



Rural CAP

Rural Alaska Community Action Program, Inc.

ALASKA NATIVE SPECIFIC APPROACHES IN DEVELOPING JUVENILE HEALING TO WELLNESS COURTS IN ALASKA

2022 OJJDP Tribal Youth National Conference

Imagining a New Future

Justice, Equity, Healing, & Empowerment for Native Youth

Wednesday, December 14, 2022; Breakout Session C2

Healthy People | Sustainable Communities | Vibrant Cultures

The Resource Basket



OUR MISSION

The Resource Basket supports Alaska Native communities and service providers as they grow healthy, successful and culturally connected Alaska Native Youth.

We are a team
devoted to
improving the
lives of Alaska's
youth!



RurAL CAP
Rural Alaska Community Action Program, Inc.

Healthy People, Sustainable Communities, Vibrant Cultures



We Offer

OUR SERVICES

- Access to a network of youth serving partners and tribal organizations.
- Online training and resources
- Phone/web consultation
- Statewide and regional training
- Community-based training and technical assistance
- Peer-to-peer training and exchanges



Rural Alaska is Different



Alaska is 1/5 of the size of the contiguous United States,
or 2.5 times the state of Texas

- Geography & weather
- Parallel units of government (tribal, state, home rule)
- The rural nature of villages off the road system & hub towns
- The diverse cultures & shared history & values
- The fact of tribal sovereignty
- The “complex non-system of entities in rural Alaska” which impacts everything in rural Alaska, including funding & service provision (regional Native nonprofits, etc.)
- The overrepresentation of Alaska Natives in the State’s criminal justice system (& high rates of sexual assault & domestic violence involving Native women & children)
- The presence of local option laws which are supported by Native communities but that do not work
- The Indian Law & Order Commission’s recommendation to provide for greater tribal control & accountability

Native Nation Building

Stephen Cornell

Self-governance vs. Self-administration

- Native nations that seize authority & govern
- Assert rights & capacities to reshape their Nations according to their own designs
- To make & enforce laws
- To develop & pursue long-term strategies of community development
- To negotiate new relationships with other governments
- To exercise meaningful jurisdiction over lands & peoples within their borders (a challenge in Alaska where most Tribes lack territorial jurisdiction BUT have jurisdiction over their members)





Congress created the Indian Law & Order Commission (ILOC) in 2010 to investigate, assess & report back to the president & congress re criminal justice systems serving Native American & Alaska Native communities

- 229 federally recognized tribes in Alaska
- 78 operating tribal courts
- Tribal court efforts limited by funding constraints & narrow jurisdiction
- Tribal courts tended to handle:
 - Child welfare
 - Customary adoptions
 - Public drunkenness
 - Disorderly conduct
 - Minor juvenile offenses

What is a Tribal Healing to Wellness Court (THWC)

- **Multiple names**
 - “drug courts,” “therapeutic courts,” “tribal drug courts,” “tribal healing to wellness courts”
- **Different subtypes**
 - adult criminal, family, juvenile, dui, veterans’, reentry, etc.
- **Participants**
 - alleged to have committed a juvenile offense
 - charged with a crimeand/or
 - alleged to have committed child maltreatmentand
 - screened to have a substance use/abuse problem

Tribal Healing to Wellness Courts
in Alaska...

~X total

~X adult wellness courts

~0 family wellness courts

~X juvenile wellness courts

Compare: Goals of State Drug Courts

- To reduce the use of drugs & alcohol
- To reduce related criminal activity
- To increase the cost effectiveness of the justice system

Goals of Juvenile Tribal Healing to Wellness Courts (JTHWCs)

- To reduce the use of alcohol and/or drugs
- To strengthen families and keep them together
- To reduce related status offenses, juvenile offenses and criminal activity
- To provide pro-social activities and interventions for Native Youth
- To provide (substance use disorder/mental health disorder) treatment for Native Youth
- To provide programs with hybrid cultural and western (justice and treatment) elements for Native Youth and families
- To fund and develop/enhance Tribal Courts and justice systems

About JTHWCs in Alaska

- Tend to focus on ...
 - less serious juvenile offenders, but who are likely to have co-occurring mental health disorders, including substance use disorders
- Are primarily concerned with ...
 - therapeutic efficacy, as opposed to criminal recidivism
- May be less concerned with ...
 - costs with respect to treating less serious juvenile offenders
- Aside from those partnering in a tribe-state joint jurisdiction drug court (or those located in or near a hub or urban center), are also more likely to want to ...
 - target adolescents & families

About JTHWCs in Alaska (cont.)

