

# The Tribal Ten Key Components – National Drug Court Standards: The Best Practices

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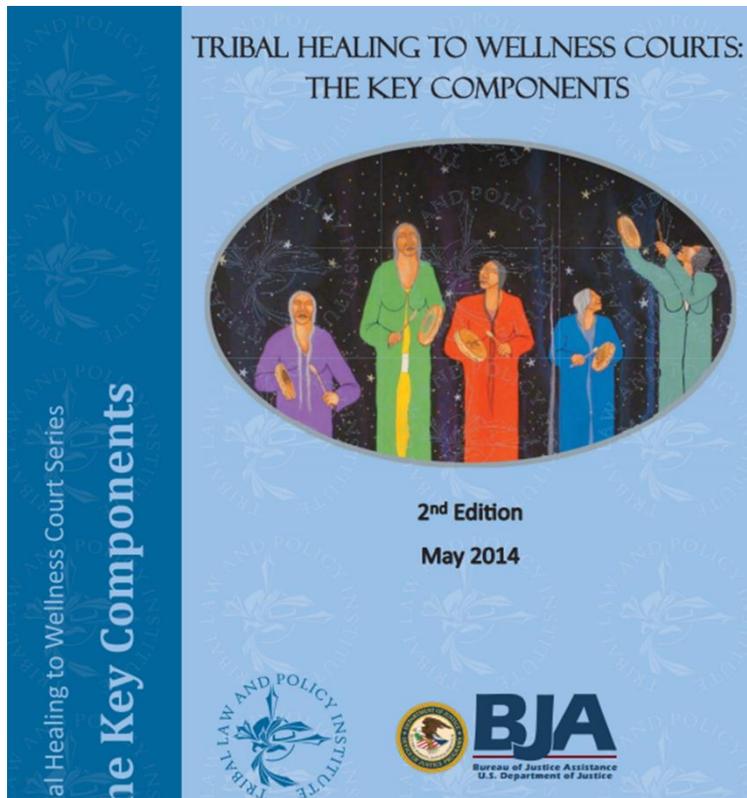
**Hon. Carrie Garrow**, Chief Judge, Saint Regis Mohawk  
Tribal Court

**Lauren van Schilfgaarde**, Tribal Law Specialist, Tribal Law  
and Policy Institute

# Tribal Key Components

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[www.WellnessCourts.org](http://www.WellnessCourts.org)



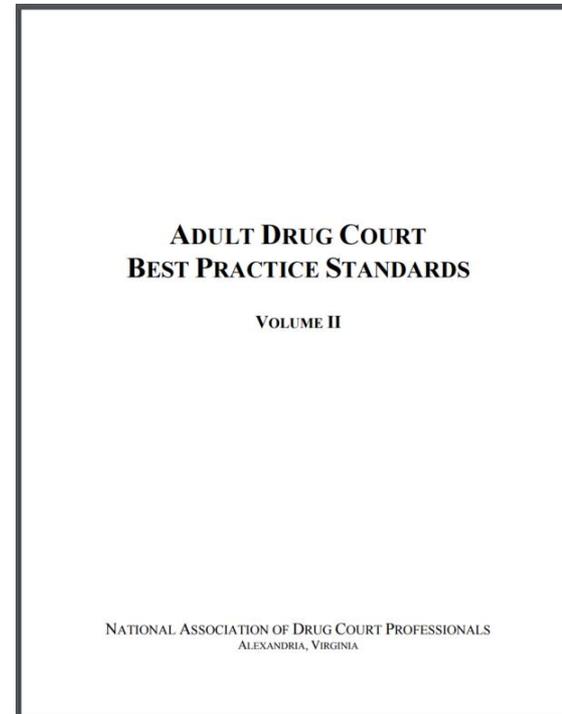
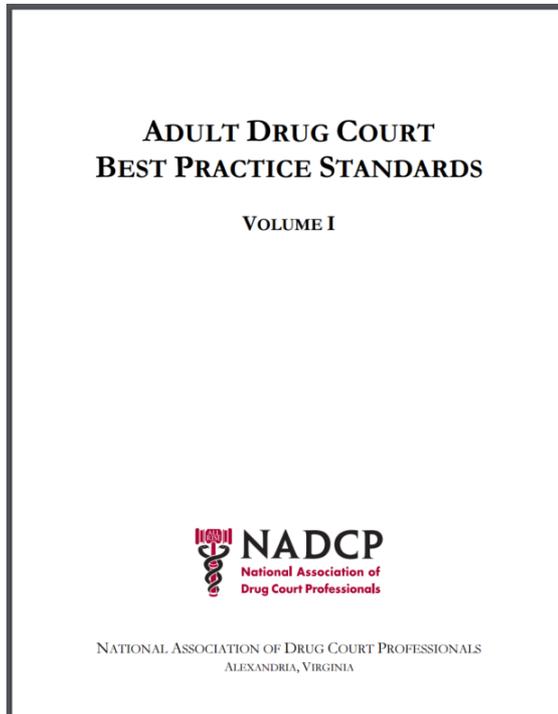
## Tribal Key Components recognize

- Community involvement
- Family relationships and involvement
- Culture and Tradition
- Exercise of Tribal Sovereignty

# NADCP Adult Drug Court Standards

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[nadcp.org/standards](http://nadcp.org/standards)



# Why?

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- Research-based (though not tribal-specific; not every practice)
- Operationalizes the key components
- Fidelity to model
- Limit and reduce legal errors
  - Due Process
- Do no harm
- Funding sources



1. Team, Community, & Nation Building

3. Eligibility

2. Entry

4. Healing and Treatment

5. Support & Supervision

6. Discipline & Encouragement

7. Respectful Communication

8. Keeping & Telling Stories

9. Enduring Knowledge & Experience

10. Sustained Team, Community, & Nation Building

Healing to Wellness  
Court  
Quick Key Component  
Review

## Key Component #1: Individual and Community Healing Focus

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Brings together treatment, healing resources, and the tribal justice process by using a team approach to achieve the healing of the participant and to promote Native nation building and the well-being of the community.

