

Tribal Healing to Wellness Court Enhancement Training

Tribal Law & Policy Institute

December 5, 2012

Agua Caliente Indian Reservation, CA
Renaissance Hotel ~ Pueblo A

Team Challenge

Team: Judge

Does not participate in staffing
Non-Tribal member but Native
Appointed
Attorney – 20 years experience in Family Law
No drug court experience – was directed by tribal council to conduct wellness court
Daily commute 35 miles one way
Present about 3 days out of the week

Coordinator

Recovering alcoholic – 20 years sobriety
Tribal member
Lives on the reservation
Former Head Start teacher
Good relationships with participants
Performs the drug testing
Participants spend a lot of time with her
Bakes cookies/cupcakes for every hearing
Provides transportation for participants
Related to 2 participants
As former teacher – she has a lot of personal and professional experience with participants and their families
Has some personal health issues but WC remains her priority

Substance Abuse Counselor

Tribal member
In recovery – got sober on his own by will
Elder
Not licensed
Duties besides Wellness Court – treatment at tribe's in-patient treatment center located 100 miles from court
Active in Native American Church – medicine man
Believes in traditional treatment only
Active member of the American Indian Movement

Prosecutor

- Non-member
- Non-native
- Contract attorney with tribe
- Wellness Court is not a part of his contract but believes in the court so supportive
- Several other duties
- Came from state drug court – advocate for drug court
- Periodically misses staffings
- Has other practice outside tribe
- Cannot attend training with the team

Probation

- New probation officer
- Prior job – court clerk
- Tribal member
- Single mom – 2 small children at home
- Unavailable after 5 due to a lack of child-care
- Only probation officer – juvenile and adult case load
- 50 total cases
- Son is a police officer

Social and Human Services Director

- Responsible for several different programs (Housing, Treatment, Child and Adult Protective Services, Social Services)
- Overworked
- Has been working for tribe for 35 years
- Boarding school survivor
- Resistant to cultural matters

No Law Enforcement

- Understaffed
- Don't see the benefit
- See wellness court too “soft on crime”
- Don't see Wellness Court working

No Defense Counsel

- Tribe does not have a public defender's office

Wellness Court

- Operational for about a year
- Grant funded
- Team just returned from a training – excited
- 10 adult participants – 1 female and 9 males

See if you can spot the issues:

John is 26 years old and a Wellness Court participant. He was admitted to Wellness Court, post-adjudication after his second DUI conviction. He is employed as a maintenance worker by the Tribal Casino. One of his conditions of his Wellness Court participation is that he cannot be in any location where alcohol is present, unless he is on-duty at work. He has been in wellness court for a while and is currently in Phase 2. He has 100 days of sobriety. John attended the employee Christmas party. Photos of the party depicting alcohol and party-goers, including John and others, showed up on Facebook. One of the other participants commented on the photo: "LOL, John really pulled one over on the Wellness Court team Partying for work." A former participant asked: "Did you see Judge there? He's always 'knocking them back' at the casino on the weekends!" Another participant who was terminated from Wellness Court a few months ago commented: "Wellness Court is a joke! Everyone on the team is fake and they don't care about anyone."

The Coordinator's niece, Sally saw the photos and told the Coordinator. The Coordinator confronted John and he admitted to being at the party but adamantly denies drinking. At staffing, the Coordinator told the team. The Coordinator and several team members supported letting this incident slide, saying "he was there for his job," "the photos didn't show him with a drink in his hand or drinking and the information shouldn't be considered because it is 'hearsay.'" Several other team members wanted to recommend to the Judge that John receive a sanction of jail and to order John to either "Friend" the coordinator on Facebook or turn-over his password. They also argued that attending the party wasn't required by John's job.

The team was upset about the comments made about the team and were uncomfortable confronting the Judge about the comments made about his drinking, but did discuss taking the issue to the Tribal Council because they are worried about the credibility of the court.

Sally, is 30 years old, is the Coordinator's niece, and was admitted to Wellness Court 6 months ago. She is still in Phase I for a few known "slips" that were discovered during routine testing that is regularly scheduled for Wednesday at 10 am. The Substance Abuse Counselor told the team that there are stories that Sally continues to drink almost daily, until Tuesday when she tends to sober up for the drug testing. After passing her drug test, she will celebrate with a shot of vodka. He also accuses the Coordinator of covering for her niece. The Substance Abuse Counselor recommends Sally go to in-patient treatment at the facility he works at or to put her in jail. The Coordinator reminded the Team that Sally is a child care provider at the day care and cannot go to in-patient treatment or jail because she will lose her job. The Social and Human Services Director supports the Substance Abuse Counselor recommendations and told the team that she saw Sally at the Health Center picking up pre-natal vitamins and is concerned that they have previously removed a child with Fetal Alcohol Spectrum Disorder and Sally has yet to comply with any plan for reunification. Based upon the stories that Sally is still drinking, she mentions that she is going to request the Prosecutor file a petition to terminate Sally's parental rights for the child in the dependency case. The Prosecutor, as the only attorney in the room is concerned about issues surrounding confidentiality and whether the information can be used in any legal proceeding. The Substance Abuse Counselor accuses the Prosecutor of siding with the Coordinator in order to keep his job and doesn't really want to help the people. He says the legal excuse is the "white man's way" and shouldn't play a part in this decision. The Coordinator storms out of the room, sobbing and the Team quickly starts talking about their fear that the Coordinator is going to tell Sally about the team's recommendations and discussion.

Identify 3 problems and develop recommendations for a response.