

Alaska Criminal Rule 11(i)

- (i) Restorative Justice Programs.
 - (1) With the consent of the victim(s), the prosecutor, and the defendant(s), the judge may refer a case to a restorative justice program. The parties must inform the restorative justice program about any applicable mandatory sentencing provisions at the time the matter is submitted to the program. The parties may propose to the court the sentence recommended by the participants in proceedings convened by that program.
 - (2) The parties may include the recommendations of the restorative justice program in a sentencing agreement subject to the provisions of subsection (e).
 - (3) The term “restorative justice program” means a program using a process in which persons having an interest in a specific offense collectively resolve how to respond to the offense, its aftermath, and its implications for the future. Restorative justice programs include, but are not limited to, circle sentencing, family group conferencing, reparative boards, and victim/offender mediation. For purposes of this rule, the term “restorative justice program” does not include the Alaska Court System’s therapeutic courts.
 - (4) Except as provided below, the sentencing judge shall not participate directly in any restorative justice program to which a case is referred for sentencing recommendations.
 - (A) The judge may be present during the proceedings of the program provided that: (i) the proceedings are conducted on the record; or (ii) minutes of the proceedings are kept in a manner that the parties agree will fairly and accurately represent what is said at those proceedings.
 - (B) The judge may speak at these proceedings provided that the judge’s comments do not detract or appear to detract from the judge’s neutrality.

Alaska Delinquency Rule 23(f) contains the same language.

**PLAN ADOPTED BY THE [TRIBE]
AND
THE ALASKA COURT SYSTEM
FOR RESTORATIVE JUSTICE REFERRALS
UNDER CRIMINAL RULE II(i)**

This PLAN adopted by [TRIBE] and the Alaska Court System sets out the procedures for the referral of matters relating to criminal cases involving Tribal members and descendants of members.

PARTIES: This PLAN is made and entered into by the [Tribe] and the Alaska Court System on behalf of the [court location] Trial Courts (“[] Court” or “Court”).

PURPOSE: The purpose of this PLAN is to involve the Tribe and traditional restorative justice approaches in Alaska Court System cases involving tribal members, recognizing that outcomes in these cases improve when the delivery of justice involves collaborative and community-based programs.

The Court’s efforts to impose meaningful and relevant consequences for the [defendant or juvenile], the community, and the victim will be aided by tribal restorative justice program sentencing recommendations that reflect the community’s assessment of the impacts of the criminal behavior and that integrate local wisdom and cultural norms.

BOTH PARTIES AGREE TO THE FOLLOWING PROCEDURES:

1. The Tribe will monitor the daily Court calendar for Tribal members or member descendants. The Tribe will submit a request for a copy of the [specify documents, eg complaint, indictment] from the case file, which the Court will provide to the Tribe within [] days of receipt of the request. The Court will not charge the Tribe for these documents.
2. Within [] days after receiving the documents, the Tribe will notify the Court whether it wishes to conduct a [specify tribal sentencing proceeding, e.g., circle sentencing] as to that defendant.
3. If the Tribe notifies the Court that it wishes to conduct the [proceeding] as to that defendant, the Court will notify the parties of this request. If the defendant subsequently is convicted of the crime, the Court will, within [] days of the conviction, notify the Tribe of the date that the defendant will be sentenced and whether the prosecution, defense and victim (if any) have consented to a referral. Provided that the necessary consents have been obtained, the Court will also formally refer the case to the Tribe at that time to conduct a [proceeding]. The notice and referral, if any, will identify the charge of which the defendant was convicted, any mandatory sentencing requirements (such as the presumptive or minimum term that the defendant must serve in jail), and any agreement the defendant and the state made regarding the conviction. When a case has been referred to the Tribe under these procedures, the Court will set sentencing for a date at least [] days after the date of conviction.
4. After a case is referred to the Tribe, the Tribe will take the necessary steps to convene and conduct the [proceeding] [include any specific steps as necessary, such as meeting with the defendant following the Court proceeding to answer questions and schedule an initial intake,

conducting the initial intake and assessment, determining the participants in each sentencing circle, and making arrangements for the proceeding based on its assessment.] The Tribe will promptly notify the Court if it needs the Court to change the sentencing date.

