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Process and Outcome Evaluations of the Blackfeet Alternative Court

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BLACKFEET EXECUTIVE SUMMARY

The Blackfeet Alternative Court was in existence between January 1998 and September 2000. Forty adult participants were enrolled in the Alternative Court in that period; 18 participants or 4 percent graduated. The remainder of the participants were either terminated (10 or 25 percent), fled the jurisdiction (6 or 15 percent), or were in the program when it ended (6 or 15 percent). Twenty-one of the 34 participants (62 percent), not including the six participants in the program when it ended, had at least one post-program alcohol or drug arrest by March 2004. When 3-year recidivism of only the graduated and terminated participants is analyzed, 18 of 28 participants (64 percent) had a post-program alcohol or drug arrest. There is not a statistically significant relationship between completion status and recidivism; graduates are just as likely to be arrested for a drug or alcohol charge after leaving the program as are participants who were terminated, fled the jurisdiction, or were in the program when it ended. Nor is there a statistically significant relationship between gender and recidivism, males and females are equally likely to be arrested for a drug or alcohol charge after leaving the program. However, there is a significant amount of time before the majority of participants, especially graduates, re-offend that hints at a decrease in substance-abusing behaviors with occasional relapses. In addition, the longer participants, especially graduates, spend in the program, the fewer the post-program charges.

The Blackfeet Alternative Court had many strengths. Most importantly the court had a very strong treatment component—a full-time chemical dependency counselor exclusively for the Alternative Court participants, good integration of culture into court during its last year, and a residential treatment center for families. The court also had a

very committed team with a great deal of enthusiasm for the wellness court concept. Additionally we have anecdotal information some of the Alternative Court participants regained their self-esteem and self-worth.

A review of the key components of the Alternative Court shows the strengths were:

- Committed team at beginning,
- Concerned and caring team,
- *Policy and Procedures Manual* used as checklist,
- Presence of public defender,
- Team members know community members,
- Exclusive full-time chemical dependency counselor,
- Integration of culture into Alternative Court,
- Pikuni Family Treatment Center,
- Monitoring as structure and accountability in participants' lives,
- First and second judges as team players,
- Team attendance at national trainings as a group during planning stage,
- Attendance at national conferences to stay abreast,
- Alternative Court as a mentor court to other tribes, and
- Tribal council members involved in planning stages.

The Blackfeet Alternative Court had an excellent start with a committed team and full-time dependency counselor, but a series of setbacks (core team changes, a judge who was not perceived as a team player, appellate decisions critical of Alternative Court

procedures, and non-chemically dependent drug dealers accepted as participants), none fatal by itself, but cumulatively fatal to the success of the court, eventually ended the Alternative Court. However, in the short life of the court, approximately half of the 40 participants successfully achieved a life free from drug and alcohol abuse as measured by recidivism. The Alternative Court, being one of the first four tribal wellness courts, had a great deal of trial-and-error learning during the implementation of the court. No doubt the lessons learned the hard way will be remembered should the Blackfeet Tribal Court implement another treatment-based court such as a juvenile wellness court or a family court. The weaknesses of the Blackfeet Alternative Court were:

- Core team changes,
- No tribal leader or elder on team,
- *Policy and Procedures Manual* not approved by resolution,
- Program requirements not enforced,
- Acceptance of drug dealers into Alternative Court,
- Alternative Court used to avoid incarceration,
- Family not involved in treatment,
- Lack of organized aftercare,
- Blackfeet Appellate Court held Alternative Court did not follow the *Policy and Procedures Manual*,
- Incarceration not a therapeutic sanction
- Third judge not perceived as a team player,
- Incomplete information in case files,
- Difficulty in training new team members,

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- Lack of support and interference from tribal council,
- Frequent turnover on tribal council,
- Law enforcement not integral part of team, and
- Lack of community outreach.

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Background

The Blackfeet Tribe of Montana, also called the Piegan or Pikuni, is one of three tribes of the Blackfeet Nation. The other two, the Blood or Kainah Tribe and the Blackfoot or Siksika Tribe, live across the border in Alberta, Canada. In the nineteenth century the Blackfeet were the largest and most dominant tribe in Montana. At that time the Blackfeet lived the life of nomadic Great Plains Indians with a territory that was the entire area of the present state of Montana east of the Continental Divide. They were excellent horsemen who followed the buffalo herds that were the main source of their subsistence. About 1880 the Blackfeet traditional culture changed due to the disappearance of the buffalo and pressure by the federal government to settle on a reservation and become farmers and ranchers. Today 8000 of their tribal members live on the 1.5 million acre Blackfeet reservation in the northwestern corner of Montana. Browning is the tribal headquarters and the Blackfeet Indian Reservation encompasses the majority of Glacier County.

The traditional Blackfeet culture did not involve the use of alcohol or drugs; but alcohol and drug abuse are a serious problem on the reservation today. The origins of alcohol abuse can be traced back to the middle of the nineteenth century. At that time the U.S. military and American and Canadian traders exchanged whiskey with the Blackfeet for tanned buffalo hides and beaver pelts that were in great demand. When the introduction of alcohol was coupled with other events—the loss of the buffalo, settlement on the reservation, outlawing of the traditional religion, introduction of smallpox, and appearance of the boarding schools—the result in the community was a depression and grieving for a way of life that no longer existed. The Blackfeet people gave up hope and this made them vulnerable to alcohol abuse. The effect of these events is still felt today—some tribal members are adrift and without a strong cultural identity.

In a 1999 *Great Falls Tribune* series on alcoholism on Montana reservations, a chemical dependency counselor for the Tribe acknowledged the effect of alcoholism on the Blackfeet.

Everyone on this reservation has been touched directly or indirectly by alcohol. In fact, most of us have relatives who are alcoholics, living on the street.

In the same article, the Blackfeet Police Chief summarized the revolving door that occurs when a community incarcerates alcoholics.

A lot of those people we've almost raised in this jail. Many of them spend the winter with us. . . . I don't believe [this one Browning resident] has ever spent more than 3 consecutive days outside of our jail.

One of his officers seconded the police chief's impression.

The jail is really just a revolving door for drunks. They get a bed and breakfast for a couple of days, then they either get a suspended sentence or they bond out for about \$40.

Although the Tribe does have a small (18-bed) in-patient chemical dependency treatment center on the reservation, its value is dwarfed by the enormity of the problem. Also, once a person reaches the stage of chemical dependency it is difficult for the person to stop on his or her own.

*Very few [become sober on their own], unless they have something to push them or guide them or something, it's very hard for them to do it on their own. For one reason, **it's because there is nothing here on the reservations but drinking.** - Team Member*

In 1997 the Blackfeet Tribal Court requested funding from the Drug Court Program Office (DCPO) of the U.S. Department of Justice (DOJ) to design an adult drug court program called the Alternative Court within the tribal judicial system to respond to the growing caseload of alcohol and drug offenses. Arraignments of offenders were scheduled for five months in the

future because of the size of the caseload. The Tribe was awarded a 1-year planning grant in 1997 and a 2-year implementation grant from June 1998 to May 2000. Their request for an enhancement grant in 2000 was not successful. The implementation grant funds were used for a full-time chemical dependency counselor who worked solely with the Alternative Court participants, after-hours compensation for the team members, supplies, and travel to trainings.

The Blackfeet used the term “Alternative Court” for their wellness court because it was an alternative to incarceration and they believed the term “drug court” connoted drug dealing.

*That’s why we changed our name to Alternative. They’re using the terminology now of “wellness”, and that just evolved in the last few years, **but we used “Alternative” when we planned our court because it was an alternative to jail, an alternative away from the whole system.** And so we left it at that, and then we changed it as time changed into “wellness”, because basically it was a wellness court. But the word “drug court”, yes, there was a stigma to it, that “I’m not a drug dealer.” - Team Member*

The Blackfeet Alternative Court served as a mentor tribal drug court to other tribes planning and implementing drug courts. They were one of the first tribal drug courts and their Alternative Court team was part of a small group of pioneers who helped adapt the state drug court model for tribal courts. Any evaluation of the implementation of their Alternative Court or its outcome needs to take into account the trial-and-error that occurs when uncharted territory is traveled. Unfortunately for the Blackfeet Alternative Court, circumstances converged to shut down the Alternative Court in its third year.

*The changes, **it was a learning process from the beginning to when we ended of how to change the due process, the contracts, our Policy and Procedures manual, how we worked with the clients, and we were evolving into a strong court until we had some problems with the higher ups.** - Team Member*

Blackfeet Alternative Court Evaluation

The Blackfeet Alternative Court enrolled its first participants in January 1998 and closed its doors in September 2000. The evaluation team made its first data collection site visit in July 2002 so it was not possible to observe the Alternative Court in operation. Instead, the evaluation team concentrated on case file reviews and interviews with the available former key players. Another site visit in March 2004 focused on the collection of participant post-program arrest data. Although this evaluation does include both process and outcome components, the timing of the evaluation lends itself more to a post-mortem analysis. What occurred during the implementation of the Alternative Court to cause its demise? What can other tribal courts planning a wellness court learn from the experience of the Blackfeet Alternative Court?

Process Evaluation

The monograph, *Tribal Healing to Wellness Courts—The Key Components*¹ [*Key Components*], defines a process evaluation as “information to describe and analyze how a program is operating or meeting its administrative and procedural goals and to identify problems or concerns in implementing a program.” The ten key components as detailed in the monograph provide the framework for this process evaluation. The *Key Components* describe the basic elements that define tribal drug courts or tribal healing to wellness courts and are adapted from the key components for state drug courts. The *Key Components* are meant to be aspirational and not intended as a checklist, but they do address the major components of wellness courts and suggest recommended practices acknowledging they may or may not be feasible for a particular tribe. The *Key Components* were prepared by the Tribal Law and Policy Institute (TLPI) with the collaboration and consultation of the Tribal Advisory Committee (TAC) for Tribal Healing to Wellness Courts.

Key Component #1

Tribal Healing to Wellness Courts bring together community healing resources with the tribal justice process, using a team approach to achieve the physical and spiritual healing of the participant and the well being of the community.

This key component focuses on the importance of the team in the success of the planning and implementation of the wellness court. Ideally, the wellness court team is comprised of representatives from across the reservation, including tribal elders and others who embody traditional values. The members must put aside any feelings of territoriality and collaborate as a team to integrate their respective skills and backgrounds to achieve a holistic approach to treating the participant with substance abuse problems. Regular communication among the team

members is crucial as well as stability of the core team. Memoranda of understanding and written procedures and policies help construct the infrastructure of this shared decision making. Also critical is interdisciplinary education for the team members so all learn a little bit about the other disciplines brought to bear on the problem.

What They Did

In 1997 the planning grant proposal was written by the presenting officer from the Blackfeet Family Court with assistance from the tribal court administrator. Although the planners recognized the need for a juvenile drug court on the reservation, they decided to implement an adult drug court first thinking it would be easier to implement.

We just figured it would be better or easier to get [an adult court] started because of confidentiality and all the privacy and what not [that juvenile drug courts require], that it would be easier to get an adult one started. We had planned on a juvenile one also. We still are. - Team Member

The Blackfeet team attended the required DCPO trainings in 1997 and 1998. The team that went to the first training in Stillwater, Oklahoma consisted of the future Alternative Court judge, the tribal court administrator who was also the first Alternative Court coordinator, prosecutor, public defender, court clerk, chemical dependency counselor, two representatives from law enforcement, and two tribal council members. The team also was able to observe the up-and-running state drug court in Missoula, Montana and ask the state staff questions.

Brenda Desmond in Missoula and Judge Larson, they would help you if you had a problem, they would talk to you. - Team Member

Blackfeet Alternative Court Evaluation

When the Blackfeet Alternative Court team came back from the trainings they were gung-ho on the drug court concept and believed they were ready to begin their program, even before they knew the funding for the implementation grant was secure.

*Why we started early is because we **already had the concept we wanted when we came back from our trainings.*** - Team Member

The judge, coordinator, public defender, and prosecutor started the Alternative Court one day in January 1998 by reviewing the arraignments for the next Monday and targeting ten potential participants. The public defender brought the offenders into court, explained the program, went over the contract with them, and asked if they wanted to participate in the Alternative Court. Three of the original ten targeted offenders agreed. These first participants started the program 1½ years before the implementation grant funds were disbursed to the Tribe. This meant the Alternative Court team volunteered their time at first and the Alternative Court staffing meetings and status hearings were held after the regular court day ended. Once the implementation grant was disbursed, the Alternative Court team members were paid extra for their after-hours work.

*We started before we even got funding, in January [1998], we didn't get the funding until September, October of the next year [1999]. . . . We felt it was something we could do and we chose to do it and got it done. **We did it after work, our normal 8 hours, people just stayed and donated their time because they believed in the concept.*** - Team Member

Later, a representative from the Blackfeet Community College who worked with the General Educational Development Credential (GED) students, a mental health counselor from the tribal Department of Mental Health, and the court's probation officer attended the staffing meetings.

*We had people come in from the college that **we sent in there so they'd know which ones were coming for their GED.** So, it worked out, a lot of community involvement.* - Team Member

Strengths

Committed Team at Beginning. Every team member interviewed mentioned the commitment and teamwork of the original team as a primary strength of the Alternative Court.

The strong points were the original team we had which was [the judge, the prosecutor, the coordinator, the chemical dependency counselor, and the presenting officer] and basically we worked really good together as a team.

I think our strongest point when we started was the team we had together. We had a very good team that worked real well together.

There was a real sense of caring and wanting to make a go of it.

When we went to all the different drug courts and did the team building, we were always able to be Number 1 and get all the free t-shirts and hats and stuff like that because we were a good team working together and everybody did work together really well.

It just went fantastic with the team we had at first.

The Alternative Court was every Tuesday and we never let a holiday get in our way. I was real proud of everyone that was in it because it was all volunteer, nobody got paid to do this, and they were real faithful about being here.

The team itself [was a strong point], we just kept it going.

I really didn't [have any concerns about the Alternative Court] because the staff we had here was willing to put the time in and make it work.

When we started it was all volunteer, after hours on our own time. We wouldn't get out of here until almost 7, 8 o'clock at night. It was a program that we thought that would

really work and succeed, so that's why we pushed on it so hard. Like I said, our team [was the strong point].

They worked as a team, very much so.

*Every one of us is not being paid, we're volunteering our time to this, I imagine some of the people it was part of their job, but a big percent of us didn't get paid, **it was something we wanted to do.** I think those are real strong points with the people involved, the personnel.*

*I think it was the team effort being the main thing, and with everyone cooperating, and we'd have disagreements on stuff, on different things, **just the way everybody cooperated** and I think that had to be the strongest part of the Blackfeet team.*

Concerned and Caring Team. Besides being committed to making the Alternative Court a success, the team members also cared about the participants and encouraged them on their journey to wellness.

*The team we had would really encourage them, **we would really push these people, and the majority of our team was hands-on with these people.** They could come in and talk to any one of us, and even when I was downtown, they would always stop and say, "Oh jeez, I did this and I'm doing that." We really encouraged them. **We really pushed encouragement and any type of help that we could with them,** we tried to do as much as we could, **but I myself thought it was our team that really got these people through it because we seemed concerned.** - Team Member*

***The staff just never quit caring and I think that was probably the best.** - Team Member*

*The staff and what they did for the clients, checking on them, . . . **but I would say that's just the strongest [point], was the caring of the staff.** - Team Member*

*The team that was there was a good team, **they were concerned.*** - Team Member

*I think the strong part of this court was the staff. **The staff that we had in the court were very dedicated and wanted it to succeed and fought for it to succeed.*** - Team Member

Weaknesses

Core Team Changes. Core team changes involving the Alternative Court judge and the tribal court administrator who was also the Alternative Court coordinator were two in a series of blows that cumulatively led to a decrease in team morale and the demise of the Alternative Court within 2½ years. The first blow was the loss of the original Alternative Court judge after a year. Luckily for the Alternative Court his replacement understood the drug court concept and the Alternative Court carried on. Unfortunately, the second Alternative Court judge resigned after approximately 8 months and was replaced by yet another judge who was new to the drug court concept and was perceived by the rest of the team as non-team player.

*When [the original judge] was in there and when [the second judge] was in there it was running smoothly. **As soon as [the tribal council] hired [the third judge], everything went downhill.*** This is my own opinion, this is how I feel. - Team Member

*I guess that was probably the biggest hurt, **the loss of the [the first and the second] judge, both.*** - Team Member

*Our judges were off and on. **To me it seemed like that's when a lot of what we were doing was going downhill because the way we had it set up it was more or less diplomatic where we would all vote on one thing, a democracy, then it turned out to be [the third judge] wanted to run the whole show.*** Everything that we did in our court was completely voted. We voted everybody who was in our program. When [the third judge] came in, a lot of the way we were running it was stopped. Our process was completely changed to where she said what could go and what couldn't go. **To me, it seemed like**

the whole team fell apart. We didn't last more than 4, 5 months, we didn't last very long after that. - Team Member

One Alternative Court graduate also remarked on the succession of judges.

Yeah, I didn't like that, okay, I thought it would be just one judge through the whole deal. We went through one, two, three, maybe four of them, and I don't think you get to know a person like that.

The second blow was a change in the tribal court administrator who doubled as the Alternative Court coordinator. This change also contributed to the decrease in team morale.

*We've gone through two court administrators since then and **they didn't like the program very well, they were both authority freaks.** It's a team effort when you have this wellness program and [the replacement] didn't play very well, [the replacement] liked to have the final say.* - Team Member

*That was one thing about [the original court administrator], is she always made sure that we were able to keep going, she kept up on everything, and at the end [the third judge] took her off. **And I think that was another one of our biggest hurts that we had was losing [the original court administrator].** . . . And the next thing [the Alternative Court] wasn't a priority anymore, kind of shoved back, we were just barely running by that time, it didn't last very long after we lost [the original court administrator].* - Team Member

*So, basically, my only concern is the **turnover of the higher ups.*** - Team Member

*We had our disagreements like any other professional staff do, but we always seemed to get it worked out **except for the court administrators and judges.*** - Team Member
*Our [replacement] court administrator did not believe in the team concept and everything she said was law, and **she did not play ball with us and she didn't play ball with Washington, D.C. and I think that's what shut us down.*** - Team Member

In addition, during the spring of 2000 the replacement court administrator stopped using the implementation grant funds to pay the team members for their after-hours work with the Alternative Court. Although the team members volunteered their time two years previously when morale and their commitment to the Alternative Court were high, they no longer felt that way.

