

MEMORANDUM OF UNDERSTANDING

Between the

TRIBAL PROSECUTOR AND TRIBAL JUDICIAL COURT

the

TRIBAL POLICE DEPARTMENT

the

BUREAU OF INDIAN AFFAIRS

and the

TRIBAL DEPARTMENT FOR CHILDREN, YOUTH AND FAMILIES - PROTECTIVE SERVICES DIVISION

Whereas, Law Enforcement Agencies are the primary responders to, or discoverers of, drug-endangered children environments;

Whereas, drug-endangered children environments are defined as conditions of contamination or hazardous life style that results in abuse, life or health endangerment, or neglect perpetrated on a child as a result of illicit drug use, sales or manufacturing;

Whereas, Tribal Law Enforcement Agencies must grapple with an investigatory role dichotomy when encountering both illegal drugs and drug-endangered children (DEC);

Whereas, the Tribal Prosecutors Office has assigned an Attorney to prosecute cases involving clandestine drug labs and/or drug trafficking;

Whereas, drug-endangered children require the specific and immediate attention of a Social and Rehabilitation Services Child Welfare Social Worker to ensure the child's safety and to mitigate the environmental trauma;

Whereas, sustainment of a safe and healthy environment for a drug-endangered child is achieved in part by the periodic and unannounced legal inspections of that environment;

Whereas, it is recognized that each law enforcement agency subscribing to this Agreement has varying levels of staffing and other resources available;

Now, Therefore, each subscribing agency retains the sole discretion to determine the ability of that agency to comply with the terms of this Agreement to the circumstances and resources existing at any given time.

Now therefore, in consideration of the mutual promises and agreements herein contained, the parties do mutually promise and agree as follows:

The Tribal Law Enforcement Agencies agree to take all reasonable steps to:

1. Assign a child abuse investigator (or other personnel assigned to the drug-endangered children cases) to work in conjunction with drug investigators and/or patrol officers when a drug-endangered environment is suspected or discovered. The child abuse investigator will be dispatched (whether on or off-duty) to the scene of a drug endangered child discovery when the endangerment involves a clandestine lab or significant drug trafficking crime in which a child endangerment violation is suspected.
2. In illegal drug related cases, ensure that the child abuse investigator interviews the victimized child(ren) and the drug investigator locates and collects all drug-related evidence. A Children's Advocacy Center should be utilized when appropriate and when possible for interviewing DEC victims who may have been physically or sexually abused.
3. When necessary, request a social services caseworker to respond to the scene of a drug-endangered child investigation. This on-call person can be contacted 24 hours a day by pager or cell phone at _____.
4. Brief the caseworker assigned to the drug-endangered child investigation about all relevant matters pertaining to the endangerment allegation. When possible and as appropriate, the caseworker should be involved in pre-service search warrant briefings in which drug-endangered children have been alleged. The caseworker, however, will not be asked to enter the dwelling or other structure in which there is a clandestine drug laboratory.
5. Place any children found in a drug-endangered environment into protective custody and turn the child over to _____ for a safe placement. An emergency protective order may be issued to ensure immediate, court-ordered protection of the child(ren), when a child is in immediate danger of abuse or abduction by a parent, relative, or someone known to them.
6. Have children who are taken into protective custody for drug exposure transported by Emergency Medical Services or Law Enforcement to a local hospital for a medical examination and drug exposure analysis as appropriate and practicable. Ideally, a medical assessment (wellness check) should be done on exposed children within _____ hours of discovery.

7. Utilize medical personnel to collect blood and urine when immediate and single exposure analysis is paramount.
8. If necessary, obtain copies of medical history documents of children in Social Services custody, from the assigned caseworker.
9. Require the case child abuse investigator, or someone assigned by law enforcement, to contact the designated child “service facilitator” at the child’s school of attendance and notify the service facilitator that the drug-endangered child unwittingly experienced a traumatic event, which may affect the child’s behavior or performance at school. An agency may choose to negotiate this requirement with Social Services/CPS by requesting the assigned caseworker to make the service facilitator notification.
10. Be responsive to all investigative follow-up requests by Tribal Attorney’s Office within 72 hours of the request.
11. Promote educational endeavors within the agency and the community to enhance the successful identification and prosecution of all drug-endangered children cases.
12. Assist other Law Enforcement Agencies in critical and/or severe DEC investigations in accordance with mutual aid agreement.
13. Dispatch a child abuse investigator (or other assigned personnel) to support and assist the Tribal Law Enforcement Agency on a DEC investigation being conducted or encountered by the Tribal Law Enforcement.
14. Require officers to attend all hearings when their testimony is deemed necessary by the Tribal Prosecutors Office /or Social Child Welfare Services to support permanent or long-term child placement other than with the child’s legal guardian.
15. Require the investigative officer for each drug-endangered child case to complete the DEC Evaluation Form (attached) and submit the original with the crime report to the Tribal Prosecuting Attorney’s Office and a copy to the case file. This form will be used for statistical data collection and made readily available to the agencies listed on this agreement upon their request.