# Standard #8: Multidisciplinary Team

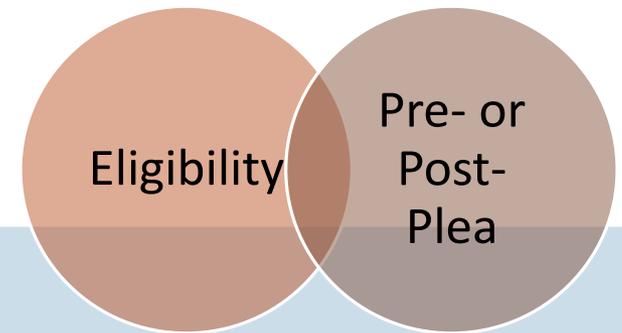
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- Team Composition:

- Judge
- Coordinator
- Prosecutor
- Defense Counsel
- Treatment
- Community supervision (probation)
- Law enforcement

# Key #2: Referral Points and Legal Process

Participants enter Wellness Court through various referral points and legal processes that promote tribal sovereignty and the participant's due (fair) process rights.



## Standard 1: Target Population

- **Objective Eligibility and Exclusion Criteria**  
Criteria is defined objectively, specified in writing, and communicated to potential referral points.

## Standard #2: Historically Disadvantaged Groups

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- **Equivalent Access:**  
Eligibility criteria are nondiscriminatory in intent and impact.
- **Equivalent Dispositions:**  
Members of historically disadvantaged groups receive the same legal dispositions for graduation and termination.

# Standard #4: Incentives and Sanctions

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- **Advance Notice:**

The policies and procedure articulate the possible legal and collateral consequences.

- **Opportunity to Be Heard:**

Participants are given an opportunity to explain their perspectives, including with the assistance of a defense counselor, and receive clear justifications for court actions.

# Standard #4: Incentives and Sanctions

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- **Termination:**

If there is not adequate treatment, the participant does not receive an augmented sentence for failing Wellness Court.

- **Consequences of Graduation and Termination:**

Graduates avoid a criminal record, incarceration, or receive a substantially reduced sentence or disposition.

# Standard 9: Census and Caseloads

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- **Drug Court Census**

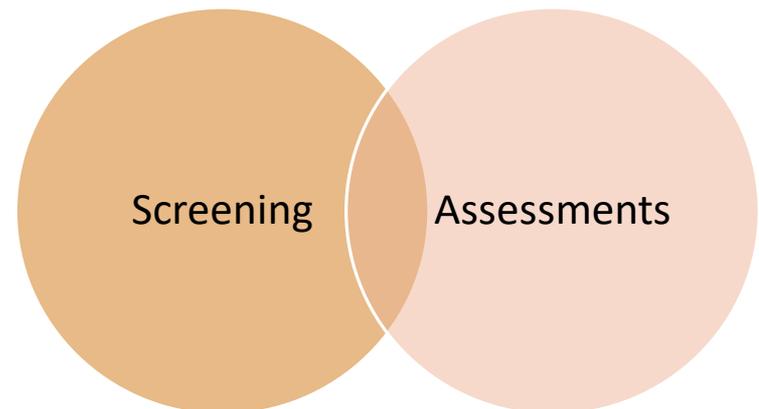
No arbitrary restrictions on the number of participants. Census is based on local need, obtainable resources, and the ability to apply best practices.

- Drug Courts serve fewer than 10% of adults in the criminal justice system in need of their services.

# Key #3: Screening and Eligibility

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Eligible court-involved substance-abusing candidates are identified early through legal and clinical screening for eligibility and are promptly placed into the Wellness Court.



# Standard 1: Target Population

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- **High-Risk and High-Need Participants**

Targets candidates who are addicted to illicit drugs or alcohol *and* are at a substantial risk for reoffending or failing to complete a less intensive disposition.

If larger scope, use alternative tracks, in which services are modified and participants do not mix.

- **Validated Eligibility Assessments**

Eligibility is assessed with validated risk-assessment and clinical-assessment tools.

- APPENDIX A: VALIDATED RISK AND NEED ASSESSMENT TOOLS

- <http://lib.adai.washington.edu/> -- Alcohol and Drug Abuse Institute Library

# Standard 1: Target Population

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- **Criminal History Disqualifications**

Current or prior offenses may disqualify candidates. But, barring legal prohibitions, histories of drug dealing and violence are not automatically excluded.

- **Clinical Disqualifications**

If adequate treatment is available, candidates are not disqualified because of co-occurring mental, medical conditions, or MAT.

