

# Joint Tribal-State Jurisdiction

Hon. Korey Wahwassuck

“Poverty, addiction, and  
hopelessness know no  
jurisdictional boundaries”



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Where We Are

MINNESOTA

FEDERAL LANDS AND INDIAN RESERVATIONS

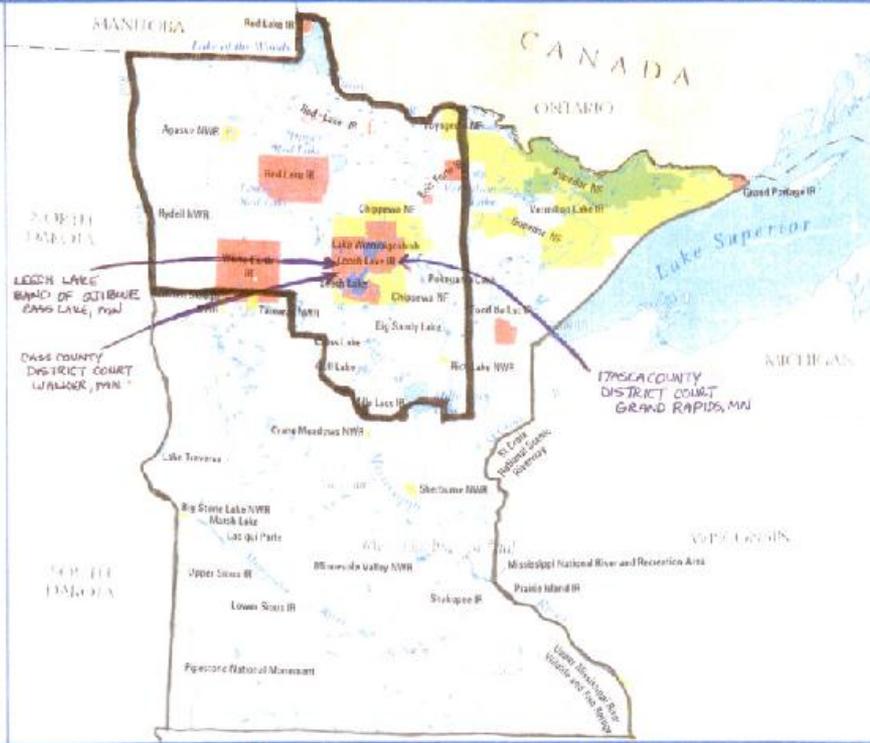
- Private land ownership
- Department of the Interior  
Bureau of Land Management
- Bureau of Reclamation  
National Park Service
- U.S. Forest Service
- National Wildlife Refuge System

Scale of miles and kilometers

MILES  
0 25 50 75 100  
Kilometers

Mile scales:  
100 Miles  
50 Miles  
25 Miles  
10 Miles  
5 Miles

**OUTLINE OF 1<sup>ST</sup> JUDICIAL DISTRICT**



U.S. Department of the Interior  
U.S. Geological Survey

The National Atlas of the United States of America®

# Leech Lake Band of Ojibwe

- 1 of 6 Member Bands of the Minnesota Chippewa Tribe (Bois Forte, Fond du Lac, Grand Portage, Leech Lake, Mille Lacs, White Earth, Mille Lacs)
- Reservation is 1,050 square miles
- Few towns, 15 communities spread 20-80 miles apart
- Encompasses parts of 4 counties (Beltrami, Cass, Hubbard and Itasca)

# Leech Lake, con't.

- Major Portion of Reservation in Cass County (ranked 4<sup>th</sup> in state for persons 200% below the poverty level)
- 46% Native American unemployment rate
- 60% have serious drug or alcohol problem
- 95% directly affected by family members' drug/alcohol abuse
- Young population – tribal demographics
- Cooperative Law Enforcement Agreement
- Tribal Police calls for service:  
2002 – 6,379      2006 – 9,417