There are various reasons for this including:

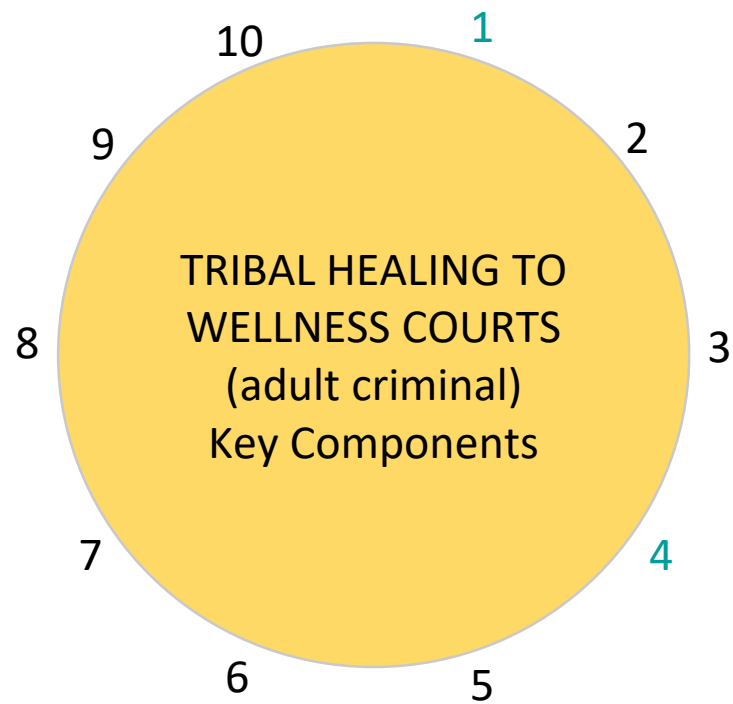
1. Federal funding does not fund JTHWCs that target violent offenders
2. Federal & Alaska law effectively limit the exercise of tribal sovereignty & criminal jurisdiction of Alaska Tribes
3. In PL 280 states (including Alaska), the more serious Native juvenile offenders are involved in the state juvenile & criminal justice systems
4. States that divert to tribal programs have eligibility requirements that select for low-level offenders
5. There is a great need to deal with Native adolescent & family substance use & mental health disorders in Alaska Native communities

About JTHWCs in Alaska (cont.)

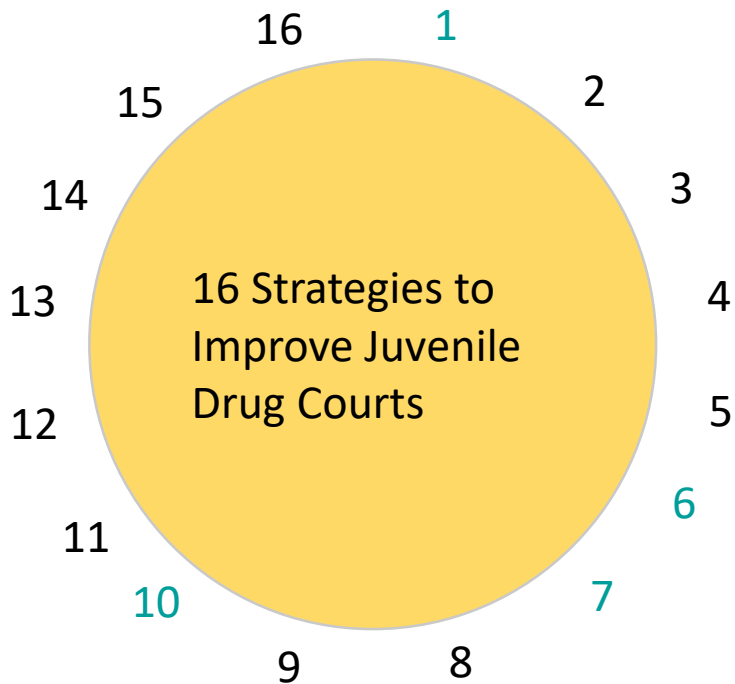
JTHWCs in Alaska are less likely to be ...

