

TITLE 8. FAMILY CODE

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Chapter 8.1

SUQUAMISH FAMILY COURT — YOUTH IN NEED OF CARE

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FINDINGS AND PURPOSE

8.1.1. Suquamish Family Court. There is hereby established a division of the Suquamish Tribal Court to be known as the Suquamish Family Court. The Suquamish Family Court shall consist of the judges of the Suquamish Tribal Court. (Res. 98-004 §8.1.010, passed Feb. 2, 1998)

8.1.2. Family Court Judges. Judges of the Suquamish Family Court shall have the same qualifications, powers, and duties as judges of the Suquamish Tribal Court. (Res. 98-004 §8.1.020, passed Feb. 2, 1998)

8.1.3. Source of Jurisdictional Power. The Suquamish Family Court's jurisdiction derives from the inherent, pre-Columbian-based sovereignty of the Suquamish Indian Tribe. (Res. 98-004 §8.1.030, passed Feb. 2, 1998)

8.1.4. Subject Matter Jurisdiction of the Suquamish Family Court. The Suquamish Family Court shall have jurisdiction over cases arising under this code, cases arising under 25 USC 1901 et seq., cases arising under other laws of the Suquamish Tribe specifically providing for disposition by the Suquamish Family Court, and any actions

arising under the customs and traditions of the Suquamish Tribe affecting family and child welfare. (Res. 98-004 §8.1.040, passed Feb. 2, 1998)

8.1.5. Territorial Jurisdiction. The territorial jurisdiction of the Suquamish Family Court is limited only by the Constitution of the Suquamish Indian Tribe and by express action of the Suquamish Tribal Council as expressed in Suquamish Tribal Code Chapter 3.2 et seq. (Res. 98-004 §8.1.050, passed Feb. 2, 1998)

8.1.6. Personal Jurisdiction. The Suquamish Family Court's jurisdiction over persons is limited only by the Constitution of the Suquamish Indian Tribe and by express action of the Suquamish Tribal Council as expressed in Suquamish Tribal Code Chapter 3.2 et seq. The Suquamish Family Court, as a division of the Suquamish Tribal Court, is also vested with jurisdiction over persons as set forth in 25 USC 1901 et seq. (Res. 98-004 §8.1.060, passed Feb. 2, 1998)

8.1.7. Jurisdictional Questions. The Suquamish Family Court shall have the power to decide questions of jurisdiction which may be raised under this code. The Suquamish Tribe intends to vest the Suquamish Family Court with the fullest jurisdiction possible in order to protect the children and families of the Suquamish Indian Tribe and the Indian community residing within the exterior boundaries of the Port Madison Indian Reservation. (Res. 98-004 §8.1.070, passed Feb. 2, 1998)

8.1.8. Legislative Findings. The Suquamish Tribal Council finds that family, in its broadest sense, is the most important resource and advocate for the well-being of youth. Therefore, in most instances, the preservation of a youth's family will, in turn, promote the well-being of the youth. However, there will undoubtedly be instances in which the value of family preservation and the value of a youth's well-being conflict. In such instances, the Suquamish Family Court shall ensure that the well-being of the youth takes precedence. (Res. 98-004 §8.1.080, passed Feb. 2, 1998)

8.1.9. Policy Statement. At the heart of sovereignty lies the Tribe's ability to ensure the welfare of Suquamish youth and Indian youth residing within the Port Madison Indian Reservation. Nothing is more central to the protection of tribal self-government or the control of internal relations of the Tribe than the ability to ensure that the future adults of our tribal community are well cared for. (Res. 98-004 §8.1.090, passed Feb. 2, 1998)

8.1.10. (Reserved)

8.1.11. (Reserved)

DEFINITIONS — ICW

8.1.12. Definitions. For the purposes of this title, the following words and phrases have the following meanings unless otherwise defined in a chapter:

(a) “Adult” means any person who is either eighteen (18) years of age or older, married, or otherwise emancipated.

(b) “Custodian” means any person who has been entrusted with the care of a youth under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been given by the parent of such youth.

(c) “Delinquent act” means an act which, if committed by an adult, would be a crime under any title of the Suquamish Tribal Code, provided, however, that traffic offenses and fishing offenses are not delinquent acts but shall proceed in adult tribal court notwithstanding the age of the defendant.