# Leech Lake Tribal Court

- Created in late 70's as Conservation Court
- 1980 added ICWA cases
- By 2006, handling civil, traffic, conservation, housing, dangerous dog, child protection, truancy, minor consumption, curfew (TCAP grantee)
- Added in 2009 – Tax Code, Family Law (divorce/custody)
- No criminal codes – “building incrementally”
- Small court – 2 full time staff, 1 full-time Assoc. Judge, 1 part-time Chief Judge
- Use of technology – Interactive Videoconferencing





# State of Minnesota

- Native Americans overrepresented in juvenile and adult systems
- Native Americans only 1.1% of population statewide
- 2004 – 7% of Native American children in out-of-home placement
- 21.7% of incarcerated youth are Native American

# Minnesota con't

## ■ METHAMPHETAMINE EXPLOSION

Statewide - 320% increase in cases filed from 1999 (472) to 2005 (4,852)

9<sup>th</sup> Judicial District – 857% increase in cases filed from 1999 (54) to 2005 (517)

# Cass County

- Ranked 7<sup>th</sup> out of Minnesota's 13 deadliest counties for drinking/driving in 2006
- 21% increase in felony DWI's between 2000-2005
- Cass County worst outcomes for children – 9<sup>th</sup> graders
  - 1<sup>st</sup> for sexually active teens
  - 2<sup>nd</sup> for out-of-home-placement and attempted suicides
  - 3<sup>rd</sup> for drinking and driving
  - 3<sup>rd</sup> for children living in poverty

# Itasca County

- 2004 – meth caused 33% increase in jail costs
- July 2005 – 94% of all people booked into jail had methamphetamine in system or possession
- 2005 – meth possession accounted for 64% of felony drug charges
- 2005-2007 – felony drug possession charges increased 57%
- 2008 - added to list of “13 deadliest counties”

# Common Goals Shared by Leech Lake Band and State Court Systems

- Reducing disproportionate minority contact
- Fewer children in out of home placement
- Addressing the epidemic of drug and alcohol abuse
- Reducing number of DWI's and traffic fatalities

*“We are the self in self-government,  
and we have to organize ourselves  
to get the job done. We have to take  
our own vision for the future and  
make it happen.”*

- Satsan (Herb George)



# Joint Powers Agreement:

Tribal Court and State Courts agreed to work jointly on common goals of:

1. Improving access to justice
2. Administering justice for effective results
3. Fostering public trust, accountability, and impartiality

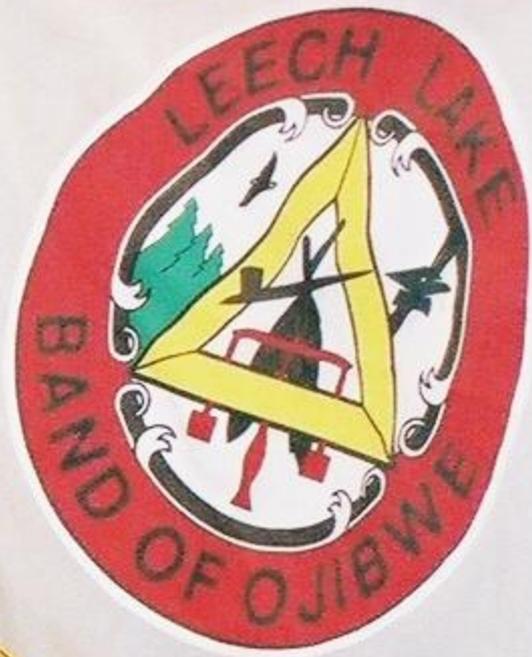
# Joint Jurisdiction Wellness Court Teams

- Judges – State District Court Judge & Tribal Court Judge
- County Attorney
- Public Defender – Regional Native Public Defense Corp.
- Probation/Supervision – MN Dept. of Corrections and County Probation
- Law Enforcement – County Sheriff & Leech Lake Police
- Treatment Assessor/Provider – Leech Lake Outpatient & Private Treatment Providers
- Coordinator/MIS – 9<sup>th</sup> Judicial District

