

**Memorandum of Understanding:
Restorative Community Conferencing Service Agreement**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is by and between the following: **[Insert district attorney’s name and title who has authority to make a binding agreement for the juvenile division]** and **[Insert participating agencies/organizations.]** For purposes of this document, all community-based organizations that will receive cases from the referring agencies will be referred to as “CBOs.”

Introduction and Definitions

The intention of this collaboration is to replace the prosecution of youth who are arrested for felonies and high-level misdemeanors with Restorative Community Conferencing (RCC, also known as Restorative Group Conferencing [RGC] and Family Group Conferencing [FGC]). In a Restorative Community Conference, a young person accused of crime meets face-to-face with his/her victim. Family members and other supporters of the process are also present. A plan by which the young person “does right” by his/her 1) victim, 2) family, 3) community, and 4) self is developed by consensus of all RCC participants. In pre-charge diversion cases, when the plan is completed, charges are never filed.

By creating spaces where young people can make amends directly to the people they have harmed, RCC helps participants understand the harm. The process also creates a space to listen and respond to the needs of the person harmed, the person who harmed, and their communities; to encourage accountability through personal reflection and collaborative planning; to integrate the youth who harmed into the community as a valuable and contributing member; to empower families to address youthful wrongdoing; and to create caring climates that support healthy families and communities.

This MOU also sets forth expectations upon the following participating organizations and agencies: **[Insert agencies and organizations]**. This MOU will become effective upon the approval of the District Attorney (DA).

Throughout this document, the terms “RCC” and “RCC process” refers to the preparatory communications and meetings, the conference itself, and the follow up communications and meetings that extend through plan completion and case closure, as well as all written and electronic documents and communications related to this process.

District Attorney Agreements:

Types of Referrals. At the present time, the DA will otherwise refer the most serious cases permitted by law for diversion and will not refer cases involving homicides or rapes. It is collectively understood that burglaries, robberies, assaults, arsons, teen dating violence, and car jackings are ideal pre-charge RCC cases. All referred cases should have at least one identifiable victim, although the case may ultimately proceed without the victim’s presence.

Issues of Guilt. Cases in which there is clear evidence of guilt are best for RCC. The DA agrees that RCC is not meant to serve as an investigation tool.

Confidentiality Issues.

Generally. The DA agrees that all *new* information learned in the conferencing process (including pre-conferencing meetings) will not be used against the youth accused of a crime in any juvenile or criminal proceeding. The DA agrees to not subpoena as witnesses or otherwise ask RCC facilitators or other CBO staff to share facts learned in matters that involve youth who participate in conferencing. The DA also agrees to not call other RCC participants (in either prep meetings or in the RCC itself) to testify about any information that is *learned through the RCC*

process. Finally, the DA, Juvenile Probation Department, and the Police Department agree that a young person's agreement to participate in RCC, or the failure of a case to successfully resolve through RCC, will not be introduced into any juvenile or criminal proceedings.

Confidentiality and Immunity of Other Youth. If the young person accused of a crime whose case is referred to RCC brings other youth (those under 18 years of age) to the RCC or prep sessions or discusses other youth in the RCC or prep session, the DA agrees that information, including the identities of those youth, will not be used against those additional youth in a court of law.

Confidentiality Issues With Regards to Immigration Status. The DA agrees that all *new* information learned in the conferencing process (including pre-conferencing meetings) regarding the immigration or documentation status of the referred youth, their families and caregivers, and others participating in or discussed in the RCC process will not be shared with any federal law enforcement or immigration agencies or authorities. The DA will not honor any federal or other requests for information regarding the immigration status of any participant. The DA agrees to not subpoena as witnesses or otherwise ask RCC facilitators or other CBO staff to share facts learned in matters that involve the youth, the youth's family and/or caregivers, the other RCC participants, or people discussed during the RCC process. The DA also agrees to not call other RCC participants (in either prep meetings or in the RCC itself) to testify about any information that is learned through the RCC process.

Multiple Referral Mechanisms. The confidentiality agreements, above, apply regardless of whether the case is referred to an RCC through CBOs, faith-based organizations, schools, police departments, probation, the DA's office, courts, or individuals.