- targeting “high-risk”/“high-need” participants in their THWCs
- (except where they form Tribe-State joint jurisdiction drug courts or where the Tribe is located in or near a hub/urban center)
- & therefore, are more likely to be building out an “alternate track” in their THWC

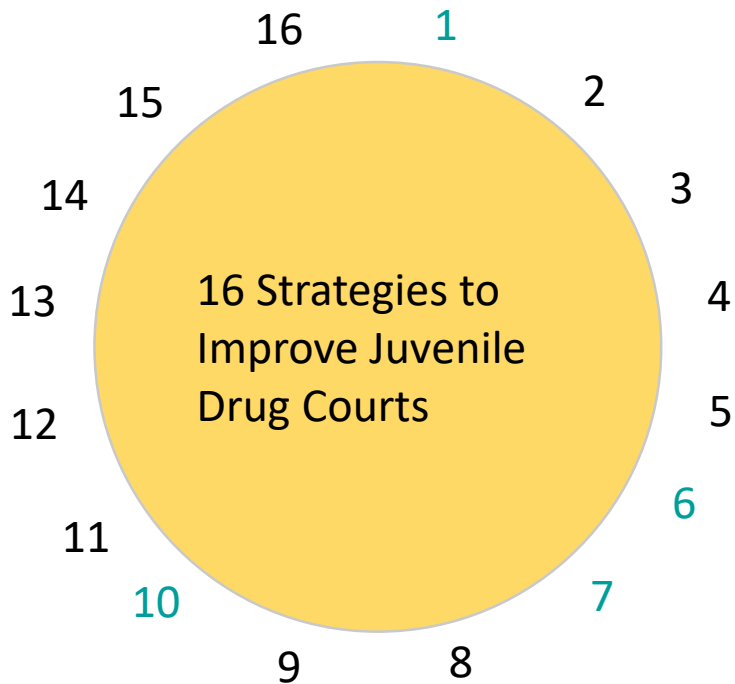
Today, the Key Components for the Tribal Healing to Wellness Courts are Similar to, but modified from, the State Drug Courts



1. Team approach (courts, treatment services, & community) to healing individuals, families & communities as part of Nation Building
2. Entry – referral points & legal process
3. Legal & Clinical / Screening & Eligibility
4. Treatment & Rehabilitation Incorporating Culture & Tradition
5. Supervision & Support – Monitoring, Testing & Case Management
6. Incentives & Sanctions
7. Judicial Interactions with Team & Participants
8. Monitoring & Evaluation of THWC Program
9. Continuing THWC Education for Agencies & Community
10. Inter-Agency & Inter-governmental agreements & protocols

