

Kenaitze Indian Tribe



Tribal Circle Handbook

Kenaitze Indian Tribe Tribal Circle Handbook

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Introduction

This handbook serves as a general guide to the process followed for Tribal Circles conducted by the Kenaitze Indian Tribe, Kenai, Alaska. Some of the policies and procedures will be changed or modified as we strive to serve the needs of everyone involved in the process.

The Tribal Circle is a community based process with the purpose of addressing issues surrounding harmful behavior and difficult situations involving children and youth. It approaches this in a traditional way that applies cultural values and strives to restore dignity and honor to everyone involved. Within the Kenaitze Tribal Court system, the Circle accepts referrals from the Tribal Court and other Kenaitze programs, the Alaska Division of Juvenile Justice, The Kenai District Court, the Kenai Peninsula Borough School District, the Office of Children's Services, law enforcement, families, and others. It is responsive and preventive, reactive and proactive, as it uses painful situations to identify areas of need and to strengthen relationships. The primary participants in the program are tribal and community members who strive to make their communities safer and increasingly unified by devoting time to work with individuals and families in challenging circumstances.

Mission Statement

Using the traditional Circle process we bring family and community together to support youth, creating a healthy future.

Vision

Individuals, families, and communities addressing challenges, in unity.

The Tribal Circle includes those harmed by crime or negative behavior, those who commit such actions, extended family members, tribal members, and others in the community to determine the most appropriate response to a crime or social problem that will promote healing and safety for everyone. The Circle develops support for those who have been harmed, creates a plan to make things right and get on a good path, supports each other in fulfilling the obligations of the plan, and strengthens the community to prevent future social misbehavior.

The Circle process:

- honors the presence and dignity of every participant
- values the contributions of every participant
- emphasizes the connectedness of all things
- supports emotional and spiritual expression
- gives equal voice to all*

Community Circles empower all those who are affected by crime and other social problems to be actively involved in determining and participating in the response. In this way, Circles enhance the justice system by helping each other to face the harm of our actions, holding ourselves accountable to the Tribe and the community in which we live, and providing a support system for victims and offenders.

(* Pranis, Kay. *The Little Book of Circle Process: A New/Old Approach to Peacemaking* (Intercourse, PA: Good Books, 2005).

Confidentiality and Mandated Reporting

Personal and sensitive issues that are discussed in the Circle are kept confidential between the Circle members, including names of juveniles or family members who may be involved as participants. One of the guidelines of the Circle is that what is said in the Circle stays in the Circle. All participants are expected to honor that value. The Tribal Circle Coordinator will keep a running log of brief summaries of the Circle meetings/youth's progress; this will remain factual and objective. It will be available for review by volunteers during Circle meetings in the event a volunteer misses a meeting.

The following are exceptions to the confidentiality of Circles. If any of the following are disclosed in a Circle, the Tribal Circle Staff /Circle Keeper shall report it immediately to the appropriate agency.

- Threats of violence
- Abuse or neglect of a child, past or expected
- Abuse or neglect of a vulnerable adult

Voluntary Participation

Participation for all Circle members is voluntary, including children and youth, their families, and victims. Individuals may withdraw from the Circle program at any time; offenders will be returned to the state justice system or referring party for disposition/sentence or standard response/consequence.

Victims will always be given a choice about the extent of their participation. They may choose to be directly involved or have someone present on their behalf.

Unity-Based Decision Making

The traditional principle of unity is the foundation of all decisions made in the Circle. This means that those who come together for consultation and decision-making strive to be open to all perspectives and to be flexible in working toward an agreement that respects the common good as the highest value. Participants understand from the outset that it is unlikely that the group's decisions will exactly match their initial ideas, but will rather represent a joint solution that everyone supports. Everyone, regardless of their titles and roles, has an equal voice in the Circle, and have ample opportunity to express their points of view. If a unified agreement on a good way forward is not achieved, the Circle may choose to continue their work at another time, or return the situation to the source of the referral.