(d) “Domicile/residence” means the determination of domicile and residence shall be in accordance with tribal law and custom. In the absence of other factors clearly demonstrating an intent to establish a permanent home outside the exterior boundaries of the Port Madison Indian Reservation, a person’s domicile/residence shall be deemed to be within the exterior boundaries of the Port Madison Indian Reservation.

(e) “Extended family member” means the youth’s grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or step-parent, and any other person who is considered a family member under tribal law or custom.

(f) “Guardian” means a person, usually other than the youth’s parent, to whom the Court has given certain rights and duties to care for the youth and/or the youth’s property.

(g) “Guardian *ad litem*” means a person appointed by the Suquamish Family Court to represent the interests of a youth throughout any proceeding held pursuant to this title.

(h) “Indian Child Welfare (ICW) specialist” means a person designated by the Tribal Council pursuant to §8.1.14 to fulfill the duties set forth in §8.1.15.

(i) “Indian youth” means a youth who is:

(1) A member of a federally recognized Indian tribe or is eligible for membership in an Indian tribe;

(2) An Eskimo, Aleut, or Alaskan native;

(3) Determined eligible to be found an Indian by the Secretary of Interior;

(4) A Canadian Indian;

(5) A person considered to be an Indian by a federally or non-federally recognized tribe or by an urban Indian or Alaskan native community organization;
or

(6) A child residing or domiciled within the exterior boundaries of the Port Madison Indian Reservation whose parent is (1) residing or domiciled within the exterior boundaries of the Port Madison Indian Reservation; and (2) a member of a federally recognized Indian tribe or eligible for membership in a federally recognized Indian tribe; an Eskimo, Aleut, or Alaskan Native; determined eligible to be found an Indian by the Secretary of Interior; a Canadian Indian; or a person considered to be an Indian by a federally or non-federally recognized Indian tribe or by an urban Indian or Alaskan native community organization.

(j) “Least restrictive environment” means any placement, including a relative’s home, foster care home, or other shelter care facility, that is the least physically restrictive to a youth and most closely approximates the normal conditions of healthy family life.

(k) “Mediator” means a person appointed by the Suquamish Tribal Court to serve as an impartial third person to assist parties in conflict to resolve their conflict themselves.

(l) “Party” means a youth, parent, guardian, custodian, the ICW specialist, and the Suquamish Tribe, by and through its authorized representatives.

(m) “Presenting officer” means a person appointed by the Tribal Council pursuant to §8.1.16 to fulfill the duties set forth in §8.1.17.

(n) “Suquamish youth” means any youth who is a member of or eligible for membership in the Suquamish Tribe, regardless of the youth’s residence or domicile.

(o) “Tribe” means the Suquamish Indian Tribe of the Port Madison Indian Reservation, as represented by the Suquamish Tribal Council pursuant to the powers set forth in Article III, Section 1, of the Suquamish Constitution.

(p) “Youth” means a person under the age of eighteen (18) years; a person eighteen (18) years of age or older concerning whom proceedings are commenced in the Suquamish Family Court prior to his or her eighteenth birthday; and any person eighteen (18) years of age through twenty (20) years of age under the continuing jurisdiction of the Suquamish Family Court.

(q) "Youth offender" means a person who commits a delinquent act prior to his or her eighteenth birthday.

(r) "Youth in Need of Care." A "youth in need of care" is a youth who:

(1) Has been neglected. This term includes but is not limited to a youth who:

(A) Has no parent, guardian, or custodian willing, available, and able to provide adequate care for him or her.

(B) Is not receiving the food, clothing, shelter, medical care, education, or supervision needed for his or her well-being or development. "Education" includes the parent's responsibility to send the youth to school regularly or the responsibility of a parent to ensure that the youth is participating in a community-accepted alternative schooling program.

(C) Is an infant who is failing to thrive.

(D) Is knowingly left by a parent, guardian, or custodian with a babysitter who is intoxicated, irresponsible, or below the age of twelve (12).

(E) Is doing the work of a parent in running a household because the parent refuses to act as a parent.

(F) Is exposed to a dangerous situation due to the negligence of their parent(s) or guardian(s).

(G) Has a parent(s) or guardian(s) who misuses benefits intended for the child, such as selling or squandering food stamps or commodities, and such misuse results in neglect as defined in (1) of this subsection.

(H) Is an unborn or nursing child whose mother is using alcohol or nonprescribed drugs, or prescribed drugs in a manner inconsistent with the prescription, to an extent that the fetus or baby is likely to be endangered.