The Tribal Attorney’s Office agrees to take all reasonable steps to:

1. Aggressively prosecute drug-endangered children cases.
2. Provide training for the Tribal Law Enforcement Agencies on strategies and court preparation for drug-endangered children cases.

3. Provide child victim advocacy throughout the criminal legal process.
4. Assign an Attorney to handle drug-endangered children cases. The assigned Attorney will be given the opportunity to develop an expertise in drug-endangered children prosecutions through training and experience. The assigned Assistant District Attorney will, when possible, respond to the scene of the most serious cases of drug-endangered children.
5. Maintain statistical data on the number of drug-endangered child cases referred by law enforcement, filed, and prosecuted, including disposition. The data will be readily accessible to the agencies listed on this agreement upon their request.
6. Attempt to recover lab costs incurred by the arresting agency, emergency medical services, and/or Social Child Welfare Services for blood and urine analysis and medical evaluations of drug-endangered children when a suspect(s) is convicted of a DEC child abuse charge.

The Tribal Social Services Department for Children, Youth and families-Child Protective Services agrees to take all reasonable steps to:

1. Coordinate services to drug-endangered children, including the sharing of information with law enforcement, after a search warrant service or DEC arrest has been made and law enforcement has established probable cause to suspect that a child has been abused or neglected
2. Work with law enforcement to ensure that a drug-endangered child is given a medical exam (wellness check) as soon as possible.
3. Attend training, when available, in the provision of services to substance-addicted parents and their children.
4. Attend joint drug-endangered children training sessions with law enforcement personnel when available.

There is a difference between children living in dangerous conditions that include clandestine labs and those living with parents who are addicted to a substance, including alcohol.

For clandestine drug labs and illegal drug sales, C.Y.F.D. will, to the best of their ability:

5. Make every effort to have a caseworker attend law enforcement's pre-search warrant service briefing in suspected drug-endangered children cases, when requested.
6. Obtain the drug-endangered child's medical history, if available, and provide relevant information to law enforcement (or other assigned personnel) after a drug-endangered child has been taken into police protective custody.
7. Help the child understand why they are being separated from his/her parents. The social worker will assist the child in understanding the actions being taken on his/her behalf and what actions will be taken to help their parents.
8. Upon release of the parents or caretakers, will work with other agency professional, including substance abuse and Probation/Parole, to ensure that the parents are mandated to attend and work meaningfully on their substance abuse issues.
9. Social Service/ Child Protective Services will provide services to drug-endangered children, and their families, who remain in the custody of the Social Services/CPSC.Y.F.D.
10. Any follow-up medical procedures, as ordered by a physician or other health care provider, of drug-endangered children in Social Services/CPS custody will be included on all case plans.
11. Recommend that drug-endangered children in Social Services/CPS custody remain in custody when parents are unwilling to work toward a meaningful recovery and when they place their children at a high risk of abuse, molestation, or deprivation, whether intentional or unintentional.
12. As a last resort and in the DEC cases where private or Medicaid insurance is not available, Social Services/ CPS will be responsible for medical costs incurred by drug-endangered children eligible for CPS services during a DEC investigation as outlined in the DEC Protocol. _____Medical Center will accept in full whatever payment is allowed by Medicaid.

I agree with the above listed provisions and fully support the Tribal Alliance for Drug-Endangered Children Program.

Administrator
Tribal Social Service, Child Protective Services, Department of Children,
Youth and Families

Date

Tribal Attorney
Prosecuting Attorney's Office

Date

Chief of Police
Tribal Police Department

Date

Chief
Bureau of Indian Affairs

Date

Director
_____ Regional Medical
Center Emergency Room Services

Date

Director
Children's Advocacy Center

Date

Director
Indian Health/ Emergency Medical Services

Date