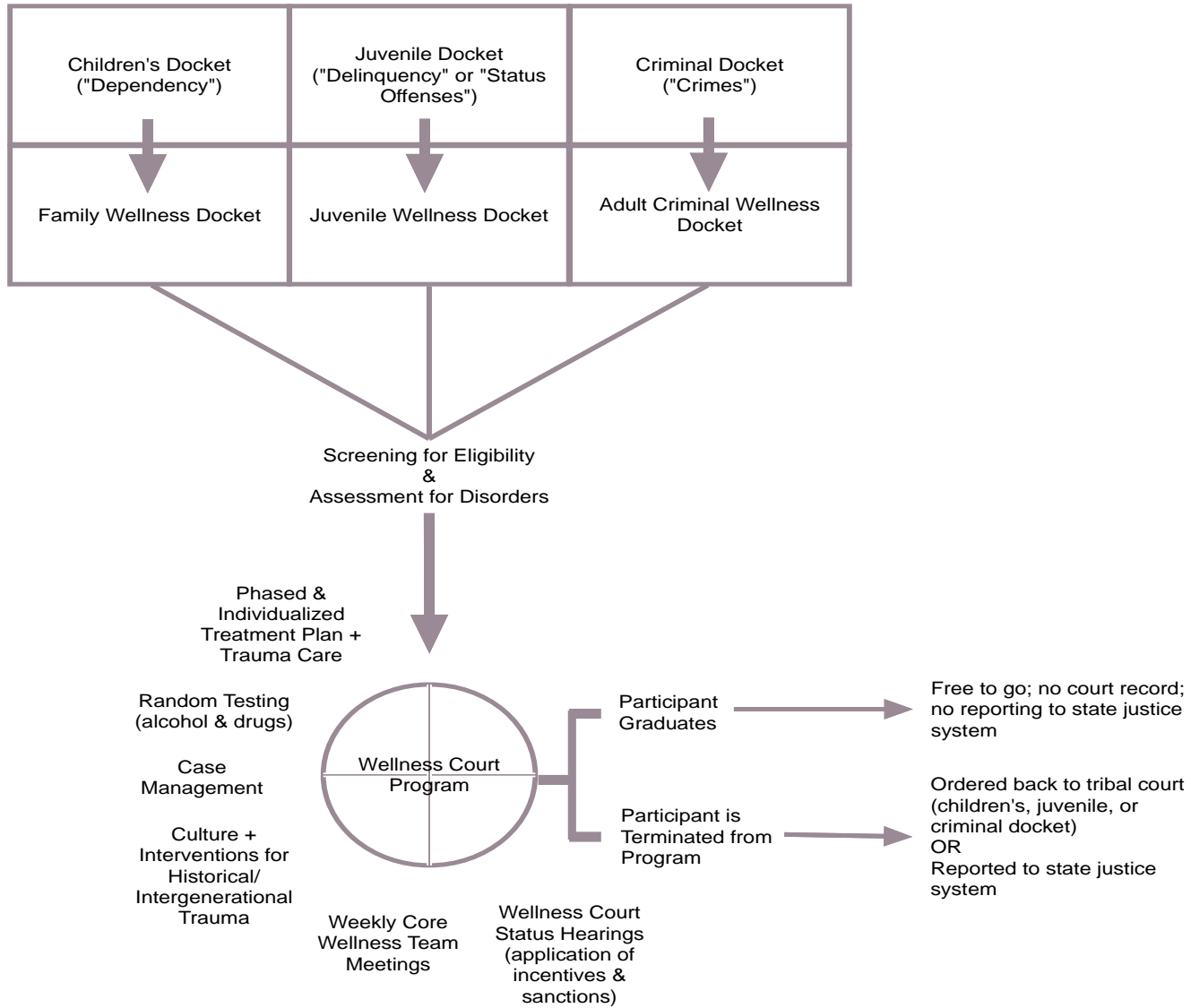


1. Engage all stakeholders in creating an interdisciplinary, coordinated, & systematic approach to working with youth & their families
2. Using a non-adversarial approach, prosecution & defense counsel promote public safety while protecting participants due process rights
3. Define a target population & eligibility criteria that are aligned with program goals & objectives
4. Schedule frequent judicial reviews & be sensitive to the effect that court proceedings can have on youth & their families
5. Establish a system for program monitoring & evaluation to maintain quality of service, assess program impact, & contribute knowledge to the field
6. Build Partnerships with community organizations to expand the range of opportunities available to youth & their families
7. Tailor interventions to the complex & varied needs of youth & their families
8. Tailor treatments to the developmental needs of adolescents



9. Design treatment to address the unique needs of each gender
10. Create policies & procedures that are responsive to cultural differences & train personnel to be culturally competent
11. Maintain a focus on the strengths of youth & their families during program planning & in every interaction between the court & those it serves
12. Recognize & engage the family as a valued partner in all components of the program
13. Coordinate with the school system to ensure that each participant enrolls
14. Design drug testing to be frequent, random, & observed; & document testing policies & procedures in writing
15. Respond to compliance & non-compliance w/incentives & sanctions that are designed to reinforce or modify the behavior of youth & families
16. Establish a confidentiality policy & procedures that guard the privacy of youth while allowing the drug court team to access key information

Tribal Court System





There are six therapeutic components to a juvenile drug court:

- (1) the “phases”
- (2) the underlying treatment modalities & complementary services
 - Screening & Assessment
 - Substance Use Disorder Treatment*
 - Mental Health Disorder Treatment*
 - Complementary Services & Supports**
 - Culture**
- *may include counselling, individual therapy, groups processes, family therapy, & multifamily groups
- **groups are of different types (process groups, cognitive behavioral groups, educational groups, & support groups)
- (3) the capacity to “individualize” treatment - to develop & undertake individualized treatment plans
- (4) case management
- (5) the alcohol & drug testing regimen
- (6) the tribal court status hearings & the incentives & sanctions approach

