

ENHANCING TRIBAL PROBATION: SUBSTANCE USE

Guiding Principles for Tribal Probation Officers

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GUIDING PRINCIPLES

SUPERVISING INDIVIDUALS WITH SUBSTANCE USE DISORDERS

Many tribal nations are making it a top priority to address problematic substance use in their communities in an effort to provide safety and healing to their tribal citizens. Individuals with substance use disorders (SUD) often become involved in the justice system, leaving probation officers the complex task of supporting and monitoring those individuals through their journey towards recovery, healing, and stability. This document outlines key principles for supervising individuals with SUDs and highlights opportunities to integrate tribal-specific practices and teachings to support individuals on probation.

1. SPECIALIZED TRAINING ON SUBSTANCE USE DISORDERS AND RELATED ISSUES

Supervising people who struggle with substance use is complicated, resource-intensive, but ultimately rewarding work. Probationers with substance use disorders often face numerous challenges in addition to their substance use, including health-related issues, mental illness, intergenerational trauma, housing instability, legal issues, and other challenges. Specialized training ensures that probation officers have the necessary skills to assess for these overlapping issues, respond in evidence-based ways, and make appropriate treatment and service referrals.

Effective supervision requires learning about different substances (licit and illicit) and their effects, evidence-based treatments, trauma-informed practices, the relationship between substance use and criminal activity, overdose prevention, and harm reduction. It also requires case planning that addresses the whole person in relation to their community—including their cultural and spiritual needs. Accordingly, probation officers should consider seeking guidance from community members about how to incorporate traditional ways of knowing and cultural practices into their supervision strategies. [1]

[1] For more information see SAMHSA's *Principles of Community-based Behavioral Health Services for Justice-involved Individuals: A Research-based Guide* available at: <https://store.samhsa.gov/product/Principles-of-Community-based-Behavioral-Health-Services-for-Justice-involved-Individuals-A-Research-based-Guide/SMA19-5097>



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2. SCREENING AND ASSESSMENT FOR SUBSTANCE USE DISORDERS

The relationship between substance use and justice system involvement is complex. Some individuals with SUD engage in illegal activities like selling small quantities of drugs or petty theft to support their use. In other cases, these illegal activities may have started before a person's SUD and coincide with other criminogenic factors like poverty, unemployment, homelessness, and other unmet social needs. In addition, not every justice-involved individual who uses illegal substances has a substance use disorder. It is important that probation officers—in coordination with qualified clinical professionals—assess the driving forces behind each probationer's substance use and tailor supervision and treatment plans accordingly. The probationer should first be screened with a validated risk-need-responsivity (RNR) tool to determine likelihood of re-offense and flag potential treatment needs. If the RNR screening indicates a possible substance use disorder, the probationer should then receive a more in-depth clinical assessment by a behavioral health professional. [2]

A CLINICAL ASSESSMENT WILL EXPLORE:

- **Substances used:** What substances is the person currently using?
- **Use history:** How did the person's substance use start, and when did it become problematic?
- **Pattern of use:** What is the quantity and frequency of use? Is the person mixing substances, and what is their risk of overdose?
- **Modes of use:** Is the person inhaling, ingesting, and/or injecting?
- **Treatment history:** Has the person previously been hospitalized or gone to detox? What kinds of treatment have they tried?
- **Trauma history:** Has the person experienced individual trauma? Have they been subject to intergenerational or historical trauma?
- **Co-occurring mental health:** Does the person have a mental health diagnosis? Do they report a history of mental illness, hospitalization, or suicide attempts?
- **Physical health:** Does the person have any health conditions, physical impairments, or injuries?
- **Social health:** Does the person have supportive family relationships, employment, and stable housing?

