouraged to continue to interact and support each other. This support could assist the graduate with maintaining a healthy lifestyle and/or reach established personal goals such as college education, long-term employment, etc. Since this is an optional phase, there are no duration limits.

#### ***Incentives***

Incentives are rewards for compliance. The Wellness Court Judges will reward participants with incentives for complying with program requirements on the basis of their own discretion and recommendations from the Wellness Court Team. Incentives may include any of the following:

- Verbal recognition/praise
- Applause
- Phase advancement
- Decreased restrictions (fewer drug tests, fewer court appearances, etc.)
- Court appearance priority given according to Phase Level (Phase 3 clients appear first)
- Other incentives as available and appropriate (e.g., gift cards, rewards)

### ***Sanctions***

Sanctions are the imposition of a consequence as a direct result of a prohibited activity. The Wellness Court Judges will impose sanctions on participants on the basis of their own discretion and recommendations from the Wellness Court Team. Sanctions may include any of the following:

- Verbal reprimands and warnings from the judges
- Verbal or written apology to the judges or team members
- Community service/additional education programs
- More chemical testing, court hearings, and/or support meetings
- Move back a phase
- Attend additional court session
- Jail

### ***Treatment Procedure***

The Northern Cheyenne Recovery Center received the first outpatient Wellbriety program certification in the Nation. Wellbriety is distinguished as a treatment program because it does not necessarily focus on alcoholism or SUD as a disease, but as a reaction to trauma, and historical trauma in particular. It is geared towards healing by using culturally based interventions that help participants understand how they have been affected by historical and personal traumatic events, and how those experiences can shape their current feelings and behavior. The program emphasizes the importance of people understanding their identity and using their indigenous roots and culture as a way to cope and heal from trauma.

Each Wellbriety program is customized to its environment and culture, and the Northern Cheyenne Nation created its own curriculum which includes specific information about Northern Cheyenne history, stories, clans, kinship structures, traditions and ceremonies. There are specific exercises for men, women and families, and the curriculum includes grief counseling and a family component. In addition, all participants in the Wellbriety program will participate in a naming ceremony and receive a new name.

The Wellbriety Treatment Providers with the Northern Cheyenne Recovery Center will work with U.S. Probation treatment providers and other tribal providers to create an individualized treatment plan that includes Wellbriety.

### ***Treatment Providers***

Treatment providers available to participants in this program include:

- Northern Cheyenne Recovery Center
- U.S. Probation treatment providers
- Northern Cheyenne Behavioral Health
- Northern Cheyenne Public Health

- Parenting education providers
- Other education and support services offered through Chief Dull Knife College and other tribal resources

### ***Community Support Meetings/Sponsors***

Northern Cheyenne Recovery Center hosts Wellbriety Support meetings. In addition, Alcoholics Anonymous and Narcotics Anonymous meeting are held on the reservation in Lame Deer, Busby, and Ashland.

### ***Supervision Procedures***

Because this is a joint jurisdiction court, participants will have supervision support from both U.S. Probation officers and Tribal Compliance officers. The supervision officers will coordinate services and work to support participants together. Both supervision officers will participate in Wellness Court hearings.

Supervision officers will be responsible for monitoring participant compliance with the following Wellness Court requirements and reporting to the Wellness Court Coordinator and judges on compliance:

- Wellness Court orders
- Attendance at counseling sessions and compliance with individualized treatment plan
- Sobriety as measured by drug testing or other means
- All other requirements of the individual's U.S. Probation and Tribal Compliance Officer supervision plan

### ***Drug Testing Procedure***

Alcohol and other drug testing is one of the ten key components of a Wellness Court and is essential to program integrity. Test results can act as a deterrent to future alcohol and drug use; identify clients who are maintaining abstinence; identify clients who have relapsed; provide incentive, support and accountability for participants; is adjunct to treatment; and frames sanction decisions. Effective testing is frequent, random (unexpected, unannounced and unanticipated), observed and progressive (linked to phase requirements). The Wellness Court uses different methods to test the participants for chemical use; some of the most common are:

- Preliminary breath tests
- Urine tests
- Saliva tests
- Bracelet monitoring
- Sweat patches
- Blood draw

