

Structural Options for Tribal Courts

36th Annual Alaska Tribal Court Conference *Tribal Courts: Guardians of Justice*

April 29, 30, and May 1, 2019

Judge Katie Kangas, Ruby Tribal Court

Judge Susan Wells, Kenaitze Tribal Court

Circle Facilitator Curt Shuey, Kenaitze Tribal Court

NIŁGHU K'T'UCH' QENASHEN

"ONE WHO TALKS FOR EQUITY"





KENAITZE TRIBAL COURT

STRUCTURE CHAPTER ONE

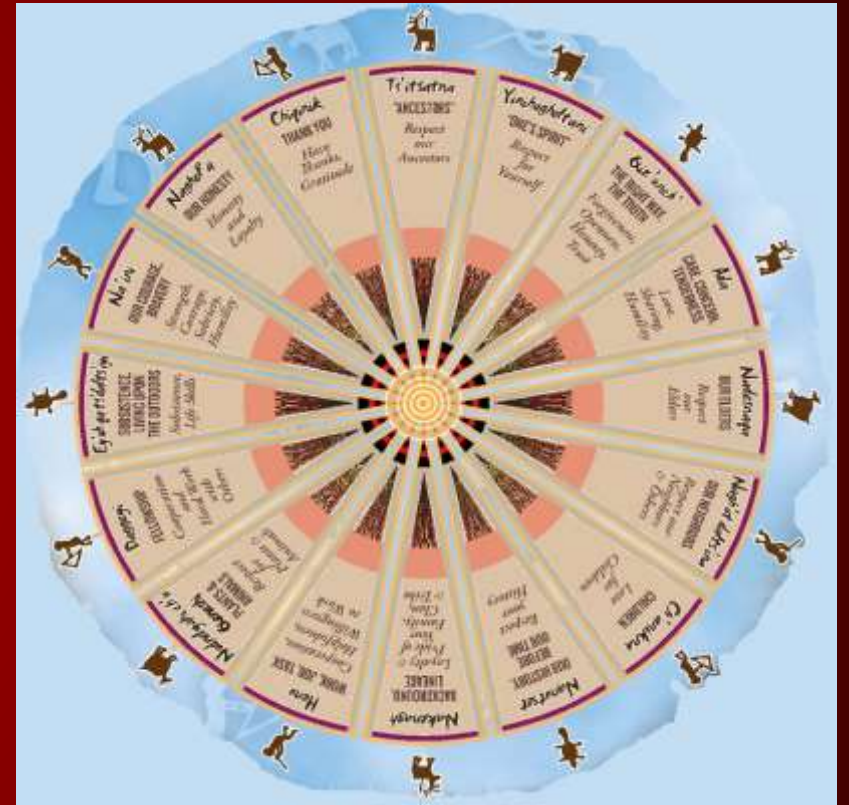
§3. Purpose

A. History

Since time immemorial, we the Dena'ina Athabascan people, including the Kenaitze Indian Tribe, have resolved dispute and conflict, maintained community peace, and delivered justice within our Tribal Territory through the use of our Traditional Athabascan Laws, Customs, and Practices.

§3. Modern Purpose

The purpose of this Code is to **honor and acknowledge** our prior Customs, History, Traditions, and Experience for the purpose of **preserving, strengthening, and continuing** the Tribal Court into the future. To **ensure the efficient and fair administration of justice**, the Tribal Court shall continue to resolve conflicts and disputes and enforce Tribal Laws through the application of Cultural Traditions, Customary and Traditional Values, Written Law, Codes, and Ordinances.





§4. Authority*

The Kenaitze Indian Tribe, represented by the duly elected governing body of the Tribal **Council**, **has the authority to operate the Kenaitze Tribal Court pursuant to its inherent sovereign authority**, written and unwritten Cultural Traditions, Customary and Traditional Values consistent with those powers set forth in the Tribe's Constitution, Bylaws, Ordinances, Resolutions and Codes.