(I) Is an unborn child whose mother is not receiving "adequate prenatal care" as that term is commonly understood by qualified medical professionals.

(J) Is allowed access to alcohol or controlled substances as defined in Suquamish Criminal Code §7.26.1 by their parent(s), guardian, or custodian, or through the negligence of the parent(s), guardian, or custodian.

(K) Is suffering from head lice to an extent that the youth's well-being is likely to be endangered.

(L) Has been committing delinquent acts as a result of parental or custodial neglect, pressure, guidance, or approval.

(M) Is an unborn child whose mother is subject to "domestic violence," as that term is defined in Suquamish Criminal Code §7.28.1, to an extent that the physical well-being of the fetus is likely to be endangered.

(2) Has been physically abused. This term includes but is not limited to:

(A) Any bruising, welting, abrasion, lesions, burns, broken bones, or other bodily damage not clearly caused by pure accident;

(B) A child who has been given inappropriate food, drink, or drugs or a child who is suffering from malnutrition; or

(C) Unreasonable punishment. In determining whether punishment is unreasonable, the Court shall consider the age, size, and condition of the child; the circumstances surrounding the imposition of the punishment at issue; and the location of any injury caused by the parent or guardian. Unreasonable punishment includes but is not limited to the following acts: excessive spanking or slapping; any hitting with a closed fist; any kicking, throwing, burning, or cutting of a youth; or an act that is likely to cause and which does cause bodily harm greater than transient pain or minor, temporary marks.

(3) Has been emotionally maltreated. Emotional maltreatment causes impaired psychological growth and development of a youth. Both community values and professional expertise should be considered when deciding whether emotional maltreatment has taken place. Some indicators of emotional maltreatment are:

(A) The youth's social relationships are seriously impaired: very low self-esteem, a consistent pattern of emotional difficulties such as listlessness, apathy, depression, and self-deprecating remarks

(B) Serious inability of the youth to respond appropriately to others (e.g., the child cowers or ingratiates himself to adults; the child is excessively aggressive)

(C) Rejection: refusal by the parent or guardian to accept the child

(D) Ignoring: the parent or guardian deprives the child of essential responsiveness which stifles emotional growth and development of the child

(E) Ridicule/Terrorizing: verbal assaults creating a climate of fear, bullying the child, name-calling, destroying the child's possessions, attacking beloved people or pets, or derogatory remarks about the cultural heritage of the youth or his or her parents

(F) Isolating: cutting a youth off from normal social experiences, preventing a youth from forming friendships, locking a youth out of the home, or a youth who leaves home because of partying in the home

(G) Corrupting: teaching a child socially deviant behavior such as rewarding aggression, delinquency, or sexually precocious behavior

(H) Penalizing a child for positive, normal behavior

(I) Discouraging the attachment between caregiver and infant to the extent that failure to thrive, neglect, or physical abuse are likely to follow

(4) Has been sexually abused. Sexual abuse, as defined in this section, occurs when a parent, guardian, or custodian either perpetrates the sexual abuse or sexual abuse occurs as a result of the negligence of the parent, guardian, or custodian. Sexual abuse, as defined in this section, includes but is not limited to:

(A) Contacts or interactions between a youth and an adult when the child is being used for the sexual stimulation of the perpetrator or another person.

(B) Sexual abuse may also be committed by a person under the age of eighteen (18) when the perpetrator is forty-eight (48) or more months older than the youth or when the perpetrator is in a position of power or control over another youth.

(C) The inappropriate exposure of the perpetrator's genitals in the presence of a youth, or any other sexual act. "Exposure," as used in this section, requires intentional conduct.

(D) Obscene calls, jokes, or sexual propositions to a youth.

(E) Enticing a youth to become the object of child pornography or any type of sexual positioning for photos. "Entice," as used in this section, shall mean to wrongfully solicit, persuade, procure, allure, attract, coax, or seduce another to commit an act.

(F) Forcing a youth to witness obscene sexual acts. "Forcing," as used in this section, shall require intentional conduct.

(G) French kissing, handling genitals for the perpetrator's and/or victim's sexual gratification, and mouth-to-genital contact.

(H) Oral, anal, or vaginal rape, including statutory rape as defined in the Suquamish Criminal Code 7.17.