*The rest of us met on the thing, and said “Hey, we’re not going to work after hours.” So, okay, we do it during hours. Well, everybody had an 8-hour job and you look at any one of the people there, they had an 8-hour job and if you’re going to then expect them to put this in besides the regular working hours, **you’re not going to get the quality of work you were getting before and that was one of the biggest problems I believe.** - Team Member*

No Tribal Leader or Elder on Team. There was no tribal leader or elder on the Alternative Court team. The addition of people in these positions might have benefited the Alternative Court in several ways. One, the addition of a tribal leader to the team, perhaps a tribal council member, would increase the exposure of the Alternative Court to the tribal council and the community at large. It might have made a difference when the Alternative Court had problems with the tribal council. Two, a tribal leader or tribal elder on the team could serve as a role model for the Alternative Court participants. Three, the Alternative Court’s probation officer later added traditional teachings to the participants’ required activities to address the integration of traditional healing and dispute resolution practices into the Alternative Court. The cultural component’s aim was to help the participants identify who they were, that in turn might help them spiritually battle substance abuse. It was thought when the participants became more involved with their traditional culture, their sense of connectedness and belonging to the

community would increase. The addition of one or more tribal elders to the team would have complemented and reinforced the probation officer's efforts at cultural integration.

Key Component #2

Participants enter the wellness court program through various referral points and legal procedures while protecting their due process rights.

This component is primarily concerned with protecting the due process rights of the offenders when they are being considered for, and considering, wellness court participation. Most people agree an offender is better off participating in wellness court and receiving treatment to help his substance abuse problem than doing jail time with no treatment. But the process that leads the offender down the path to wellness court rather than incarceration needs to safeguard the rights the offender is entitled to under tribal law and the Indian Civil Rights Act. Protection of due process rights is especially important in tribal courts that do not provide a public defender, however, the Blackfeet Alternative Court had access to a public defender. If the offender has the choice whether or not to enter wellness court, he needs to be fully cognizant as to what he is getting into, that is, give an informed consent. The offender should be advised as to the nature and purpose of the wellness court, the sanctions imposed when the rules are not followed, what rights the offender will give up, and in the true spirit of informed consent, what legal and treatment alternatives are available if the wellness court option is not chosen.

What They Did

Potential Alternative Court participants were usually people in jail being arraigned on an alcohol or drug-related offense. After discussion with the offender, the prosecutor and the public defender were the ones who recommended the offender to the Blackfeet Alternative Court at arraignment. No offender was recommended to Alternative Court without the offender's agreement. Some criminal defense attorneys requested their client be admitted into Alternative Court.

*[People asked to be admitted] a lot. Their defenders would talk to people a lot and then come over and **ask if they would be allowed to go into Alternative Court.** - Team Member*

The Alternative Court was a post-plea court; the defendant pled guilty and was sentenced, but then the Alternative Court judge issued an order for a deferred imposition of sentence conditioned upon successful completion of the Alternative Court. The defendant signed a Confidential Contract (the Alternative Court contract) and the public defender and prosecutor also signed. In the contract the participant agreed to:

- not use or possess alcoholic beverages or non-prescription drugs,
- maintain contact with the probation officer,
- attend activities as directed,
- submit to urinalyses, and
- appear in Alternative Court as directed.

A later amended Confidential Contract included the phrase "be responsible for all sanctions" to the participant's list of responsibilities.

The defendant also signed a Waiver of Rights form. The version used in Spring 2000 contained the following waivers:

- right to assistance of counsel, including a public defender,
- right to jury trial,
- right to present witnesses and cross-examine the prosecution's witnesses,
- right to remain silent,
- right to have the prosecution prove each element of the charge beyond a reasonable doubt, and
- right to appeal a conviction to the Appellate Court.

If the participant did not successfully complete Alternative Court, the participant then had to serve the deferred sentence. If the participant successfully graduated from the Alternative Court, the offense that led to being in Alternative Court was expunged from the criminal history record.

The responsibilities of the participants once in the Alternative Court were detailed in the *Policy and Procedures Manual*. These responsibilities included adhering to all requirements of the Alternative Court contract and individual treatment plan. The manual also listed in detail the sanctions assessed for each violation.

Yes, they knew what they were getting into when they came here. And we sat down when he was first accepted into drug court and explained the whole thing to him. The treatment guys would explain the thing again to him. There was no doubt they understood where they were at and what was going on. - Team Member

Strengths

Policies and Procedures Manual Used as Checklist. In the second year of the program, the Alternative Court started using the participant section of the *Policy and Procedures Manual*

as a checklist when advising the participants as to what was expected of them if they pled guilty and entered the Alternative Court.

*When we did our policies and procedures, it was changing all the time, one thing we discovered a year into it is that we started using our policies and procedures to the clients as a checklist. So they knew, prior to coming into the court, what their sanctions were and what they were required to do, **it was in black and white, so if they would look at the sanctions and say, "I don't think so, I'll take my chances in court," they wouldn't sign the contract.** That seemed to be working a lot better too. - Team Member*

*In the beginning, I guess I had some concerns [that the sanctions were too harsh], because I wanted to make sure we stayed within the due process, the legal concept of it. **And then as time went on, we discovered that giving the policies and procedures helped that process.** - Team Member*

Presence of Public Defender. The Blackfeet Tribal Court provides a public defender to criminal defendants even though a public defender is not required by the Indian Civil Rights Act. The tribal court usually had two public defenders on staff and one of them also served as the Alternative Court public defender. During the course of the Alternative Court there were three different public defenders. Having a public defender is a plus because when there is no public defender and the prosecutor is the gatekeeper of the wellness court there is a concern the due process rights of the offender are secondary.

According to the Blackfeet *Policy and Procedures Manual* it is the public defender's responsibility to make sure the defendant's due process rights are protected.

*The Defender will go over the Program **in depth to assure the participant has a complete and full understanding of the Wellness Court including the goals, requirements, sanctions and rewards.** The Defender will go over the contract in depth to*

assure the participant has a complete and full understanding of the document before signing.

One of the public defenders explained the contract signing process as he conducted it.

*Actually, the ones that I placed in there, I read the whole contract to them, I made them initial off on every paragraph of it, I didn't make them, I just told them before you initial this, you need to tell me what did I just read you? I want you to tell me back what I just told you. **If they didn't understand it, then they weren't going to tell me what I told them and so we would go in and break it down sentence by sentence and I would explain each part of that paragraph to them and then I would ask them to repeat it back to me, "What did I just tell you?"***

Weaknesses

Policy and Procedures Manual Not Approved by Resolution. On October 3, 1997 the Blackfeet Tribal Business Council passed Resolution 24-98 that “delegated the authority and responsibility to sign all documents necessary” to the Blackfeet Tribal Court in “implementing a Drug Court”. The Alternative Court interpreted this to mean they did not need to obtain additional approval for the *Policy and Procedures Manual*. The *Policy and Procedures Manual* stated the sanction for a fourth offense (for example, attendance violations, positive alcohol or drug tests, any violations of the law) included 24 hours in jail, a fifth offense was 48 hours in jail, a sixth offense was 72 hours in jail, a seventh offense was 5 days in jail, an eighth offense was 10 days in jail, and a ninth offense was 30 days in jail.

A local criminal defense attorney challenged the authority of the Alternative Court on behalf of his clients who were Alternative Court participants. He alleged their due process rights were violated because they were not properly advised before agreeing to participate, and once a

participant in Alternative Court, had their civil liberty rights violated because they could be sanctioned to jail without an evidentiary hearing.

*People weren't even given a chance to make an informed decision, consulting an independent counsel about whether opting-in to the drug court was a good thing or not. There were brought in at arraignment and told, "Oh, you're a candidate for the drug court, this will be great for you, I'm going to recommend you for the drug court, why don't you go along with that," and that was the end of it. **Before they knew it, they were in the drug court, and in trouble because they either shouldn't have been there or the rules weren't being applied correctly.***

*The bottom line is that individual people who have rights at stake are having their rights violated on a daily basis, **having their liberty taken away without due process.** . . . [one participant had] a violation, there's no evidentiary hearing whatsoever on a mere allegation that [the participant] was seen drinking in Cut Bank, by a person, not a staff member, that [the participant] was drinking. I don't care who brings it, it's still an allegation and until there's been some level of proof, I don't care what level of proof, **there's still some proof to be made.** . . . They arrest [the participant], no hearing, no evidentiary hearing, no show of cause hearing, and no anything, they order [the participant] jailed for 30 days. Period. - Community Member*

The Blackfeet Appellate Court opined on September 5, 2000 regarding the scope of Resolution 24-98. They ruled because the *Policy and Procedures Manual* had not been approved by the Blackfeet Tribal Business Council (the official name of the tribal council), the Alternative Court lacked jurisdiction over the defendant and all proceedings regarding the defendant were null and void.

*Because the term "implementing" is not defined in the resolution, we have to rule it does not include the imposing of sanctions in order to be consistent with the Constitution and the By-Laws of the Blackfeet Tribe. **This resolution did not give authority to the Blackfeet Alternative Court to fine or incarcerate defendants who participated in this***

*court. . . The Blackfeet Alternative Court has no inherent power to establish fines or incarceration without tribal council approval. This alternative court policy and procedure manual was never submitted to the Blackfeet Tribal Business Council for approval. **Approval by the Blackfeet Tribal Business Council is essential to protect the civil rights of all individuals.** . . . Although this Court feels that the Blackfeet Alternative Court is beneficial to members of the Blackfeet Tribe and should continue to assist these people, it cannot impose sanctions or penalties unless expressly authorized and approved by the Blackfeet Tribal Business Council. - Blackfeet Appellate Court Decision*

The Alternative Court did obtain approval by resolution for the *Policy and Procedures Manual* on December 19, 2001, but by that time the DCPO grants had ended and the Alternative Court was defunct.

Team members differ as to whether the due process challenge was a serious blow to the Alternative Court.

We were cleaning up our process to where, you know, we were able to handle it.

The council didn't really shut the court down, [the third judge] did. [The third judge] kind of ended things. The challenge wasn't successful, it just kind of went by the wayside, [the defense attorney] kind of just backed off of it. What happened was that he became a tribal attorney and he's saying now, "Anything what you want to do, just run it through here."

*The bad thing that happened was the appellate court here kind of did some decisions that I didn't agree with, **and kind of messed up the whole court***

Program Requirements Not Enforced. Wellness courts need to have a coordinated strategy for responding to instances of noncompliance. Compliance with the program requirements encompasses more than staying sober. Participants need to be held to conditions

stipulated for graduation, such as obtaining GEDs. The *Policy and Procedures Manual* stated “All participants who do not have a high school diploma or general equivalency diploma will be required to study for and obtain either one before graduation from Wellness Court.”

That was one of our requirements, if they didn't have their GED, step 1 was to get that GED or you're not going to go to step 2 until it was completed. - Team Member

A July 2002 review of the GED testing records at the Blackfeet Community College by the evaluation team showed this graduation requirement was not enforced. At least 17 of the 40 participants did not have a high school degree or GED when they entered the Alternative Court (two participants had unknown educational status). Only one of these 17 participants attempted the GED test while in the program according to the community college records. The one participant failed the test while he was in Phase I of the program and he did not attempt it again although he did graduate. A family member described the circumstances of the Alternative Court graduate who attempted the GED test.

*He was working on it, he did take the test though, the original test, he just didn't pass it. But he was in the program so long, they just graduated him and he done all the other requirements. So, I think that was the only thing remaining. **So, I think they just let him go.***

Another graduate passed the test the month after he completed the Alternative Court. Four of the participants who graduated without high school diplomas did not attempt the GED test while they were in the program according to the community college records.

Another program requirement not enforced was the payment of the \$10 weekly Alternative Court fee. Team members mentioned participants who were behind in paying the weekly fee were allowed to graduate.

Key Component #3

Eligible substance abuse offenders are identified early through legal and clinical screening for eligibility and are promptly placed in the Tribal Healing to Wellness Program.

One of the wellness court precepts is a critical window of opportunity to intervene exists following an arrest and the wellness court needs to act quickly to identify eligible potential participants. Eligibility screening includes both legal and clinical screening. Each individual wellness court decides what offenses are eligible within the restrictions that federal funding precludes participants who have a prior violent conviction. Clinical screening is usually performed by a trained intake officer or treatment provider to determine if the offender's treatment needs can be met by available treatment resources. Another crucial time is once an eligible participant is identified and agrees to enroll, the offender needs to go before the wellness court judge for an initial appearance and start active involvement in the wellness court immediately.

What They Did

The Alternative Court prosecutor was responsible for conducting the legal screening of the potential participant. This involved a review of the criminal history record for prior violent convictions and checking the offender's criminal history with the National Crime Information Center (NCIC). Offenders who had several prior convictions and were facing a significant amount of jail time were preferred over first-time offenders, but hardcore substance abusers usually were not accepted as participants because the team thought they would not benefit from the Alternative Court.

When we first started we didn't want hardcore people, our street people, people who had years of chemical abuse of one sort or another. We were trying to go for first or second

time offenders. People that had DUI or people we knew had a problem and hadn't faced it yet because we didn't want to set up to fail. A chronic person, unless you have a good 90-day, 6-month treatment, they're going to fail. They're just not able to do it. And so that's why our key was to utilize people we felt we could help get their kids back, get a job, get their life back on track. Somebody that wasn't hardcore, but needed some assistance on getting out of the system. - Team Member

It was difficult to tell for certain from the information in the Alternative Court case files, but it appears the potential participants were identified, screened, and had their first appearance before the judge in a timely fashion, certainly more promptly than the pre-Alternative Court 5-month delay to arraignment. Screening the participants was a trial-and-error experience for the team and they learned two hard lessons when they accepted non-chemically dependent drug dealers and a violent offender into the program. A wellness court program is for offenders who are chemically dependent; non-chemically dependent drug dealers do not benefit from a treatment-based program. Similarly, violent offenders have issues beyond the scope of a wellness program and are not allowed in a drug court under federal guidelines.

Table 1 shows the primary offense that brought the participant into Alternative Court. Almost half of the participants were charged with Criminal Possession of a Dangerous Drug. In most cases this was marijuana, but the notes in the case files also mentioned cocaine and crack cocaine possession. The second most common offense was Driving Under the Influence or DUI. Four offenders were charged with Sale of a Dangerous Drug.

Table 1. Primary Offense Bringing Participant into Alternative Court

PRIMARY OFFENSE	# PARTICIPANTS	% PARTICIPANTS
Criminal Possession of a Dangerous Drug	17	47%
Driving Under the Influence	7	19%
Sale of a Dangerous Drug	4	11%
Child Endangerment	3	8%
Criminal Possession of Drug Paraphernalia	2	6%
Minor in Possession	1	3%
Open Container	1	3%
Disorderly Conduct	1	3%
Missing Information	4	--
Total	40	100%

Originally the chemical dependency counselor conducted the chemical dependency assessment *after* the offender was accepted into the program. This procedure was changed after the Alternative Court accepted offenders who turned out not to be chemically dependent. The clinical assessment was conducted in a very timely manner because the Alternative Court had its own chemical dependency counselor who performed the assessments himself and did not send the participant over to the tribal treatment center where there was a long waiting list.

*It would be a problem if we depended on treatment on the hill, they get too swamped and our clients would be like anyone else and have to wait in line and not get their assessment timely. **But when we had [a chemical dependency counselor] here, boom, that assessment was done within a week of them signing up for the program.*** - Team Member

The chemical dependency counselor used the Substance Use Disorder Diagnosis Schedule (SUDDS) and Substance Abuse Screening Inventory (SASSI) assessments to provide a clear indication of the level of impairment caused by substance use. Table 2 shows the

diagnostic results for the 40 Alternative Court participants. The most common diagnosis was alcohol dependence with 32 or 82 percent of the participants being assessed as alcohol dependent. Almost half (18 or 45 percent) of the participants received the cannabis (marijuana) dependent diagnosis. When diagnoses combinations are looked at, 34 or 87 percent of the participants were diagnosed as dependent for alcohol, cannabis, cocaine, or amphetamine. More participants entered the Alternative Court on a drug charge than an alcohol charge, yet most of them were alcohol dependent.

Table 2. Substance Use Diagnoses of Alternative Court Participants

DIAGNOSIS	# PARTICIPANTS*	% PARTICIPANTS
Alcohol Abuse	3	8%
Alcohol Dependence	32	82%
Cannabis Abuse	3	8%
Cannabis Dependence	18	46%
Cocaine Abuse	2	5%
Cocaine Dependence	4	10%
Amphetamine Dependence	3	8%
No Substance Abuse, Dependence	2	5%
Missing	1	--

* The numbers total more than the 40 Alternative Court participants because a person can have more than one diagnosis, for example, be both alcohol-dependent and cannabis-dependent.

The high percentage of *dependence* compared to *abuse* is sobering. Although the term *substance abuse* is used in a general sense by lay people, psychologists distinguish between substance abuse and substance dependence. Substance dependence is a more serious condition than substance abuse. Abuse is usually defined as continued use in spite of negative consequences such as a decrease in school or job performance. When the problem of abuse is accompanied by evidence of physiological tolerance, withdrawal, or compulsive behavior, the

diagnosis of dependence should be used. Once an individual receives a dependence diagnosis, there is a zero to slight chance the person can successfully turn around on his own voluntarily and will need the assistance of others and treatment to achieve wellness.

After the legal and clinical screenings were completed the team at a staffing meeting reviewed the findings of the prosecutor and the chemical dependency counselor and voted on whether to accept the offender as a participant. As time went on the team members learned what characteristics to look for when assessing eligibility.

