

**Santa Barbara County**  
**Restorative Justice Protocol**  
**Memorandum of Understanding**

**The parties to this Memorandum of Understanding (MOU) are the Conflict Solutions Center of Santa Barbara County (a California Non-Profit Corporation), Santa Barbara County Sheriff's Office, Santa Barbara County District Attorney's Office, Santa Barbara County Public Defender's Office, and the Santa Barbara County Probation Department. In signing this MOU, the parties confirm their adoption of this protocol.**

**A. Description and Purpose**

1. The Restorative Justice Partnership Initiative (RJPI) operated by the Conflict Solutions Center of Santa Barbara County (CSC) provides a community-based response to wrongdoing that is rooted in the principles of restorative justice.
2. The RJPI is a response to offending that can replace or divert a case from prosecution.
3. People who offend can be referred to RJPI. Those referred actively participate in a process to learn about the effects of their actions on individuals, their community, and work with affected parties and community volunteers to create and carry out a plan for making amends and development of skills for making better choices in the future.
4. People who hurt others have the opportunity and the support necessary to take responsibility for their actions, admit the impact their actions have had on others, to make amends, and to develop skills for making better choices in the future. Participants who complete this process usually develop internal, rather than external, motivation to refrain from hurting others in the future because they have seen the effects of their actions and have been given the chance to rejoin with their community. Concurrently, those affected by wrongdoing report that they feel more satisfied with the outcome because of the community-supported opportunity they have been given to learn more about the incident, talk about the effects, and have an active voice in identifying what it would take to make things better.

## **B. Who Is Served**

1. The persons who will be recipients of services under the MOU shall be youthful offenders ages 12-17.5, as per the attached Restorative Justice Guidelines for Juvenile Court, their victims, and families for both parties in Northern Santa Barbara County who would benefit. The Conflict Solutions Center RJPI focuses on victims of juvenile crime, youth offenders and their families with complex needs who are involved (or need involvement) with multiple systems or agencies and community accountability. Victims shall be given the option to participate as well as a reasonable time to make an informed decision. Victims shall be provided the name and phone number of the District Attorney's Victim Witness Office, as per the existing MOU between CSC and the Victim/Witness Program.

## **C. Referral Sources**

1. Probation Department
2. District Attorney's Office
3. Public Defender's Office

## **D. Recommendation Sources**

1. Sheriff's Office
2. A family, agency, business owner, or victim may ask the Sheriff's office to recommend or the , Probation Department or District Attorney's Office to refer a case.

## **E. Misdemeanor Offenses Which May Qualify for Referral to RJPI** – In general, referrals will be accepted for the following types of offenses, as deemed appropriate by the Probation Dept. and/or the District Attorney's Office:

1. P.C § 594-Vandalism and related misdemeanor offenses
2. P.C. §§ 242 & 243.2-simple battery
3. P.C. § 484-petty theft (and other misdemeanor thefts)
4. All remaining misdemeanors at the discretion of the District Attorney's Office.

## ***Misdemeanor Disqualifiers***

**Non-Discretionary:** A minor charged with a misdemeanor shall not be eligible for RJPI if any one of the following is true:

1. The minor has a prior or pending W.I.C. § 707(b) offense(s).
2. The minor has a prior sustained petition which includes an allegation of the use of a deadly or dangerous weapon.

**Discretionary:** Unless the District Attorney agrees, given the totality of the circumstances, a minor charged with a misdemeanor will not be eligible for RJPI if:

1. The minor has sustained prior petition for any felony sex offense.
2. The current offense involves gang related conduct.
3. The minor has a prior sustained petition, with a gang enhancement, or gang-related conduct.
4. The minor has a prior sustained petition, with a finding that minor was in possession of a deadly or dangerous weapon.
5. The minor was participating in, or previously participated in a grant of RJPI.

**F. Felony Offenses Which May Be Addressed by Program** - In general, the following felony offenses are eligible for RJPI:

1. P.C. § 459-commercial burglary (except large corporate retailers) / auto burglary
2. C.V.C. § 10851-auto theft or P.C. § 496d(a) (if no prior sustained petition for 10851 or 496)
3. P.C. § 496-(a)-possession of stolen property
4. P.C. § 594(b)(1) – felony vandalism

### ***Felony Disqualifiers***

#### **Non-Discretionary:**

1. Any Offense listed under W.I.C. § 707(b).
2. Any felony offense in which the minor used a deadly or dangerous weapon.
3. Any felony committed when the minor is participating in, or has previously participated in a grant of RJPI.