Juvenile Court (“docket”) vs. Diversion Program

- Because the U.S. Supreme Court has found that most Alaska Tribes lack territorial jurisdiction and where Alaska is a PL 280 state, it has been important to reflect on these questions in designing and implementing a THWC in Alaska:
 - Is your Tribal Healing to Wellness body a court (docket) or a program?
 - Do you want it to be part of the Tribal Court?
 - If a tribal court docket – requires changes to tribal code, policies and procedures manual (PPM), and memorandums of understanding/agreement (MOUs, MOAs)
 - Are their practical reasons for leaving court process with the State of Alaska?
 - If secure detention is warranted
 - If your juvenile target population is “high risk”/”high need” requiring the highest levels of supervision (probation) and services (treatment and complementary services)
 - Argues for a Tribe-State Joint Jurisdiction Court

Challenges facing Alaska Tribal Courts & ways RurAL CAP can help establish Tribal Healing to Wellness Courts

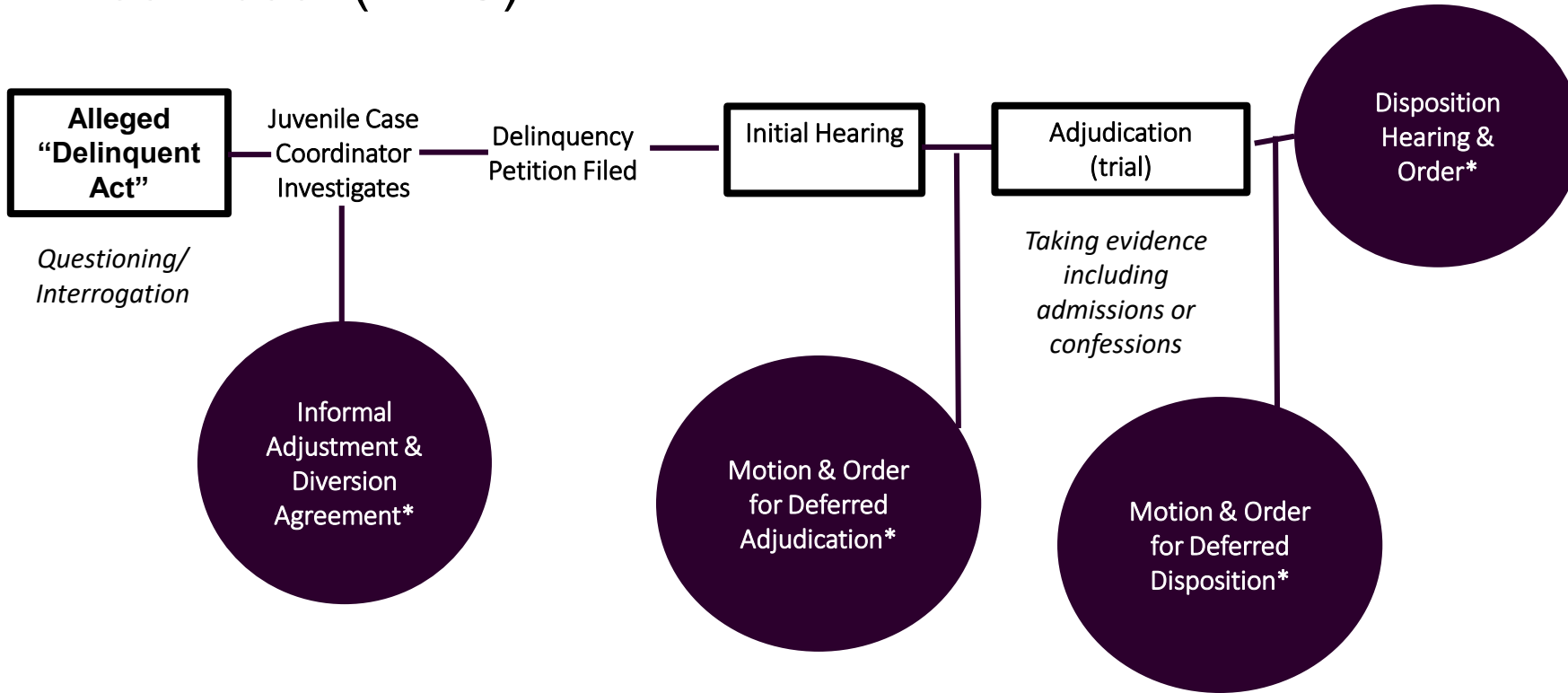


Indianz.com
ProPublica: Alaska Native village loses only public safety officer
Friday, November 1, 2019