(I) Subjecting a youth to sexual maiming or sexual bondage.

(5) Has been missing from his or her residence for at least twenty-four (24) hours without the permission or authority of his or her parent, guardian, or custodian.

(6) Has not been obeying the reasonable rules of the home established by his or her parent, guardian, or other custodian to the point where assistance outside the immediate family is needed or requested by the parent, guardian, or other custodian.

(7) Has been habitually truant from school.

(8) Has engaged in alcohol or drug abuse.

(9) An unborn child who, upon birth, will be a youth in need of care as defined within this section. (Res. 98-004 §8.2.010, passed Feb. 2, 1998)

8.1.13 Recognition of Informal Temporary Placement. This code recognizes that a parent may need to place a child with another caregiver for a brief or long time. This is not in itself grounds for a youth-in-need-of-care action, provided that the substitute caregiver is adequately caring for the child. However, a parent who has placed a child with another person because he or she is unable to adequately care for a child is still expected by the community to work toward becoming a good parent. Should the parent demonstrate an unwillingness to work towards becoming a good parent, the Tribe may initiate proceedings pursuant to this title. (Res. 98-004 §8.2.015, passed Feb. 2, 1998)

8.1.14. ICW Specialists — Appointment. The Tribal Council shall employ or appoint one or more Indian Child Welfare specialists to carry out the duties and responsibilities set forth in this code. (Res. 98-004 §8.2.020, passed Feb. 2, 1998)

8.1.15. ICW Specialists — Duties. Indian Child Welfare specialists shall:

(a) Conduct investigations as provided in this code. However, this section shall not preclude Suquamish police officers from conducting investigations as provided in this code.

(b) Make reports as provided in this code.

(c) Place a youth out of home as provided in this code.

(d) Perform case work and such other duties in connection with the care, custody, or transportation of youths as this code requires.

(e) Make recommendations to the presenting officer on actions to take in family court.

(f) Testify in the Suquamish Family Court at the direction of the presenting officer or at the Court's direction.

(g) Testify in courts of other jurisdictions at the direction of the Suquamish Family Court or the presenting officer for the Suquamish Tribe in matters involving wards of the Suquamish Family Court or in matters involving youths who are Suquamish members or who are eligible for membership in the Suquamish Tribe.

(h) Perform such other duties as this code may require.

(i) Perform other tasks involving the well-being of youth, depending upon availability of resources and staff time within the Suquamish ICW Department. (Res. 98-004 §8.2.030, passed Feb. 2, 1998)

8.1.16. Presenting Officer — Appointment. The Tribal Council shall appoint or employ a presenting officer to represent the Suquamish Tribe in all matters arising under this code. The presenting officer shall have the same qualifications as the tribal prosecutor. If the presenting officer is unavailable, the tribal attorney or an assistant tribal attorney may represent the Suquamish Tribe in all matters arising under this code. (Res. 98-004 §8.2.040, passed Feb. 2, 1998)

8.1.17. Presenting Officer — Duties. The presenting officer shall:

(a) File petitions and other pleadings with the Suquamish Family Court as provided in this code;

(b) Represent the Suquamish Tribe in all proceedings arising under this code;

(c) Represent the Suquamish Tribe in courts of other jurisdictions in matters involving wards of the Suquamish Family Court or in matters involving youths who are Suquamish Tribal members or who are eligible for membership in the Suquamish Tribe;

(d) Advise the Suquamish ICW department and Suquamish Law Enforcement Department in matters arising under this code; and

(e) Perform such other duties as the Court or this code may require. (Res. 98-004 §8.2.050, passed Feb. 2, 1998)

8.1.18. Duty to Report Abuse and Neglect. The care of youths is both a family and a tribal responsibility. Any person who has reason to suspect that a youth has been abused or neglected shall immediately report the abuse or neglect to Suquamish law enforcement, the Suquamish Indian Child Welfare Department, or the presenting officer for the Suquamish Tribe. (Res. 98-004 §8.2.060, passed Feb. 2, 1998)

8.1.19. Mandatory Reporters. Reporting under §8.1.18 is mandatory for all medical and mental health professionals; court personnel; foster parents; law enforcement; and Suquamish tribal employees (including persons working on contract for the Suquamish Tribe) who perform services for the Port Madison Indian community in the areas of education, health, and human services. (Res. 98-004 §8.2.070, passed Feb. 2, 1998)