§5. Supreme Law: The Dena'ina Principles of Regulations*

In the event of an otherwise unresolvable dispute, the Dena'ina Principles of Regulation, which includes written and unwritten Tribal traditions, **will take precedence over all other laws, codes and regulations.**

Before the court issues a decision on the basis of the Dena'ina Principles of Regulation, it will give the people involved an opportunity to be heard about any question over what those principles are or how they should be applied.



§6. Jurisdiction*

 The Kenaitze Tribal Court shall have the authority to exercise jurisdiction that is permitted as their valid existing rights as a sovereign nation. These powers include, but are not limited to:

Matters relating to the governmental processes internal to the Tribe and over matters arising in the Tribe's Dena'ina Indian Country

 **Subject Matters**—hear and decide civil, criminal and youth

 **Territorial**—extends to all lands, air and waters customarily and traditionally used by its people, including trust lands.

- **Personal**—Tribal members or persons eligible for membership, regardless of where they live or do business; Natives who are members of another Tribe; Persons who enter into a consensual relations with the Tribe or tribal members or whose activities affect the political integrity, economic security, or the health or welfare of the Tribe or tribal members;
- Any person residing within or traveling through the territory consistent with Federal Law.
- **Concurrent Jurisdiction**—matters within the jurisdiction of Federal, State or other Tribal Courts



§ 8. Structure

Cases are heard by a panel of judges, no fewer than two

At least one judge is an elder

Court Personnel includes Chief Tribal Judge; Second Chief Judge; Court Administrator; Court Clerk; Court Liaison; Circle Keeper(s), ICWA, Pro Tempores



Judge Qualifications—enrolled Tribal members, domiciled within customary and traditional territory; at least 31; no non-violent convictions within previous 2 years, **except** fishing, hunting and gathering violations. No violent crimes within previous 10 years; no convictions involving sexual assault, etc.; must provide criminal background /child protection clearance/drug and alcohol free workplace

Must participate in judicial trainings

Cannot be a current Tribal Council Member

Appointed by Council; not elected; 4 year terms; Judicial Review Board

 The Court and any party appearing before it may confer with or request Oral or written advice and guidance from Tribal elders and other Tribal Advisors.

 The Court may access attorneys and other professionals for consultation as it deems appropriate.



 Appellate Court—The Council serves as the Appellate Court.