Victim Notification & Participation

The Tribal Circle Coordinator will attempt to contact the victim (if any) when an offense is referred to the Circle. They may choose to be directly involved or have someone participate on their behalf. The purpose of their participation is to share the pain and hardship of the experience with others in their community and especially the offender, to hear from the offender the reasons for their behavior, and to give him or her the opportunity to apologize and to commit to making things right. It also allows the victim to have a direct role in determining the actions that should be taken,

Application & Referral Guidelines for Delinquency

Suitability of each referral is determined through an intake interview conducted by the coordinator. Following are several factors considered:

1. The individual's age.
2. Nature of the infraction (misdemeanor or less).
3. Ethnicity (preference for Native Alaskan, American Indian, or Native Hawaiian, when necessary).
4. Date of incident or onset of troublesome behavior.
5. The individual's history of involvement in the system (Tribal Court, Nakenu, DJJ, KDC, OCS, school suspension, etc.).
6. The individual's acceptance of responsibility for the situation (e.g. pleads guilty/no contest in court).
7. The individual's genuine desire and/or willingness to change his or her harmful behaviors.

Full Disclosure

Information disclosed to the Tribal Circle includes but is not limited to police reports, court files, medical records, school records, treatment and out of home placement records, probation records and any other records deemed relevant by the Circle. The referred individual is expected to disclose all such information as truthfully as possible and a Release of Information may be required.

New Violations

The individual is expected to self-disclose any new charges or contact with law enforcement or disciplinary proceedings in school to the Circle. Circle participants charged with a new offense while meeting with the Circle may be dismissed at the discretion of the Circle depending upon the severity of the charges, attitude of the individual, and any other factors considered important by the Circle. The re-offending individual also risks removal from Circle by the referring entity, without discussion/consent of the Circle.

Summary of the Circle Process

Referral:

- The Coordinator will meet with the individual (and his/her parents/guardians if a minor) to review and complete the Intake Form, explain the Circle process, and obtain the appropriate Release of Information.
- The Coordinator will conduct an assessment based on the Intake interview and discussions with victims, families, referring agencies, and other relevant parties.
- If it is determined to be appropriate, an Opening Circle will be scheduled.
- If a Circle is not felt to be the best course of action, or the referred individual fails to meet with the Coordinator or Circle the matter will be directed back to the referring agency or another program, as appropriate.

The Circle:

- The Circle will attempt to determine long-term goals and a plan of action. The Action Plan is a fluid document that may have additions or modifications as circumstances change and/or the Circle becomes more familiar with the situation.
- The referred individual will attend Circle as scheduled and work towards completion of the Action Plan with the support of the Circle.
- The Coordinator will communicate with the referring entity at appropriate intervals to update them on progress.
- If at any time a referred individual chooses to return to the traditional system or is discharged from the Circle process for incompleteness the Coordinator will inform all parties promptly. The Circle can make any recommendations to the referring entity regarding the individual's needs or concerns. These recommendations will be provided by the Coordinator.
- Once the youth has completed the Action Plan and the Circle determines that the youth is ready to conclude the process a Closing Circle is held to commemorate the milestone.

Note:

Referring Agencies act as liaisons to Circles regarding monitoring and compliance with the Action Plan. Communication between the Coordinator and the Referring Agency is critical as a discharge from Circle for incompleteness will result in the case being returned to the traditional system.

Coordinator's Role

General Expectations:

- Recruit and maintain adequate volunteer base for Circles, facilitate trainings and informational sessions as necessary for volunteers and/or stakeholders. Support volunteers and provide guidance when appropriate.
- Facilitate the Circle Process, act as Circle Keeper or arrange for and assist volunteer Circle Keepers, and support the guidelines and values of the Circle. Arrange necessary location and meal/snack accommodations for the Circles.
- Help keep Circle members in contact with each other, record Circle activities and support the Circle in its efforts to affect change in the community.
- Facilitate quarterly Tribal Circle Advisory Board meetings, create agenda and provide related materials to participants. Provide general program updates to the stakeholders on a regular basis and as requested.
- Act as a liaison between the Circle and probation, family services, schools, treatment providers, and criminal justice representatives.

Case Specific Expectations:

- Advise the Court, prosecuting attorney, and/or probation officer/social worker immediately if a referred individual is believed to be at risk to themselves or others.
- Advise appropriate parties if a referred individual fails to attend scheduled Circle meetings or meetings with the Coordinator, or otherwise disregards the Circle's guidance.
- Advise appropriate parties in writing within 5 business days of an individual's termination from or successful completion of Circle.
- Keep files organized; maintain accurate up to date file information.

District Court Arraignment:

- Monitor court calendar to determine if there are any potentials diversion referrals. If so, attend scheduled arraignment and, in collaboration with the Kenai Peninsula Youth Court representative provide program brochure and briefly explain Circle to the individual (and his/her parents, if a minor). If Youth Court rep is not present, describe that option as well.
- Schedule time to meet with diverted individual/parents to discuss Circle process and complete Intake process.