*If they were dependent then they'd be a good candidate, we would also check their record, and they couldn't have a violent felony conviction. If they weren't a drug dealer [we would accept them]. **And then a violent offender got accepted too, and we kinda got slammed over that.** But, it was mainly based on their record and whether or not they were dependent. It was either drugs or DUI if they had multiple charges that were alcohol or drug related, then they were a good candidate.*

*This is what we did in the original staffing of a new applicant, **we got everybody we could [to come to the staffing] because one of our rules was we had to look at the thing that there be no known drug dealer and [because previously] we ended up with a couple of those in there. That's why we had law enforcement and behavioral health [attend].***

*We kept it to the more serious crimes, like DUI or the third DUI because you have to have something, and I call it a hammer, over these people's heads. **If at most they're facing is 10 days [incarceration], you're not going to get them in here for a year.** No violent offenders, no domestic abuse, none of that. That was out. And I think the guidelines from NADCP (National Association of Drug Court Professionals) does say that. We tried to stay away from all that.*

*I think the staff kinda got scared because this one guy, we did vote that he not be in the program because he was a felon violent offender and, **I forgot how he got in, when we got reviewed, we got bad marks over him, so after that, they didn't want to take any***

violent offenders at all and that was hard because there aren't that many people around here that have records at all that don't have some kind of little assault, not really major, but something they did when they were drunk.

During the tenure of the first two judges, everyone on the team had one vote and no one person's vote counted more than any other. The final decision was made by the judge who went with the majority decision.

*It was great, with both the prosecutor and the defender on a team, **it was majority vote**, who got in and who got out, it wasn't the prosecution's call there. It was everyone's call, everyone on the team. It was really good.* - Team Member

*The team would go over his documentation and discuss the case with the group and **the group would make a determination if they thought this person would benefit from the Alternative Court.*** - Team Member

***We voted on everything, and everybody was a part of the whole process, nobody was excluded.** . . . I was still part of the vote, I was still part of the process.* - Team Member

Strength

Team Members Know Potential Participants. One strength of the Alternative Court is the team members know the potential participant, or know the family, and are able to make better decisions regarding the participant's admission and future success in the program.

[A strong point is] we're small, we know our community, we know the people within it. . . you know families, you might not know them by name. - Team Member

*Everybody knows everybody in the town. **They all knew the people who were going through the drug court, they knew their families, they knew where they came from, they knew their stories, knew what kind of childhoods they had had, just lots of growing up on a small reservation, general information.*** What I remember is that there

was a lot of good information and I don't ever remember an argument. I don't remember any arguing, no "This one can't go, this one can go." - Team Member

*We would sit in this office here, sit around the table, and discuss it, "Would this be a good person to be in this program?" Because like I said earlier, we know we're related to everybody. It's like a guy comes in and says "It's my first time drunk driving." The first time you got caught, **I know it's not your first time, I've seen it.** - Team Member*

Weaknesses

Drug Dealers Accepted into Alternative Court. Team members' comments were contradictory as to why non-chemically dependent drug dealers were accepted into the program; some said the assumption a drug dealer also was a drug user was a lack of substance abuse knowledge on the team's part, others stated there was pressure from relatives of the drug dealers who were on tribal council to accept them to avoid a jail sentence. It might have been a combination of both these reasons. In any event it was a hard lesson learned for the Alternative Court because the debacle hurt the credibility of the Alternative Court in the community.

*When we first started, it was a hit-and-miss type thing. And we ended up putting two drug dealers in here, what we were doing was getting their drug and alcohol assessment but we were meeting with them and accepting them and having them sign the contract, and then sending them up to get their assessment. **A major mistake. Their assessment came back and they weren't dependent.** So that kinda hurt. What we had done is that we had never thought about it because we were just starting up and really didn't think about it, and we went ahead and had them sign contracts for drug court because they were busted for dealers. . . . [It wasn't unusual to be charged with dealing] if they had over a certain amount [of drug in their possession], all were charged with dealing. It really never dawned on us [that they wouldn't be drug dependent]. - Team Member*

*One of the first mistakes we made when we first got started was that we put a known drug dealer in our program, and that did not work, and she ended up getting busted again and is now in federal prison. **That was a mistake, we were kind of forced into it by the council, forced into taking her.** The council dictates everything on the reservation. They [Alternative Court] already accepted her before I knew she was in the court. Our guidelines said no drug dealers. **It caused some hard feelings among other people on the reservation that we took her in there.** - Team Member*

*That was one other thing that we had a problem with, **a couple of drug dealers slipped by** and I didn't like that. I thought it should be more up to the prosecutor and it really wasn't, it was up to the team who they accepted at that time, then it changed to just the prosecutor and I thought that was better because I don't know why they were accepted and they shouldn't have been and **then we got in trouble over it later.** - Team Member*

*Yeah, [the team voted against taking them], **but we were sort of coerced** I guess and we did take them in. As I said, that was one time where by doing it then we ended up having to take some other drug dealers in that we shouldn't have. - Team Member*

***Make sure you have a screening process set up that really works, so you don't make the mistakes that we made with the drug dealers.** There's a lot of difference between dealers and users. I think the screening process could have been better in having a little more knowledge and a little more training in that area, in what to look for, what problems you're going to run into, how to deal with them, rather than just going like trial-and-error type. - Team Member*

Alternative Court Used to Avoid Incarceration. Offender who chose Alternative Court over incarceration might have spent more time in Alternative Court than they would have served in jail. Alternative Court activities, especially in Phase I, take a huge commitment of time from a week already full with work, school, and family. Some offenders realized this upfront and chose to serve jail time rather than participate in Alternative Court.

A lot of clients after they'd seen [the Policy and Procedures Manual] decided that [Alternative Court] wasn't the way they wanted to go. Those are the ones who didn't want help. - Team Member

But, the Alternative Court option often was chosen by an alcohol or drug offender. A former participant who was terminated from the court and has a lengthy post-program arrest record discussed his reason for choosing the Alternative Court.

They found some marijuana on me, possession of marijuana, so I made a deal with them, instead of jail, I signed up for a year in drug court. . . . It was just to get out of jail. . . . [I'm happy with my decision to participate in the Alternative Court] because it let me get out of jail.

Although to say someone “chooses” to participate in Alternative Court is a bit disingenuous because the other choice was usually incarceration, or incarceration and a large fine.

For most of their charges, they were looking at quite a bit of time in jail if they were found guilty. - Team Member

Of course, in a sense, it is a forced type of situation because the people are maybe looking at a year and a \$5000 fine, but that kinda motivates people to do things too. But I think in the end a lot of them realized that was not part of it, they accepted what was going on. . . . On some of them, we could see the resistance right off. “I'm just here because otherwise I'm going to go to jail if I don't do this.” But after awhile they realized that we were doing something for them. - Team Member

A problem in using Alternative Court as a “Get out of Jail Free Card” is it fills the court with participants who may not be committed to changing their behavior.

Key Component #4

Tribal Healing to Wellness Programs provide access to holistic, structured and phased, substance abuse treatment and rehabilitation services that incorporate culture and tradition.

This key component specifies the type of treatment to be administered in the tribal wellness court—holistic, structured, phased, and incorporating the culture and tradition of the tribe. This is a tall order. Treatment was probably the weakest component in three of the four tribal wellness courts evaluated in this study. And treatment is probably one of the most crucial components in a treatment-based wellness court. Treatment issues include the lack or shortage of trained drug and alcohol counselors and mental health professionals on the reservation, lack of regularity of activities such as parenting or cultural classes due to the changing availability of funding and instructors, the inapplicability of much of the Alcoholics Anonymous (AA) and other 12-Step materials to the reservation, unfamiliarity with treatment options by the team members, and most importantly for the tribal wellness courts evaluated, a tribal justice system based on the state court model rather than traditional methods of dispute resolution. All four tribal wellness courts in this evaluation are in communities where many members do not practice the traditional ways. All four tribal wellness courts had to make an immense effort to bring a cultural component to their wellness court.

What They Did

The *Policy and Procedures Manual* of the Blackfeet Alternative Court's program stated there were three treatment phases of approximately four months each. To advance to the next phase the participant needed to attend all activities and treatment, attend court hearings (weekly in Phase I, bimonthly in Phase II, and monthly in Phase III), and have 15 weeks of negative drug

tests. All participants were required to attend one weekly AA or Narcotics Anonymous (NA) meeting per week. Proof of attendance was a signed attendance slip that was given to the court at the next status hearing. The *Manual* also mandated all participants attend one weekly group counseling session and individual counseling as determined by the treatment provider. The chemical dependency counselor stated in an interview he provided one-on-one counseling at least weekly to the participants in addition to the group counseling.

A review of the case files showed a fourth phase was added during the second year. The dates for phase advancement were missing from the majority of the case files, but the data available show graduates spent an average of 53 to 54 weeks in the program. The amount of time in each phase was variable and some participants were advanced faster than the schedule in the *Policy and Procedures Manual* (see Table 3). A few participants spent as little as 3 to 4 weeks in a phase. More information on the length of time spent in the program is in the Outcome Evaluation: Participant and Program Characteristics section.

Table 3. Days in Program by Phase for Graduates

PHASE	# PARTICIPANTS	MEAN	MEDIAN	MINIMUM	MAXIMUM
I	11	138	126	27	273
II	9	86	70	56	168
III	4	76	59	19	175
IV	5	74	69	52	105

The Blackfeet Alternative Court had a strong counseling and treatment program in place. The court had its own chemical dependency counselor, a 28-day residential treatment center on the reservation, a long-term treatment center specializing in families, access to a licensed psychotherapist at the treatment center who attended staffing meetings, limited access to a Ph.D. psychologist at the tribal Department of Behavioral Health on a case-by-case referral basis, and

during the last year of the program a probation officer who practiced the traditional ways and shared his knowledge with the participants.

*We have our own treatment center, so they're funded to rehabilitate our people. So we don't have to pay for that, it's there, it's done. And when we wrote the grant we knew that, and that's why we went for adult because we had our treatment center already here and able to utilize it. **It was already up and running and ready to go so we didn't have to find a provider somewhere out there and pay them for each client because we already had it here.** - Team Member*

In wellness courts it is important to clinically assess participants for any psychological problems, for example depression or bipolar syndrome, they might have in addition to their substance abuse or dependency problem. The combination of a psychological problem and a substance abuse or dependency problem is termed *dual diagnosis*. Mental health assessments were not done routinely in the Alternative Court because of lack of staff resources but there was an attempt to diagnose participants with mental health problems.

*[The tribal licensed psychotherapist] would come to our meetings, we'd have staffing every week, and she'd try to get here every week, but she was here at least every two weeks and **that's when we started doing the dual-diagnosis because a lot of our clients were there.** And she would schedule a lot of the behavioral healths with them because they work closely with the treatment center up here anyway. They were supportive. - Team Member*

*But, as far as having mental health involved, we tried to have [a Ph.D. psychologist in the tribal Department of Behavioral Health] involved and he was kind of hit-and-miss, and he didn't have time to come down there and **getting somebody to have a mental health evaluation or an anger eval at mental health is almost impossible because they're so backed up.** . . . We had a good working relationship with mental health*

([Behavioral Health] up there. [The Ph.D. psychologist's] boss, whoever that was, kinda put the brakes to him and said he was spending too much time with us. - Team Member

The Blackfeet reservation had two residential treatment facilities on the reservation available to the Alternative Court participants during the time of the program—a 28-day in-patient clinic with 18 beds, the Blackfeet Chemical Dependency Program (BCDP), and a year-long transitional residential program for mothers and children, the Pikuni Family Treatment Center. The Alternative Court's chemical dependency counselor referred participants to the BCDP if he thought they needed treatment. There was missing information in many of the case files, but at least 19 of the 40 participants attended in-patient treatment at some point during their time in the program (see Table 4). The chemical dependency counselor estimated at least 50 percent of the participants attended in-patient treatment and that agrees with the case file information. The majority of the 19 participants attended the 28-day residential treatment at the BCDP.

Table 4. In-Patient Treatment Used by Alternative Court Participants

TYPE OF TREATMENT	# PARTICIPANTS
Blackfeet Chemical Dependency Program	11
Pikuni Family Treatment Center	1
Blackfeet Chemical Dependency Program and Pikuni Family Treatment Center	2
Other Off-Reservation In-Patient	5
Total	19

It is not clear from a review of the case files how many participants were offered parenting, anger management, job training, or other life skills classes besides the GED as part of

their Alternative Court required activities. In one participant's file there were certificates for two Head Start programs: Family Activities and Parents Helping Parents.

Strengths

Exclusive Full-Time Chemical Dependency Counselor. The Alternative Court was very fortunate in having a full-time chemical dependency counselor on the team who could devote all his time to the participants. He was a tribal member who was with the program from the beginning to the end and also acted as the case manager. His knowledge of the BCDP treatment program proved to be invaluable to the court. One of the barriers to getting a patient into the BCDP was the wait to be clinically assessed by the BCDP treatment staff. The Alternative Court chemical dependency counselor conducted the clinical assessments himself and expedited the process to obtain a bed date for the participant. The fact the chemical dependency counselor was housed in the courthouse helped to tie together the justice and treatment aspects of the Alternative Court.

*[The chemical dependency counselor] worked for [the BCDP] when we wrote this grant so we had him come as part of our team. **When we were funded, he came and worked for us full time. He worked for the court strictly, he was here 8 hours a day.** [He] was very thorough, he had good case management for his clients, we have a lot of them over 30, but we tried to keep them on track and he was really good with them because not only could he do the case management, but he also had one-on-one and group counseling sessions with them. And then he would go up to the treatment center and do group [with the participants]. - Team Member*

*I asked [the BCDP counselors] if the drug court had been beneficial, and every one of them said they thought it was very beneficial to the people who came through treatment and completed aftercare. The people that we saw that came through the treatment program, we've only seen two of those return here. It was a very thorough, again, from the start, it was a very thorough process and **I have to give [the chemical dependency***

counselor] a great deal of credit for that because he would often, in order to expedite them getting in [BCDP], he knew how this program worked because he had worked here for years, he was qualified, and he would do the assessments to help get these people in quicker. While they were in here, he would get a report on them, he would check on them during their 28 or 30 days, he followed them through aftercare, checked with the counselor, made sure they were coming, made sure they were being cooperative or what their attitude was in a report and he would do that several times during their aftercare and then of course cycling them back to the alternative drug program. - Team Member

I think a lot of credit has to go to [the chemical dependency counselor]. He really kept connected, to me, he was the glue that kept the whole continuum of services going. - Team Member

We had a really good treatment provider. He would take these people, and he seen them struggling, he would just take them under his wing, and he'd just take them through it, he was really good with them. - Team Member

And I'd say the strongest person there was [the chemical dependency counselor], he was very good. He knew the kids personally, but also on the basis of whether they were drug using or not, he knew them well enough to know when he was getting a good snow job. So, we definitely had all this coming in to help us make our decisions. - Team Member

One of the participants interviewed also mentioned the support she received from the chemical dependency counselor.

I had one of the counselors [for support] in the Alternative Court and he was a very good help to me. . . . I just told him, I'm going to drink, and he would help, talk me out of it, or if I had already used, I told him that I did and he'd work around me.

Culture Integrated into Alternative Court. A principle of tribal wellness court philosophy is the integration of the traditional ways of healing to help fill the spiritual void the participant is now filling with drugs and alcohol. One of the Blackfeet community members talked about the return of the Last Star thunder bundle to the Tribe in a July 2002 *Great Falls Tribune* article and captured the essence of the reason for integrating culture into the Alternative Court.

When you look at the problems affecting our people, it's mainly alcohol and drugs. . . .
Why is that? Because a loss of a sense of purpose. *[The thunder bundle] gives us purpose. These are powerful objects that we pray with and they get their power from those who have prayed with them before us.*

At first the Alternative Court did not include cultural activities although the graduation ceremony often included traditional aspects. A probation officer was hired during the program's last year and he not only practiced the traditional ways himself but he had a background in teaching cultural aspects to troubled Native American youth. His work with native peoples had shown him a loss of cultural identity, that is, not knowing what it means to be a member of a particular tribe, is present in 90 percent of Native Americans who use and abuse drugs and alcohol and is the main problem today in dealing with substance abuse. He believed the mainstream media plays a major role in this loss of identity by influencing both juveniles and adults. To combat the loss of cultural identity, he developed and taught a cultural component for the Alternative Court in addition to his regular probation caseload.

He was careful not to interfere with the participants' religious beliefs. If there was a conflict between the traditional teachings and the participant's religion, the person did not have to participate in the ceremony, but they still had to learn about the ceremony. He described what he did.

First I gave them a cultural identity assessment and then I went over that with them and pinpointed their needs. **I think 90 percent of them scored out on the cultural identity assessment as knowing that they're a Native, but knowing nothing about being who they really were, so they're in cultural identity crisis right there. So, we worked on issues surrounding that: language, religion, social structure, social bonding in native ways and feeling.** I made [the cultural identity assessment] myself. This breaks it down into language, everyday life. It could either be a self-report or an interview, sometimes I send it home with them, so they can really think about it and sometimes we go over it one-on-one cause a lot of people just don't understand what I'm trying to get at.

Yeah, in the years I've been doing this, I believe strongly that Native Americans' major downfall is their [lack of] cultural identity. **When they don't have that they just fall apart because our whole society is based on family, how you interact socially, culturally. If you don't have that, you go out and find it in other ways.** I think on most reservations it's alcohol and drugs.

I handled all the cultural aspects of the treatment, **meaning one-on-one counseling, group counseling, explaining traditional healing services: sweat lodge, fasting, Sun Dance, things of that nature.**

He also instructed one of the participants in the Sun Dance ceremony, the most important of the summer ceremonies whose purpose is to come into contact with the spirit world and ask for help, such as help in healing. This participant changed his life around.

There was only one client that prepared himself for Sun Dance because that was something that is not for everyone, **it's very, very, very hard.** I walked him through the fasting part of it and the Sun Dance. You know, that was his responsibility to go to a Sun Dance, whichever one, here, Canada, there's a lot of tribes. I believe he did it. He was a really high risk at the beginning of the program. He was a challenge. He liked to party, a young 18-year old. He liked to fight, he turned out to be a very good success. **He**

turned his life around, went into the military, and he's doing good. Never seen him in arraignments never again.

The other team members saw the value of making the traditional ways a part of the Alternative Court.