<https://www.indianz.com/News/2019/11/01/propublica-alaska-native-village-loses-o.asp>

- Challenge #1 –
Lack of Tribal Juvenile Codes that define “delinquent acts” & “families-in-need of services” (FINS)
- Challenge #2 –
Circle Process may complement, but may not serve as a substitute for wellness court process
- Challenge #3 –
Most Alaska Tribes do not control or house their treatment entities locally
- Challenge #4 –
Most Alaska Tribes do not control or their own law enforcement/probation services locally

Challenge #1 - Lack of Tribal Juvenile Codes that define “delinquent acts” & “families-in-need of services” (FINS)



* Points of referral, diversion, and/or order to therapeutic court docket, community-based programs, etc.

Many Alaska Tribes lack tribal juvenile codes defining “delinquent acts” & family-in-need of services” (FINS) which would allow them to directly intake youth into the Tribal justice system, and thus into their wellness court docket – instead, they may rely solely on State diversions – which may keep their eligible participant numbers very low.

Tribal Juvenile Court

Model Indian Juvenile Code (2016 Revision)
 Chapters 1 (General Provisions) & 2 (Delinquency)

Solutions - The Resource Basket

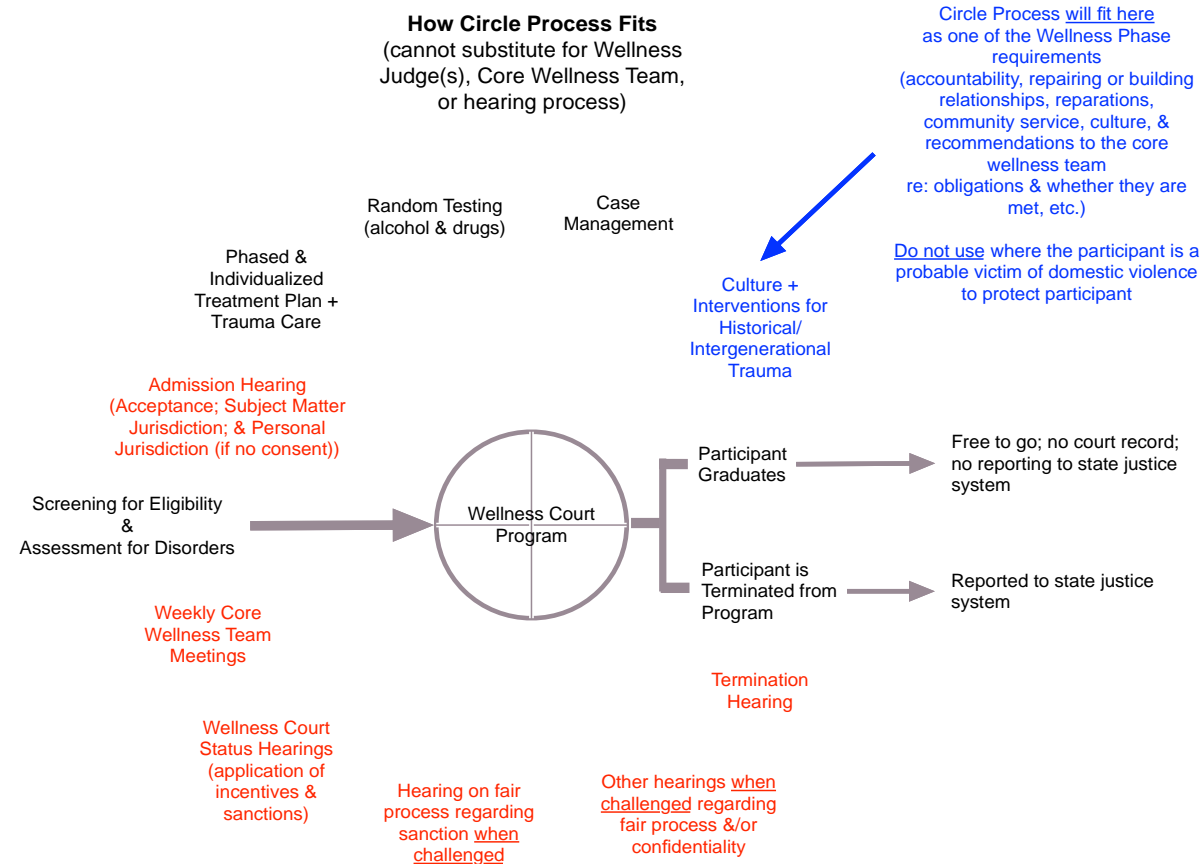
Provides TTA to OJJDP grantees to support development of Alaska-specific juvenile delinquency and JHWC codes to intervene with tribal youth troubled by drug and alcohol misuse