Division of Juvenile Justice Referral:

- When notice of a potential referral(s) is received from DJJ, the Kenai Peninsula Diversion Team (currently Kenai Peninsula Youth Court, Roundtable: Center for Mediation & Community Dialogue, and Tribal Circle) consults to decide which program is most suitable to make the first contact with the individual and/or parents.
- At the first call, the diversion option is explained and potential program(s) briefly described (see DJJ Diversion Script). When a program is selected the individual/parents are instructed to contact that programs to make further arrangements, and DJJ is notified. DJJ then provides a diversion agreement form to the chosen program and mails a copy to the individual/parents.

Upon Receipt of Referral:

- Arrange to meet with the individual/parents. Explain the Circle process in greater depth, utilizing the Circle Stages diagram and the Guidelines. Complete the Intake interview to learn the deeper story and identify important relationships. Identify potential Circle participants and tentatively schedule the Opening Circle. Complete Circle Request form, Release of Information, and any other appropriate forms.
- Follow up on assessment, gathering any additional information needed from appropriate parties.
- If individual/parents decide not to go forward with the Circle, refer them to an alternate option or back to the referring entity.

Upon Acceptance to Circle:

- Contact victim(s) (if applicable), advise them that the individual has been referred and accepted into Circle, invite them to participate in process to the extent they wish. Prepare for Healing/Peacemaking Circle if victim is willing. Keep the victim informed of the youth's progress in the Circle.
- Schedule Opening Circle to explore the circumstances and begin development of an Action Plan shortly after the youth's acceptance into Circle.
- With Circle participants, schedule Follow-up Circles at 2-4 week intervals or as needed to review progress, make adjustments to the Action Plan, offer encouragement, and reaffirm commitment.
- Provide written status reports to all participants after each Circle. This report will detail the individual's status in completion of the Action Plan and note any changes or additions.
- When a Circle draws to a successful closing, it should be commemorated in some suitable way (e.g. creating a beaded necklace in the Circle, gifting a Circle T-shirt, holding a potluck, etc.).
- Prepare the closing report for all Circles that have finished their work, whether completed satisfactorily or not (the details of this report vary depending on the needs of the referring entity). If an individual was ejected from Circle or chose not to continue with the process, provide appropriate detail on what was completed as well as the Circle's feelings towards the case and any recommendations. Send copies to appropriate parties.

Volunteer's Role

- Honor Confidentiality. Sharing other's personal information or stories outside the Circle can be harmful and breaks the trust that is essential to effective consultation. Keep specific discussions held in the Circle confidential, with the exception of mandated reporting requirements (see Confidentiality & Mandated Reporting Section).
- Follow Circle Guidelines discussed, developed, and mutually agreed to at the beginning of each Circle.
- Report to the Circle any previous relationships with the youth, victim, or their support persons OR choose NOT to participate in the Circle.
- Assist the coordinator in keeping Circle Volunteers in contact with each other, recording Circle activities or supporting the Circle in any other appropriate manner.
- Support other participants in the Circle process.
- Follow through with any commitments made in the Circle.
- Assist the youth in being accountable to the community and the victim.
- Once committed to serving on a Circle for a particular case, community members agree to make an active effort attend a majority of Circle meetings for that case. When a community member is unable to attend, they will inform the coordinator.
- Help maintain the safety of the Circle for all.
- Pause and think before they speak.
- Let go of the idea that their thoughts are more important or more right than others. Every idea belongs to the Circle, and not just the individual who offered it.
- Work to understand those who disagree with you.
- Help clarify misunderstandings - seek correct information. Rumors and unexamined opinion are destructive.
- Help build unity by listening to everyone with an open heart and an open mind. Unity doesn't always mean total consensus, but a willingness to stand behind an agreement developed by the Circle. Individuals trying to influence other participants outside the Circle can create disunity and undermine the effort.
- In their role as a Circle member, no Circle member should gain financially from other members. This includes youth, victims, support people and other volunteers.
- Circle Volunteers assume responsibility for their own willful violations of the law and intentional falsehood.

Expectations of Others

Defense Attorneys

- Become familiar with the Circle process before referring clients to the program by reading program materials or contacting the coordinator.
- Defense attorneys are welcome, but not required, to attend Circles with their clients. They do not speak *for* their clients in the Circle.

Prosecuting Attorneys

- Become familiar with the Circle process before recommending youth to the program by reading program materials or contacting coordinator.
- Prosecuting attorneys are welcome, but not required, to attend Circles. In the Circle, they do not speak *for* victims or anyone else.