*[The probation officer] did sweats with them. **Basically, he ended up kinda being a spiritual advisor to them which I think culturally is very appropriate.***

*If he felt like somebody needed it a little bit more than the others ones did, then he would take them through their special needs or whatever. He's into a lot of the tradition and he's really traditionalist, and he would take and cure them, well not cure them, but take them up into ceremonies, or sweats, **and to me they knew that he was right there to help them all the time.***

*He had all the Alternative Court people plus his own caseload, but yet he still would take time, that's what I thought was so good about him, he would take time with these people. **It was never too much for him.***

*[A strong point was the probation officer] and his traditional ways **he really helped out a lot of the people because he brought a lot of them back to the traditional, like with the sweats, fasting, he would take them up and he'd fast for 4, 5 days or however long it takes. He was teaching them how we do it.***

*[The participants] liked it because you know, **like right now our biggest problem is that we don't know our traditional ways, we know a very small portion of it** and like with [him], he was really traditional, he knows quite a bit about things. It was interesting to the younger clients, because to me they were thinking like "Hey, this is really interesting to me." He did really good and he's really hands-on with these people all the time.*

*[The probation officer] did a lot of sweating with them and he taught them a lot of our old ways. He'd go out and show them roots and **traditional stuff they didn't normally get at home or wouldn't get, or didn't take the opportunity to get.***

*I think [the cultural component] is great. **Most of these kids up there have no idea about cultural.** This is something new because when I was a kid living on the reservation, the last thing you ever wanted to do was be an Indian and do culture stuff, it's just been the last 20 years. [The probation officer] does a good job.*

Those Alternative Court participants who attended the in-patient treatment at BCDP also were exposed to a cultural program there.

*Our program here at the treatment center is based on a Native American 12-Step program because we integrate the cultural, spiritual. For example, we do the sweats as part of the 28 days. We have a cultural counselor, he's just been brought on board. The cultural aspect was here when the Alternative Court people came through. We've always had the cultural spiritual aspect involved in this program. There's no book, we don't write it down. **Going to sweats, the talking circle where you just form a circle, you pass the feather, and whoever has the feather has the floor and does the talking, and it goes all the way around. Some places use an eagle feather, some use a talking stick, some places don't use anything, it could be a rock, or it could be nothing.** The smoking, smudging, the meditation, prayers. - Team Member.*

The Alternative Court graduation ceremonies often had traditional aspects including the gift of a Pendleton blanket and the very great honor of having Society members from the Tribe sing an Honor Song to the graduate.

*We had some council members, they were Society members, and what I mean by Society is in the early times in the Blackfeet they had different groups within the Tribe, and **they would come and sing an Honor Song and we always had them come in and sing if the graduate wanted it.** . . . We always left it up to them, we didn't want to push something*

*they didn't want, especially because maybe they didn't want people to know they were in [the Alternative Court], or something. . . . Most of them chose it, and [the Society members] would sing an Honor Song and then we would give them a blanket. . . . It was a big deal. . . . [An Honor Song is] in our native tongue, and it's **a song honoring them for achieving something that is positive and good in their life.** . . . So, there is a big pride for that, it's a little of bringing back the cultural into this program. - Team Member*

Pikuni Family Treatment Center. In addition to the BCDP, the Tribe for 5 years had a long-term (up to a year) residential treatment center on the reservation—the Pikuni Family Treatment Center—where mothers and their children lived together. According to a review of the case files, at least three participants went to the Pikuni Family Treatment Center while they were in Alternative Court and at least two participants went after they left Alternative Court. One participant described her stay there after she was terminated from the Alternative Court.

*At Pikuni, there really wasn't much one-on-ones, **but it was being with your kids and all the activities we did and it was more spiritual [than the BCDP].** Yeah, you went on trips to pick herbs, medicines. . . . Thank God I wasn't in jail when I was expelled, **thank God I got a chance to go to Pikuni.***

Weaknesses

No Family Involvement in Treatment. The participant's family could have been more involved in the Alternative Court, especially the treatment component. Not only would the family be more able to support the participant during the program, but also afterwards when the graduate is reconnecting with the community. One team member commented the families were not involved because of confidentiality reasons.

***The family wasn't really [involved] because it was really confidential,** what the client was going through and some families would try and come in and sit in the courtroom and*

they weren't allowed to because there are other clients in there and their treatment plan is just between us and them.

The confidentiality rules in wellness courts are confusing because a wellness court is an intersection of two disparate worlds—the court, where all (non-juvenile) proceedings are in the open and treatment, where counselor-patient confidentiality is the norm. However, confidentiality is not a reason to exclude family from treatment. There can be family counseling sessions where the family is considered the patient and there is no legal or ethical problem with disclosing confidential information. And, involving the family in treatment does not necessarily mean they would be allowed to attend court. Although most state drug courts do allow family and friends and the general public in the courtroom during the weekly hearings, a tribal wellness court may decide it is not in the best interests of the participants to do so because of the lack of anonymity in a tribal community.

Most of the team members commented that it would be good to involve the immediate family more in treatment, recognizing often other family members also have a drug or alcohol problem. Involving the family also helps the family to support the participant after he or she leaves the Alternative Court.

*We really didn't have family involvement, we did not have a family program which is something we should have had. Yeah, I'm not sure how that was, but we just did not have a family component. **To me, the family is the most important part, if you can get them in, get them changed.** Over here in Browning, 95 percent of the families drink and they really don't want to see much of a change either. I've had family members, I had their loved one in there, that would stop and say hello, but they're doing drugs. - Team Member*

*[The family was] not too involved, unless they were immediate, like somebody's husband was in here, their wife would be here supporting them. Outside of that, the family around them wasn't involved. Well, like I said, we really never planned it to be any certain way because we were just going by trial-and-error. **I think that it would help if you did have more family members involved because this drinking, or drugs, it doesn't just affect the one person, it's affecting all of them.*** - Team Member

*You know, **I think getting the family involved for the adult court would be a good idea, get the wife, the husband involved in it too.*** - Community Member

*I think that would be a good idea for both [the husband and wife] to become involved and **go through it together.*** - Participant

Lack of Organized Aftercare. Although the last phase of the wellness court before graduation is sometimes called the aftercare phase, when people speak of aftercare they usually mean a structured program after in-patient treatment or graduation from wellness court that lasts for several months or more. The team members commented on the lack of post-program, or aftercare, services for the participants.

*My main concern was, **what do we do with these people after this year?***

*At the time we started this up, I didn't know anything about it, **I think you cannot just cut them loose, their year's up, go back home, do what you were doing, and that's what's happening.** I don't know how you would go about getting more help for them, or some help. I don't know, it's a problem because nothing changes here.*

The Alternative Court did allow participants who had graduated to come back to the court if the participant needed support.

And another thing, I guess that was good, and it really surprised me is we've actually, there's actually people who graduated that came back to the program every week, or

*once a month, twice a month and sat in on a session, sat in on the court things, **they were always welcomed back. They were told, “If you have problems, don’t be afraid to call us, don’t be afraid to come in here, we’ll help you out however we can.” and there was a lot of people that actually did that. They’d say, “Hey, I’m kinda sliding or so-and-so’s coming and trying to get me to do something with them. Can I come back for a while?” They’d come in and visit, there was people that actually come to our office and visited us, you’d actually see them work the court, the prosecutor, defender, the clerks.** - Team Member*

The post-Alternative Court time can be difficult for the participant if there is a lack of support for sobriety in the family or community. Usually the participant cannot be court ordered to attend aftercare activities because he or she no longer is under the court’s jurisdiction. Thus, it is important to encourage the participant to take advantage of the support activities available in the community. For example, there are several different AA meetings in the area, on and off the reservation. Also, the graduates, perhaps with logistical assistance from the court, can develop a support network themselves through an alumni group or other informal get-togethers.

Key Component #5

Participants are monitored through intensive supervision that includes frequent and random testing for alcohol and other substances.

Monitoring in a wellness court usually includes a weekly sign-in, curfew checks, and frequent and random testing for alcohol and narcotics. Drug testing plays an integral role in the wellness court because it provides a reliable method for measuring the participant’s progress toward sobriety. Ideally a wellness court program has a probation officer of each gender whose full-time responsibility is the wellness court participants. Tribal resources do not usually allow that and there is usually one probation officer with law enforcement officers covering the gaps. A positive test result leads to a sanction at the weekly court hearing.

What They Did

Both alcohol and drugs are a serious problem on the reservation. Alcohol possession, consumption, and sales are legal on the reservation for people over 21 years, but there is an open container law that prohibits consumption on a public street, sidewalk, alley, highway, or public park. Although alcohol abuse is a longstanding chronic problem on the reservation, drugs have made a significant inroad. The Tribe's relatively isolated location did not protect them from hard drugs.

*Major problems. I think from what I'm seeing now here, is that we're seeing a lot more people with drugs coming through lately and **it's not this little baby marijuana, or this joint anymore, it's big amounts of marijuana, of cocaine, of methamphetamines, you name it, it's here.** - Team Member*

*We're finding, it's sad to say, that meth has finally reached its capacity here. We've actually had a few meth labs blow up in the last couple years. **But, alcohol has always been a problem here, but it's been more so with drugs now.** - Team Member*

***Marijuana is a drug of choice because it's cheap. But, now we're finding meth is a lot more here than cocaine.** Cocaine, for a couple years, was really marketed here, but now it's moved toward meth. And with the two of them together, it's just tremendous what these guys will do. **So, alcohol has been chronic for ages here, since I can remember, and then along with drugs, it just makes people more crazy.** - Team Member*

***We've had some major sting operations come through, they always say, the comment here is, we're main trafficking into Canada for any of your narcotics and we've had a couple major stings where there have been 35 to 40 drug dealers in the last couple years.** - Team Member*

The monitoring and supervision of the Alternative Court participants was performed by the Family Court presenting officer during the first 1½ years and by the Tribe's probation officer during the last year of the program. Their duties consisted of administering the drug tests and checking in on the participants. The *Policy and Procedures Manual* called for two drug tests a week but the cost of the tests led the Alternative Court to test weekly. In those files with drug test information it appeared the frequency of testing was on a weekly basis for some participants throughout the program, but less frequently for others. Drug testing did not appear to be random because the participants were tested on Tuesdays before the Alternative Court hearing, but a weekend test was possible. Six of the 17 participants who had post-Phase I drug test information in the case file had a positive drug test after Phase I.

We did a lot of [drug tests] because the problem being if you're not going to test the folks, then you're going to have to go on their word. And of course, just like the people we have in prison, their word sometimes isn't as good as it could be. - Team Member

We couldn't [charge them for a positive test result] because they didn't have any money. We would have gladly if they did, I know that's one of the things that the state courts did that really would help their funding. I think there's no way on a reservation that you can make [a wellness court] self-sufficient by the funds you're going to fine. - Team Member

[Drug tests were] maybe 1 to 2 times a week and then they could catch you on a weekend. . . . They would mention that a possible visitor was coming this weekend. - Participant

The probation officer also did checks on the participants in the community with assistance from law enforcement.

*I know the monitoring was great, [the probation officer] was integral to that. The monitoring process was great, **they went out there in the field**, we had cases, we had people who were trying to get around the system, were able to get around the system. **People finally realized that this court meant business and we're here to help you, we're not here to put you away.** - Team Member*

Only a few participants were available to be interviewed and they held diametrically opposed views on the supervision. One of the participants stated the Alternative Court enlisted the Law and Order Committee members to check up on the participants and felt “stalked by the program.”

*I didn't like that people were being watched. . . . The community watched you. **They had their own members out there, the team, I felt like your personal rights were being violated by being stalked by the program.** . . . They were the Alternative Court Law and Order Committee people, they must have been hired through the Alternative Court because I've had people come up to me and tell me we had to drive by your house once a week to make sure you weren't drinking. . . . [The probation officer would] come once in a while, but they had people out there watching us, that we didn't know they were watching us. . . . **They drove by my house—8 hours. They had police officers drive by our house.** But you know they never walked in the house. . . . Then I learned the other lady that lived down the street was on the Law and Order Committee and would do random drive bys to see if there were people in the house drinking or people outside drinking.*

Another participant wanted more supervision and complained about the lack of house visits by probation and would change that aspect of the Alternative Court.

*Well, one thing [I would change about the Alternative Court], house visits, just a surprise house visit. . . . **Yes, definitely [more house visits].** They said up and down we're going to pay you a visit, and never did, not once.*

Strength

Monitoring as Structure and Accountability in Participants' Lives. People who have substance abuse problems often do not have a great deal of structure in their life; they may not have jobs or attend school. The drugs or alcohol may have taken over their life. The Alternative Court program gave structure to their life by making them, and no one else, accountable for contacting the probation officer, having a negative drug test, and coming to court every week. And, if they failed in their responsibilities, there was a consequence. The team members saw this structure as a primary strength of the Alternative Court.

*The other thing was, Native Americans do very well with structure. . . . And I'm primarily talking about people with addictive personalities. The lack of structure with addiction, **they have a real tendency to relapse and the drug court provided a continuum of structure.** . . . There was such a structure with the drug court program and the treatment program, aftercare, they had different levels they had to achieve, **the consequences for violating their conditions.***

The strong point was that it made people responsible for their actions, they had to stay in contact with [the chemical dependency counselor] and [the probation officer], weekly contact with [them], and some of [the participants] had to do weekly contact with the judge.

*And then when they first start in the court, you cannot expect them to be clean (free of drugs or alcohol), I mean it's just out of the question. But then you start seeing their tests come in and it's clean. **I think a strong point is that we're meeting with them in a court setting, once a week.***

Structure, it's very structured.** . . . The clients didn't like it sometimes, but you know, it's a consequence when you screw up, you pay the penalty. **I think it really made the client accountable for their actions, it put the ball in their hands, they had no one to blame if

they screwed up, it wasn't the court setting them up or anything like that. Everything was left in their hands, their responsibility, and that really helped out a lot.

Just the fact that we were able to keep track of the people more, we had more contact and more tracking of the probation requirements, that's what I really liked.

A participant also recognized the effect the monitoring and supervision of the Alternative Court had on her and her journey to wellness.

[The Alternative Court] made me grow up a little and realize, you know, what I could lose, the program did teach me to have consequences, tough consequences. . . . [My stomach would turn on Tuesday morning] because I knew I was guilty of using that week. And there were days I was happy because I knew I didn't use and it was working good for me and I liked to come to court and tell them how good I was doing, so it was really a rollercoaster for me.

Another participant seemed to crave the structure the AA meetings gave to his day.

Yeah, once you get into [the AA meetings], I liked them. I used to go to two a day. A noon one and a 7:30 one, every day.

In addition, team members saw the monitoring and supervision aspects of the Alternative Court as a factor in a participant's successful completion of treatment and the program.

*The way the court held the clients accountable [was a strength of the Alternative Court], the whole process of following through a person from their entrance to the very end. **The monitoring of those people, and then the successful graduation from that program, I think those were some of the real strong points that I view.***

*Follow-through [was a strength of the Alternative Court], **we had a lot of stronger follow-through with the whole circle.** They would start at the drug court, they were followed through treatment. Like [the chemical dependency counselor], during their*

*treatment, he would come up two or three times during their 28, 30 days of treatment and see how they were progressing, see how they were coming along, if they were compliant with treatment. **And then we had naturally more [participants] complete than walking out, and when they did complete treatment, those people stayed in aftercare which is a 12 week program here, and you don't complete treatment until you complete aftercare. . . . And where we have failure in treatment is people will complete their 28, 30 days of treatment, but they don't complete their aftercare and we had more people completing who were drug court people because they were followed. [The chemical dependency counselor] would follow them through aftercare. So, we had a higher completion rate with drug court [participants].***

Key Component #6

Progressive consequences (or sanctions) and rewards (or incentives) are used to encourage participant compliance with program requirements.

The focus of this key component is to emphasize the journey toward wellness is marked by advances and setbacks that need to be rewarded or sanctioned. Achieving wellness is a learning experience that is enhanced when a step forward in reducing substance abuse (compliance with program requirements) is rewarded and a step backward (noncompliance with program requirements) is sanctioned. The *Key Components* recommend the reporting process for noncompliance should be clearly spelled out in the wellness court's policies and procedures. The responses to compliance and noncompliance, or the incentives and sanctions, should be explained verbally and in writing to the participants. Incentives and sanctions should vary in intensity according to the degree of compliance and noncompliance.

What They Did

The *Policy and Procedures Manual* detailed the sanctions and incentives for the participants. Sanctions for noncompliance with program requirements included:

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- fines from \$10 to \$50,
- making-up the missed activity,
- community service ranging from 5 hours to 70 hours,
- jail time ranging from 24 hours to 30 days,
- being set back from 1 week to 6 weeks in phase progression,
- 1 to 3 page written reports on different topics, and
- the ultimate sanction of being terminated from the Alternative Court and serving the original sentence.

Case file information is incomplete, but at least eight, or 20 percent, of the participants received jail time, community service, and fines while they were in the program.

Combinations of the sanctions listed above were given in a graduated schedule based on the number of times the participant had violated an Alternative Court requirement. It was not clear from reading the manual how the sanctions were to be applied. For example, the sanctions listed for a third offense were (1) a fine of \$30, (2) a make-up alcohol or drug free activity, (3) 10 hours of community service, and (4) 5 days of house arrest. Were all to be given, or only one or some of them? Was the sanction for a first offense of missing a meeting the same as a first offense of having a positive drug test? The case file information on what sanctions were given and why they were given was missing or incomplete, but comments in the file for one participant showed sanctions that did not appear to follow the schedule:

- 11/29/98 Fined \$10 for positive drug test,
- 12/8/98 Fined \$10 for no attendance slip from a required meeting,
- 12/15/98 Fined \$10 for missing court hearing, and

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- 1/12/99 Fined \$10 and jailed two weekends for no attendance slips and contributing to the delinquency of a minor.

Incentives, called rewards in the manual, were both tangible and nontangible. The *Policy and Procedures Manual* listed possible incentives and stated incentives “are voted on by the team depending on the circumstances, the history of the participant in [Alternative] Court, and other factors which may have bearing.” They were:

- reduced fines,
- moving up in weeks or phases,
- decreased activity requirements,
- reduced jail time,
- gifts,
- decreased drug testing,
- a drug free life style and life skills to use in maintaining it,
- educational advancement,
- improved self-esteem,
- enhanced cultural and spiritual awareness,
- improved family relationships,
- will not serve original sentence,
- dismissal of crimes which were deferred, and
- graduation from [Alternative] Court.