Developing “model” juvenile delinquency and JHWC codes that are aligned with the current tribal-state agreements providing for diversion of delinquency cases from the state to tribal courts

Challenge #1 - Lack of Tribal Juvenile Codes that define “delinquent acts” & “families-in-need of services” (FINS)



Challenge #2 – Circle Process may complement, but may not serve as a substitute for wellness court process



Circle Process cannot be a substitute for Wellness Judge(s)/Core Wellness Team functions due to fair process requirements under state/federal laws (comity & full faith & credit); & confidentiality requirements under federal laws. This has to do with the open nature of the circle to anyone; their potential access to confidential information; and potential bias in decision-making where a circle member is related to the participant (or there is some other conflict)

Solutions - The Resource Basket

Works with OJJDP grantees to integrate circle keeping, cultural values and traditional practices into the treatment component of the JHWC.

The need for trained circle keepers is in high demand and RurAL CAP will convene a statewide gathering on Circle Keeping in January 2023 which will be followed by a larger event in 2024

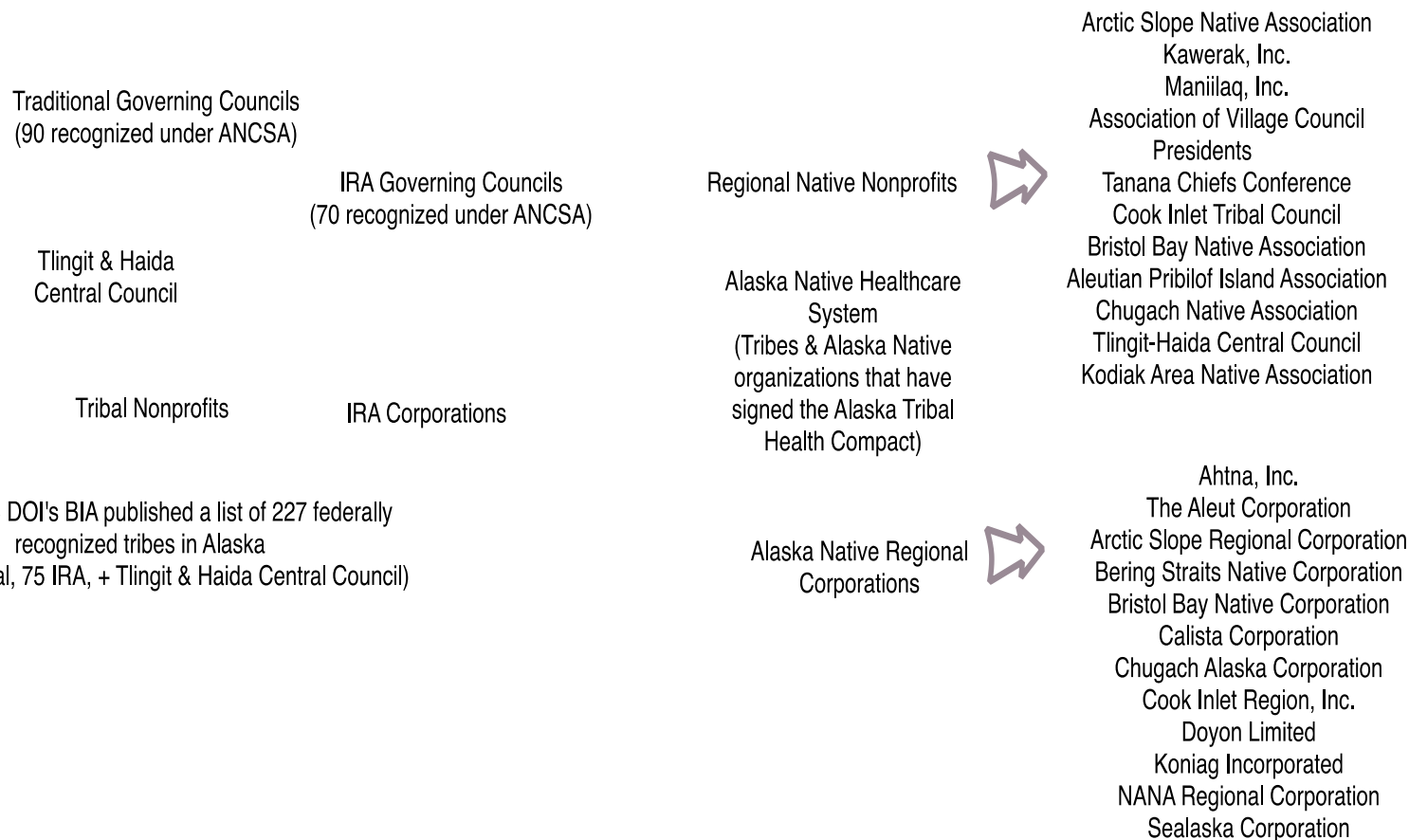
Challenge #2 – Circle Process may complement, but may not serve as a substitute for wellness court process