Local Law Enforcement

- In the course of investigating crimes, attempt to determine and prominently note Native ethnicity, regardless of percentage. Do not assume that Caucasian appearance = Caucasian.
- Refer those who are getting into trouble to the Tribal Circle in lieu of warnings or charges, when appropriate.
- Notify prosecuting attorney of any cases that may be appropriate for the Circle process (especially those involving native people).
- Support the Circle by responding to questions and requests by the Circle as appropriate.
- Notify the coordinator of anyone in the Circle process who is continuing to break the law.
- Police Officers are welcome, but not required, to attend Circles.

Juvenile Probation Officers

- Refer youth to the Tribal Circle Program in lieu of informal probation, when appropriate (Note: it is best to make such referrals as a diversion from – rather than *in addition* to – informal probation requirements).
- Support Circles by responding to questions and requests from the Circle as appropriate.
- If known, notify the coordinator when an offender is not adhering to their Action Plan or committing new violations.
- Probation officers are welcome, but not required, to attend Circles with their clients.

Social Workers

- Support Community Circles by responding to questions and requests by the Circle, as appropriate.
- Assist the Circle and or coordinator in determining necessary services and providers; aid in the facilitation of services as necessary.
- If known, notify the coordinator when a youth is not adhering to their Action Plan.
- Social Workers are welcome, but not required to attend the Circle with their clients.

Teachers/School Representatives

- Refer students who are getting into trouble to the Tribal Circle Program as an alternative to suspensions or other consequences.
- Support Circles by responding to questions and requests as appropriate.
- If known, notify the coordinator when a youth is not adhering to their Action Plan.
- Teachers/School Representatives are welcome, but not required to attend the Circle.

Referred Individual

- Contact the coordinator within 7 days, and complete the intake within 14 days after the initial referral.
- Accept responsibility for the actions which have led to referral.
- Attend all scheduled Circles and court dates, and participate fully and honestly in Circles as expected of any other participant.
- Victims may bring support people when attending Circle.
- Follow all Action Plan agreements developed in the Circle.
- An individual may terminate involvement in the Circle program at any time. If he or she chooses to do so, they will return to the referring party to face the conventional requirements of that system.

Support People

- Act in support of the referred individual *and* for the good of the community as a whole in Circle.
- Follow through on any commitments made in Circle.

Victims

- Victims may participate in Circles on whatever level they are comfortable.
- Victims may bring with them support people when attending Circle.
- Healing Circles are available, separate from the offender's Circles. Victims are welcome and encouraged to take advantage of this service. For more information, contact the coordinator.

Victim's Support People

- Act in support of the victim *and* the good of the community as a whole in Circle; advocate for the needs of the victim.
- Bring any input from the victim to the Circle if the victim chooses not to attend in person.
- Follow through with any commitments made in Circle.

Principles of the Circle

The Circle is a conscious, intentional way for a community of people to apply the basic principles it holds sacred to matters of importance. These sacred truths are universal; all peoples recognize them as good and right. The Circle gently asks us to put them into action, to “walk our talk”. For mature Native cultures steeped in centuries of experience, this was a natural response. For the relatively new, mixed communities of today, the idea of the Circle is unfamiliar, and needs to be relearned.

Honor and Respect

Respect acknowledges the dignity and worth of each individual. It ensures that every participant experiences *acceptance* into the Circle, and ensures that everyone is heard with *equality*. It requires every participant listen to everyone else. Respect means that all members of the Circle participate within the guidelines set by the Circle.

Respect is also important in understanding the concept of *honoring the talking piece*. When others are holding the talking piece, it is important for participants to view the piece as an opportunity for reflection. When the talking piece is set down for open discussion, it continues to have importance and should be honored by conducting discussion in a respectful manner. The talking piece is a symbol of the *interconnectedness and shared responsibility* of the participants in the Circle, and it should be held respectfully.

Humility and Truth

The strength of character to recognize the humanness of self and others, and to be inclusive and thankful for everyone’s participation in the Circle, is to have humility. Being human means we all have human shortcomings. Humility allows us to overlook the faults of others, and to recognize those faults in ourselves.

Truth is reality, the way things really are. For the Circle to be effective, it must seek truth. Humility requires us, as individuals, to let go of self-righteousness in this search, to open our mind and heart to the way others see and feel the situation. In this way the Circle gains greater insight and makes wiser decisions.