#### **Discretionary:**

1. Any sex offense, arson, or reckless fire starting, and any offense which resulted in great bodily injury to any involved party may only be referred at the discretion of the District Attorney's Office.
2. Any offense that is gang-related, at the discretion of the District Attorney's Office.

Note: Any deviation from the above mentioned criteria must be by written approval of the Chief Deputy District Attorney.



## **G. Suitability Criteria**

Not every minor who is eligible for RJPI will be suitable for RJPI. The following suitability criteria shall be considered prior to a referral to RJPI:

1. The minor must be between 12-17.5 years of age.
2. The offender must accept responsibility for the offense(s).
3. The offender/minor must agree to cooperate with the process.
4. The parties may also determine the best interests of the minor are met by participation in RJPI.
5. The minor understands that disclosure of unrelated crimes may result in separate prosecutions in those matters.
6. The victim will only be contacted when the offender has been deemed an appropriate referral and has indicated a willingness to participate. Victims will then be fully informed of his/her right not to participate in RJPI. A referral will be made to the Victim Witness Unit at the point CSC victim contact is initiated.
7. The minor or minor's family must have the ability to make reparation and/or restitution within a timeframe agreed upon by all parties. Failure to make reparations and/or restitution within this time frame can result in termination from RJPI. Victim reparation and restitution will take precedence over agency costs and fees.
8. After the referral has been made and upon CSC's meeting with the minor and a parent, if CSC staff determine that RJPI is not appropriate or the juvenile is not willing to participate, the matter shall be returned to the Juvenile Court for adjudication.

## **H. Process for Referral**

1. Regarding the person who offended:
  - a. If the offender seems to be an appropriate candidate for RJPI (eg. crime involving individuals, not corporations), the arresting deputy may make a note on the Pro190 about the possibility for referral to RJPI.
  - b. Juvenile Probation and/or District Attorney's Office will review the PRO-190 referral and determine if the offender seems initially appropriate for RJPI. It should be noted that the Probation Department and/or the District Attorney's Office can refer candidates to RJPI even if a recommendation is not listed on the PRO-190.

- c. RJPI Referral form provided by CSC will be completed and faxed to CSC by Probation or the Deputy DA.
  - d. Contact is made by RJPI staff to the youth (offender)—and/or, if a juvenile, the youth's (offender's) parent or guardian—to inform them of the interest in referring the case to the RJPI. A face to face meeting is scheduled between RJPI staff and offender and at least one parent or guardian. RJPI staff will obtain the offender's agreement to participate and admission to the charged offense.
2. Regarding victim(s):
- a. Once suitability and willingness of youth (offender) is confirmed, RJPI staff will contact the victim and schedule a face to face meeting to inform them of: the RJPI opportunity and that it is voluntary, and that it is a way for them to have direct input into their right to receive full and complete restitution and/or reparations for damages suffered. If the victim(s) are interested in participating, RJPI staff will begin to coordinate the logistics of convening a Circle Conference or Victim/Offender mediation. CSC Staff will provide a referral to the Victim Witness Unit as a point of contact for victim.

## **I. RJPI Program Procedure**

1. Upon receipt of an RJPI Referral Form, RJPI staff or a volunteer liaison will contact the offender first to determine willingness to participate. Once willingness and appropriateness is determined, victim will be contacted and offered the opportunity to discuss the incident, explore their needs, explain the program, and invite participation. Others affected may also be invited to participate.
2. If the victim is not interested in participating in the Restorative Justice process, RJPI staff will inform the referring agency and the case will be sent back for traditional processing.
3. Based on the specifics of the case, the needs of all parties, and the judgment of a staff person experienced in intervening in and managing conflict, RJPI staff will decide on the appropriate restorative justice intervention, either a Restorative Circle Conference involving others who were affected, or a Victim/Offender Mediation, involving only the principles.
4. The restorative justice intervention will focus on the needs of the affected parties. Within the context of the restorative meeting and/or by virtue of a plan created by the participants of the meeting, the person who offended will take steps to first understand and then remedy the harm as much as possible in accordance with the needs of the affected parties, including

the community, and do things that make re-offending less likely. The restorative plan may call for check-ins at pre-determined intervals.