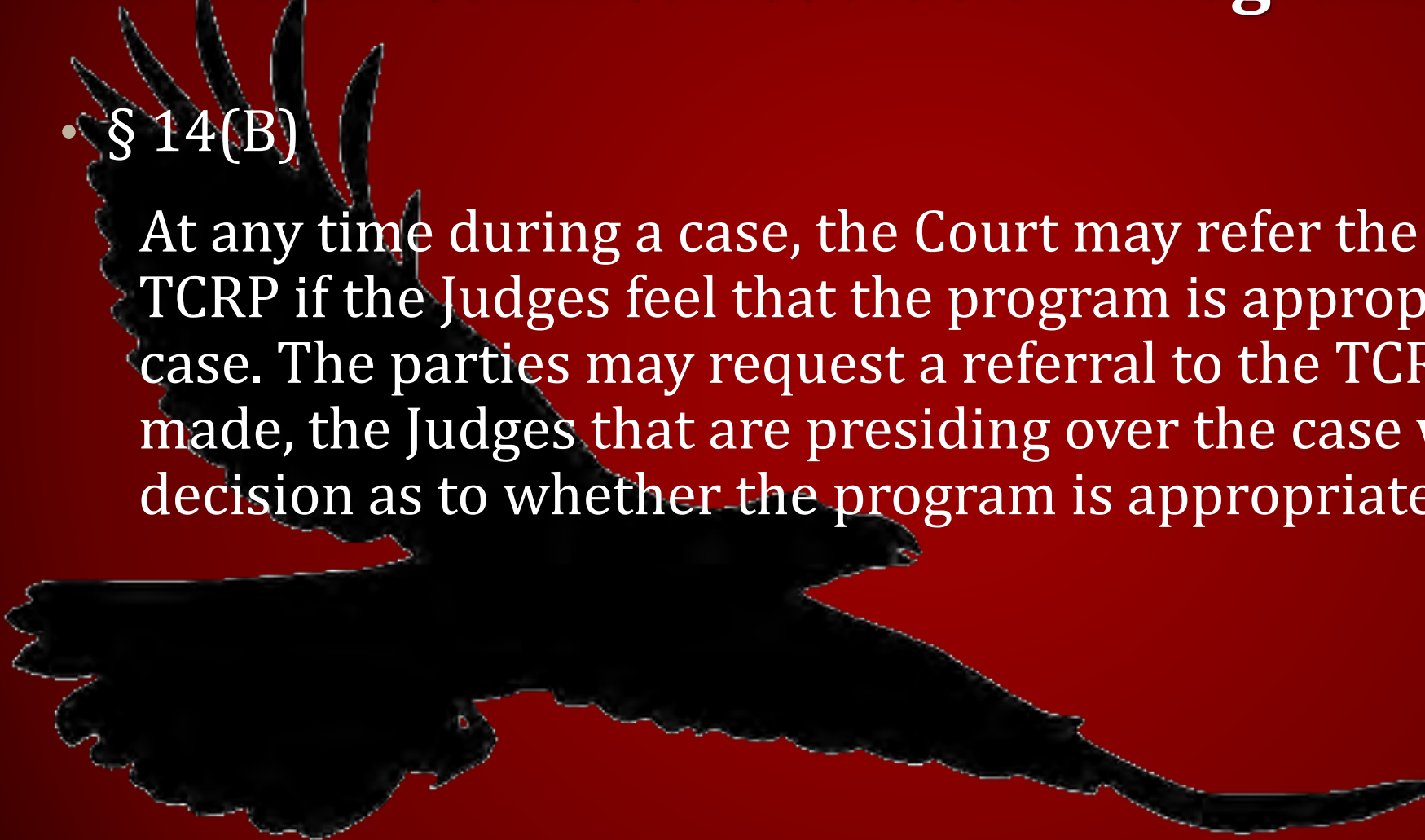
Judicial Independence: What It Means and How to Maintain It. *"...at the very least means that judges are entirely safe from suffering negative consequences for their court decisions. It also means that judges will be free from outside pressure in deciding their cases. Full judicial independence means that neither the legislative nor the executive branch of government, nor the public, is permitted to encroach on and influence the decision making process of the judicial branch."*

Steven L. Pever, NAICJA Presentation, Seneca Nation, October 8, 2015.

Tradition Conflict Resolution Program (TCRP)

- § 14(B)

At any time during a case, the Court may refer the case to the TCRP if the Judges feel that the program is appropriate for the case. The parties may request a referral to the TCRP. If such is made, the Judges that are presiding over the case will make a decision as to whether the program is appropriate.





Ts'įłq'u Circle

“coming together as one”



TS'ILQ'U CIRCLE

“coming together as one”

- Our lives are a series of challenges; how we face them makes all the difference.
- The Circle offers a way to use difficult times as opportunities to learn and make good choices for our for ourselves and our community, drawing upon the unifying principles of indigenous cultures around the world...talking, listening and learning.



Ts'ıłq'u serves un'ina



- of all ages and backgrounds
- dealing with issues that are important or difficult
- ready to address their issues with others in a way that is thoughtful, creative, and peaceful.



HENU COMMUNITY WELLNESS COURT

Transforming Lives for a Healthier
Community

HENU COMMUNITY WELLNESS COURT



Kenaitze Indian Tribal Court
and
Kenai Superior Court
and
Kenai Community





HENU COMMUNITY WELLNESS COURT

Henu is the Dena'ina word for work, job, task

HENU PROJECT MISSION

Supporting wellness and rehabilitation
for those in need
through a cooperative justice program

to create a safe and healthy community



TARGET UN'INA

- CINA (child custody) Cases - Families with substance abuse addictions
- Long-Term Jail Sentence with substance addiction issues
- Individuals facing felony convictions with diversion
- Participants cannot have a violent offense, drug dealing charges or sex offenses



SO....WHAT IS THE HENU' WELLNESS COURT?