[2] For more information see *Screening and Assessment of Co-occurring Disorders in the Justice System* (SAMHSA) available at <https://store.samhsa.gov/sites/default/files/d7/priv/pep19-screen-codjs.pdf> ; and *A Desktop Guide for Tribal Probation Personnel: The Screening and Assessment Process* (BJA) available at https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/APPA_TribalProbation.pdf



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3. INDIVIDUALIZED TREATMENT PLANS

Each probationer should be connected to the treatment modalities and other services that are appropriate to their individual needs, as indicated by the clinical assessment. Treatment plans can include a range of services and levels of care, including medically-supervised detox, residential treatment, intensive outpatient programs, individual counseling, mutual aid groups, medication-assisted treatment (MAT), culturally-based services, and more. In collaboration with the probationer and treatment partners, probation officers should make best efforts to match the probationer's treatment needs to the appropriate service. If the preferred service is not available, because of limited resources, remoteness, or other reasons, probation departments may consider partnering with treatment providers associated with other tribes or non-tribal communities. Maintaining an updated catalog of services—including treatment providers, cultural programs, spiritual leaders, community wellness programs, etc.—can help probation officers to identify resources to meet the individualized needs of probationers. [3]

4. CULTURALLY-SPECIFIC TREATMENT REFERRALS

Culturally-specific treatment usually refers to the incorporation of traditional tribal practices alongside Western treatment approaches. These traditions might include sweat lodges, drum circles, smudging, naming ceremonies, storytelling, language teachings, land-based learning, traditional medicine, art, food, music, dance, and more. Probationers may identify with diverse cultural, spiritual, and religious backgrounds, so it is important to discuss with the probationer which cultural programs and services can best meet their needs. Some cultural events and recovery-based gatherings require participants to be not actively using drugs or alcohol, while others may allow probationers to participate even if they are not abstinent.[4]

[3] Ibid.

[4] For more information on treatment referrals, see *Tribal Healing to Wellness Courts: Tribal Healing to Wellness Courts: Treatment Guidelines*, 2 Treatment Guidelines, 2nd edition available at:

http://www.wellnesscourts.org/files/Treatment%20Guide%202nd%20ed_%202017.pdf



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5. COMMUNITY SUPPORT SYSTEMS

Individuals with substance use disorders are often socially isolated—cut off from friends, family, community, and important material resources. In tribal communities, this isolation often extends to feeling disconnected from one’s tribe, its shared language, history, and cultural practices. Probation officers should help probationers build and strengthen connections with family, friends, community, elders, spiritual and cultural teachers, counsellors, and colleagues that can support their journey to wellness. In addition, probation officers can help connect individuals to housing, medical treatment, employment, and educational opportunities. These positive support systems are known to be protective factors and can work to support healing and reduce recidivism. Effective case plans include detailed goals for accessing and maintaining these social and material resources.[5]

6. TRAUMA INFORMED SUPERVISION

Trauma is the lasting emotional response that results from living through or witnessing a terrible event (e.g., abuse, neglect, injury, accident, or natural disaster). It can also be passed between one generation to the next in communities that have experienced large scale violence, environmental devastation, or extreme hardship. It is very common for people who are justice-involved and who struggle with substance use to have experienced personal or generational traumas. Individuals who have lived through traumatic events may sometimes face situations that remind them of their traumatic experiences. When this happens, re-traumatized individuals may react in ways that are out of character, confrontational, or resistant in order to protect themselves. These kinds of behaviors can look like “non-compliance” to a probation officer who has not been trained to recognize symptoms of trauma. To better promote healing, probation officers should receive specialized training in identifying and responding appropriately to trauma. Tribal probation departments should also partner with agencies that offer culturally-adapted trauma services for people with substance use disorders. [6]

[5] For more information on community linkage, see *Tribal Healing to Wellness Courts: Case Management* available at: <http://wellnesscourts.org/files/HTWC%20Case%20Management.pdf>

[6] For information on providing trauma-informed care for substance-using Indigenous peoples, see *Indigenous Harm Reduction = Reducing the Harms of Colonialism* available at: <http://www.icad-cisd.com/pdf/Publications/Indigenous-Harm-Reduction-Policy-Brief.pdf>