# Leech Lake – Cass County Wellness Court

- First joint jurisdiction court in the nation
- Operational in 2006
  - DWI Court Model
  - Court sessions by ITV in Walker and Cass Lake
- Clients include Tribal Members and Non-Indians
- Multi-jurisdictional, multi-agency participation
- Operated on handshake for over a year





GEORGE JOHN P. SMITH

# Leech Lake-Itasca County Wellness Court

- Operational in April 2007
- Tribal officials invited to help plan court
- Same basic Wellness Court Model
- Hybrid Court (Drug/DWI)
- 2 Judge Model implemented over time
- Tribal Judge and State Judge preside together over hearings in Itasca County District Court





# Wellness Court Success Stories

- Participants reunited with children/families
- Valid driver's licenses
- Employment/school
- National award for tutor of year/CNN intern
- Ending abusive relationships
- 42 participants with 10,568 days of documented sobriety
- Significant reduction in recidivism

“The execution of the Joint Powers Agreements between the Tribal Court and State District Courts...are an important example of how broader inter-governmental relations can begin to come full circle back to that of co-equal sovereigns.”

- Leo Brisbois (White Earth Ojibwe)  
President of Minnesota State  
Bar Association

# THE FRUITS OF CHANGE

# Systems Changes

- Multi-Jurisdictional Juvenile Delinquency Court  
Restorative Justice Program/Cross-jurisdictional probation appointments
- Minnesota Judicial Branch Strategic Plan now includes collaboration with Tribal Courts (Full Faith and Credit?)
- Joint hearings on non-ICWA custody cases

# Other Agreements

- Contract with State for Leech Lake Police services for Wellness Court
- Tribal Council/Board of Commissioners meeting
- Contract with 9<sup>th</sup> Judicial District for Guardian *ad litem* services
- Incarcerated parents can appear by ITV in Tribal Court for child protection hearings
- Leech Lake Regional Justice and Public Safety Center  
(Department of Justice grant for feasibility study)

“The courts’ joint work has improved relationships on many levels between Cass County and the Leech Lake Band of Ojibwe, and serves as a building block between the two governments.”

Robert Kangas, Chairman of the Cass County Board of Commissioners

“Cooperation among state and tribal courts has become essential to the effective administration of justice.”

Sue Dosal, State Court Administrator\  
Minnesota Judicial Branch

# Benefits of Collaboration

- Leverage scarce resources
- Make new funding sources and services available
- Direct hand in healing while protecting public safety
- Cultural Understanding - Eliminate “us v. them” attitude
- Strengthen services to families
- Increase public trust and confidence
- Expand jurisdiction NOW

# Challenges

- Fear of the unknown
- Overcoming skepticism
- Personal/Institutional History

# National Model

## ■ Harvard Honoring Nations 2010

Harvard Project on American Indian Economic Development

Honors outstanding examples of Tribal governance -

Effectiveness, Significance to Sovereignty, Transferability  
and Sustainability

Leech Lake's Joint Jurisdiction Contribution chosen as one of 10  
finalists from more than 100 applications from tribes and  
tribal consortiums

“Cooperative agreements between states and tribes in which both sovereigns are recognized provide a positive roadmap to future prosperity for both sovereigns and brings a true sense of peace and harmony that nurtures effective and efficient governance for both.”

Hon. Eugene White Fish  
Forest County Potawatomi/  
Former NAICJA President

SYSTEMS don't change -  
PEOPLE do!!

# Ingredients for Success

- Develop a relationship of trust
- Focus on common goals
- Develop mutual respect

# Tribal Court-State Court Collaborative Model

- I. Getting Started - *"A Million and One Excuses Why It Won't Work"*  
(or, "You can't pound square pegs into round holes")



- II. Opening Lines of Communication - *"Finding Common Goals"*



- III. Exploring Collaboration - *"Finding Common Ground"*



# THE POWER OF ONE

# Resources

## **“The New Face of Justice: Joint Tribal-State Jurisdiction”**

Washburn Law Journal (Vol. 47, No. 3, Spring 2008)

## **“Building a Legacy of Hope: Perspectives on Joint Tribal-State Jurisdiction”**

William Mitchell Law Review (Vol. 36 , Issue 2 2010)



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