# Standard 6: Complementary Treatment and Social Services

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- **Mental Health Treatment**

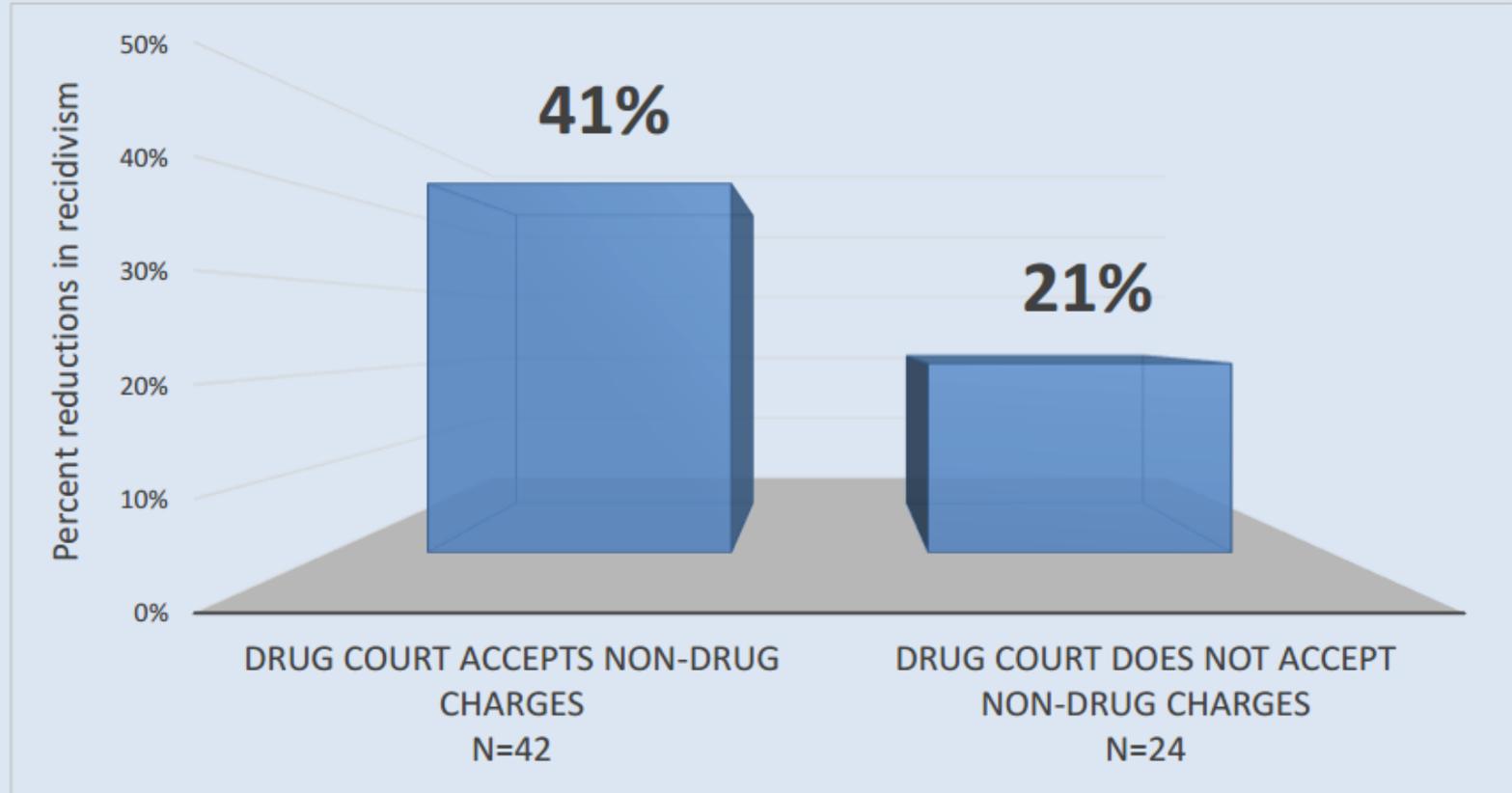
Participants are assessed for major mental health disorders, including

- Major depression
- Bipolar disorder (manic depression)
- Posttraumatic stress disorder (PTSD)
- Other major anxiety disorders

Mental illness and addiction are treated concurrently, not consecutively.



## Drug Courts That Accepted Participants With Non-Drug Charges Had Nearly Twice the Reductions in Recidivism and 30% higher cost savings