Love and Compassion

Love implies a *genuine concern for the welfare of others*. For the supportive relationships of Circles to be built, participants need to enter the Circle process open to feeling compassion for others whom they will join on the Circle journey. Compassion felt by Circle participants, combined with a strong sense of purpose, leads the Circle to take positive action to repair those issues which contributed to the harm.

Honesty and Trust

Responsibility is an indisputably important element in the Circle process; trust is necessary for responsibility. But neither of them can be achieved without honesty. People need the support of others to make affirmative changes in their lives, and honesty is the basis for building those strong relationships within communities. Furthermore, dishonesty can quickly result in hostile feelings which undermine the Circle process. Therefore, it is necessary for each participant to strive for honesty with themselves and others, and to speak with honesty in a Circle so that other Circle participants can view the process as a legitimate, positive experience.

Spirituality and Unity

The principle of Spirituality calls us to bring our higher nature into the Circle. It can create that shared sense of being an essential part of something bigger than ourselves, that feeling of unity that is the soul of the Circle. This awareness of the spiritual oneness of the Circle, the community, and all of creation opens up a worldview that fundamentally changes the way we interact with each other. It is with this traditional perspective that we are able to apply the high-minded principles mentioned earlier, as we listen with an open mind, speak from the heart, and move beyond conflict together to find understanding and healing. This is not easy, and the Circle calls on the Creator for guidance, assistance, and confirmation in its efforts.

Holding a Circle means creating a safe space, where these principles are valued, honored, and encouraged.

"The Circle process is a gentle invitation to change one's relationship to oneself, to the community, and to the wider universe. It offers an awakening of connection and purpose beyond the myriad of differences that keep people apart and in conflict with one another."

Carolyn Boyes-Watson



*A way
to make things
right*

Kenaitze Indian Tribe



**TRIBAL
CIRCLE**



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TRIBAL CIRCLE

Justice through Peacemaking and Healing

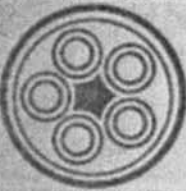


Adolescence is a time of great learning and change as we begin to explore our potential and find our place in the community. It can be very confusing. Youth (and parents) sometimes lose direction during these years. This can lead to difficulties in relations with family, school, and the law – problems which are often not resolved by the usual responses. The Circle offers a way to use these difficult times as opportunities for the transformation of ourselves and our community, drawing upon the unifying traditional principles of indigenous cultures around the world.

The Tribal Circle serves youth who are dealing with issues that have led to delinquency or might do so in the future. Referrals may come from Tribal programs, the Division of Juvenile Justice, the Kenai District Court, the Office of Children's Services, police officers, schools, families, or others. When a young person understands the healing nature of this approach, he or she may even request a Circle for themselves.



The Circle



After getting together with staff to learn more about the program and describe their own situation, a youth may have the opportunity to come to a Circle where, in an atmosphere of respect, responsibility, honesty and honor they can join with family and community members to better understand the trouble, to make things right, and get on a good path.



"This circle we're trying to do in my community is not just about offenders and victims, not just about crime, but about all of us working together, learning about each other, learning how to help each other, how to grow, heal together."

Harold Gatersby, Yukon College, May 1, 1995

More Resources

Other culturally relevant activities are facilitated through the Kenaitze Indian Tribe's **yaghanen Youth Intervention and Prevention programs**, which include:

- Ggugguyni Native Youth Olympics
- Jabila'ina Dance Group
- Del Dumi Youth Drum
- Susten (Archeological Camp)
- Luq'a Nagh Ghilghuzht (Fish Camp)
- Dnigi (Educational Moose Hunt Camp)
- Nach'anikna (Winter Activities)
- Youth Council
- Healthy Choices
- Study Hall



KIT/Kenai District Court Memorandum of Agreement

This MEMORANDUM OF AGREEMENT between the Kenaitze Indian Tribe, IRA Tribal Youth Justice Program (TYJ) and the District Court of Kenai (District Court) sets out the procedures for the referral of matters involving juveniles under 18 years of age cited to District Court for Minor Consuming Alcohol in violation of AS 4.16.050 (b) or Repeat Minor Consuming Alcohol in violation of AS 4.16.050 (c).

PARTIES: This agreement is made and entered into by the Kenaitze Indian Tribe, IRA Tribal Youth Justice Program and the Kenai District Court.

CURRENT STATUS: The purpose of the Tribal Youth Justice Program is to provide culturally relevant services as diversion from or enforcement of formal court action for youth charged with alcohol-related violations.