Prosecution of Cases Referred to RCC. It is understood, however, that prosecution of young persons may proceed against youth participants based on information gathered before, after, or otherwise outside the conferencing process. Such prosecution is expected to occur if the conferencing process is unsuccessful in resolving the case.

When a case has been referred through a law enforcement mechanism—namely school police departments, municipal police departments, probation, or the DA—the DA agrees to delay prosecution for 10 months from the date of the referral to RCC. This provision is related only to the *specific case referred to RCC* and has no bearing on additional or previous crimes the young person may have committed. This provision is intended solely to delay prosecution of a case referred for RCC pre-charge diversion until a reasonable time has been allotted to resolve the case through the RCC.

Where cases have been referred through non-law enforcement mechanisms, such as school district disciplinary entities or CBOs, the DA may not be aware that an RCC is in progress. If any participating organization or agency learns that the DA has initiated prosecution of a case referred to RCC, the organization/agency will contact the DA to alert him/her to the ongoing RCC. The DA agrees to engage in a good-faith discussion about the appropriateness of addressing the case solely through the RCC process. Nothing in this paragraph is intended to limit the DA's power to prosecute cases that have come to RCC through non-law enforcement mechanisms.

Participating Organization Agreements:

Liaisons and Requests for Cases. The organization will contact the DA when the organization is prepared to take a new case or set of cases. (The charging DA or other District

Attorneys are also welcome to contact a CBO when a case seems appropriate for RCC, although this is not expected.)

Criteria for Accepting Cases.

Prior History. Because studies show that second-time offenders are most successful in the RCC process, [CBOs] agree to accept cases of youth with prior records.

The CBOs will accept youth who have come in contact with the system due to dependency issues, as long as they meet the other criteria for referral.

Geography Limitations. In accordance with the present capacity of [CBOs], cases will be diverted solely from within the following geographical areas: [Insert geographical areas here and note this may be governed by jurisdictional concerns.]

Age of Youth who Caused Harm. No age is too young, but CBOs cannot take cases of youth older than 17.5 years. The CBOs want to leave enough time to ensure that if the RCC process is not appropriate, enough time will remain for the case to go through traditional channels prior to the youth's 18th birthday.

Reporting Status/Outcomes. The DA will receive a brief case status memorandum from the CBOs every four weeks. The DA will be notified of the conference outcome. The DA will also receive monthly notification of the progress on the plan, notification of any reconvenes of the RCC (if the plan needs to be adjusted), and a notification when the plan is completed. If the young person repeatedly fails to complete the plan and reconvenes are unsuccessful in helping him/her get on track, the case will be returned to the DA for prosecution.

DA Attendance at the Conference. The DA will be invited to attend any conference it has referred.

Completion Timelines. Conferences will ideally take place within eight weeks of the case referral, although it is understood that some complex cases and multi-party cases will take slightly longer. In cases in which youth are concurrently involved in Dependency Court-related matters, resolution is expected to take longer. Plans are to be completed within three to six months of the conference.

Matters That Concern Both the District Attorney and [Participating Organizations]

Compensation. This MOU does not govern any contractual or financial arrangements between the parties.

Term and Termination. This MOU shall commence on the effective date and shall continue until **[Insert termination date here]** unless sooner terminated pursuant to this paragraph: Any party may terminate its obligations under this MOU prior to expiration upon 30-day notice of one to any other. Any CBO may terminate its relationship with the DA without affecting the remaining relationships governed under this MOU. Likewise, the DA may terminate its relationship with any single CBO without terminating its relationship with the other CBOs. Any RCC process that commenced under the terms of this agreement will be governed by the terms of this agreement, even if the MOU has been terminated. Commencement is determined by the receipt of the case from the referring agency.

Approvals:

**[Managing District Attorney
Juvenile Division
or District Attorney for entire jurisdiction
participating District Attorney's Office]**

Date

Executive Director
[Participating RCC]

Date

[Person responsible for RCCs]
[Participating CBO]

Date

[If you are working with NCCD]
Sujatha Baliga, Director
Restorative Justice Project, NCCD

Date