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7. NON-JUDGMENTAL LANGUAGE

Research shows that using compassionate and scientific language to describe substance use has a positive impact on recovery outcomes.[7] It helps people feel less judged and defined by their substance use and can improve trust and communication between the probation officer and probationer. Probation departments should therefore aim to replace outdated terminology.

| Avoid These Terms | Use These Terms |
|-------------------|--|
| Dirty/clean urine | Positive/negative drug test |
| Addict | Person with an addition/substance use disorder |
| Substance abuse | Substance use/substance use disorder/addiction |
| Relapse | Recurrence of use |

8. MEDICATIONS FOR OPIOID USE DISORDER (MOUD)

Tribal communities across the country are experiencing crisis-level spikes in opioid-related overdoses and deaths. This poses a unique set of challenges for probation officers supervising individuals who use opioids, either prescribed or illicit. It is critical that probation officers receive training to understand opioid use disorders, available treatments, and overdose prevention strategies, including medications. Medications used to treat opioid use disorder include methadone, buprenorphine, and naltrexone. These medications are FDA-approved, evidence-based, and act on the brain in ways that help to prevent withdrawal, lessen cravings, and reduce the risk of overdose.

[7] For more on language and SUD see Ashford, R. D., Brown, A. M., & Curtis, B. (2018). *Substance use, recovery, and linguistics: The impact of word choice on explicit and implicit bias*. *Drug and alcohol dependence*, 189, 131–138.
<https://doi.org/10.1016/j.drugalcdep.2018.05.005>



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It is not uncommon—or unsafe—for some people to continue using these medications to support their recovery for years.[8] Not all primary care physicians prescribe MOUD, so probationers struggling with opioid use disorders may need to be referred to specialized addiction medicine doctors. Probation officers should become familiar with the MOUD services available locally and make best efforts to support individuals with opioid use disorder.

IN SUPPORTING INDIVIDUALS WITH OPIOID USE DISORDER, PROBATION OFFICERS SHOULD:

- **Help probationers connect** with an MOUD provider immediately after release from custody (same day if possible) if the client was receiving MOUD in custody or has expressed a willingness to consider MOUD. Rapid engagement MOUD helps to prevent withdrawal and reduce the risk of overdose if they resume using opioids.
- **Partner with trusted MOUD providers** in the community.
- **Defer to addiction medicine doctors** regarding all medical decisions, including initiating MOUD, length of treatment, dosage, and coming off medications.
- **Become trained on the use of Naloxone** (an overdose reversal medication) and other overdose prevention strategies. Pass this information along to any probationer with a history of opioid use or overdose.
- **Make sure that probationers know** where to access Naloxone and provide it to them (if permitted) upon release from jail, hospital, residential treatment, or detox, when overdose risk is at its highest.

[8]For more information on MOUD, see *Substance Abuse and Mental Health Services Administration, Medication-Assisted Treatment (MAT) in the Criminal Justice System: Brief Guidance to the States* (2019), available at <https://store.samhsa.gov/product/Medication-Assisted-Treatment-MAT-in-the-Criminal-Justice-System-Brief-Guidance-to-the-States/PEP19-MATBRIEFCJS>



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9. MEASURING TREATMENT AND COMPLIANCE PROGRESS

Data is important for measuring compliance and tracking probationer engagement with services. Probation departments should collect data regarding each probationer's treatment referrals, including selected treatment provider, date of referral, wait times, type of treatment, duration of treatment, and referrals to other services (housing, employment, childcare, etc.). In addition, probation officers should track each probationer's attendance at treatment and other services, level of engagement, drug test results, and other pertinent information (e.g., medications, milestones, discharge information). To support robust data collection and analysis, probationer departments may need to develop formal data-sharing protocols with treatment providers and other partners.[9]

10. GRADUATED INCENTIVES AND SANCTIONS

Properly used, incentives and sanctions can promote positive behavior change. Probation officers should clearly communicate program requirements, expectations, and goals to probationers. Goals should be broken down into proximal (short-term) and distal (long-term) goals. Proximal goals are used to set basic expectations for individuals in early recovery. They might include keeping appointments and attending court. Achieving these proximal goals might be rewarded with verbal praise or a gift certificate or voucher. Distal goals are expected to take longer to achieve, like a lengthy period of abstinence or securing employment. These achievements might be rewarded with decreased court appearances or a curfew lift. Sanctions are similarly applied in a graduated way depending on the severity of the noncompliance and whether the goal is proximal or distal.