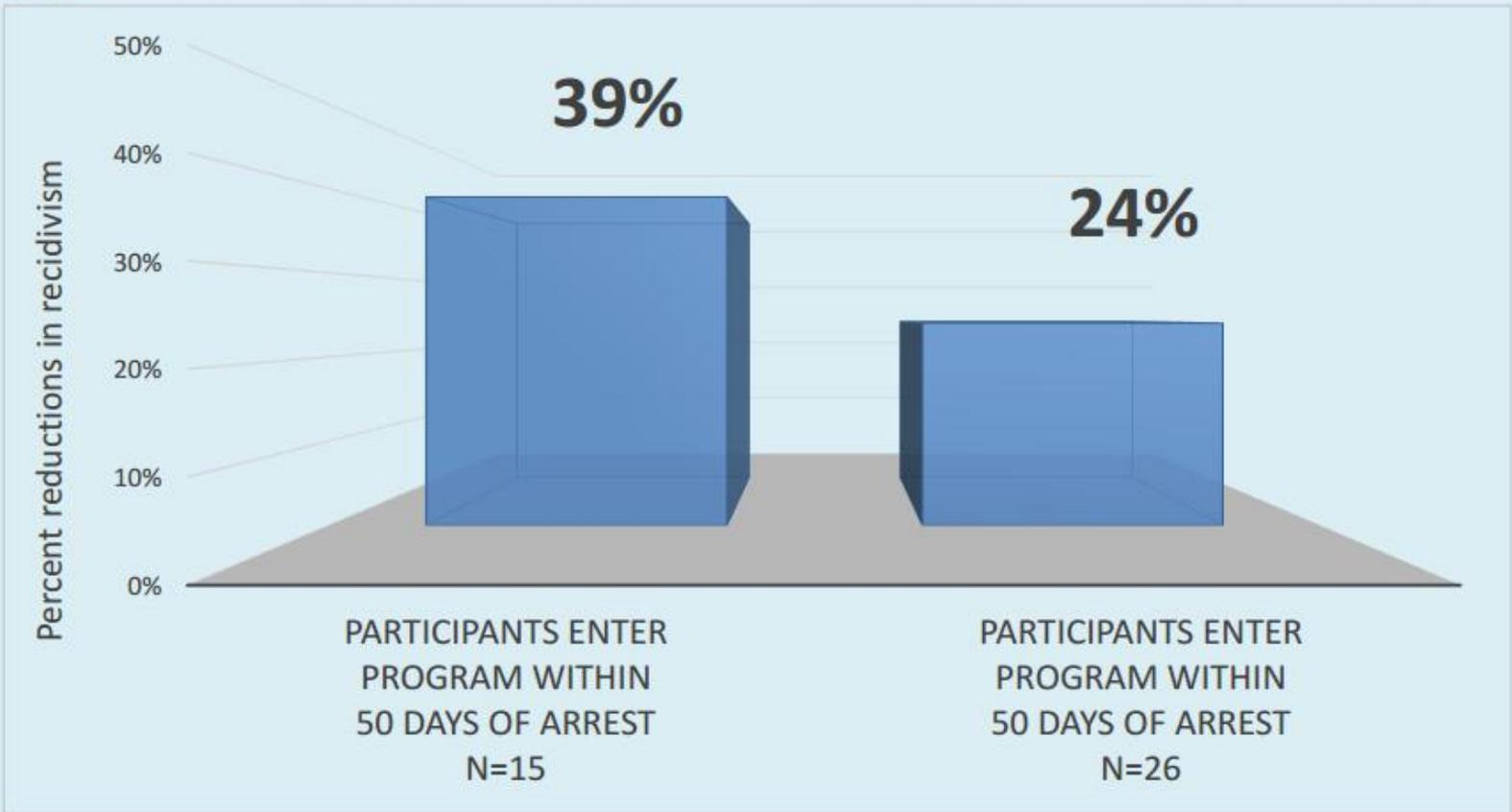


Note 1: Difference is significant at  $p < .05$

Note 2: Non-drug charges include property, prostitution, violence, etc.



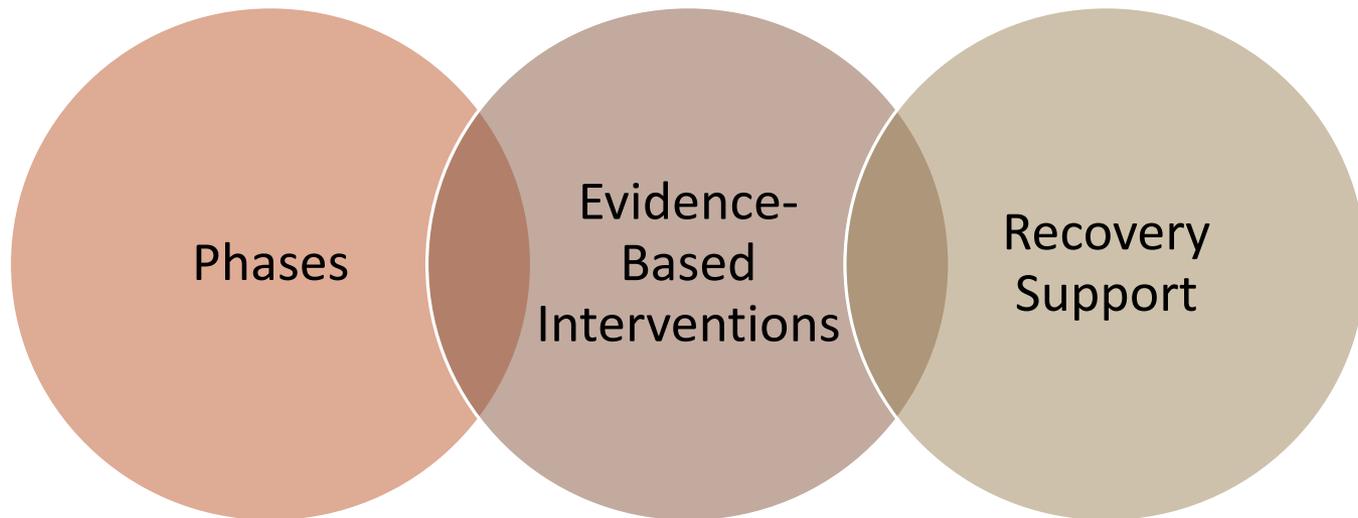
## Drug Courts in Which Participants Entered the Program within 50 Days of Arrest Had 63% Greater Reductions in Recidivism



Note: Difference is significant at  $p < .05$

# Key #4: Treatment and Rehabilitation

Wellness Court provides access to holistic, structured, and phased alcohol and drug abuse treatment and rehabilitation services that incorporate culture and tradition.