The Alternative Court had limited funds for incentives because the implementation grant did not provide for them. But, they were able to purchase some incentives with tribal court funds, especially with money that came in from Alternative Court fines, and they had a little success in soliciting donations from local businesses.

We did swimming passes which is part of the healing, we did get some tickets for local places to eat, bowling passes, we gave awards out for different things, you know, a pat on the back, Pizza Hut gift certificates, we took them out to lunches, we gave them juice and cake sometimes here, different things like that, because we didn't have the businesses involved, Ben Franklin (a variety store) refused, didn't want to give us gift certificates, we don't have many businesses to donate the stuff. We tried to be creative. [The probation officer] did a lot of effort in incentives. He did it in a cultural way, so he did it during the week and not during court times. Basically that was it. I think we needed to be more resourceful on that. - Team Member

So, we tried to do a lot of things that were less costly. You know, they were happy with what they got, but I think we needed to be a little more creative in that area for the participants. - Team Member

The awarding of incentives was not usually noted in the case file, but there were nine notations of “dinner for two” in the notes. The incentives were appreciated by the participant.

Yeah, there was good incentives, they rewarded you, they'd give you certificates, they'd give you blankets, it was good. [My favorite incentive was] a award for being good, made me feel like a little kid again, made me feel special because I did try hard and it was hard for me and when I went there and they gave me an award and it made me feel really good. It was an award for being clean and moving up a phase. - Participant

What a surprise I made, I got a blanket and a diploma. . . . Yeah, I've used my little diploma, or whatever it is, for work, you know. I completed this, and I'm trying to file for SSI (Supplemental Security Income) and I sent that in. - Participant

Some of the things that we did, like giving Pendleton blankets for graduation, those were really well received and that's what most of our funds we took in went for. - Team Member

A community member mentioned how much he enjoyed the graduation ceremony.

And for me, the other part that I really enjoyed the most was the graduations, those were great, and to see those people who had successfully completed this program, that was great for me, I enjoyed that, it was the best part of my job. - Community Member

Weaknesses

Blackfeet Appellate Court Held Alternative Court Did Not Follow the Policy and Procedures Manual. The Alternative Court listed violations of the program's rules and their accompanying sanctions in the *Policy and Procedures Manual*. These sanctions included fines, making up the missed activity, community service, incarceration, and being set back in the phase progression. The Alternative Court's procedures were challenged on due process grounds as described in Key Component 2. In one of the cases the Blackfeet Appellate Court found in August of 2000 the Alternative Court violated the defendant's civil rights by not following its own manual by incarcerating the defendant for 24 hours on a first offense positive drug test. According to the manual the sanction should have been a \$10 fine. The defendant was incarcerated a second time for 20 days and given a \$50 fine for three positive drug tests. The penalty according to the *Policy and Procedures Manual* should have been 10 days incarceration and a \$10 fine.

Well, you know just based on the appeals that came before the appellate court, they weren't abiding by their policies. . . . And they were disciplining them when they shouldn't have been. It stated the first time offense, this, this, this. But they didn't, they were doing other things to them. - Community Member

A participant also mentioned the inconsistency of sanctions was a weak point of the Alternative Court.

It was different with each individual I believe. They tried to stay with what they said in the beginning, you know, 10 days for this, but things just changed, you know. . . . They come up with some new ones, I mean, they changed things around, "Okay, it's supposed to have been ten days, no, we're going to give you twenty." I've seen that done to people.

The ruling was released during the last month or so of the Alternative Court's existence although the decision was not the primary cause of the court's demise. It does however underscore a lack of communication between the Blackfeet Appellate Court and the Alternative Court. One team member stated the appellate decision did not take into account other violations by the defendant that increased his sanctions. Another team member appeared to have misunderstood the thrust of the appellate court's ruling.

[The Blackfeet Appellate Court] felt sanctions were too hard and we had to give them less. The Indian Civil Rights Act apparently didn't go with our sanctions according to them. - Team Member

Incarceration a Nontherapeutic Sanction. A more philosophical question is the merit of incarceration as a wellness court sanction. The team has a delicate balance in deciding what sanction to mete out for noncompliance. If the sanction does not significantly affect the participant in a negative way, the sanction is not doing its job in preventing future noncompliance. If the sanction is too harsh for the accompanying noncompliant behavior, the court has moved into a punishment mode. This is especially true with the sanction of incarceration and its concomitant restriction on individual freedom. Incarceration is qualitatively different than a requirement of additional drug tests or extra meetings. More care needs to be

taken in meting out incarceration as a sanction in a treatment-based wellness court, due process concerns aside, because participants usually do not receive treatment when they are in jail. Incarcerating a participant for having a relapse when they are trying to beat chemical dependence is not in the spirit of wellness courts. A better option is to court order the participant to treatment.

A review of the Alternative Court case files showed at least 29 of the 40 participants received incarceration as a sanction, almost three out of four participants. The number may be higher because of missing information in some of the files, especially in the first year of the program. Conversely there are only nine mentions of community service being given as a sanction. Also, it appeared from a review of the court files several participants escalated quite quickly to sanctions of ten days or 2 weeks, and even 30 and 60 days, of incarceration. Was incarceration used too readily as a sanction in the Alternative Court, or was incarceration as a sanction needed to ensure the Alternative Court rules were followed? The team members were divided in their opinion as to the answer to that question.

*That was another problem with our Alternative Court, **we weren't really good at thinking up sanctions besides jail**, and I think we could do better, I could work on that a lot more, **we really did go to jail really fast**. There's a lot of things that can be done around here, clean up the community, we'll have to work on that more if we start it up again. There's probably a website now with ideas, but back then there wasn't as many, well there probably was, but we didn't know about it. - Team Member*

[I would] maybe [change] some of the sanctions, we might have spread them out a bit more. . . . We were always so precise, first offense, second offense, I think we needed to be a little bit more lenient in those areas, not so play-by-the-tunes, one step, two step, that's what I mean and I think we've could have been a little more lax there. There's always a reason, there's two sides to a story, and I think a lot of times we were tougher

*than we really needed to be at times, and there were times we should have been rough and wasn't. So, there was always room for improvement there. **We needed to be a little more flexible in our sanctions, and our incentives needed to be more.*** - Team Member

*One thing that was different on tribal courts than state courts, is that [the state courts] did a lot of fining. **The folks at the Tribe, there weren't that many of them that had jobs, so consequently, fining wasn't really an option.*** They didn't have it. A lot of them were living on welfare or firefighting, and this is true for tribes everywhere, it's the same thing. ***So, the sanctions need to be fairly stiff, but trying to figure out what you're actually going to use them for, or how.*** Like I said, our sanctions started out, we had good sanctions on the thing. But, I don't think they had the effect that if you'd had a financial base to do it. - Team Member

*I think the decisions the judge made were great because they were very direct, the judge just didn't allow, "I'm not going to tolerate this business, **you're going to help us help you or you're going back to jail.**"* It was very blunt I think and I think a lot of people accepted that ***because after a while some of our people, if it's not put to them in that fashion a lot of them just try to be desistent.*** But when they realize people are serious, that it's a serious matter, it involves people's lives, involves children and their families, I think they realize that. ***I think this court made them realize that, that this is to help you and your family and we're [putting you in jail] to help you.*** - Community Member

One of the participants who received jail time thought the sanction should not have been used in response to a relapse.

I just think [the Alternative Court] was a little bit harsh punishment at times. . . . Well, you'd tell them you used, you're being honest, and they put you in jail for it. And you had jobs, you had a family. . . . I seen a lot of resentment, anger [in the participants]. Their feelings were harsh punishment wasn't the right thing for them. . . . Well, I thought that when you fessed up to your using that **there would be another way of working it out besides going straight to jail, but if you went out there and you're in Alternative Court**

and got in trouble and got thrown in jail, then I could see sitting in jail and being punished for that. But when you tell them, “Yes, I do use,” well why couldn’t they work around it? Why do they have to throw you in jail for it? . . . My opinion [on how I would change the Alternative Court], I would say less punishment, working around it, less jail time because it seemed to anger a lot of the other people who were in there that were in my situation, were even more angrier by going to jail.

An additional reason for not using incarceration as a sanction too readily in the Blackfeet Alternative Court is the reports of horrible conditions in the jail. The Blackfeet jail has been condemned and is one of the jails featured in a 2004 investigative video done by a retired Bureau of Indian Affairs worker on the sorry state of jails on reservations.

Cold showers, you’ve got to hold the shower, it’s dirty, it’s condemned, it’s terrible, it’s really bad, you know, you sit in that cell and that’s all you do unless you get out and do work release, in the Alternative Court you couldn’t. - Participant

Oh yeah, sitting down in this jail is one of the worst places in the world. This one is terrible. I think the conditions are terrible down there. - Team Member

They never did [say they’d rather do jail time because of what they might have heard about the Alternative Court]. No, most of them don’t want to sit in the jail here. - Team Member

[A typical 21-year old would choose] Alternative Court, you don’t want to be in that jail. Apparently it’s been condemned. I haven’t been in the back in a long time, but I understand that it’s not very sanitary as far as their urinals and sometimes they don’t have water [to drink]. I think on the women’s side they have three cells and there’s probably four beds to a cell, but they don’t have beds, from what I understand, they sleep on mattresses on the floor, and things like that. I think their capacity for the male is like 40 and there’s some Monday mornings we have 70-some in jail. It’s not a place you’d like to spend the night. - Community Member

Key Component #7

Ongoing judicial interaction with each participant and judicial involvement in team staffing is essential.

This key component acknowledges the leadership role the judge plays in the wellness court and how integral the judge is to the success of the wellness court. An effective wellness court judge is able to be both leader and team player. The judge's responsibilities in the wellness court include learning about substance abuse and treatment options, participating in the legal screening of potential participants, setting the tone of the wellness court at the participant's initial appearance, attending the weekly case staffing to prepare for the status hearing, and presiding over frequent status hearings to establish and reinforce the wellness court's policies. Although the wellness court team weighs in on whether to impose a sanction or award an incentive, the meting out of sanctions and incentives is done by the judge at the status hearing.

What They Did

The Alternative Court had three judges over its 2¾ years. The first judge was also chief judge of the tribal court and was a member of the Tribe and grew up on the reservation. He left the tribal court for reasons unrelated to the Alternative Court after he had been Alternative Court judge for the first year of the program. The second Alternative Court judge was not a tribal member and was an attorney in the state court system who lived in the nearby town of Cut Bank. He served as Alternative Court judge for 8 months before he resigned. The third judge was a member of the Tribe, but did not grow up on the reservation. She served as the Alternative Court judge for the last year of the program. As mentioned in the Key Component 1 discussion, these core team changes hurt the Alternative Court and were additional factors contributing to its demise.

Strength

First and Second Judges Team Players. The team members interviewed thought the first two Alternative Court judges were team players and set the tone for team decision making.

Oh yeah, [The first judge] was a good judge, at first it was hard for him to give up that gavel and my way or no way, but he came around after a while and we had our major battles.

He listened, I was impressed that the judges sat and really listened to the cases, took everything into consideration and took the recommendations of the group, the group as a whole, pretty much took the recommendations of the group as a whole.

I think you have to keep this totally on a team concept, I don't think you want to get away from that. Some courts are saying "Oh our judge is our key player," well in a sense he is, but he doesn't have to be, or the appearance doesn't have to be that way. We gotta have it set up as a team, everybody work together, and I did it where I didn't leave it as "I'm the judge, I'm going to kick these people out," I kept it to where we would meet and I'll decide the majority rule. We'd have some say "kick" and some say "no", we would discuss it, it would get heated, then I would call for a vote and if five or six said yes and two or three said no, we went with the yes, so all the pressure wasn't put on the judge—compared to where you walk in there and say "This is what happened, this has happened, I'm just going to take you out of the program."

[In a wellness court judge you look for] a team player more than anything else, because if you have a judge that is a team player then you've got everybody else as a team player. That's what we really had from the start. . . . In my opinion, your drug court can only succeed depending on your judge, if you have a good judge, then it's going to succeed, but you have to have a team player for a judge, and the first two we did have.

[Everyone had one vote] at the start with the original first two judges.

Weakness

Third Judge Not Perceived as Team Player. The majority of the team members interviewed perceived the third Alternative Court judge, the judge during the final year of the Alternative Court, was not a team player in the sense of wellness court decision making. Decisions about the participants were no longer made by the team, or if they were made by the team, the judge would make another decision at the weekly hearing. One team member defended the third judge and stated she was “more rule-oriented” and was “protecting the court” from outside attack by playing by the rules. Team members’ perceptions differ, but whatever reason was at the root, the result was a loss of team morale and damage to the Alternative Court.

She just didn’t quite grasp the concept of it and I just don’t believe it sat well with her, the team concept, she liked to have the final say. We would recommend something in staffing and she would get up there and say, “Well the staff said,” she was never really a team player.

[The members of the team] have to be able to work as a team, not “I’m the judge, everything goes like that,” because it’s supposed to be a team decision on these individuals.

Her thing was everything had to be her way or the highway.

[The third judge], ah, had a God complex. . . . Well, there was voting, but whenever we went into court, it would change. Like if we voted to sanction you by the rules with a \$100 fine, or whatever, with both [the first judge] and [the second judge], that was fine if we all agreed to it in the conference, that’s what happened. But when [the third judge] got there, she basically, if she didn’t agree with that which she’d argue in the staffing, but when we got into court she’d do whatever she thought was right.

*[The first judge] had left . . . and then we had another judge that was working well, and then all of a sudden we have a third judge **that wants to take care of it and she wanted to run it like a regular court and the people were telling her “ You can’t do this, this is an Alternative Court where we meet and we all agree, and we do this, this, and this” . . . and we do things differently and [the third judge] didn’t want to buy into it. . . . And here we are with our western law now, and at the same time trying to integrate our culture and cultural stuff into this to make something for the people that will work, and then she comes in and says “You don’t do it like that” and she wanted control.***

*[The decision should be] as a team, that just shouldn’t be the judge’s decision and that’s where it went to after [the first judge] left, it just went to the judge’s decision and no one else had any say in it and **that was kinda the downfall. When it quits becoming a team, you don’t have a drug court.** That’s my opinion. [The third judge] took it over and **it became a one-man show, it stopped being a team. If you stop being a team in a drug court, you’re going to lose it. It cannot be just one person running the show, and that’s what happened with it. Everyone was excluded. . . . What ended up happening, they would go and meet with her and she’d say “I already took care of it.” So it became just one person running it.***

Key Component #8

Monitoring and evaluation measure the achievement of program goals and gauge effectiveness to meet three purposes: providing information to improve the Healing to Wellness process; overseeing participant progress, and preparing evaluative information for interested community groups and funding sources.

Program monitoring and evaluation activities are components often overlooked in the bustle of implementing a new program, yet these activities are crucial for wellness court success. Monitoring during the course of the wellness court provides feedback as to what practices work and what practices do not work and allows for timely adjustments and modifications to be made.

A process evaluation, comparing what was planned to what was actually done, in the early stages of the wellness court is another way to fix what might not be working and reflect on what works and what does not. An outcome evaluation that measures the “success” of the wellness court provides information to the court and to outside funding agencies as to whether the goals of the wellness court are being achieved. Good record keeping from Day One that gathers data to be compared against specific and measurable goals is the core of informative monitoring and evaluation. Ideally, the record keeping system is automated, integrates the legal and treatment information, and generates a variety of reports.

What They Did

The tribal court clerk was responsible for maintaining the Alternative Court case files and the clerk was a member of the Alternative Court team and attended all the staffing meetings and court hearings. It was the clerk’s responsibility to keep track of all the case files, enter pertinent information, keep a record of what happened at the hearings, and note any sanctions.

The Alternative Court had a process evaluation conducted in April 2000 by Correctional Counseling, Inc. of Memphis, Tennessee as required by the implementation grant. The evaluation report was completed in July 2000 and made available to the court. It made several recommendations:

- (1) develop a file to note sanctions and incentives to keep sanctions consistent for similar violations,
- (2) develop more structure in the treatment program, specifically the group counseling,
- (3) decrease the frequency of drug testing in Phase III,

- (4) use a less expensive single panel drug test for the majority of the testing and the full panel drug test at other times,
- (5) randomize the timing of the drug testing,
- (6) add more incentives that are immediate and fun rewards,
- (7) add gender specific programming to engage the males more, and
- (8) add cognitive behavioral groups that address criminogenic factors that lead to overall re-offense rate.

There has been no formal outcome evaluation but in the Alternative Court's enhancement grant application there was information on enrollment, retention status, completion status, and completion rate.

There is no information on whether the Alternative Court had regular reviews or staff retreats while the court was in existence to review the progress of the Alternative Court and the participants. The *Key Components* recommend the review of internal monitoring reports to "analyze program operations, gauge effectiveness, modify procedures when necessary, and refine goals."

Weakness

Incomplete Information in Case Files. The case files were available and there was a complete set (that is, one for every participant) 2 years after the Alternative Court ended. However, it appeared some of the information in the files was either incomplete or missing. One major example of missing data was the lack of dates for phase advancement for many of the participants. Another example was some case files had many notations on when drug tests were done and what the results were and others had much fewer notations. To the evaluation team, it

was not clear if the files with fewer notations were complete or not. A third example was case files that clearly had a time gap in the recording of information. It was not clear to the evaluation team if there was missing information, or whether the participant temporarily left the Alternative Court. A fourth example is the recording of sanctions and incentives; when there was no information, it was not clear if that meant there had been no sanctions or incentives or there had been and they had not been recorded. Information on treatment was also sketchy. In the future if the tribal court develops a juvenile or family drug court they might consider automating the case file information and include both the justice and treatment information in one database to foster monitoring and evaluation.

The Alternative Court also had incomplete data with the criminal case files of the participants that made the recidivism analysis difficult. A team member commented on this.

[I would] maybe [change] the record keeping, because there was kind of a problem, we were trying to keep the Alternative Court so confidential that it kinda messed up our regular court records cause all they said was that they were referred to Alternative Court and didn't really say what happened, if they completed or not, and it was kind of not very good record keeping. - Team Member

Key Component #9

Continuing interdisciplinary education promotes effective wellness court planning, implementation, and operation.