5. The person who offended will complete the activities in his/her restorative plan and demonstrate completion to the other parties who took part in the restorative meeting. RJPI staff will provide training and administrative and technical support for volunteer service provider(s), monitor check-in and other criteria for compliance.
6. Upon completion of the restorative process, RJPI staff will send a Final Report to the referring agency and the case will be closed.
7. If the person who offended does not satisfactorily complete the RJPI process within 90 days, staff will notify the referring agency so that the case may be returned for traditional processing by the District Attorney's Office or Probation, as appropriate.

#### **J. Restitution & Reparation Policy**

1. In cases where there are material damages, the parties involved in the Restorative Justice process will determine the payment of restitution for damages.
2. If no agreement is reached in the Restorative Justice process, the case will be returned to the referring agency as not completed.
3. Restitution or reparations that are agreed to must be paid by the deadline established in the restorative agreement or the person who offended will be deemed to have not completed the RJPI program.

#### **K. Program Fee**

1. Each person referred to the RJPI must pay the Conflict Solutions Center the administrative fee charged by the agency. The fee is a sliding scale (\$20-\$120) based on family income and is payable after the "intake" meeting with the RJPI staff and only if the case is accepted for a restorative process.
2. The fee must be paid before the case is considered complete.
3. Once a person is accepted into the RJPI program and pays the fee, that fee is non-refundable, even if the person fails to complete the program.
4. The Santa Barbara County Sheriff's Office or any other referral source will not be charged a fee for referrals.



#### **L. Program Accountability**

1. CSC's RJPI staff will maintain monthly contact, at minimum, with the agency or institution that sent the referral to CSC and will send a summary Final Report upon completion of each referral.
2. CSC will conduct regular recidivism checks of offenders at 6 and 12 month intervals after successful completion of an RJ process provided. Recidivism outcomes will be compiled into a semi-annual report and made available to RJ stakeholder partners.

#### **M. Indemnification**

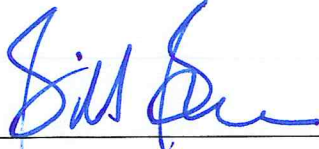
CSC agrees to indemnify, defend (with counsel reasonably approved by the County of Santa Barbara) and hold harmless County of Santa Barbara and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by County of Santa Barbara on account of any claim except where such indemnification is prohibited by law. CSC's indemnification obligation applies to County of Santa Barbara's active as well as passive negligence but does not apply to COUNTY's sole negligence or willful misconduct. CSC shall maintain adequate liability insurance as approved by Santa Barbara County Risk Management, naming the County of Santa Barbara as an "additional insured" on its General Liability policy and provide evidence of such policies to the aforementioned parties prior to the execution of this MOU.

#### **N. Additional Agencies**

With the approval of all signatories, additional Law Enforcement agencies may join in this program and participate in this program. Signatures of the new law Enforcement agency will be necessary, however no additional signatures shall be necessary from the original signatories, unless substantive changes are made to the agreement.


*By our signatures below, we adopt this Protocol to guide us in our efforts to respond to appropriate offenses with a restorative justice approach.*

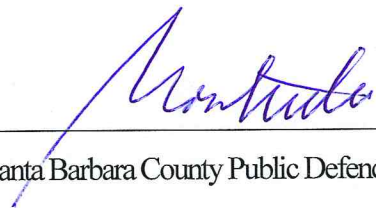
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Chair, Board of Supervisors

 Date 5/19/14  
Santa Barbara County Sheriff's Office

 Date 5/21/14  
Conflict Solutions Center of Santa Barbara County  
A California Non-Profit Corporation


 Date 5/20/14  
Santa Barbara County Probation Department

 Date 5-19-14  
Santa Barbara County District Attorney's Office

 Date 5-20-14  
Santa Barbara County Public Defender's Office

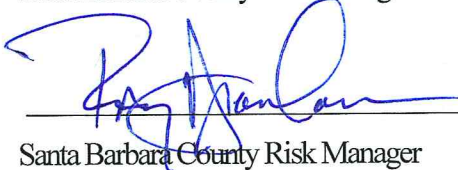
Approved as to Form:

Santa Barbara County Counsel

 Date 5/16/2014  
Deputy County Counsel

Approved as to Form:

Santa Barbara County Risk Management

 Date 5/19/14  
Santa Barbara County Risk Manager