BOTH PARTIES AGREE TO THE FOLLOWING:

REGARDING MCA DEFENDANTS WHO ARE ELIGIBLE FOR AND CONSENT TO DIVERSION OF CASE TO TYJ FOR SENTENCING:

1. The District Court will use TYJ as an appropriate diversion for cases in which the District Court has entered a Suspended Imposition of Sentence for first time underage drinkers under 18 years of age who choose to have the conditions of their SIS determined in a Justice Circle. (Criteria for such eligibility will be in accordance with AS 4.16.050.)
2. District Court will provide TYJ with a copy of the Judgment and citation for each underage drinking offender who chooses to have consequences determined in TYJ.
3. When a youth's matter is diverted by the District Court to TYJ, the Coordinator will meet with the youth and parents following the District Court proceeding to answer questions and schedule an initial intake. If the Coordinator is not present, the youth will be expected to contact TYJ within one week for this purpose.
4. TYJ will conduct an initial intake and assessment, will determine the participants in each Circle, and will make arrangements for the proceeding based on its assessment.
5. Through this community-based process, the Circle will determine the terms of the District Court's Suspended Imposition of Sentence, which may require culturally relevant activities, as well as a drug and alcohol assessment and treatment, equine therapy, restitution, or other steps.
6. The Circle's determination will be set out in a Circle Report, which will clearly state each component of the sentence and due dates. TYJ will provide necessary coordination for the satisfaction of the Circle's requirements.
7. Within 120 days of the date of the District Court Judgment, TYJ will conduct an intake and assessment, coordinate the Circle process and follow-up, and provide a sworn affidavit to District Court, the Kenai District Attorney's Office, and the youth's attorney (if any) reporting the youth's success or failure in satisfying the Circle's determination. This affidavit will be provided within 5 working days of the actual date of completion or failure to complete. TYJ agrees to be available for any District Court proceedings regarding failures to complete filed by TYJ, similar to adult ASAP proceedings.

District Court Diversion Handout

Information about possible referral of your underage drinking case to Community Diversion Programs (Kenaitze Indian Tribal Circle Program or Kenai Peninsula Youth Court)

If:

- (1) you were younger than 19 years old on the date of offense, and***
(2) this is your first Minor Consuming or Possessing Alcohol ticket,

your case may be eligible for a Suspended Imposition of Sentence and referral to one of the two Community Diversion Programs available to local youth (the Tribal Circle or the Youth Court). Under a Suspended Imposition of Sentence, eventually the conviction may be set aside if you follow through with the Diversion Program and have no further convictions. A referral to either of these Diversion Programs is voluntary, and pursuant to Alaska Statute 4.16.050, is available upon a plea of "no contest" or "guilty."

Representatives of the Tribal Circle and the Youth Court are often available at your arraignment hearing so you will have a chance to ask questions about the respective programs. If you choose to have your case referred to either one, these are the steps that will follow:

- After making sure you understand your rights, the Judge will ask for your plea.
- If you plead guilty or no contest, the Judge will ask if you are interested in one of the diversion options.
- If you say you would like to go to either Diversion Program, the Court may enter a Suspended Imposition of Sentence, put you on one year unsupervised Court Probation, and order you to contact the Diversion Coordinator by a certain date. The Diversion Coordinator is Ginny Espenshade; her phone number is **398-4027**.
- Following that contact, you will schedule an appointment with either the Youth Court or the Tribal Circle to begin their process.
- You will have actions to complete that are decided through the diversion process. (Briefly, the Youth Court uses a court process in which all attorneys, prosecutors and judges are teens. The Tribal Circle, based on traditional principles, brings you together with family, friends, and others from the community to create a plan to make things right and get on a good path).
- Upon completion of your Diversion Program, a report will be filed in your District Court case, and at the end of your probation the conviction will be set aside if you haven't had any other offenses before then.
- This type of conviction, even if set aside, will still count if you get a new minor consuming or possessing alcohol charge, in that the new case will be considered a Repeat MCA case.

KENAITZE INDIAN TRIBE

TRIBAL CIRCLE PROGRAM

150 N. Willow Street, Kenai, AK 99611
Phone: 907-335-7232, Fax: 907-335-7236

Diversion Compliance Report – District Court

IN THE DISTRICT COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT KENAI

Name: DOB: Case #: Client #:

Program requirements satisfied:

Program requirements not satisfied:

_____ **Date:**
Vanessa Brazell, Circle Coordinator

Kenai Peninsula Diversion Team
Cooperative Agreement
Between Alaska Division of Juvenile Justice Kenai Probation,
Kenai Peninsula Youth Court,
Tribal Circle of the Kenaitze Indian Tribe, and
Roundtable Mediation Program.