8.1.20. Immunity. All persons who report youth abuse or neglect in good faith are immune from civil liability and criminal prosecution. (Res. 98-004 §8.2.080, passed Feb. 2, 1998)

8.1.21. Sanctions for Not Reporting. Any person who is required to report youth abuse or neglect under §8.1.18 and who knowingly fails to report youth abuse or neglect is subject to a civil fine not to exceed five thousand dollars (\$5,000). (Res. 98-004 §8.2.090, passed Feb. 2, 1998)

8.1.22. Contents of the Report. A report of abuse or neglect may be made orally but should be followed by a written report including:

(a) The name, age, address, and tribal status of the child, if known;

(b) A plain statement of the facts on which the report is based, including the date, time, and location of the events, and;

(c) The name of the reporter. (Res. 98-004 §8.2.100, passed Feb. 2, 1998)

8.1.23. Confidentiality Policy. Youth abuse or neglect reports are confidential. Subject to the provisions of §8.1.24, reports involving abuse or neglect of a youth shall be initially reviewed by only the ICW department, Suquamish law enforcement officers, and/or the Suquamish presenting officer. Subsequent to initial review, youth abuse and neglect reports may be used to bring actions under this code. The names of those reporting abuse and neglect under §8.1.18 shall remain confidential, absent agreement by the reporter to have his or her name disclosed. However, the names of mandatory reporters, as defined in §8.1.19, may be disclosed without the reporter's consent if such disclosure is deemed necessary by the presenting officer in order to bring an action under this code or to otherwise ensure the safety and well-being of the youth who is the subject of the report. (Res. 98-004 §8.2.110, passed Feb. 2, 1998)

8.1.24. Interagency Cooperation. The confidentiality requirements set forth in §8.1.23 shall not be interpreted to hamper cooperation between agencies which is necessary to properly investigate youth abuse and neglect. Where there is a conflict between confidentiality and the need for communication between agencies and departments, protection of the youth shall be the overriding consideration. (Res. 98-004 §8.2.120, passed Feb. 2, 1998)

8.1.25. Case Staffings. (a) Notwithstanding the confidentiality requirements set forth in this chapter, the following persons may attend case staffings upon the invitation of an Indian Child Welfare specialist assigned to the case at issue:

(1) Employees of the Suquamish Human Services Department whose professional duties are relevant to an investigation, predispositional report, or review hearing report mandated under this title, or the resolution of a case filed under this title; or

(2) Anyone whose presence is deemed necessary by the Indian Child Welfare specialist assigned to the case for an investigation, predispositional report, review hearing report, or the resolution of a case filed under this title.

(b) Any persons who attend a case staffing pursuant to §8.1.25(a) shall sign confidentiality agreements in which they agree that any information learned through a case staffing shall remain confidential. The confidentiality agreement shall also contain a consent to jurisdiction allowing the Suquamish Family Court to impose contempt sanctions for not abiding by its terms. (Res. 98-004 §8.2.130, passed Feb. 2, 1998)

8.1.26. Parents' Attendance at Case Staffings. A parent, guardian, custodian, or guardian *ad litem* may, at the invitation of the Indian Child Welfare specialist, attend a case staffing. The Indian Child Welfare specialist has the authority to determine the amount of involvement a parent, guardian, custodian, or guardian *ad litem* may have in a case staffing. Parents who attend case staffings are not subject to confidentiality requirements set forth in §8.1.25(b). (Res. 98-004 §8.2.140, passed Feb. 2, 1998)

COURT PROCEEDINGS INVOLVING JUVENILES — CONFIDENTIALITY

8.1.27. Rules of Evidence. Except where otherwise provided in this chapter, the rules of evidence of the Suquamish Tribal Court (STC 3.8) shall apply to the Suquamish Family Court. (Res. 98-004 §8.3.010, passed Feb. 2, 1998)

8.1.28. No Right to a Jury. There shall be no right to a jury trial in any proceeding before the Suquamish Family Court. (Res. 98-004 §8.3.020, passed Feb. 2, 1998)

8.1.29. Contempt of Court. The Suquamish Family Court shall have the power to find any person in contempt of court pursuant to the provisions of STC §3.8.21. (Res. 98-004 §8.3.030, passed Feb. 2, 1998)

8.1.30. Bench Warrant. A family court judge may issue a bench warrant upon finding a person in contempt pursuant to STC §8.1.29. (Res. 98-004 §8.3.040, passed Feb. 2, 1998)

