

Memorandum of Agreement between the Smith River Rancheria and the Del Norte County Probation Department to Coordinate Dispositions Involving Tolowa Youth

Background:

The Smith River Rancheria ("**SRR**") is a federally recognized Tolowa Indian Tribe with aboriginal territory including what is now Coos, Josephine, and Curry County in the State of Oregon, and Del Norte and Humboldt County in the State of California. The SRR Tribal Court ("**Tribal Court**") will be hearing Youth in Need of Care petitions and issuing orders in compliance with the SRR's Juvenile Wellness Code.

The SRR Tribal Court does not currently hear juvenile delinquency matters, and it has been the practice of Tribal Court and Community and Family Services ("**CFS**") Staff to refer matters involving delinquent Tolowa youth to the Del Norte County Probation Department ("**Department**").

Representatives from the **Tribal Court**, **CFS** and the **Department** met on March 9, 2011 to develop procedures to handle coordination of cases involving Tolowa children between the two jurisdictions. The parties wish to collaborate in developing culturally appropriate interventions for Tolowa youth to ensure offender accountability while restoring safety and healing to our communities.

Agreement:

The Smith River Rancheria **Tribal Court**, **CFS** and the **Department** AGREE to the following:

1. Notification: The **Department** agrees to screen for Native American youth and to notify **CFS** in the event a youth who is enrolled or is eligible for enrollment with the Smith River Rancheria ("**Tribal Youth**") is cited or picked up by the **Department** or Del Norte County/California state law enforcement.
2. Offenses: If a **Tribal Youth** is cited or picked up for a minor offense such as petty theft, drunk in public, minor in possession of alcohol, vandalism, minor residential burglary, or possession of substances for personal use, the two jurisdictions will coordinate disposition of the case in Tribal Court as set forth in this Agreement. The Tribal Court does not intend to hear DUI cases at this time.
3. Information Sharing: The **Department** and **CFS** will obtain written releases of information for general verbal communication regarding **Tribal Youth**, as well as to obtain the case file as set forth in Paragraph 11. The **Department** will endeavor to provide the **Tribal Court** with direct access to state child juvenile information for youth

- under **Tribal Court** jurisdiction. The **Tribal Court** and the **Department** will jointly request that the local state court judges issue a standing order for information sharing regarding **Tribal Youth**.
4. Confidentiality: All parties shall maintain strict confidentiality over all physical and electronic case and youth information pursuant to applicable federal, Tribal and state laws.
 5. Assessments: The **Department** and **CFS** shall timely conduct an assessment and will make a joint determination regarding which jurisdiction will handle primary disposition of the **Tribal Youth's** case.
 6. Conditional Postponements: In circumstances where a **Tribal Youth** has admitted to [or a court of competent jurisdiction has substantiated the allegations regarding] a type of offense meeting the **Tribal Court's** criteria, the **Department** will postpone filing a petition [or the probation report will be held in abeyance] on the condition that the matter be filed in **Tribal Court** and that the **Tribal Youth** timely complete the accountability agreement and any other conditions ordered by the **Tribal Court** in coordination with **CFS**, the **Department**, the **Tribal Youth**, victim, (if any) family members and other participating parties. The Tribal Court shall acknowledge in writing to the **Department** that it is including the matter in its docket.
 7. Dismissal or Referral back to Department: **CFS** and/or the **Tribal Court** will report to the **Department** within the timeline agreed by the parties regarding the success of the **Tribal Youth's** compliance with his or her agreements and orders. If the **Tribal Youth** has successfully completed his or her plan, the **Tribal Court** and the **Department** will both dismiss the matter. If the **Tribal Youth** does not succeed in completing his or her plan within the **ordered timelines** [should we set that on a case by case basis or set the timeline/benchmarks in this Agreement? – SJD], the **Tribal Court** may continue the matter for up to **six** months or refer the youth back to the **Department** for filing with the District Attorney's office and sentencing, which may include detention.
 8. Concurrent Jurisdiction: If a matter involving a **Tribal Youth** has already been filed in state court and the parties agree that disposition shall be determined in **Tribal Court**, jurisdiction with the **Tribal Court** shall be concurrent with the state court. However, nothing herein shall prevent the Smith River Rancheria from petitioning to transfer jurisdiction of any case if it deems such action necessary.
 9. Educational Component: For incidents involving minor in possession of alcohol or possession of less than one ounce of marijuana [or any other illegal substance?], the **Tribal Court** agrees to order driver's license suspension and include a mandatory culturally appropriate

educational component meeting the hourly requirements recommended by the **Department**.

10. Tribal Court Appearances: **Department** personnel are not required to appear in **Tribal Court** but may do so to assist with setting the appropriate sanctions if requested by the **Tribal Court** or **CFS**.
11. Case File: When the **Department** has verified that the **Tribal Court** has jurisdiction over the **Tribal Youth**, the **Department** will timely forward to the **Tribal Court** a copy of the police report, releases of information, accountability agreements, contact information of involved parties and any other relevant documentation.
12. Contact Information: The contact person for the Tribal Court is Tribal Court Administrator Nita Rhodes. The electronic mailing address is nita.rhodes@tolowa.com and the mailing address is:

Smith River Rancheria Tribal Court
P.O. Box 992
Smith River, California 95567

The contact person for CFS is Gena Grizzard. The electronic mailing address is gena.grizzard@tolowa.com and the mailing address is:

Smith River Rancheria Community and Family Services
110 First St.
Smith River, California 95567

The contact person for the Department is _____. The electronic mailing address is _____ and the mailing address is:

13. The **Tribal Court**, **CFS** and **Department** may develop protocols, procedures and/ or forms to assist with implementation of this Agreement between them.
14. The **Tribal Court** and the **Department** agree that the Tribal Court Administrator and the **Department** Director, or the parties' specific designees, shall meet and attempt to resolve any issues that arise on any topics which are the subject of this Agreement, prior to termination of this Agreement. This Agreement may be modified with the written agreement of both sides.
15. Either party to this Agreement may terminate this Agreement with 30 days written notice to the other side.

16. Nothing in this agreement shall be deemed a waiver by the Smith River Rancheria of its sovereign immunity, rights, powers or privileges.

Date

Richard Blake, Chief Judge
Smith River Rancheria Tribal Court

Date

Kara Miller, Chairperson
Smith River Rancheria

Date

, Director

Date

, _____