

Healing to Wellness Courts Contributing to Peace: The Role of Wellness Courts in Tribal Justice Systems



PRESENTED BY
Chief Justice Joseph Flies-Away
&
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Wellness Court & Warriors of Law

Fighting for our Rights for Healing & for Wellness:

The Warrior's Role – individual/personal/team member

The War Party's Role – collective/family/tribal/Team

The Court's Role - governmental/institutional

Healing to Wellness Courts and Human Rights

- ▶ What's a human right?
- ▶ No agreed upon definition in western law
- ▶ Indigenous law will have varying definitions as well

The concept of "rights," especially in the common Western sense, leads nowhere for indigenous peoples because it alienates the individual from the group. . . Native people respect others to the degree that they demonstrate respect. There is no need, as in the Western tradition, to create political or legal uniformity to guarantee respect. ... Internally, instead of creating formal boundaries and rules to protect individuals from each other and from the group, a truly indigenous political system relies on the motif of **balance**; for the Native, there is no tension in the relationship between the individual and the collective. Indigenous thought is based on the notion that people, communities, and the other elements of creation coexist as equals. The interests and wants of humans, whether as individuals or as collectives, do not have a special priority in deciding the justice of a situation

TAIAIAKE ALFRED, PEACE, POWER, RIGHTEOUSNESS:
AN INDIGENOUS MANIFESTO 140-41 (1999)

HWC restore balance and peace by
restoring a person back to the community.

Universal Declaration of Human Rights Article 25

- ▶ (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the **right to security in the event** of unemployment, **sickness**, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
- ▶ (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

HWC Teams and Article 25

- ▶ HWC teams focus on the disease and disability of addiction
- ▶ HWC teams come together in cooperation, developing collective opinion that promotes and protects the right to an adequate standard of living
- ▶ HWC Teams use written and oral law

Universal Declaration of Human Rights Article 16 (3)

- ▶ The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

HWC Teams and Article 16(3)

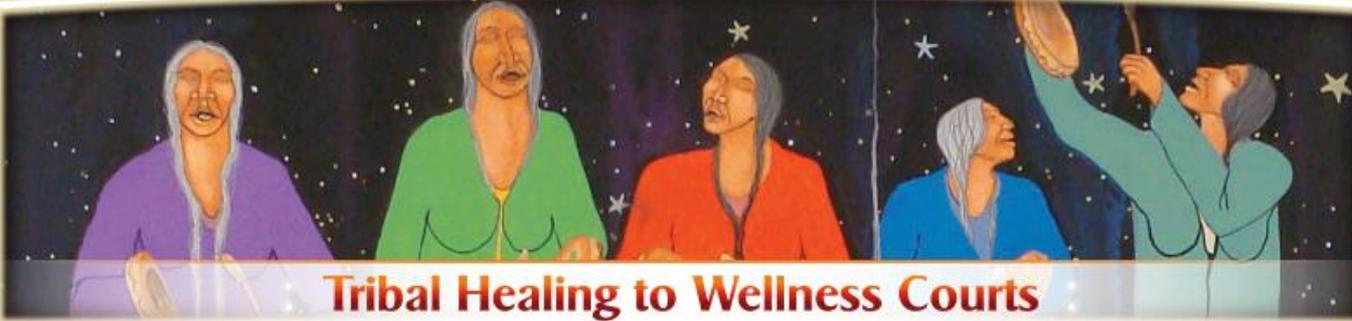
- ▶ HWC teams recognize the conflict within the participant and the family
- ▶ HWC Teams work collaboratively to identify steps for the participant to address conflict within his or her family and rebuild ties to his or her family
- ▶ HWC teams use oral and written law to address conflict in family

Questions

- ▶ What is your nation's teachings/understanding/definition of human rights?
- ▶ How is your Healing to Wellness Court based upon or use that teaching/definition/understanding?
- ▶ How do you promote/protect a right to a healthy life standard?
- ▶ How to you protect families?

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The Tribal Law and Policy Institute is a Native American owned and operated non-profit corporation organized to design and deliver education, research, training, and technical assistance programs which promote the enhancement of justice in Indian country and the health, well-being, and culture of Native peoples.

www.tlpi.org

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