# Standard 5: Substance Abuse Treatment

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Participants receive treatment based on standardized assessment of their treatment needs.

Treatment is not provided to reward behaviors.

Treatment providers are trained to delivered a continuum of evidence-based interventions.

- **Continuum of Care**

Includes detoxification, residential, sober living, day treatment, intensive outpatient, and outpatient services. Adjustments are based on treatment need and not phase structure.

# Standard 5: Substance Abuse Treatment

- **Treatment Dosage and Duration**

In Phase 1: ~6-10 hours of counseling/week  
~200 hours of counseling over 9-12 months; but allow flexibility

- **Treatment Modalities**

Met with treatment provider at least 1x/week. Frequency may be reduced. Participants are screened for group counseling, which have no more than 12 participants.

- **Medications**

MAT is based on medical necessity.

# Evidence-Based Treatments

- **Evidence-Based Treatments (S#5)**

Use behavioral or cognitive-behavioral treatments that are documented in manuals and proven to be effective. Providers are trained and supervised regularly.

- [National Registry of Evidence-Based Programs and Practices](#)

- Moral Reconciliation Therapy
- Thinking for a Change Program
- Reasoning & Rehabilitation Program

## Standard 2: Historically Disadvantaged Groups (HDGs)

### Standard 6: Complementary Treatment

- **Equivalent Treatment and Trauma-Informed Services**  
HDGs receive the same levels and quality of care. Court uses relevant evidence-based treatments.
- **Trauma-Informed Services**  
Participants are assessed for a trauma-history and receive a trauma-informed evidence-based intervention. Females receive trauma-related services in gender-specific groups.

“The conditions and history of genocidal policies aimed at destroying Native family ties, as well as experiences of ongoing discrimination, bring added dimensions for consideration...”

# Standard 5: Substance Abuse Treatment

## Standard 9: Census and Caseloads

- **Peer Support Groups**

Participants regularly attend self-help groups that follow a structured model.

- **Continuing Care**

Participants complete a final phase focusing on relapse prevention and continuing care. Contact is maintained with the participant for at least 90 days after discharge.

- **S9: Clinician Caseloads**

50 active participants for clinicians providing clinical case management

- 40 – individual therapy or counseling

- 30 – both clinical case management and individual therapy

## Standard 4: Incentives and Sanctions

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- **Therapeutic Adjustments**

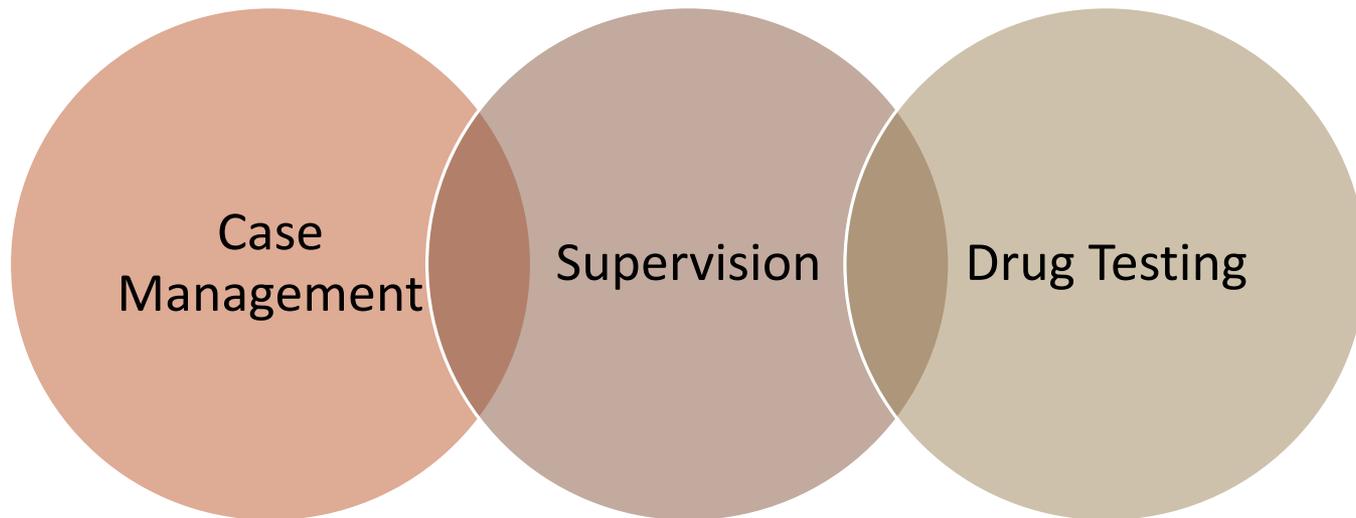
Participants are not sanctioned if they are otherwise compliant but are not responding to treatment. Positive drug tests should not be severely sanctioned in the early phases.

