

IN THE SUPERIOR COURT OF THE STATE OF ALASKA  
SECOND JUDICIAL DISTRICT AT KOTZEBUE

In the Matter of: )  
 )  
REFERRING CASES TO TRIBAL )  
RESTORATIVE JUSTICE PROGRAMS )  
UNDER CR 11(i) and DL 23(f) )  
\_\_\_\_\_ )

Presiding Judge Administrative  
Order No. 19-02

1. Criminal Rule 11(i) and Delinquency Rule 23(f) allow referral of criminal and juvenile delinquency cases to restorative justice programs.<sup>1</sup> To implement these rules, the Alaska Court System has entered into more than a dozen agreements with Alaska tribes throughout the state to promote tribal input in local cases.
2. The Second Judicial District is comprised almost entirely of villages large and small. To avoid the cumbersome process of entering into individual agreements with each tribe, this Presiding Judge Administrative Order establishes a process to facilitate referral of cases to restorative justice programs in the region.<sup>2</sup> The following procedures apply:
3. Referring a case to a restorative justice program:
  - a. A tribe may submit a request for a copy of the relevant case documents from the case file, such as complaints, petitions, or indictments using form CR-805. No fee will be charged for this document request.<sup>3</sup>
  - b. Ordinarily no later than the final pretrial conference, the tribe may notify the Court and serve the defendant, the prosecutor, and victim of its interest to have the case referred to the tribe's restorative justice program for a sentencing recommendation using form CR-810 2JD.

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<sup>1</sup> Under the rules a "restorative justice program" is 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. Under this rule, the term "restorative justice program" does not include the Alaska Court System's therapeutic courts.

<sup>2</sup> Nothing in this Administrative Order prevents a sentencing judge referring to a nontribal restorative justice program.

<sup>3</sup> Administrative Rule 9(f)(6).

- c. Within 30 days of receiving form CR-810 2JD, the defendant, the prosecutor, and the named victim will notify the court and the tribe whether consent will be given for referral of the case to a tribe's restorative justice program.
  - d. At the defendant's change of plea hearing or following guilty verdict at trial, the judge handling the case may refer the case to the tribe's restorative justice program using form CR-815 2JD. The judge's order must set the sentencing at least 60 days after the conviction date and, with the advice of the defendant and the prosecutor, specify any applicable mandatory sentencing provisions.
4. Once referral is made to a tribe's restorative justice program:
- a. Within 45 days of referral, using form CR-820, a tribe shall take the necessary steps to conduct its restorative justice program to assist in developing sentencing recommendations to submit to the court. The sentencing recommendations may include culturally relevant activities, drug and alcohol assessments and treatment, restitution (such as money or services for the victim), or other remedies.
  - b. The parties (defendant and the prosecutor) may include the sentencing recommendations of the restorative justice program in a sentencing agreement subject to the provisions of Criminal Rule 11(e). Any sentencing agreement shall be filed no later than 7 days prior to the court sentencing hearing.
  - c. The tribe may prepare its sentencing recommendations using form CR-825 which shall be filed with the court, and sent to the defendant, the prosecutor, and the victim. Any sentencing recommendations shall be filed no later than 7 days prior to the court sentencing hearing.
  - d. The sentencing judge shall consider the sentencing recommendations submitted by a tribe, in weighing the *Chaney* criteria<sup>4</sup>. Parties understand that the judge is not bound by the sentencing recommendations.

Dated at Kotzebue, Alaska, this 9th day of October, 2019.

IT IS SO ORDERED.



PAUL A. ROETMAN  
Presiding Judge  
Second Judicial District

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<sup>4</sup> *Chaney v. State* 477 P.2d 441 (Alaska 1970); See also AS 12.55.005.