Challenge #3 – Most Alaska Tribes tend not to house or control their treatment entities locally

The Complex Non-System of Entities in Rural Alaska

(term coined by David Case & David Voluck, in Alaska Natives & American Laws, 3rd Edition (2012), graphic by Pat Sekaquaptewa)



*In 1993 US DOI's BIA published a list of 227 federally recognized tribes in Alaska (151 traditional, 75 IRA, + Tlingit & Haida Central Council)

- Most Alaska tribes do not house or control their treatment entities locally
- These are resourced & controlled by distant regional Native nonprofits
- It is arguable that fidelity to the National Association of Drug Court Professionals (NADCP) drug court model is not possible as drug court participants at the village level will not be able to access the day-to-day required elements of their phased plans

Solutions - The Resource Basket

Trains core Wellness Teams members that include treatment providers serving JHWC participants on an outpatient basis

Training is focused on JHWC treatment standards, evidence-based practices that have proven effective with adolescent participants including emerging culture-based programming specific to Alaska

Assists tribal grantees develop cooperative agreements with tribal regional health providers to facilitate delivery of village-based outpatient treatment services to JHWC participants.



Challenge #3 – Most Alaska Tribes tend not to house or control their treatment entities locally

Challenge #4 - Most Alaska Tribes do not control or their own law enforcement/probation services locally



<https://www.adn.com/alaska-news/rural-alaska/2017/02/11/as-alaska-struggles-to-fill-vpso-ranks-the-officers-remain-for-now-unarmed/>

Anchorage Daily News

As Alaska struggles to fill VPSO ranks, the officers remain unarmed for now pencil

Author: Lisa Demer clock Updated: December 2, 2017 calendar Published February 11, 2017

- Most Alaska tribes do not house or control their law-enforcement entities locally
- They are resourced & administered by distant regional Native nonprofits, the Alaska State Troopers, & via the Village Public Safety Officer (VPSO) Program)
- It is arguable that fidelity to the NADCP drug court model is not possible as law enforcement will not be present to participate in the intensive supervision, monitoring, and testing of participants

Solutions - The Resource Basket

Partnering with the Alaska Division of Juvenile Justice to train rural law enforcement personnel on the respective tribal and state laws and courts governing youth including JHWCs, role in diverting cases from state to tribal courts and supervision of juvenile probationers

Assists tribal grantees develop cooperative agreements with the Alaska Division of Juvenile Justice to facilitate referral of juvenile delinquency cases from state to tribal courts

Challenge #4 - Most Alaska Tribes do not control or their own law enforcement/probation services locally



Juvenile Justice Reform and JTHWCs

The federal Juvenile Justice and Delinquency Prevention Act (JJDP) was reauthorized in 2019 and notably shifted towards treating rather than incarcerating youth offenders

These reforms create important opportunities for JHWCs to bridge the gap between treating rather than incarcerating youth because JHWC are designed to also hold youth accountable

JHWCs can go a long way towards **reducing the disproportionate** number of Native youths that are historically and continue to be incarcerated in Alaska

The Resource Basket incorporates these emerging juvenile justice reforms into the TTA provided to JHWCs and will offer training specific to **youth reentry** to grantees to support tribal development of youth reentry programs and practices needed to improve outcomes and reduce recidivism of tribal youth released from urban incarceration to their home villages in rural Alaska

Thank you for joining us!

- Help us improve our future webinar experience by taking a short survey
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Resource Basket (visit: www.resourcebasket.org)





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Quyana ~ Thank You



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