5. The Tribe will complete the proceeding no later than [] days prior to the Court sentencing date. The Tribe will inform the Court, district attorney, the defendant, and the defendant's lawyer, if any, of the proceeding date at least [] days prior to that date.
6. Through this community-based process, the [proceeding] will identify proposed terms of the defendant's sentence, which may require culturally relevant activities, a drug and alcohol assessment and treatment, restitution (such as money or services for the victim), or other steps.
7. At the end of the [proceeding], the Tribe will prepare a written report, which will state each component of the recommended sentence and timeframe for completion of each component. This report shall be provided to the Court, the defendant, the defendant's attorney and the district attorney at least [] days before the date of the sentencing.
8. The Court will carefully and respectfully consider the recommendation of the [proceeding]. The parties understand, however, that the Court is not bound by that recommendation.
9. The parties agree to meet from time to time to review the implementation of this PLAN and to make any revisions they find to be appropriate.
10. Nothing in this PLAN prevents the Tribe from conducting a [proceeding] after notification of defendant's conviction and providing a sentencing recommendation to the Court, even if a formal referral has not been made.

SIGNED THIS DAY OF [MONTH], 20__.

Christine Johnson
Administrative Director
Alaska Court System
303 K Street
Anchorage, Alaska 99501

[Tribal Official's Name]
[Title]
[Tribe]
[Address]
[Location], Alaska 99574

Acknowledged by:

[Judge/Magistrate Judge's Name]

[Judge/Magistrate Judge]

Alaska Court System

[Address]

[Address]

[Location], Alaska 99574

**MEMORANDUM OF AGREEMENT
BETWEEN
THE ALASKA DEPARTMENT OF CORRECTIONS
AND
THE ALEUT COMMUNITY OF ST. PAUL ISLAND TRIBAL GOVERNMENT**

This Memorandum of Agreement establishes a voluntary, cooperative agreement between the Alaska Department of Corrections (“DOC”), a governmental agency of the State of Alaska, and the Aleut Community of St. Paul Island Tribal Government (“ACSPI”), a federally recognized Indian tribe.

Together, DOC and ACSPI agree to collaborate on the development and implementation of a Tribal Supervision Program for probationers residing on St. Paul Island, Alaska. It is the intent of this collaboration to more effectively provide localized supervision, culturally appropriate remedies, and improved delivery of justice for probationers and the community of St. Paul Island, Alaska.

DOC Agrees To:

- Review its docket of St. Paul Island criminal probation cases, identify appropriate probationers who may benefit from supervision by the Aleut Community of St. Paul Island Tribal Government, and make suitable referrals to the Tribal Program.
- Staff questionable cases with ACSPI for mutual decision prior to referral.
- Provide training and consultation on DOC protocols and best practices for adult probation cases as requested.
- Share essential information and guidance for each referral as requested.
- DOC will maintain open lines of communication regarding the success of participants and agree to calculate ‘good time’ and accord all available probationary credit to successful participants while in the Tribal Supervision Program.
- Upon notification of non-compliance with the Tribal Supervision Program, DOC will staff the case with ACSPI for a mutual decision regarding sanctions, revocation of probation, or the closure of the referral, and return of the case to DOC.

ACSPI Agrees To:

- The Tribe agrees to provide a local, community-based probation supervision program incorporating culturally relevant restorative justice principles for eligible probationers on St. Paul Island, Alaska.
- The Tribe agrees to attend training and consultations on DOC protocols and probation best practices as requested.
- The Tribe agrees to staff questionable and/or difficult cases with DOC.


- The Tribe retains the authority to refuse a case referred, and agrees to provide DOC notice of acceptance or refusal of diverted referrals within fifteen (15) days of receipt of referral.
- The Tribe agrees to provide DOC a copy of any Probation Supervision Agreement reached with the probationer within fifteen (15) days of acceptance.
- The Tribe agrees to monitor for compliance with Probation Supervision Agreements reached with the probationer and keep written log notes regarding the same.
- The Tribe agrees to Notify DOC Staff regarding substantial non-compliance within twenty four (24) hours of an offending incident.
- The Tribe agrees to provide copies of case files and other essential information to DOC upon request.

Communication: The Parties agree to meet quarterly to review program progress and to problem-solve any programmatic or procedural issues that may arise. Consultation between the Parties regarding individual cases as contemplated by this agreement will be arranged as needed. Modifications of this agreement can be made upon both Parties' signed acceptance of such modification.

Individual Governmental Powers Retained: Nothing in this agreement creates, alters, or diminishes the respective sovereignty of the State of Alaska or the Aleut Community of St. Paul Island Tribal Government.

Dispute Resolution: Any dispute between the Parties relative to this agreement shall be resolved through good faith informal negotiation. In the unlikely event the Parties are not able to reach a mutually satisfaction resolution of disputes, either Party may withdraw from this agreement by providing thirty (30) days written notice to all Parties.


This MOA will take effect when signed by both Parties. The term of this Agreement shall be one year from the effective date and shall renew automatically each year. The Parties may assess the Agreement each year and propose modifications at least thirty (30) days prior to the renewal date.



 Amos Philemonoff, President
 Aleut Community of St. Paul Island Tribal Government

11/26/18

 Date



 Commissioner
 Alaska Department of Corrections



 Date