- **Standard #5: Jail**

Participants are not incarcerated to achieve clinical or social services.

# Key 5: Intensive Supervision

Participants are monitored through intensive supervision that includes frequent and random drug testing, while participants and their families benefit from effective team-based case management.



# Standard 9: Census and Caseloads

## Standard 7: Drug and Alcohol Testing

- **S9: Supervision Caseload**  
At 30 participants, monitor program operations; caseloads should not exceed 50 participants.
- **S7: Frequent Testing**  
Urine testing at least 2x/week until last phase. Long-term tests (e.g. ankle monitors) are used for at least 90 consecutive days. Short-duration tests are administered when substance use is likely to occur.
- **S7: Random Testing**  
Drug testing takes place on nights and weekends. Urine specimens are delivered within eight hours.

## Standard 7: Drug and Alcohol Testing

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- **Breadth of Testing and Rapid Results**  
Along with all suspected substances, random specimens are periodically tested. Results within 48 hours.
- **Witnessed Collection** verifying a **Valid Specimen**
- **Accurate and Reliable Testing Procedures**  
Chain of custody is established. Barring staff expertise, results below industry levels are not considered positive.
- **Participant Contract** (suggested language)

# Standard 6: Complementary Treatment and Social Services

- **Scope**

Provide or refer to services that address *responsivity* needs, *criminogenic* needs, and *maintenance* needs.

Such as:

- Housing assistance
- Mental health
- Trauma-informed services
- Criminal-thinking interventions
- Family or interpersonal counseling
- Vocational or educational services
- Medical or dental

# Average Complimentary Needs of Participants

TABLE 1   COMPLEMENTARY NEEDS IDENTIFIED IN NATIONAL AND STATEWIDE STUDIES OF DRUG COURTS	
Complementary Need	Percentage of Participants
Any mental health problem/disorder	63%
Major depression	16%–39%
Posttraumatic stress disorder (PTSD)	10%
Anxiety disorder other than PTSD	9%
Bipolar disorder	8%
Chronic medical condition	26%
Unemployed	54%–72%
Less than a high school diploma or GED	32%–38%
Homeless	11%–47%
Abuse or trauma history	27%–29%

# Standard 6: Complementary Treatment and Social Services

- **Sequence and Timing**

Phase 1: Focus on responsiveness needs (e.g. housing)

Phases 2-3: Criminogenic (e.g. delinquent peers)

Phase 4: Maintenance (e.g. vocation)

- **Clinical Case Management**

Meet with case manager at least 1x/week in Phase 1.

- Appendix C: Complementary Needs Assessments

- Appendix D: Clinical Case Management

- **Criminal Thinking Interventions**

- Moral Reconation Therapy; Thinking for a Change; Reasoning & Rehabilitation

# Standard 6: Complementary Treatment and Social Services

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- **Family and Interpersonal Counseling**

Engage with prosocial family/friends.

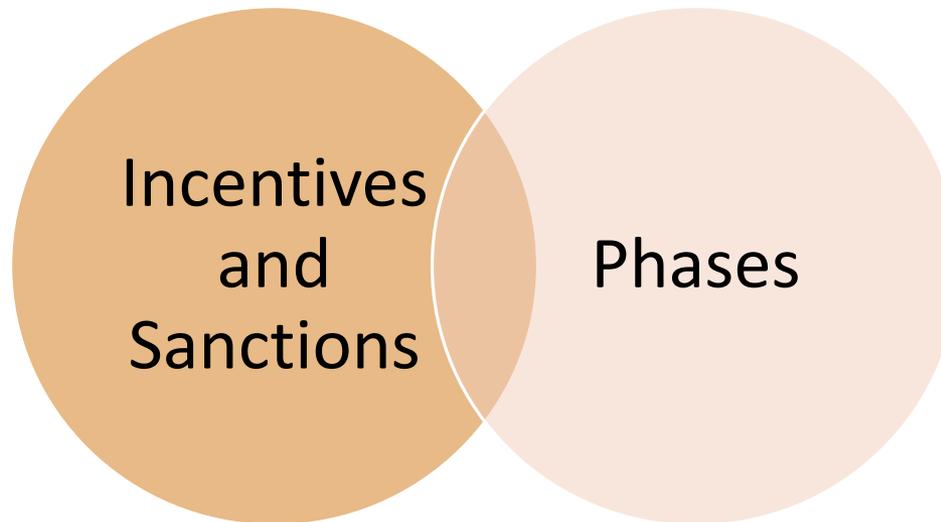
- Strengthening Families; Celebrating Families!; Positive Indian Parenting; Fatherhood/Motherhood is Sacred

- **Vocational and Educational Needs**

Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in a comparable prosocial activity as a condition for graduation.

# Key 6: Sanctions and Incentives

Progressive incentives and sanctions are used to encourage participant compliance with Wellness Court requirements.



# Standard 4: Incentives and Sanctions

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- **Equivalent Consequences**  
Incentives and sanctions are equivalent to similarly situated participants.
- **Progressive Sanctions**  
Sanctions of varying magnitudes are administered based on proximal and distal goals.
- **Incentivize Productivity**  
Productive behaviors are as emphasized as reducing negative behaviors. 4:1?

## Standard 4: Incentives and Sanctions

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- **Phase Promotion**

Phase advancement is based on objective, realistic, and defined objectives.