The focus of this key component is the interdisciplinary education underlying the success of the wellness court team; the court players need to learn about treatment process and the treatment players need to learn about the court process. All key personnel have to have at least the minimum required education and experience to perform their wellness court responsibilities and benefit from cross-training and continuing education. Interdisciplinary education may

include DOJ trainings specifically designed for tribal wellness courts or more general conferences such as the annual conference of the NADCP. A written education syllabus and curriculum describing the court's program needs to be developed for personnel who come on board after the initial flurry of training to share the values, goals, and operating procedures of the wellness court.

What They Did

The Alternative Court team attended two drug court planning workshops sponsored by the Office of Justice Programs in 1997. The first workshop was in Stillwater, Oklahoma and the Alternative Court took 11 people to that training, both future team members and community members such as tribal councilmen and law enforcement who worked with the Alternative Court later. The second training was in Louisville, Kentucky and a smaller group attended that training. These were the first two DCPO trainings the Office of Justice Programs provided for tribes planning a drug court and the emphasis was on state drug courts because there were not any tribal drug courts at that time. It was at the Louisville, Kentucky meeting where the seeds of a more culturally attuned tribal drug court were sown.

We always had to go back East and always had to see a state court. The Department of Justice never gave us enough time to plan, they never realized how secluded Montana is. I think a lot of it in the beginning, they didn't know what Native Americans were, they didn't know how to communicate with them. Now it's more Indian, Native American-oriented than it was at the beginning. We had to remind them they were working with tribes and not state courts and federal courts and district courts, but tribal courts were unique and so I really enjoyed seeing them evolve, the way it is now, it's such a difference. - Team Member

Strengths

Team Attendance at National Trainings during Planning Stage. Educational and workshop sessions at national trainings and conferences are most productive when several team members attend as a group. The Alternative Court team used its planning grant funds to send 11 people as a group to the first training. This included representatives from law enforcement and tribal council who were not part of the team, but it was important for them to learn about the drug court concept. The workshop participants were very impressed with the training they received.

*We had three trainings, actually two, and then a third in DC. Eleven of us went to the one in Oklahoma City, our first one, our planning grant, along with 25 other tribes, and our second one, they're mandatory, was in Louisville, Kentucky. **We had taken law enforcement with us and council to the first one. That's why there was 11 of us.*** -

Team Member

*I think [the trainings] were real good. The whole team went, I think our first training there was 11 of us that morning. We had two or three councilmen that went with us. **You need their participation because they're the ones who are going to say "We're going to allow [the Alternative Court] or not."** Then it has to be done by resolution, you have to have a code passed, if they're not familiar with it, they're not going to pass it. I thought it worked out good that we had these councilmen interested.* - Team Member

*We visited Oklahoma, the city that's about 60 to 70 miles north of Oklahoma City, they had a good one down there. That was our first one and I think our second trip was to Louisville. Then there was a third one. . . . **We had some excellent training, like I said, just all the way around, everything we received on the thing was good, there was nothing to complain about at all.*** - Team Member

Blackfeet Alternative Court Evaluation

The training I received was excellent, I went and viewed in San Diego, Sacramento, I think it was, we viewed a court there. I guess it's the style of the court and how it's conducted that impressed me. It was not so much formality as it was, I think people felt more comfortable coming into that court system. - Tribal Council Member

Attendance at Regional and National Conferences to Stay Abreast. Different combinations of Alternative Court team members also attended regional and national conferences to stay abreast of new advances in the drug court world. In 1998 the original judge, coordinator, and probation officer went to the annual NADCP meeting in Washington, D.C. to attend the tribal training track. They found the drug testing information at the vendor exhibit very useful. Eight members of the team attended a training in Albuquerque in 2000 and five members also attended training in San Francisco in 2000. All the training after the first two in Stillwater and Louisville were paid for with implementation grant funds.

Mentor Court to Other Tribes. The Blackfeet Alternative Court has served as a Mentor Court to other tribes since its inception and its original judge and coordinator have been active in adapting the drug court concept to tribal courts. The judge and coordinator are members of the Tribal Advisory Committee (TAC) that provides consultation and support to DCPO. To fulfill their TAC responsibilities they attended a "Train the Trainers" facilitator workshop in Reno, Nevada sponsored by DOJ, TLPI, and the Federal Judicial Center. They thought this was a very good training and the organizers had more of an understanding of tribes and tribal courts. They also participated in a regional technical assistance workshop in Whitefish, Montana in 2000.

I've worked with the TLPI along with NAAF (Native American Alliance Foundation) and their facilitators that are mostly Native Americans from different tribes around the United States, we've all had a say in how we feel they have to present it to tribes. - Team Member

*I did it for quite a while there, I was a facilitator. **What was good on that is that we were given a tribe and we could explain, “Don’t do this” and that makes it good because they’ll go out now and not make a lot of the mistakes, they’re still going to make mistakes. That saves a lot of trouble, I wish somebody would have told us that.** - Team Member*

Weakness

Difficulty in Training New Team Members. The Alternative Court had significant staff turnover during the 2¾ years of its operation and a problem emerged in training new team members who came on board after the original trainings. Some new team members caught on to the drug court concept without outside training.

*No, [there isn’t somewhere to send new team members for basic drug court training] because you needed to have money to send them. [The current prosecutor] wasn’t our first prosecutor, she was our second, so she sat in on a lot of [staffing meetings and status hearings] and learned what the concept is. [The current public defender] wasn’t our first public defender, he was our second, so, **we had new people coming in, but we were still working and still close-knit where we could train them, and they knew what they were doing, they kinda sat in.** . . . So we did have a somewhat small training for them so they would know what they’re doing. . . . **[They did go to outside training]** the second year. - Team Member*

The Alternative Court was not so lucky with one of its’ judicial replacements.

*In the legal part of it, judging on the other hand, was hard. [The second judge] was able to step right in, he knew the concept, he was in most of our staffings because he was doing his work in here, that was his desk and he’d be doing stuff and he’d listen. **On the other hand, [the third judge], she was my way or no way, and she just didn’t concentrate and absorb what we were doing.** - Team Member*

Key Component #10

The development of ongoing communication, coordination, and cooperation among team members, the community, and relevant organizations are critical for program success.

The heart of this key component is wellness courts cannot be isolated from the rest of the tribal community, but need to build coalitions with other tribal departments and community agencies to enhance public trust and confidence and ensure program success. The wellness court can serve as a conduit between the tribal justice system and community organizations. The *Key Components* recommend the formation of a steering committee made up of community members to show support for the wellness court in the community. The steering committee needs to be formed even before the wellness court receives the grant award to garner community buy-in from the very beginning and foster community ownership of the wellness court. The wellness court cannot be something the court is doing on its own; it must be something the tribal community is doing. This buy-in by the community members becomes especially important when their family members become participants in the wellness court. An unhappy family member in a position of power can cause serious trouble for a wellness court.

What They Did

Community support is very important for a tribal wellness court and looking back it appears the Alternative Court did not emphasize community outreach enough, or their efforts at community outreach were not sufficient for an indifferent community. After interviewing Alternative Court team members it appeared their concerns over participant confidentiality might have held them back from publicizing news of the work of the Alternative Court.

*I think you're probably going to hear that from participants, some of them are going to say, "I didn't care if people knew I was in there," **others are going to say, "I don't want anyone to know that, I'm trying to clean up"** and this kind of thing. - Team Member*

The Alternative Court team did include two tribal council members in their planning and the council members attended the first training with the rest of the team in Stillwater, Oklahoma. Also, council members were invited to Alternative Court graduation ceremonies where several of them who were Society members sang Honor Songs for the graduates.

The tribal court is now working with other Montana drug courts, both state and tribal, to obtain funding to network the Montana drug courts and provide better services for Native Americans.

*If funded, we're going to have two annual meetings and we're going to bring all the courts together. The thinking behind it is Missoula has a lot of Native kids, they have Salish-Kootenai, they have a lot of Blackfeet, because it's a university town. Lewistown, that has no Native, but there are Indians that live there, same way as Bozeman and Billings. So, they might be having Native American kids or adults in their drug court. Those four places all have drug courts. The tribal ones are Fort Belknap, Fort Peck, Blackfeet. State courts are Billings, Missoula, Bozeman, and Lewistown. Those seven courts, there's both tribal and non-tribal. The thinking behind it is to get everybody together for an annual meeting, a Friday and a Saturday, and then that way they can ask questions, **what can I do for my Native American child, how do I help him, what is out there in your tribe that I can use? And the same for us, maybe we can transfer the jurisdiction to your court since his family lives there, maybe we can get him home and you can deal with him, that kind of thing, networking.** - Team Member*

Strength

Tribal Council Members Involved in Planning Stage. Tribal council support is important to the institutionalization of a tribal wellness court. The Alternative Court involved the tribal

council in the planning stages by inviting two of the council members to attend the first training with the team. Three team members commented the Alternative Court had the support of the tribal council at the beginning.

*Yes, [we had the support of tribal council] because when we went to Stillwater we had two council members with us, but then they both got booted out in the next election, since then the Tribe has changed to four years [to elect new members] which would have been a help because [a council member] was one who really supported us. . . . **Every once in a while he would visit. He was very supportive of it because I think he really believed like the rest of us, it was something that could really be a help.*** - Team Member

*I think we had strong council support, they never really had any problems with it. . . . That's what is so ironic to me, is that they meddle in things they shouldn't be in, **but not once did we have a council member talk about this court. And I think a lot of the reasons why is because when we had a graduation, we had a lot of the council members that were on at that time come up and sing for them.** So, they seen the good that was happening, so they didn't want to meddle in it.* - Team Member

*Our council and stuff, they're pretty happy with what we were doing. **It was very supportive at that time.*** - Team Member

Weaknesses

Lack of Support and Interference from Tribal Council. Unlike state courts where the judiciary is independent of the executive and legislative branches, the Blackfeet Tribal Business Council did have a great deal of power over the Alternative Court. This included the hiring and firing of judges and the final say in approving the court's procedures and policies. Although some team members commented above that a strength of the Alternative Court was tribal council supported it (at least at the beginning) and did not interfere, several team members thought the lack of separation of powers and the tribal council's interference in court matters were

insurmountable problems for the Alternative Court. In addition, as discussed in Key Component #3, some team members alleged a tribal council member forced the Alternative Court to admit relatives who were non-chemically dependent drug dealers.

*I think it's a really great program, **I just wish tribal politics never entered it and I think that was our downfall.** Anytime tribal politics gets involved into the court system, or a program like this where you're trying to help people, they screw it up. Most tribal councils aren't very educated, they're in there on a popularity vote, a big family, they just don't see the big picture.* - Team Member

*I'm not sure [if the community thought the Alternative Court was effective], we live in a lawless community where if you get in trouble you could run to the tribal council and you could most likely get off if you cry enough. Our tribal councilmen can walk into any jail or youth detention center and say "I want them out" and they'll be out. If people don't like being sentenced, they'd run to the council or their family runs to the council. **I mean, we were getting a good track record of taking a bite out of people's negative behaviors, their families ran to the council.** . . . I know they sabotaged this program to a point where even down to the grant writing, they stalled, and threw roadblocks to the point where we didn't get re-funded. I know I sound bitter. **It was on their agenda to just wipe it out. Not all of them, some were supportive.*** - Team Member

*We don't have separation of powers on the Blackfeet reservation and [the tribal council] dictate what you do. **One of the biggest mistakes somebody made, I don't know how it ever happened, but we had two tribal council members go with us to our first meeting in Stillwater, Oklahoma. They were behind us, but we never got the whole okay of the tribal council and everybody thought [the Policy and Procedures Manual] was okay, that it was approved, but it wasn't.** You need the full backing of the council and the separation of powers from the Alternative Court and the council because **they stepped in many times**, we'd put somebody in jail on a sanction, and a council member would go get them out, that happens.* - Team Member

*I think the strongest point was the staff, they cared so much about the clients, they wanted to do so much more, but because of the rules and regulations, not only of the grants, but of the program itself **and the tribal council, we don't have separation of powers, sometimes it got very, very difficult.** - Team Member*

Obtaining and maintaining the support of tribal council is exacerbated by frequent turnover of council members. Until 2002, the nine members of the Blackfeet Tribal Business Council were elected for a 2-year term and then had to stand for re-election. What happened in reality was there was a new tribal council every 2 years and the court needed to re-educate the members. This quick turnover hampered the work of the Alternative Court because they would educate the council on the Alternative Court and then soon those members would be gone and a new group would be in. This had a negative impact on tribal council support for the Alternative Court. Now, tribal council members are elected for a 4-year term with half of the members standing for re-election every two years.

*One of the reasons I don't know [if the tribal council would fund the Alternative Court] is because tribal council is re-elected every 2 years and so you have nine new members come in with nine new ideas. **So, every 2 years, everything's changed.** - Team Member*

*But, you have to realize it's going to happen not just with [the Alternative Court], it happens with the whole court system. And so people who have been around a long time, know that **every 2 years they have to educate these people again.** . . . Sometimes we've had as much as nine new people coming in, **we have to educate these people as to what's going on. It affects the whole court, you have to make sure that [the council members] understand that they cannot interfere. If their nephew is thrown in jail, they have to stay away from it, let the process work.** - Team Member*

*I guess to me education is the big goal, that will help any tribe that's getting into the [wellness court] business. **If you educate your council and your courts on this***

alternative court system, everything will run a lot smoother. If not, it's just one battle after another. In our situation, our government used to change every 2 years, it was terrible, you could never get anything going here, by the time you got it effective and in operation, a new group would take over and say "No, we don't like this," so out the door it goes. But those are the main things I think we need to educate people, educate your government, get them involved, and show them the successes we've had in the past. - Team Member

Law Enforcement Not Integral Part of Team. The *Key Components* champion the idea a partnership between the court and law enforcement builds a partnership between the court and offenders in the community. It is especially crucial to win the cooperation of law enforcement because a treatment-based drug court can be antithetical to law enforcement personnel's training. There is a difference of opinion among the team members whether law enforcement, both the chief of police who was on the Alternative Court team and the other officers, were supportive of the Alternative Court.

My biggest concerns about the Alternative Court was that the tribal council wouldn't back us. The tribal council and the law enforcement, the chief of police who was working with the drug court, did not believe in the drug court. Our other law enforcement officers were just kind of hit-and-miss with us. They didn't care much for it, I'm not sure why. I think one of the biggest reasons is that most tribal officers drink or use drugs so they weren't very happy with us. - Team Member

Well, [the lack of support from law enforcement] was one of the other problems. We invited them to sit in on our staffing, and it was hit-and-miss. I don't know what the problem was, maybe just overloaded, too busy, or if they just had this mentality [that the participants] should be in jail. I don't know, we didn't discuss it with them. When [the chief of police] came to the meetings, he was real supportive of it as far as we could make out. - Team Member

*The chief would show up for team meetings when time permitted for him. They'd serve our warrants and pick up orders. **I think they were pretty good.*** - Team Member

In law enforcement's defense, they had their hands full with the drug problem on the reservation at that time. Also, the Tribe had just recently (1995) taken over the policing of the reservation from the Bureau of Indian Affairs. A law enforcement officer discussed the situation.

*A lot of children suffered, elders were hurt, families were exploited because of the drug problem we had. They were doing whatever they could to get the drugs. **We were trying to get out to the dealers on one hand and on the other hand we had to deal with the people involved.** This was one way I thought, as a law enforcement agency, we had to look at both sides of this, **not just to go out and arrest people, we also need to help somebody.***

The Bureau of Indian Affairs took control back from the tribal police department in February 2003 due to allegations of budget mismanagement, political pressure from the tribal council, and improperly hired staff.

Lack of Community Outreach. In retrospect, the team members all agreed there could have been more community outreach by the Alternative Court. The Alternative Court never became a part of the community because much of the community did not know about the program. The *Key Components* recommend forming a steering committee made up of representatives from other community organizations to provide guidance and direction to the wellness court. Ideally, the participants on the steering committee will strengthen the link between the wellness court and the rest of the community.

***We didn't really do very much community awareness. I think we could have done more community awareness things, but we didn't.** I think I would have had some of the*

*appellate justices be present at some of the trainings we went to because after the Alternative Court ended, they started working on this juvenile one and one of the appellate justices went to a training and she said it was the best training she every went to and I don't think she realizes that they basically caused the adult one to be abolished. **So maybe they just didn't understand the program too, that might have been the problem. I'd suggest [to courts thinking about setting up a wellness court] that they do more community, what would you call it, promotion or something. And involve the key people in their trainings, maybe of the council members and if they have an appeals court, bring one of them. Just involve as many people as possible so that everybody knows what the program is about.** - Team Member*

***Most of the people didn't know who we were or what we were. We didn't promote it enough.** The only thing you really have is the newspaper in Browning. Now we were interviewed by Indian Country, that newspaper out of North Dakota, and I understand that they gave us a hell of a write-up, but we never got to see it. - Team Member*

***We kind of started out quiet in the thing and didn't make a whole lot of publicity on it and maybe we should have, I don't know.** That's one I don't have any idea whether we should have been a lot more pro-media than we were. - Team Member*

*I think once [the community] knew what we were doing, I think they perceived it as being a very positive thing. **But the one thing you would definitely want to do is do a little more PR (public relations) than we did.** - Team Member*

***I would have tried to get more people involved, outside people, chamber of commerce people, business people, try to get them involved, get them to graduation when these people come out, gift certificates, this type of thing.** [That didn't happen because] we really didn't have time to get into all that, a year, a year and a half is really not a lot of time. When you're just getting started, you're trying to figure out where you're going, try to go back and correct the mistakes you've made, by then the time is gone. - Team Member*

*I think [the program] could have [changed the community], it just didn't have a chance because we live in a very, very violent community here, a lot of drugs and alcohol. I think we were just getting started, I think things were just starting to happen. Long term it would have made big changes in the community. **There were things happening with drugs and alcohol during that time, marches and things like that, people were getting fed up with kids getting killed in car wrecks, drinking, and we were physically out there. People knew what we were doing. I think we could have been more involved in the school system, giving some prevention education to youth. We could have been more involved in the media.** - Team Member*

*Get the community involved first, and if you don't get the grant, **you still have the community. They should be something you can start with.** - Team Member*

*It was just kinda people from the drug court talking, **that was the only [public relations] that was really out there.** We talked with the papers before if they would run an article. - Team Member*

Outcome Evaluation

*Given [the Alternative Court's] short duration, **I think it had a powerful impact on homes, families, individuals**, I think people that would have wound up in prison didn't. I only remember two that came back through here. - Team Member*

The *Key Components* define an outcome evaluation as “gathering information to determine a program’s success in meeting its goals. An outcome evaluation may look at a program’s impact on the individual and on the community.” The primary goal of the Blackfeet Alternative Court was “to rehabilitate these offenders into becoming sober, healthy, productive law-abiding citizens. This in turn will reduce the Blackfeet Reservation’s crime rates, incidents of violence, and the Tribal Court calendar while improving educational levels, cultural identity, family relationships, and overall wellness for the people of the Blackfeet Reservation.”