8.1.31. Notice. In all proceedings before the Suquamish Family Court initiated under this title where a youth is the subject of the proceedings, notice shall be given to the youth; his or her parent, guardian, or custodian; and their attorneys or spokespersons, if any, within the time limits prescribed for that particular proceeding. (Res. 98-004 §8.3.050, passed Feb. 2, 1998)

8.1.32. Service. Except as otherwise expressly provided in this code, every pleading, motion, notice, and similar paper which is required or permitted to be served upon a person shall be served in the following manner:

(a) By personally delivering a copy to him or her by handing it to his or her counsel or to the person him- or herself; or by leaving it at his or her office with his or her secretary or other person; or if the person to be served has no office, leaving it at his or her dwelling place or usual place of residence with some person of suitable age and discretion who resides there;

(b) By certified mail, return receipt requested, postage prepaid, and properly addressed to the last known residence of the person to be served, followed by a copy sent via regular first class mail; or

(c) Any method approved by the Court as reasonable if the above methods are unsuccessful.

Personal service of documents on behalf of the Tribe may be made by tribal law enforcement. (Res. 98-004 §8.3.060, passed Feb. 2, 1998)

8.1.33. Nature of Proceedings Involving Juveniles. No adjudication on the status of any youth in the Suquamish Family Court shall be deemed criminal unless the Suquamish Family Court declines jurisdiction over a cause filed under the youth offender chapter of the Suquamish Tribal Code and remands the matter to adult criminal court. (Res. 98-004 §8.3.070, passed Feb. 2, 1998)

8.1.34. Hearings Closed to the General Public — Parents' Presence Required. (a) Except as provided in part (b) of this section, hearings before the Suquamish Family Court, in all cases where a youth is the subject of the proceedings, shall be closed to all persons except the parties, their counsel, the Indian Child Welfare specialist(s), and witnesses called by the parties; provided that the Court and the parties may agree to allow the presence of other persons.

(b) Members of the youth's extended family, as that term is defined in §8.1.12, shall be given an opportunity to be present at all proceedings under this title involving the youth absent objection by a party and for good cause shown. Members of the

youth's family shall have an opportunity to address the Suquamish Family Court on issues concerning placement, family protection plans, dispositional requirements, and informal agreements. This requirement is intended to be applied with flexibility, since it is not practical to give all extended family members notice of proceedings under this code. However, the Indian Child Welfare specialist(s), court personnel, tribal agencies, and agencies working with the Tribe shall, in all proceedings under this chapter, give respect and consideration to family members and work in partnership with families for the protection of children.

(c) The parent(s), custodian(s), or guardian(s) shall be present at all such hearings unless his or her presence is waived by the Court for good cause shown. (Res. 98-004 §8.3.080, passed Feb. 2, 1998)

8.1.35. Continuances — When to Order. Except as otherwise expressly provided, the Court may continue any proceeding:

(a) Upon the motion of a party if there is a finding that good reason exists for the continuance, such as allowing time to give adequate notice or to produce material evidence or witnesses currently unavailable; or

(b) Upon the Court's own motion if it considers it to be in the best interest of the youth. (Res. 98-004 §8.3.090, passed Feb. 2, 1998)

8.1.36. Effect of a Continuance. A continuance suspends the time limits for the holding of hearings and the filing of documents. (Res. 98-004 §8.3.100, passed Feb. 2, 1998)

8.1.37. Records. Unless otherwise provided under this title, records created or maintained under this title shall be confidential and shall not be open to inspection to anyone but the following, except as may be ordered by the Court in the youth's best interest or upon the showing of exceptional circumstances:

(a) The youth;

(b) The parent, custodian, or guardian;

(c) The Indian Child Welfare specialist;

(d) The presenting officer;

(e) Employees of the Suquamish Human Services Department who are directly involved in the cause to which the records relate; and

(f) The spokesperson or attorney for any party who is admitted to practice before the Suquamish Tribal Court and who has entered a notice of appearance; or

(g) The guardian *ad litem* for any party. (Res. 98-004 §8.3.110, passed Feb. 2, 1998)

RIGHTS OF PARTIES

8.1.38. Rights. Unless otherwise expressly provided in this title, all youths, parents, guardians, and custodians are entitled to the following rights in all proceedings under this code:

(a) The right to have an attorney or spokesperson admitted to practice before the Suquamish Tribal Court advise and represent them, at their expense;

(b) The opportunity to subpoena witnesses;

(c) The opportunity to discover, offer, and inspect evidence;

(d) The opportunity to present arguments and statements; and

(e) The opportunity to question all witnesses.