All Wellness Court clients are informed about testing policies and procedures upon entry into the program and sign an agreement to comply with testing requirements. Therapeutic and/or punitive responses to continued use of alcohol and drugs are determined by the Wellness Court Judges on

the basis of law, their discretion, and recommendations from the Wellness Court Team. Random breathalyzers are conducted and can occur during any contact with the Wellness Court Agent, including during field visits, during court sessions and as determined by any other Wellness Court Team member. Participants choosing to enter the Wellness Court program must agree to cease the use of all mood altering substances that would test positive during a drug test including, but not limited to, narcotics, tranquilizers, sedatives, stimulants, opiates, opioid-based medications. If during the course of participation it becomes necessary for a participant to take prescription medication, prior approval must be sought by the Judges and Wellness Court Team with appropriate medical documentation provided. The use of the medication may be approved on a conditional, time-limited basis based on the established facts. Any use of doctor monitored prescription drugs is determined on a case-by-case basis by the Judges and Wellness Court Team.

### ***In the Event of Relapse***

If a participant relapses, whether by testing positive on a drug test or by admission of use, the Wellness Court Coordinator shall be notified. If a participant tests positive on a drug test, the individual administering the test shall immediately notify the Wellness Court Coordinator who will contact law enforcement and the participant will be taken into custody until the participant can appear in Northern Cheyenne Court. The Northern Cheyenne Court will refer the charge to the Wellness Court for a hearing before the judges.

### ***Evaluation***

The Wellness Court team has designed a data collection plan in order to allow for evaluation of the court effectiveness. The Wellness Court Steering Committee will identify options for conducting a court evaluation.

### ***Case Information Management***

The Wellness Court Coordinator will be responsible for collecting and recording information on participants from Wellness Court Team Members. Information will be used in case reviews held by the Wellness Court Team prior to hearings. All Wellness Court Team members will maintain participant's confidentiality and will not share information outside of Wellness Court proceedings as described in the participant's agreement to waive confidentiality.

### ***Case Reviews***

Case reviews will be conducted by the Wellness Court Team on a weekly basis. The Wellness Court Coordinator will prepare a status report on each participant each week for review by the Wellness Court Team.

### ***Termination/Discharge***

A Wellness Court participant shall be terminated from the program should he or she be convicted of a new crime at the felony or gross misdemeanor level if the crime involves possession of or use of alcohol or controlled substances as one of the elements of the charge. Conviction of any other gross misdemeanor or felony level crime may be grounds for termination. A new criminal

charge alone could result in conditional discharge from the program at the discretion of the judges.

A Wellness court participant may be terminated from the program should he or she not apply reasonable efforts to be successful in the program. A participant should receive at least one warning from the judges as to the item or items to which it is believed reasonable efforts are not being applied.

If a Wellness Court participant faces termination from the program, he or she has the right to a hearing in front of the judges with representation from counsel. Any client who is terminated from the Wellness Court will be scheduled to appear in front of the Honorable Susan Watters in U.S. District Court for disposition.

### ***Confidentiality***

Any program that specializes, in whole or in part, in providing treatment counseling, or assessment and referral services for offenders with AOD (Alcohol or Drug) problems must comply with the Federal confidentiality regulations (42 C.F.S.s2.12(e)). The Federal regulations apply to programs that receive Federal funding. Two Federal laws and a set of regulations guarantee the strict confidentiality of information about persons -including offenders- receiving alcohol and drug abuse assessment and treatment services. The legal citation for these laws and regulations is 42 U.S. C. SS 290dd-3 and ee-3 and 42 C.F.R. Part 2.

The Wellness Court Team must adhere to the federal confidentiality laws and other applicable laws and policies relating to their respective departments. The Wellness Court participants must be informed of privacy rights in writing and are required to sign releases upon entering the program and provided a copy. Information that is protected by Federal confidentiality regulations may always be disclosed after the client has signed a proper consent form. Participants are required to sign consent forms upon entrance to Wellness Court to facilitate information sharing and coordination of services among treatment providers and Wellness Court Team members.

A proper consent form must be in writing and must include all of the following:

- The name or general description of the program(s) making the disclosure
- The name or title of the individual or organization that will receive the disclosures
- The name of the participant who is the subject of the disclosure
- The purpose or need for the disclosure
- How much and what kind of information will be disclosed
- A statement that the participant may revoke the consent at any time, except to the extent that the program has already acted upon it
- The date, event, or condition upon which the consent expires if not previously revoked
- The date and signature of the client