Did they achieve their goals? This outcome evaluation will look at the impact of the wellness court on the participant, the family, and the community from the perspective of the participants, family members, Alternative Court team members, and community members. Outcome also will be assessed quantitatively, examining the number of participants, the number of graduates, and the recidivism rate.

Qualitative Component

Impact of Alternative Court on Participant

*[The participants] **cleaned up their life**. - Participant*

Much more than cleaned up their lives, the participants quoted below believe the Alternative Court saved their lives.

Participant’s Perception of Impact on Participant. One participant described more than a 10-year history with drugs and alcohol.

*I started abusing alcohol when I was 14 and then I became addicted to drugs when I was 18, off and on. . . . I would stay clean for 2 to 3 weeks to a month, and then I'd slip back into my addiction and then I'd get tested and I'd be in trouble. . . . **Before I got into Alternative Court, I was in and out of AA and other treatments**, so I think that now, the way I see it, when I look back in the past, I took a lot of things for granted, all the options I had for granted—the treatments that I've had, the chances I've had, **being in Alternative Court, I keep dry**. . . . Yeah, I'm glad I did [Alternative Court] because it taught me, how would you say, the choices I made I had to go through tough consequences over it and that's jail, losing your kid, almost losing your kid. . . . **Because I've seen what I could have lost. I've seen what can happen. That's scary. If I wouldn't have been in the program, I don't think I would have realized how life is important.***

Another participant reiterated the feeling.

*For me, well it turned me around, **I mean, the way I was headed, car wreck, things like that could have happened to me very easily**. . . . It's your life that we're talking about, take it very seriously, I do. **I want to live long and old and have grandkids all over the place.***

This is one participant's own words from his Alternative Court graduation testimonial.

Well, I got a lot out of the program.** I learned that my freind's were my worst enemy's they were getting me drunk & high, they were my demon's. I thought I was cool cause I was in the "IN CROWD" the cool crowd but by being clean & sober **I found out that I don't have to be drinking and drugging to be cool.** If it weren't for the alternative program I would have been dead and gone from drinking & drugging there were so many time's I could have wrecked and Died but thanx to the program I don't have to worry about being in the wrong car. When I was on drug's and Alcohol I did'nt just jump in and party, being sober I realized that I was being foolish, **I intend on being sober here on out.

Family's Perception of Impact on Participant. A family member related a spouse's change of behavior after participating in Alternative Court.

*Yeah, he's really doing well, he made a few mistakes and after a few mistakes, he sure learned not to make those again while he was in the program, so, and he's doing really well. He had his ups and downs, but **he's back on track with his life, and he deals with his own issues**, but a few people I've seen, are really doing well.*

Team's Perception of Impact on Participant. One team member from the treatment side commented the Alternative Court was a wake-up call for people who had been in denial about the seriousness of their substance abuse or dependence problem.

*When a person was going through the alternative drug court, there was the idea that this is a last chance before you go to prison. **So, that was a real wake-up call, because a lot of people around on the rez have this silver bullet kind of attitude, you know, "No I'm not going to get caught, nobody is going to catch me, and I've been getting away with it for years."** And the whole concept that this is a last chance avenue, and I think that was a real wake-up call for a lot of them. . . . Many of the clients told me . . . that they wouldn't be here if it wasn't for drug court, **they didn't think they had a problem, they thought everybody else had a problem, but they started to realize now that they are an alcoholic, they are a drug addict.***

Along with the sobriety, Alternative Court team members emphasize the change in attitude and the increase in self-esteem they saw in the participants and the overall improvement in the participants' lives such as holding a steady job and getting their children back from social services.

*I seen them sober when they were coming in here. **A lot of them had never been sober that long their whole life.***

*I'd say in the majority of them, it enhanced their self-esteem, self-worth, cultural identity, social bonding skills, you know, life skills, they found other things to do that were a lot better than to party, to socialize. **They found their way back to their families, they found their way back to their community, their elders, their traditions.***

A lot of them got the chip off their shoulder.

*Some of them, **they turned their lives around.** Maybe they haven't stopped drinking or they haven't quit drugs altogether, but they stopped getting into trouble over it. I still see a few of them every once in a while, the ones that I do see, always stop me and say hello, let me know how they're doing. **A lot of them have been working steady since they went to the court. Some of them have gone back, some of them bucked us, but some of them are doing fine too.***

I saw their self esteem improve a lot and saw their appearance improve a lot.** Most of them haven't been re-arrested as much. I mean there have been some, it's not like they were before, every day, every week being in arraignments. It's improved a lot of their lives, I'd say. **Even some of the ones who failed.

*We had a few of them [at graduation] who did make a speech and it was nice to hear them thanking the staff for the time we had put into them, and **we changed their life,** but not all of them, a few of them.*

The team members also recounted the success stories of specific individuals.

*Well, I always brag about one participant, . . . he was a chronic marijuana user and alcohol abuser for years. He was one of our chronics and I voted against [accepting] him, I didn't think he would succeed in this program, it was too stringent for him. . . . **He was our longest participant and he graduated and he's still sober to this day. . . . He's sober and clean, he helps his mom [in her business]. . . . He's still clean, he's just really a nice person. Every time I see him in a store, he always tells me he's thankful he's changed his life and got his kids back.***

*There's one lady that I still see occasionally that we had in there, and she had not been sober, she said not since she was 14, she had not spent a sober week, and **I saw her probably about a month ago and she's still sober.***

*One lady has graduated from college . . . and I think she's got her bachelor's [degree] and she's doing fairly well now to where she was fairly heavy into drugs and she was coming in here with charges and getting her kids taken away. . . . She was graduated, she did everything she was supposed to, I don't believe she ever tested positive on her UAs (urinalyses, that is, drug tests). She just followed everything to a T and to me, **she's never been back in the system after that.***

*My own nephew was in the program, and he's still clean and sober to this day. . . . [Woman's name], she's another one, still clean and sober. She was a hard one to get to comply, she came in, she didn't do well in the beginning, she started getting with the program, started doing AA, we've not seen her back in arraignments. [Another woman's name], she's in Washington state now, she was affiliated with a known drug dealer in this area, she was a hard one, she actually came through the program pretty well. Moved back home with her parents and got her child back, and is actually doing really well over there. **So there was a number of participants I felt did good. We did major changes in some of the people's life, not all of them, some of them and that was enough for me. It's good to see people being clean.***

One team member mentioned how the Alternative Court improved a participant's chance at succeeding in the BCDP in-patient treatment.

*One of the things about being a free treatment program is, is that there is local attitude that **"if I don't get it right the first time, I can just keep going through and going through and going through,"** After all, it doesn't cost them \$15,000, \$18,000. And so the motivation for a lot of people was not there. **Through the organization of the drug court and because they were so well followed and had such good support, they would 1) complete treatment, 2) complete their aftercare. Of the people that we served, we only***

saw two come back [to BCDP] that had already been through here via the drug court. In talking with the clients that were drug court clients that were in treatment, that I would see in therapy, they would tell me that they wouldn't be in treatment right now if it wasn't for the drug court, or that they would have never completed aftercare if it wasn't for the drug court.

Community's Perception of Impact on Participant. A community member had very positive comments about the community's perception of the Alternative Court's impact on participants.

After I got to talking to [community members] about the court, they would start saying, "Oh yeah, that court over there, we like that court, you guys are doing something. You've helped a lot of people in our communities." You know here, as in most reservations, firefighting is one of the primary forms of employment for our people, so we were getting people out of the drugs and back to getting qualified for firefighting which is an income for them. And when we were able to do that, people see that guy is supporting his family now, not out here using drugs, or alcohol, and families being destroyed, you guys are helping put the family back together.

Impact of Alternative Court on Family

The Alternative Court had a positive impact on the families of the participants because the participants stopped their substance abuse and resumed the responsibility for their family, and in some cases had their children returned to them from the foster care system. The result is happier families that are bonding and communicating better.

Participant's Perception of Impact on Family. One of the participants was a mother and she worked the program because of her child.

Yeah, I thought it would help me, you know, keep me straight because of the consequences I would have to face if I couldn't straighten out—jail time, charges. ... [There was something else], my child, she was about four or five at the time. As

parents, me and [my spouse] thought we needed something to help us realize, you know, to get our lives together, we didn't want to go to prison, and things like that.

Team's Perception of Impact on Family. The Alternative Court team members' perceptions of changes in the participants' families emphasized the participants' assumption of responsibility for their families, the increase in awareness of substance abuse in the families, the increase in the children's self-esteem, and the improvement in familial relationships.

I know a lot of them personally, my kids know a lot of their children, and from what I am hearing from my kids that those kids' lives ain't what they used to be. It's like they're happier, they have more self-esteem for themselves after their parents got out and straightened out. These kids ain't like they used to be. What my kids been telling me it seems like it's helped the whole family. . . . I think it's great.

*I would say, his immediate family, his wife and child, it's helped a lot. **He's home, he's not out with his partners, riding and drinking and using marijuana.** [He has a steady job] and he had to be clean and sober there too. I'm sure he's drank now and then, but he isn't like he was before. So, I see a difference in him.*

*The families to me, it seemed like their kids was understanding it more, like the lady she had six, seven kids and they were eventually coming to court with her and everything, more or less kind of curious to see what was going on with their mother and why she was changing so much. . . . Yeah, when they see they're sick themselves, and they see their parents sick, the concern is there, and when they see them getting well and changing to the better, **it seems to me like they would change with them.** We always had some of the parents of the kids say they saw the changes. I thought that was pretty good.*

***We seen a lot more bonding with the children. You could just visibly see it, you know how open children are, they were just more affectionate.** I think their behaviors probably changed from negative behavior seeking to just more normal behaviors. And they're getting affection and they need it. They didn't have that feeling before, they need*

to get rid of that feeling of abandonment with their parents out partying, or gambling or things like that.

*The family members that would come would be so relieved, and talk about it, **I saw such a change, they would be happy and hopeful for the first time in years.** You saw families that had been alienated come back together, you saw children that had been alienated from Dad or from Mom come back together. You saw families that were separated come back together. Children that were in foster care be returned back home.*

Community's Perception of Impact on Family. A community member saw changes in relatives who were Alternative Court participants.

*I have relatives who've gone through this court, I was so happy to see them now, they're working, **they're caring for their families, they're providing,** they were given opportunities for training, and they took advantage of it. And now they're out there, working, supporting their families. To me, that's the way I count our successes because I will see those people and I talk to them, I visit them. . . . Now they're clean from what I can see, **their children look happy, their house is clean, before their houses were terrible and their children were in the White Buffalo Home or their children were in a nurturing center, were in the process of being removed by the court system here.** Now, they're back together as a family, that's the greatest thing I've seen, the whole family is back together as a whole. **That means so much to the little ones.***

Impact of Alternative Court on Community

The majority of the Alternative Court team members did think the Alternative Court had a positive impact on the community in helping the participants achieve sobriety

Team's Perception of Impact on Community. Two team members thought the Alternative Court was not in existence long enough to make an impact on the community.

I don't think it was there long enough for [the community] to get a general idea of what it was. But people who worked on it, thought it worked. But I think in order for you to sell

*a program like this, it's gotta be at least 2 or 3 years going good, so I don't think the community had a pattern of what we were doing here. I think they just thought it was part of a new concept the court was trying. **Then, it fizzled, we didn't really have a chance to sell it.***

I feel the sad thing is that [the community] weren't aware of [the Alternative Court].

Others were more optimistic about the effect the Alternative Court had on the tribal community.

*I thought we were really running good. **People would stop me on the street and say, "Judge, how do I get into your court?"***

*I would say yes [the Alternative Court had a positive effect on the community] because we basically by having this group of folks coming in, who were maintaining, who were being tested, so they were staying sober, **I would say yes, it did have a community impact and there were a number of folks.***

*When it was up and running, at first, people thought it was a way to get out of jail until they seen what they had to do to keep from being in jail. **I think it was working, people out there knew there was somewhere other than sitting in jail to get clean and get help. It was starting to work.***

*The ones that I talked to out here thought it was a good idea and they thought it was working, but we would have to explain to them again, how it worked. Everybody who came up would say, "How does it work? What's its success rate vs. treatment? What's the difference?" **The ones I did talk to, I would say 90 percent of them that I talked to about it or had heard about it liked the idea. . . . Well there was just kinda this "wait and see type" attitude [about its effectiveness]. They thought anything that's here to help. . . . The ones that really got into looking at what it was, those are the ones that think it was a good thing, and wish it was back.***

The people who understood the program, really like it. And the council, they seemed to approve of it also.

One team member offered the thought the Alternative Court was not well received in the community because it promoted change and many people's first response to change is not positive.

It's like anything else, I think some people liked it, I think some people didn't. And normally the ones that don't like, this is experience again from the positions I've held here, is that when you get a program going that's going to change the lives of you and me and everybody around you, people are going to get defensive because they're living in the mold right now that they're comfortable with their life, "This is what we do on our everyday settings, and now you come in here and you tell me it's wrong. And you're not going to change my way of life, because I'm comfortable with it," when they don't realize, hey, this is for the better, you've just got to bear with it and go through it, and it's like any other program, once it's here for 6 months to a year, then people come around to it because they start realizing the good out of it and so my question is 50-50 or 70-30 to the good because there's always going to be somebody who don't like it.

In a similar vein, one team member mentioned the Alternative Court was a little ahead of the curve in terms of the community being ready for an Alternative Court, being ready to face up to the problems of alcohol and drug abuse. Now, several years later, the tribal community is ready to do something about the alcohol and drug problems. For example, the tribal council has instituted a zero tolerance policy for drug dealers and drug users and adopted the Montana strict sentencing guidelines.

And to me, that's how [the participants] perceived it, "I'd rather let them know I was in jail for a month rather than let them know I was coming up here every week for court" because of the stigma of being clean. It's sad, our community now is gone beyond that and is always helping people stay clean. But at the time when we were rolling really

well, we still hadn't reached that point in our area here, of being clean, and pushing the wellness. Now we have sobriety campouts, so it's out there . . . and that just happened in the last 2 years . . . it just kinda evolved. So, it's kinda a push through the community now.

Although the Alternative Court is no longer in existence, its treatment-based principles are being used in domestic violence and criminal cases in the tribal court.

*But the thing about the drug court, wellness court, is I believe the Tribe has a lot more success even though we're not up and running now with clients, **we still utilize the concept in our domestic abuse and in our criminal [cases].***

It's still working, it might not be in the Alternative Court setting, but domestic and criminal is still using the concept, it's still here.

*I know they're using the concept in criminal, **they're doing more in having them go to treatment, they're having them go to family counseling sessions.***

*Right now I do [domestic violence offenders] and the drug dealers and I drug test every single day. [It's the same sort of clients], some of them are the same clients, they come through on a domestic charge and **the program is almost identical, it still has the cultural component, I do everything the same except for there's no team, I'm the team myself.***

***We've kind of instilled doing some of the Alternative Court stuff,** some of the stipulations that we had, we're still doing it with people now. The hard thing is we don't have a team working on it like we did . . . and that's pretty hard.*

Community's Perception of Impact on Community. The comments from two community members show the goals of the Alternative Court were not well known in the community.

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*The experience I had . . . wasn't too promising. What I mean is the community, they kinda looked down at it, saying "What are you guys trying to do? What's something else you guys are trying to bring in here?" Then, I tried to explain to them and tell them, this is to give our people a chance to right themselves and rid themselves of drug and alcohol and not going to jail, to help them get back on the right track. **Well the feedback I'd get there was always, "Well, find jobs for us," which I guess is true too.** Yeah, there was some kickbacks on it that said, "What the heck are you guys trying to do?" and then I told them what you oughta do is go sit in on it, they'd say, "Are we allowed to sit in there?" I'd say, "Well, that's what you'd have to find out."*

*I don't know if [the Alternative Court] was that well known here. I think people knew about it, **but as a community as a whole, I don't think they did.***

Quantitative Component

In addition to people's opinions of the Alternative Court's success in reducing substance abuse behavior in the participants and helping them on the road to wellness, there are quantitative measures to assess the success of the drug court program. How many participants were there? How many graduated? How long did the program take? How many participants were re-arrested on a drug or alcohol charge? How long have some participants been sober?

Program and Participant Characteristics

The Blackfeet Alternative Court admitted its first four participants on January 13, 1998. The Alternative Court was in existence for 2¾ years until September 2000 and there were a total of 40 participants who actively participated in the program. There were an additional eight participants who were accepted into the program but did not actively participate and were dropped from the program. These eight are not included in this analysis.

Gender and Age. Twice as many men (27 or 68 percent) than women (13 or 32 percent) participated. The average age for all 40 participants was 28 years. The youngest participant

started the program at 18 years and the oldest participant at 46 years. Women were slightly older than men (see Table 5).

Table 5. Age of Participants by Gender

GENDER	# PARTICIPANTS	MEAN	MEDIAN	MINIMUM	MAXIMUM
Men	27	27	25	18	46
Women	13	29	29	19	43
Total	40	28	27	18	47

The average age of the participant in the first year of the program decreased from the late 20s to the mid 20s by the third year (see Table 6), but the differences in age were not statistically significant.