I. PURPOSE

This Cooperative Agreement between the State of Alaska, Division of Juvenile Justice, Kenai Probation; Kenai Peninsula Youth Court; Tribal Circle of the Kenaitze Indian Tribe; and Roundtable Mediation Program is intended to provide enhanced diversion opportunities for youth referred to the Division of Juvenile Justice.

Through referrals from the Division, the Kenai Peninsula Diversion Team provides an accountability and restorative-based response to juvenile offenses that addresses the needs of the juvenile, community, and victim and promotes the overall wellness of the Kenai Peninsula.

II. DEFINITIONS

- A. "Division" or "DJJ" shall mean the State of Alaska, Department of Health and Social Service, Division of Juvenile Justice, Kenai Probation.
- B. "Youth Court" or "KPYC" shall mean the Kenai Peninsula Youth Court.
- C. "Circle" shall mean the Tribal Circle of the Kenaitze Indian Tribe.
- D. "Roundtable" shall mean the Roundtable Mediation Program, a program of the Center for Mediation and Community Dialogue.
- E. "Juvenile" shall mean a person who is 17 years of age or under.
- F. "Kenai Peninsula Diversion Team" or "Diversion Team" shall mean the program managers of KPYC, Circle and Roundtable.
- G. "Diversion Team Manager" shall mean program manager of the individual diversion team program that is assigned for screening duties when the referral is received by the Diversion Team.
- H. "Program Manager" shall mean the manager of the individual diversion program.
- I. "Diversion Program" shall mean the individual diversion program selected for the Juvenile.
- J. "Diversion Agreement" shall mean the written contract provided by the Division of Juvenile Justice which spells out the mutual obligations and promises of the juvenile, parents and the Division of Juvenile Justice. A copy of a sample Diversion Agreement is attached hereto and incorporated fully by reference.

III. SCOPE

The Cooperative Agreement shall apply to juvenile misdemeanor offenses referred by the Division and reviewed and accepted by the Diversion Team Manager, subject to jurisdiction pursuant to AS47.12.020 and AS 47.12.030 with the specific exception of Sexual Abuse of a Minor.

IV. GENERAL PROVISIONS

- A. Any allegation of an offense specified in this agreement, as determined by the Division, may be referred to the Diversion Team, pursuant to applicable state law, written policies and procedures of the Division, and written policies and procedures of the Diversion Programs. Such laws, policies and procedures shall provide for the protections of the civil rights of the juveniles.
- B. The Diversion Team and the Division will collaborate to develop, implement and review written policies and procedures for the Diversion Team and Diversion Programs. The policies and procedures will include a process to seek input from victims and provide victims, should they desire, the opportunity to participate in the Diversion Program regarding the disposition of the offense.

V. PROCEDURES

- A. The Division will screen and refer appropriate cases to the Kenai Peninsula Diversion Team for review and acceptance. Any referred cases will be transmitted securely via YouSendIt or another method that ensures confidentiality. Offenses appropriate for referral are listed in Section III of this agreement.
- B. Upon receipt of the referral, the Diversion Team Manager may seek additional information from the Division to assess the appropriateness of the referral. The Diversion Team Manager may discuss the case with the other Diversion Team managers to determine the most appropriate diversion alternative. The Diversion Team Manager will contact the juvenile and parent / guardian to gather more information and to provide information about the appropriate Diversion Program alternatives. This initial contact will be guided by the “DJJ Diversion Script”, a copy of which is attached and incorporated by reference.
- C. Within 10 days of referral by the Division, the Diversion Team Manager will notify the Division whether the referral is accepted and which Diversion Program was selected. The Division will reflect this selection in a Diversion Agreement which will be sent to the Diversion Program and the juvenile and parent / guardian, a copy of which is attached and incorporated by reference.
- D. If the Division is not notified of a decision within 30 days, the Division will make a follow-up call and, if there is no response from the Diversion Team Manager, will send a letter closing the Diversion Team referral.
- E. If declined by the Diversion Team, the Manager will immediately notify the Division, which will investigate and take further action in accordance with state law and Division policy.
- F. When a Diversion Program is chosen, the Program Manager will notify the parent / guardian and set up a meeting to review the Diversion Program procedures and discuss the youth’s particular circumstances. If the parent / guardian / youth opt for a different Diversion program at this point, they will be referred to that program’s Manager directly and a new meeting will be arranged. If the juvenile and parent / guardian consents to the disposition of the matter by the Diversion Program, the juvenile, parent / guardian and Program Manager shall sign the Diversion Agreement. If any party does not agree to sign the Diversion Agreement, the Program Manager shall immediately return the referral to the Division for investigation and further action in accordance with state law and Division policy.
- G. The Diversion Program shall hold a hearing on accepted referrals within 30 days of receiving the referral and shall determine the restorative and accountability-based

response. If necessary, this may be delayed, after consultation with the Division, up to an additional 15 days. The juvenile should complete the Diversion Program requirements within 4 months of the date of the Diversion Agreement.