The Court consists of:

- Intensive outpatient substance abuse treatment
- Intensive supervision probation
- Frequent UAs (3x per week in beginning)
- Weekly court hearings and core team meetings
- Program lasts at least 18 months



HENU'S FOUR PHASES

Phase 1 – *Naghet'a*

Trust Phase: (just show up and be honest) ~minimum 120 days (includes an Orientation Phase)

Phase 2 – *Daggeyi*

Belonging Phase: education and service planning (learn about issues and opportunities identified in the trust phase) ~minimum 120 days

Phase 3 – *Visha Yaghelisht'a*

Living Well Phase: skill development and feedback (learn new skills and build confidence in yourself) ~minimum 120

Phase 4 – *Yaghelich'*

Restorative Phase: maintenance and transition (maintaining sobriety and transitioning to a truly healthy lifestyle) ~minimum 180 days



HENU' COMMUNITY WELLNESS COURT MULTI-DISCIPLINARY CORE TEAM CONSISTS OF:

Tribal Court Judge

Superior Court Judge

Public Defender
or Assigned Attorney

**Henu'
Un'ina**

District Attorney

State Probation Officer

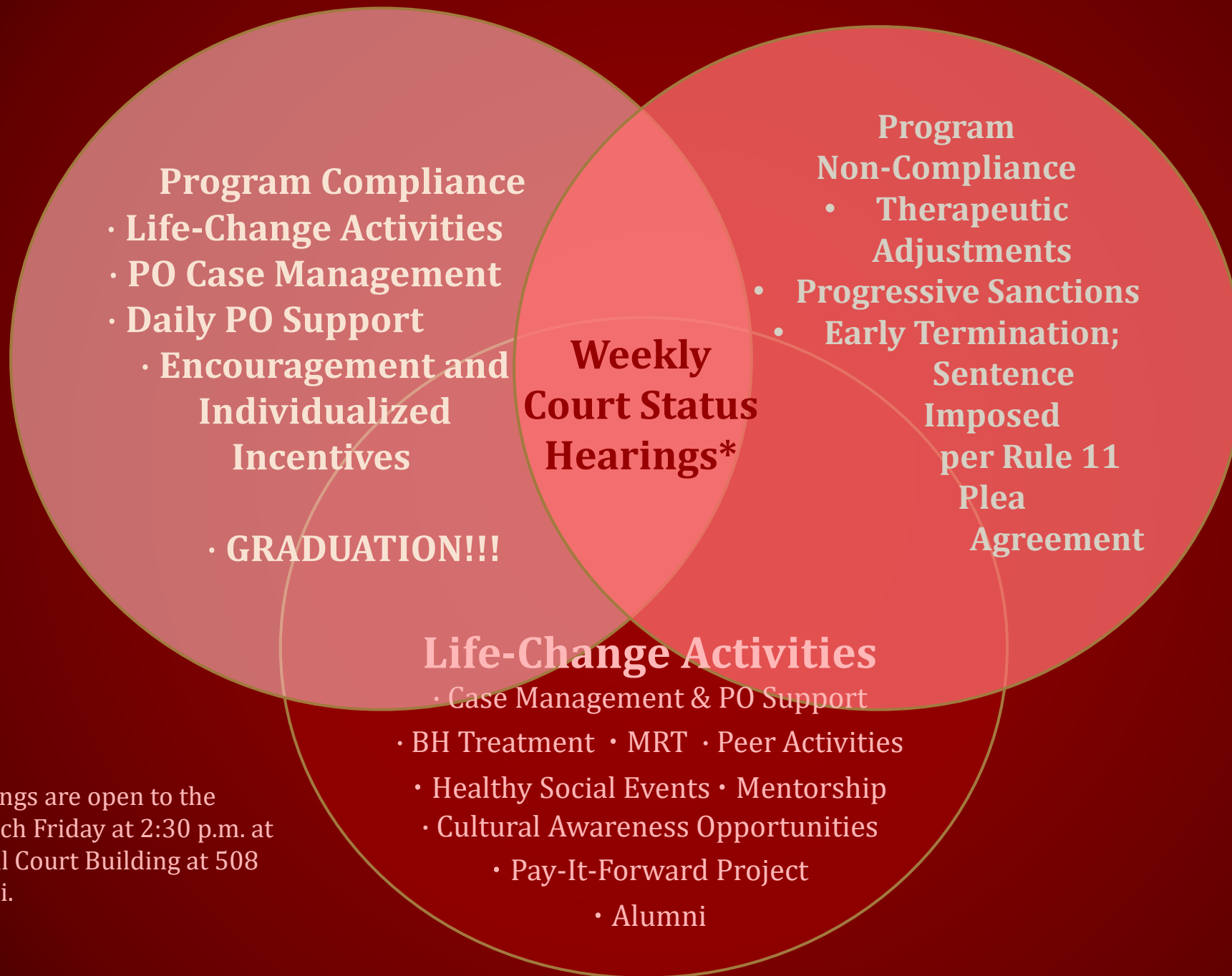
Substance Abuse
Treatment Providers

Project
Coordinator

Tribal Probation Officer(s)/
Case Managers

Many Community Partners





*Henu' Court Hearings are open to the Public and held each Friday at 2:30 p.m. at the Kenaitze Tribal Court Building at 508 Upland St. in Kenai.



OPTIMUM OUTCOMES FOR PARTICIPANTS



- **Lifetime sobriety**
- **Reunification with family, healthy family environment and peer group**
- **Avoidance of additional future charges**
- **Avoid possible felony convictions**
- **Avoid incarceration**
- **Gain employment**
- **Become a mentor to other participants**