Table 6. Age of Participants by Entry Year

YEAR	# PARTICIPANTS	MEAN	MEDIAN	MINIMUM	MAXIMUM
1998	17	29	30	18	43
1999	12	29	26	18	46
2000	11	25	24	18	38
Total	40	28	27	18	46

Educational Level. The highest level of education was known for 38 of the 40 participants. One of the participants was still in high school, 18 participants were high school dropouts and one had earned a GED, eight participants were high school graduates, and 11 participants had some college with one earning an associate’s degree.

Alcohol and Drug Arrests. The Alternative Court reached its target population. Table 1 in Key Component 3 shows 64 percent of participants came into the program on an offense involving drugs including Possession of Dangerous Drugs, Sale of Dangerous Drugs, and Possession of Drug Paraphernalia. Other offenses include Driving under the Influence (DUI),

Minor in Possession, Open Container, Child Endangerment (neglect, possibly based on “parents or guardians intoxicated leaving the child/children without proper supervision or care”), and Disorderly Conduct. The offense of Public Intoxication was not regularly charged by law enforcement and Disorderly Conduct was used instead for intoxicated offenders. Disorderly Conduct includes “appear[ing] in a public or private place in an intoxicated and disorderly condition.” It was not feasible to obtain complete information on prior charges from the tribal court records.

Fifteen of the forty participants (37.5 percent) were arrested for at least one offense while they were participating in the Alternative Court (see Table 7). The majority of the offenses involved alcohol: DUI, Minor in Possession, and Disorderly Conduct. Four of the participants who were arrested went on to graduate, three fled the jurisdiction, and 11 were terminated.

Table 7. Major Offense Occurring during Alternative Court Participation*

TYPE OF OFFENSE	# PARTICIPANTS*	%	AGGREGATE %
Criminal Possession of Dangerous Drugs	3	20%	20% Drug
Driving Under the Influence	5	33%	67% Alcohol
Minor in Possession	2	13%	
Disorderly Conduct	3	20%	
Assault	1	7%	20% Crimes against a Person
Child Endangerment	2	13%	

*Includes one participant twice who was arrested for drug possession and a DUI on the same day.

Graduation Rate

Of the 40 participants, 18 participants or 45 percent graduated. The remainder of the participants were either terminated (10 or 25 percent), fled the jurisdiction (6 or 15 percent), or were in the program when it ended in September 2000 (6 or 15 percent) (see Table 8). Table 9

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shows women were more likely to have graduated than men, but the difference was not significant (Chi-square = 1.402, $df = 1$, $p = .236$).

Table 8. Completion Status by Gender

GENDER	# TOTAL	# GRADUATED	%	# TERMINATED	%	# FLED JURISDICTION	%	# AT PROGRAM END	%
Men	27	10	37%	7	26%	5	18%	5	18%
Women	13	8	62%	3	23%	1	8%	1	8%
Total	40	18	45%	10	25%	6	15%	6	15%

The graduation rate for the participants who entered the court in the second year was half that of those who entered the first year (see Table 9).

Table 9. Completion Status by Entry Year

YEAR	# ENROLLED	# GRADUATED	%	# TERMINATED	%	# FLED JURISDICTION	%	# IN PROGRAM END	%
1998	17	12	71%	4	23%	1	6%	--	--
1999	12	5	42%	5	42%	2	16%	--	--
2000	11	1	9%	1	9%	3	27%	6	55%
Total	40	18	45%	10	25%	6	15%	6	15%

Table 10 shows those participants who graduated from the program are older (31 years compared to 23 years) than those who were terminated ($t = 3.010$, $df = 26$, $p = .006$).

Table 10. Age at Entry into Program by Completion Status

COMPLETION STATUS	# PARTICIPANTS	MEAN	MEDIAN	MINIMUM	MAXIMUM
Graduated	18	31	31	18	46
Terminated	10	23	22	18	31
Fled Jurisdiction	6	26	25	18	37
Total*	34	28	27	18	31

* Total does not include the six participants in the Alternative Court when it ended.

Length of Participation

On average the 18 participants who graduated spent 370 days or approximately 53 weeks or a little more than one year in the program (see Table 11). The program is designed to be completed in 48 weeks, or four phases of 12 weeks each. One-quarter of the graduates completed the program in 284 days (41 weeks), another quarter completed the program in 378 days (54 weeks), another quarter completed the program in 433 days (62 weeks), and 90 percent completed the program within 526 days (75 weeks).

Table 11. Days in Program by Completion Status

COMPLETION STATUS	# PARTICIPANTS	MEAN	MEDIAN	MINIMUM	MAXIMUM
Graduated	18	370	378	221	531
Terminated - Noncompliance	10	303	322	48	636
Terminated – Fled Jurisdiction	6	219	98	35	631
Total*	34	298	322	35	636

* Total does not include the six participants in the Alternative Court when it ended.

There is variability in length of time in the program depending upon what year the participants enrolled. ($F = 27.78, p = .000$). Participants who entered in the first year, whether they graduated or were terminated from the program, spent more time in the program than participants who entered in the second and third years (see Table 12).

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Table 12. Days in Program for Participants by Entry Year and Completion Status

ENTRY YEAR	# PARTICIPANTS	STATUS	MEAN	MEDIAN	MINIMUM	MAXIMUM
1998	12	Graduated	408	399	280	531
	5	Terminated*	450	339	322	636
1999	5	Graduated	311	286	251	433
	7	Terminated*	255	259	35	440
2000	1	Graduated	221	221	221	221
	4	Terminated*	78	69	48	125
Total**	18	Graduated	370	378	221	531
	16	Terminated*	271	290	35	636

* Terminated includes noncompliance and fleeing jurisdiction.

** Total does not include the six participants in the Alternative Court when it ended.

Male and female graduates spent similar amounts of time on average in the program (374 and 366 days), but males were terminated faster on average than females (287 days compared to 340 days) (see Table 13).

Table 13. Days in Program by Completion Status and Gender

COMPLETION STATUS AND GENDER	STATUS	MEAN	MEDIAN	MINIMUM	MAXIMUM
Graduated Men	10	374	352	251	531
Graduated Women	8	366	385	221	435
Terminated Men	7	287	322	48	636
Terminated Woman	3	340	322	259	440
Fled Men	5	186	70	35	631
Fled Women	1	383	383	383	383
Total	34	324	336	48	636

It was not possible to tabulate the number of participants who repeated a phase or determine in what phase the terminated participants left the program because of the large amount

of missing data on phase advancement dates. Incomplete information on the amount of time spent in the different phases is in the Key Component 4 discussion. The longest length of time spent in the program by a graduate was 531 days, or almost a year and a half. The program is designed to be completed in 48 weeks, or four phases of 12 weeks each. One-quarter of the graduates completed the program in 284 days (41 weeks), another quarter completed the program in 378 days (54 weeks), another quarter completed the program in 433 days (62 weeks), and 90 percent completed the program within 526 days (75 weeks).

Participant Recidivism

In fact, I can tell you this, of all the people I knew that were in there, I have probably only seen maybe five or six of those people come back through this court. . . . You might get them for drinking one night or walking down the street drunk, but it's not this habitual alcoholic user, or this habitual drunk abuser. - Team Member

I only know of one that's back into the system again and eventually he moved away, but it took him almost a year before he was back in, he was clean until then. And the only other ones[that got back in the system] were the ones who never did complete the course, they never did finish anything. - Team Member

Recidivism in this study was measured by the occurrence of a post-program arrest for an offense involving drugs or alcohol. Recidivism often is measured as the rate of post-program arrests in a 3-year period after leaving the program and because the Alternative Court ended in September 2000 and recidivism information was gathered in March 2004, all participants had 3 or more years of post-program time. Team members are of the impression recidivism rates are relatively low, but how reliable is this impression? The team members only had direct knowledge of arrests in tribal court, yet even former participants who live in the area have the

potential to be arrested by a multitude of jurisdictions—municipal, county, and state. Information on arrests in other jurisdictions is not formally shared with the tribal court. But because the Blackfeet reservation is a relatively small community and news travels, team members think their impressions of a relatively low recidivism rate are accurate.

To confirm the number of post-program arrests, arrest and disposition information was collected in March 2004 from the Blackfeet criminal computer database (1998-2004); the Glacier County District Court (1994-2004) and Justice Court (1998-2004); and Cut Bank City Court case files (1994-2004) for all 40 participants. Female participants were queried in the databases on both their maiden and married names. The recidivism information may be incomplete because access to the Montana state criminal database was not available and only the jurisdictions in Glacier County were queried. Thus, due to incomplete record keeping, incomplete data collection, and the fact many crimes do not result in an arrest, the results of this analysis form a conservative measure of re-offense.

Ideally, recidivism studies compare the outcomes of offenders who participated in the wellness court program with a similarly situated group of offenders who did not participate in the program. An effort was made to collect a comparison group of offenders in March 2004, but the lack of computerized tribal court records before 1998 made the ascertainment of the comparison group unreliable.

Twenty-one of the 40 participants (52.5 percent) had at least one post-program alcohol or drug charge by March 2004 (see Table 14). More optimistically, 19 of the 40 participants (47.5 percent) did not have an alcohol or drug-related charge. However, three of the 19 participants without a record of re-arrest were known to be living out of the area. There was not a statistically significant relationship between completion status and recidivism; graduates were

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just as likely to be arrested for an alcohol or drug charge after leaving the program as were participants who were terminated, fled the jurisdiction, or were in the program when it ended.

When only terminated or graduated participants are examined, 18 of 28 (64 percent) had a alcohol or drug charge within 3 years of leaving the program. Nor was there a statistically significant relationship between gender and recidivism; men and women were equally likely to be arrested for a drug or alcohol charge after leaving the program.

Table 14. Post-Program Alcohol and Drug Charges by Completion Status and Gender

STATUS & GENDER	NO KNOWN ARREST	%		DRUG/ALCOHOL ARREST	%		TOTAL	
Graduated Men	4	10%	17.5%	6	15%	27.5%	10	45%
Graduated Women	3	7.5%		5	12.5%		8	
Terminated Men	2	5%	7.5%	5	12.5%	17.5%	7	25%
Terminated Women	1	2.5%		2	5%		3	
Fled Jurisdiction Men	2	5%	7.5%	3	7.5%	7.5%	5	15%
Fled Jurisdiction Women	1	2.5%		0	--		1	
Program Ended Men	5	12.5%	15%	0	--	--	5	15%
Program Ended Women	1	2.5%		0	--		1	
Total	19	47.5%		21	52.5%		40	

The first post-program alcohol or drug arrest was much more likely to involve an alcohol than drug-related charge (see Table 15). Only one participant was arrested for Criminal Possession of a Dangerous Drug on her first arrest and it was a female who graduated. Other alcohol charges included Disorderly Conduct, Driving Under the Influence, Minor in Possession, Open Container, Public Intoxication, and Theft (a 12-pack and a 20-pack of beer from a local grocery).

Table 15. First Post-Program Alcohol or Drug Charge by Completion Status

COMPLETION STATUS	DISORDERLY CONDUCT	DRIVING UNDER THE INFLUENCE	CRIMINAL POSSESSION DANGEROUS DRUG	MINOR IN POSSESSION	OPEN CONTAINER	PUBLIC INTOXICATION	THEFT
Graduated (N = 11)	3	2	1	1	1	2	1
Terminated (N = 7)	4	1	--	2	--	--	--
Fled Jurisdiction (N = 3)	2	1	--	--	--	--	--
Total	9	4	1	3	1	2	1

When all post-program charges were examined, graduates had fewer post-program drug or alcohol charges and fewer total post-program charges than the participants who were terminated or fled the jurisdiction (see Table 16). The difference was not statistically significant for the number of post-program drug and alcohol charges ($t = -1.853, df = 19, p = .080$), but was statistically significant for *all* post-program charges including drug and alcohol charges plus crimes against a person and crimes against property ($t = -2.592, df = 19, p = .024$).

Table 16. Post-Program Charges by Completion Status

COMPLETION STATUS	TYPE OF CHARGE	MEAN	MEDIAN	MINIMUM	MAXIMUM
Graduated (N = 11)	Post-Program Drug & Alcohol*	3	1	1	8
	All Post-Program Charges**	5	3	1	13
Terminated and Fled (N = 10)	Post-Program Drug & Alcohol*	5	5	1	13
	All Post-Program Charges**	13	12	1	33

* Disorderly Conduct, Driving Under the Influence, Drug Possession, Minor in Possession, Open Container, and Public Intoxication

** In addition to those offenses listed above, Abduction, Assault, Contributing to the Delinquency of a Minor, Child Endangerment, Domestic Abuse, Elder Abuse, Embezzlement, Forgery, Malicious Mischief, and Theft.

The date of the first post-program arrest was known for the 21 participants who re-offended and the number of days until re-arrest were calculated (see Table 17). **Graduates were slower to re-offend than those who were terminated from the program.** The female graduate whose first drug or alcohol arrest was for Criminal Possession of Dangerous Drugs did not re-offend until 944 days or 2½ years after she left the program. The nine graduates who re-offended with an alcohol charge on average re-offended 2 years after they left the program. The seven terminated participants re-offended in a shorter amount of time, a mean time of 1 year (358 days) and a median time of 4 months (135 days). The times to re-offense for those who fled the jurisdiction were not reliable since those who fled were out of the area for a period of time after leaving the court.

Table 17. Days to First Post-Program Alcohol and Drug Arrest By Completion Status

COMPLETIONS STATUS	# PARTICIPANTS	MEAN	MEDIAN	MINIMUM	MAXIMUM
Graduated (N = 10)	Drug Arrest	944	944	944	944
	Alcohol Arrest	742	702	83	1678
Terminated (N = 7)	Drug Arrest	--	--	--	--
	Alcohol Arrest	358	135	1	1152
Fled Jurisdiction (N = 3)	Drug Arrest	--	--	--	--
	Alcohol Arrest	651	734	477	741

Three of the arrests occurred after 3 years (or 1095 days) of leaving the program. A strict analysis of recidivism for the Alternative Court would not include these three participants as re-offenders. Thus, 18 of the 40 participants (or 45 percent) are known to have re-offended within 3 years of leaving the program.

No record of post-program alcohol or drug arrest was found for 19 of the 40 participants. An analysis of the length of time with no post-program arrest for the 16 participants known to be in the area showed six graduates had gone over 4½ years on average with no known drug or alcohol arrests and six participants who were terminated had gone almost 4½ years on average with no known drug or alcohol arrests (see Table 18). The four participants who were in the program when it ended had gone over 3½ years with no known drug or alcohol arrests.

Table 18. Days with No Post-Program Alcohol and Drug Arrests By Completion Status

COMPLETIONS STATUS	# PARTICIPANTS	MEAN	MEDIAN	MINIMUM	MAXIMUM
Graduated	6	1686	1707	1345	1988
Terminated	6	1574	1474	1352	1960
Program Ended	4	1317	1317	1317	1317

Participant characteristics (chemical dependency diagnosis, age, length of time in program, gender, and whether the participant graduated or not) were analyzed by logistic multiple regression and linear multiple regression to determine if any of the characteristics or any combination of characteristics predicted whether or not the participant was likely to re-offend. None of the characteristics explained the variability in recidivism when recidivism was categorized as yes or no. A diagnosis of cannabis dependence was an explanatory factor when recidivism was defined as the number of post-program drug or alcohol (Disorderly Conduct, DUI, Minor in Possession, Open Container, and Public Intoxication) charges (beta coefficient = .461, $t = 3.164$, $p = 0.002$, adjusted $R^2 = .192$).

When recidivism was defined as the number of post-program charges including related crimes (Abduction, Assault, Contributing to the Delinquency of a Minor, Child Endangerment, Domestic Abuse, Elder Abuse, Embezzlement, Forgery, Malicious Mischief, and Theft), two different participant characteristics explained the variation in number of post-program charges (adjusted $R^2 = .407$). The number of days in the program (beta coefficient = -0.457, $t = -2.536$, $p = .021$) and the status of graduate (beta coefficient = -0.391, $t = -2.196$, $p = 0.044$) were negatively associated with the total number of post-program arrests. In other words, 41 percent of the variability seen in the number of post-program arrests was explained by the number of days the participant spent in the program (more time in program, the fewer post-program charges) and whether or not the participant graduated (graduates have fewer post-program charges).

Outcome in Perspective

A review of the recidivism analysis showed recidivism for a drug or alcohol arrest in a 3-year period following the program was 45 percent or approximately half of the participants.

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There was no relationship in this sample between completion status and recidivism, graduates were as likely to be arrested on an alcohol or drug offense as were those terminated from the Alternative Court. There also was no gender difference in recidivism. However, there was a significant amount of time before the majority of participants, especially graduates, re-offended that hints at a decrease in substance-abusing behaviors with occasional relapses. Sixteen (40 percent) of the participants had gone 3 or more years with no alcohol or drug arrest after leaving the program.

Conclusions

The primary goal of the Blackfeet Alternative Court was:

to rehabilitate these offenders into becoming sober, healthy, productive law-abiding citizens. This in turn will reduce the Blackfeet Reservation's crime rates, incidents of violence, and the Tribal Court calendar while improving educational levels, cultural identity, family relationships, and overall wellness for the people of the Blackfeet Reservation.

Did the Blackfeet Alternative realize its goal of rehabilitating offenders? In the short life of the court, approximately half of the 40 participants successfully achieved a life free from drug and alcohol abuse and dependency as measured by recidivism statistics. Additionally, comments from participants, family members, team members, and community members documented an increase in self-esteem and self-worth in the participants due to the Alternative Court..

The Blackfeet Alternative Court had many strengths. Most importantly the court had a very strong treatment component—a full-time chemical dependency counselor exclusively for the Alternative Court participants, good integration of culture into court during its last year, and a residential treatment center for families. The court also had a very committed team with a great deal of enthusiasm for the wellness court concept. Sadly, a series of setbacks (core team changes, a judge who was not perceived as a team player, appellate decisions that were critical of Alternative Court procedures, and non-chemically dependent drug dealers accepted as participants), none fatal by itself, but cumulatively fatal to the life of the court, eventually ended the court.

REFERENCES

¹ Tribal Law and Policy Institute (2003). *Tribal Healing to Wellness Courts: The Key Components*. (BJA Publication No. 188154). Washington, DC, U.S. Department of Justice.