In later phases, sanctions can increase, incentives decrease, and supervision can reduce.

Treatment is only reduced for clinical reasons.

Drug testing is only reduced after treatment and supervision has been reduced.

- **Jail**

Jail is used sparingly, and no longer than 3-5 days, only after a hearing with access to counsel.

# Key #7: Judicial Interaction

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The Wellness Court Judge should have ongoing involvement with the team and with each participant.



Judicial  
Supervision

# Standard 3: Roles and Responsibilities of the Judge

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- **Consistent Docket**

Participants appear before the same judge, who serves for no less than 2 consecutive years.

- **Staffing**

Judge regularly attends staffings.

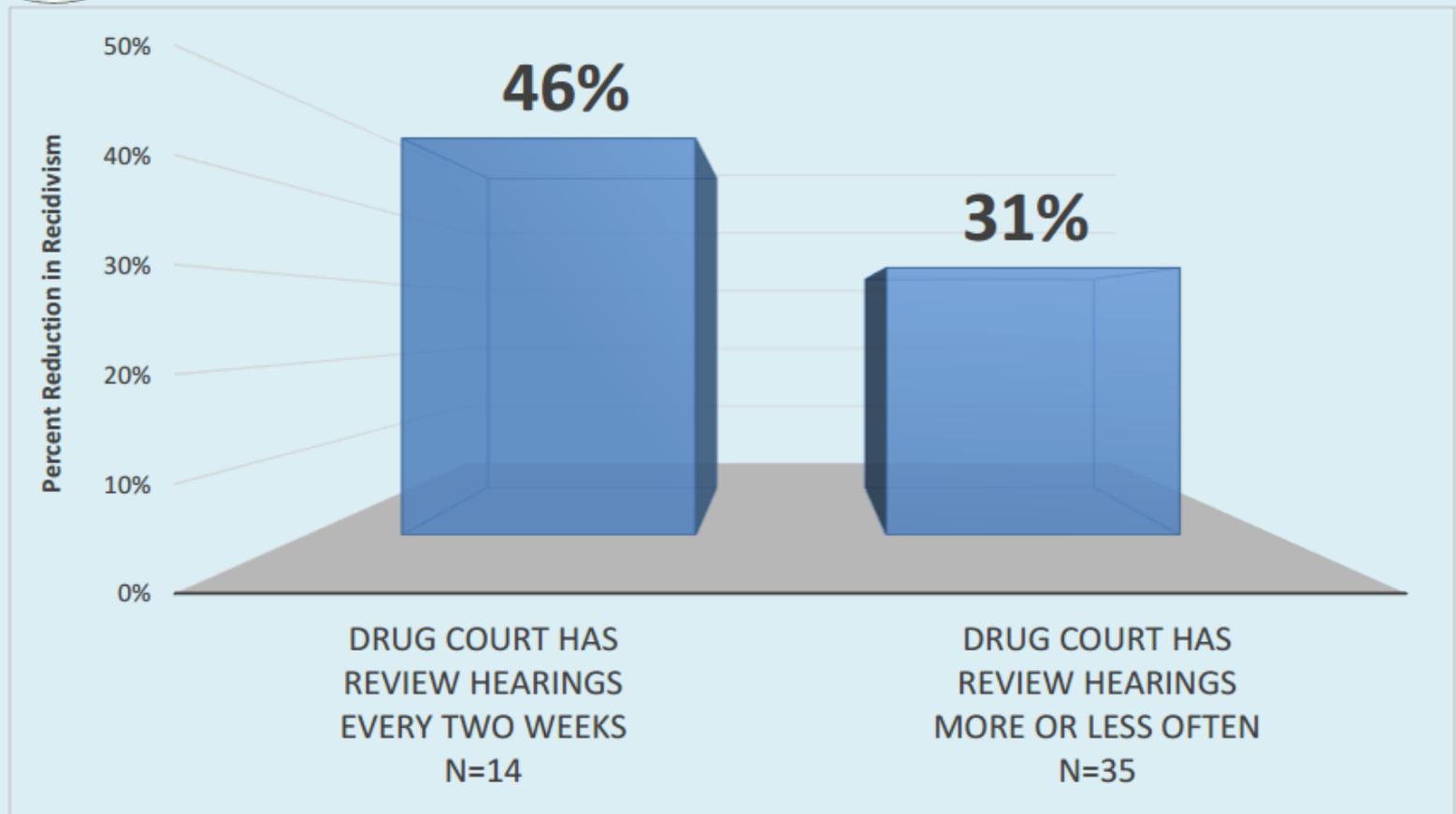
- **Hearings**

Hearings are at least every 2 weeks. Frequency may be reduced in later phases, but no less than every 4 weeks.

Judge reviews each participants' progress for at least 3-7 minutes.



## Drug Courts That Held Status Hearings Every 2 Weeks During Phase I Had 50% Greater Reductions in Recidivism



Note: Difference is significant at  $p < .1$

# Standard 3: Roles and Responsibilities of the Judge

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- **Judicial Demeanor**

Judge is supportive, stresses the importance of their commitment, and expresses optimism about their abilities. The judge allows for an opportunity to be heard.

- **Judicial Decision Making**

The judge is the final arbiter concerning legal status and liberty.