[9] For more information on data collection, see *Effective Responses to Offender Behavior: Lessons Learned for Probation and Parole Supervision* available at: <https://www.appa-net.org/eWeb/docs/APPA/pubs/EROBLLPPS-Report.pdf>



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For a new probationer, missing an appointment or having a positive drug screen might result in an additional court appearance or an adjustment to the supervision plan. Repeated infractions, or more serious violations like falsifying a drug test, could result in community service or short-term jail.[10]

CLOSING THOUGHTS

Effective supervision of individuals with substance use disorders requires that probation officers develop specialized competencies through ongoing training. These trainings should cover risk assessment, evidence-based treatment, trauma-informed care, case management, data collection, and more.

Probation officers should also have extensive knowledge about the range of services available locally or in nearby jurisdictions, particularly those providing culturally-specific treatment. Case plans and service referrals are more successful when developed collaboratively, in ways that respect the probationer's unique goals and strengths. All steps taken by the probationer to improve their health or stability should be incentivized and measured against their unique set of circumstances and challenges. Sanctions should be used sparingly, with careful consideration, and should never increase physical or mental health risks to the individual. And lastly, to the greatest extent possible, all of these strategies should strive to meaningfully integrate all available culturally safe treatment, services, and teachings.

[10] For more information on incentives and sanctions see *Effective Responses to Offender Behavior: Lessons Learned for Probation and Parole Supervision* <https://www.appa-net.org/eWeb/docs/APPA/pubs/EROBLLPPS-Report.pdf> and for examples, see *National Association of Drug Court Professionals, Lists of Sanctions and Incentives*, available at: http://www.wellnesscourts.org/files/sanctions_and_incentives_ndci_annotated_document.pdf.



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ACKNOWLEDGEMENTS

This publication was developed with the support of Fox Valley Technical College and the Bureau of Justice Assistance under funding provided by the Grant# 2018-S4-BX-K002.

Special thanks to Adelle Fontanet-Torres and Aaron Arnold for all of their support in editing and providing feedback on the publication.

Lastly, and most importantly, thank you to all the tribal probation officers who have shared their thoughts and stories with us over the years. Our hope is that this publication, and the others in the series, can provide ideas and opportunities to help you tackle the challenges you face every day.

For training and technical assistance, contact the Center for Court Innovation at:
<https://www.courtinnovation.org/training-ta>



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CENTER FOR COURT INNOVATION

The Center for Court Innovation exists to achieve a justice system that is fair, effective, and humane. We work with both government and communities to develop and run programs that have reduced the use of incarceration, increased equity, and strengthened neighborhoods by increasing safety and economic opportunity. We perform original research to identify what works. And we share what we learn from our programming and research with those seeking to transform the justice system around the world.

TRIBAL JUSTICE EXCHANGE

The Center's Tribal Justice Exchange has worked with more than 60 tribes across the country to implement innovative practices within their justice systems. These include prevention initiatives, youth engagement, diversion programs, restorative justice practices, Healing to Wellness Courts, reentry strategies, and other approaches emphasizing healing and community-building.

We offer a range of training and technical assistance services designed to promote tribal sovereignty by expanding tribal court jurisdiction, building collaborations with state and local partners, and developing new resources to support justice-involved tribal members.

The Western, adversarial system of justice often runs counter to the traditional practices of tribal communities. We recognize that approaches that work in state justice systems will not necessarily fit tribes' needs. Our Tribal Justice Exchange works with tribes to incorporate traditional practices and values into tribal justice systems.



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