- H.** Within 7 days of the Diversion Program completion date, or at an earlier date as appropriate, the Program Manager shall provide the Division a written report noting the juvenile's level of compliance with the program requirements. If the requirements were completed in full, the Division will make note in its files and consider the case closed. A failure to complete all or part of the program requirements will result in the case being reviewed by the Division to determine whether any further action by the Division is warranted. Upon this review the Division may:
- i. After consultation with the Program Manager, agree to extend the completion date for additional days.
 - ii. Close the referral noting the juvenile's response to the Diversion Program expectations.
 - iii. Take further action in accordance with state law and Division policy up to and including petitioning the case to the Superior Court.

VI. FEES

All fees, fines and costs related to the disposition of a Diversion Program referral will be borne by the juvenile and / or parent / guardian.

VII. TRAINING

The Diversion Programs agree to provide training in law, circle process, and alternative dispute resolution as necessary for its students and adult volunteers and staff.

VIII. DIVERSION RECORDS

The Diversion Programs shall maintain written records of all events and proceedings brought pursuant to this Cooperative Agreement. Each Diversion Program shall maintain its own records. Any records made by the Diversion Team Manager shall be maintained and incorporated into the records of the individual Diversion Program selected for the referral. The Division shall train the Program Managers to keep records in a form that can be used for documentation. The Diversion Program will return DJJ materials including police reports and evidence files and any other documentation originating with DJJ to the Division upon case closure, or will destroy same materials in a secure manner if so instructed by DJJ.

IX. COMMUNICATION

Meetings will be set up as needed between the Division and Diversion Team to address any programmatic or procedural issues. Consultation between the Division and Program Manager on individual juvenile cases will be set-up as needed.

X. CONFIDENTIALITY

The Division and the Kenai Peninsula Diversion Team may exchange information regarding the juvenile and offense as necessary to facilitate referral assessment and successful completion of the conditions and tasks of individual Diversion Program. The Division will only release information to the Diversion Team in accordance with AS 47.12.310. The Program Manager may communicate limited, appropriate information with community members that play a role in the juvenile's sentence to support the successful completion of Diversion Program requirements.

XI. TERM, WITHDRAWAL, AND AMENDMENT

- A. TERM.** The Cooperative Agreement shall take effect upon the date of the last signature by the respective parties and remain in effect two years. It may be renewed for successive two-year terms upon the written agreement of all parties.
- B. WITHDRAWAL.** Any party may withdraw from the Cooperative Agreement by providing thirty days written notice to all parties.
- C. AMENDMENT.** The Cooperative Agreement may be amended, but only in writing and with written concurrence of all parties.

Dated this _____ day of _____, 2012.

Allison Gottesman MSW
Kenai/Homer District Supervisor
405 Marathon Rd, Kenai AK 99611
(907) 335-3121 (Direct) 335-3134 (FAX) _____
Date

Kim Franke
Tribal Court Administrator and Chief Tribal Judge
Kenaitze Indian Tribe
150 N. Willow Street, Kenai, AK 99611
(907) 335-7216 (Direct) 335-7239 (FAX) _____
Date

Virginia Espenshade, Executive Director
Kenai Peninsula Youth Court
3733 Ben Walters Lane, Suite 5,
Homer, Alaska 99603
(907) 398-4027 _____
Date

Heidi Chay, Registered Agent
Center for Mediation and Community Dialogue
P.O. Box 1206, Kenai, AK 99611 _____
Date

DJJ Diversion Script

[To be used for first contact with youth/parents eligible for diversion]

“Your child was recently charged with committing a delinquent act. The Division of Juvenile Justice, which is responsible for handling all delinquency cases, has referred the case to a community diversion program available to local youth in an attempt to divert the case from the delinquency system. If you choose diversion, upon successful completion of the program charges will be adjusted and there will be no formal action by the state.”

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PROGRAM DESCRIPTIONS:

YOUTH COURT

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