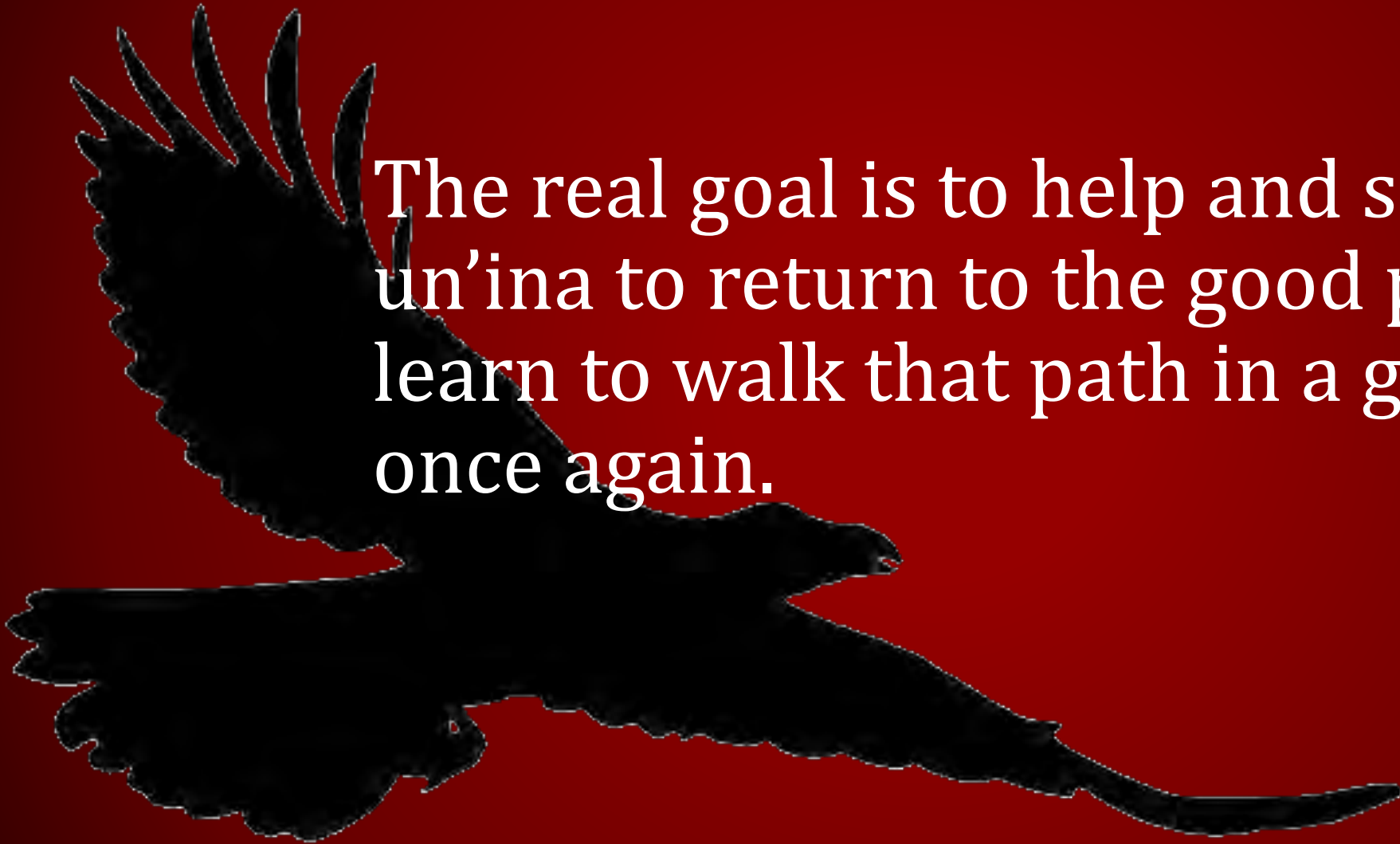


HENU' COMMUNITY WELLNESS COURT GOALS

- Enhance public safety, reduce recidivism, and reduce incarceration rates among participants
- Reduce the costs associated with re-arrest, criminal case processing and incarceration of Henu' participants
- Use evidence-based practices to enhance well-being and promote self-sufficiency while participants reside in the community and rebuild their lives
- Conduct outreach to inform the public about the benefits of therapeutic courts
- Complete and document an annual team review of policies and procedures, contracts and handbooks
- Conduct team trainings to assure best practices are used



The real goal is to help and support our
un'ina to return to the good path, and
learn to walk that path in a good way
once again.



Celebrate Henu Community Wellness Court *Yaghelich datl'*



Naming Ceremony

Bidleq' nazdulu – he is smiling

Biq'di k'edet – giving heart



DENA'INA WELLNESS CENTER

- Behavioral Health Sobriety Services
- Individual & Group Therapy
- Medical, Dental, Optometry
- Wellness
- Traditional Healing
- Lab & Pharmacy

Activities

- Heartbeat of Mother Earth Drum
- Traditional Food Preparations
- Greenhouse
- Arts & Language Classes
- Breakfast Club
- Café 13
- Spirit Lake Camp



NA'INI FAMILY AND SOCIAL SERVICES

- **Scholarship & Job Training**
- **CINA Case Management**
- **Child Care Funding**
- **Food Cache**
- **Energy Assistance**
- **Housing**



HOUSING



- Apartment sizes: efficiency to 2-bedroom, subsidized if qualified.

TYOTKAS ELDER CENTER



- **Daily lunch**
- **Elder activities**
- **Transportation**
- **Senior Companions**

2019

National Tribal Judicial and Court Personnel Conference



Save the Date!

October 16 -18, 2019 • Mystic Lake Casino Hotel • Prior Lake, MN

Our **50th** Annual Celebration



Visit naicja.org for details.



CHIQINIK, GHELI JANI