# Key #8: Monitoring and Evaluation

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Process measurement, performance measurement, and evaluation are tools used to monitor and evaluate the achievement of program goals, identify needed improvements, determine participant progress, and provide information to outside agencies.

# Standard 10: Monitoring and Evaluation

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- **Outcome Evaluations**

Measure the effectiveness of the Court in the context of its adherence to best practices. Conduct an *independent evaluation* at least every 5 years.

- **In-Program Outcomes**

Participant outcomes are monitored, like attendance, drug tests, new arrests, etc.

- **Criminal Recidivism**

New arrests/convictions are monitored for at least 3 years.

# Standard 10: Monitoring and Evaluation

- **Electronic Database**

Services and in-program performance are electronically tracked within 48 hours of events by every team member.

- **Intent-to-Treat Analyses**

Track the outcomes for every *eligible* participant, including those who graduated, withdrew, and were terminated.

- **Comparison Groups**

Wellness Court outcomes are compared to an equivalent comparison (legal and clinical) group.

# Key #9: Continuing Interdisciplinary and Community Education

Continuing interdisciplinary and community education promote effective planning, implementation, and operation.

- **Team Training**

Team members should attend training at least on an annual basis, for an update on

- Substance abuse and mental health treatment
- Complementary treatment and social services
- Behavior modification
- Community supervision
- Drug and alcohol testing
- Team decision making
- Constitutional and legal issues

# Team Training

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- **S2: HDG Team Training**

Each team member attends up-to-date training on implicit cultural biases, and correcting disparate impact.

- **S3: Judicial Professional Training**

The Judge attends training on legal and constitutional issues, judicial ethics, evidence-based treatment, behavior modification, and supervision.

- **S6: Trauma-Informed**

Be aware of hesitation to trust; noisy, unpredictable court/therapy environments

# Key #10: Team Interaction

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The Wellness Court should continue to develop and maintain ongoing commitments, communication, coordination, and cooperation among team members, service providers, and the community.

# Standard 8: Multidisciplinary Team

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- **Staffings and Hearings**

Team members regularly attend staffings and hearings to review and contribute on participant progress.

- **Sharing Information**

Team members share information to appraise participants' progress. Partner agencies execute MOUs. Participants provide consent forms.

- **Team Communication and Decision Making**

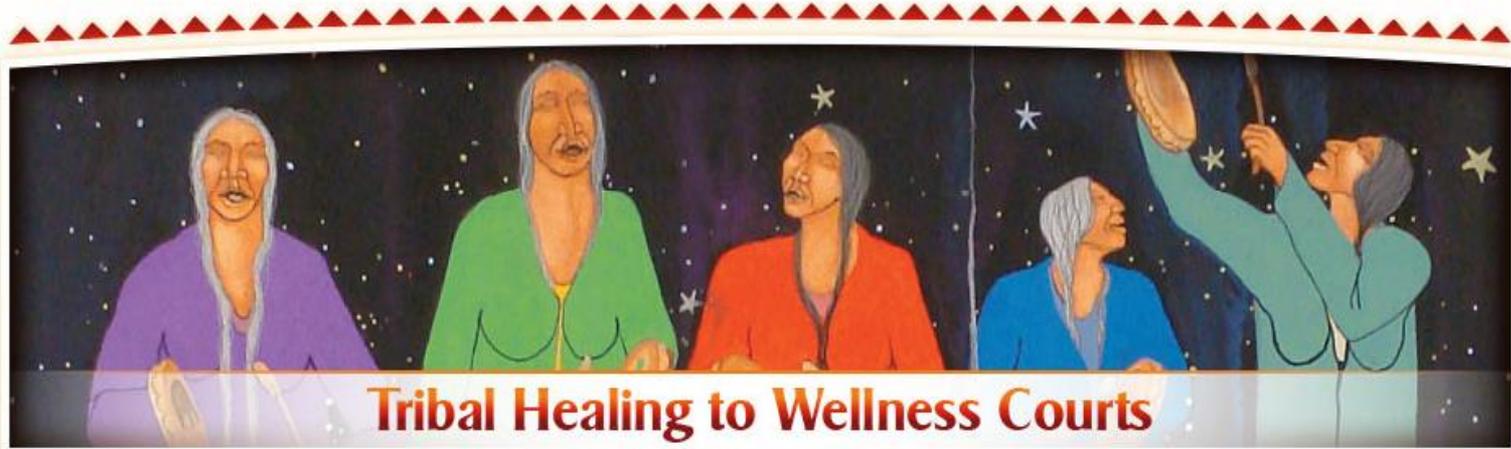
Team members contribute based on their expertise.

# Online Training Resource

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- **National Drug Court Institute**  
[www.ndci.org/training/online-trainings-webinars](http://www.ndci.org/training/online-trainings-webinars)
- **National Drug Court Resource Center**  
[www.ndcrc.org](http://www.ndcrc.org)
- **Center for Court Innovation**  
[www.drugcourtonline.org](http://www.drugcourtonline.org)
- **NCSC and AU – Translating Drug Court Research into Practice**  
[www.research2practice.org](http://www.research2practice.org)

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National Association of Drug Court Professionals Applauds Justice Department Smart on Crime Initiative; Calls for Federal Drug Court ... [More](#)



## SMART on CRIME

*Reforming The Criminal Justice System for the 21<sup>st</sup> Century*

August 2013

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# Questions?

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