At his or her first appearance before the Court, the youth and the youth's parent, guardian, or custodian shall be informed by the Court of his or her rights under this section. (Res. 98-004 §8.4.010, passed Feb. 2, 1998)

YOUTH-IN-NEED-OF-CARE PROCEEDINGS

8.1.39. Complaint. All youth-in-need-of-care proceedings shall be initiated by the filing of a complaint signed by the presenting officer, a Suquamish tribal attorney, or an ICW specialist. (Res. 98-004 §8.5.005, passed Feb. 2, 1998)

8.1.40. Contents of the Complaint. The complaint shall include:

(a) The name, age, tribal status, and address of the youth who is the subject of the complaint, if known;

(b) A plain and concise statement of the facts upon which the complaint is based, including the date, time, and location at which the alleged facts occurred; and

(c) The name of the complainant. (Res. 98-004 §8.5.010, passed Feb. 2, 1998)

8.1.41. Amendment of the Complaint. Because youth-in-need-of-care investigations routinely continue beyond the date of the filing of a complaint, the Tribe may amend the complaint to reflect newly discovered evidence, provided that the Tribe provides reasonable notice to all parties. (Res. 98-004 §8.5.015, passed Feb. 2, 1998)

8.1.42. Presumption in Favor of Providing Protection. When there is a question of whether a youth is a youth in need of care, the presumption shall be in favor of providing protection for the youth. (Res. 98-004 §8.5.016, passed Feb. 2, 1998)

8.1.43. Child Protective Services. The Indian Child Welfare specialist may work in cooperation with a person or agency to provide child protective services to the Suquamish Family Court such as emergency removal of a child for out-of-home placement and investigation of child abuse and neglect. The duties and authority of the cooperating person or agency shall be set forth by agreement with the Suquamish Indian Child Welfare Department. Any such agreement must be first approved by the Tribal Council. (Res. 98-004 §8.5.020, passed Feb. 2, 1998)

8.1.44. Receipt of a Referral by Indian Child Welfare Specialist. (a) Upon receipt of notice from any source that a youth is in need of care, the Indian Child Welfare specialist shall determine within twenty-four (24) hours whether further action on the complaint or notice is necessary and shall advise the presenting officer of this determination.

(b) The Indian Child Welfare specialist may request an agency, pursuant to §8.1.43, and law enforcement to conduct or assist in conducting the investigation. If the Indian Child Welfare specialist or Suquamish law enforcement officer reasonably believes that a youth is in an emergency situation and requires out-of-home placement, he or she shall:

(1) Request an emergency custody order if there is time and a judge or judicial officer is available; or

(2) Immediately place the youth in an out-of-home placement. The Indian Child Welfare specialist may request assistance of an agency, pursuant to §8.1.43, and law enforcement in making such placement.

(3) If the youth's parent, guardian, or custodian has not been notified, the Indian Child Welfare specialist shall inform him or her at the earliest possible time and return the youth to him or her if such action is appropriate.

(4) If a youth is taken into custody and it is unlikely that he or she will be released to his or her parent, guardian, or custodian within two (2) working days, the Indian Child Welfare specialist, the presenting officer, or other authorized person shall immediately file a request for a first hearing. (Res. 98-004 §8.5.030, passed Feb. 2, 1998)

8.1.45. Receipt of a Referral by Law Enforcement. Upon receipt of notice from any source that a youth is in need of care, law enforcement shall take the following steps:

(a) Law enforcement shall immediately investigate the complaint. If law enforcement has probable cause to believe that a youth is in need of care based on his

or her investigation, the Indian Child Welfare specialist shall be immediately notified. If the Indian Child Welfare specialist is not available, an agency, pursuant to §8.1.43, shall be notified. Based on the investigation, a detailed written report shall be completed by law enforcement. A copy shall be delivered to the Indian Child Welfare specialist within three (3) working days of the date the referral was received.

(b) If the Suquamish law enforcement officer reasonably believes that a youth is in an emergency situation and requires out-of-home placement, he or she shall:

(1) Request an emergency custody order if there is time and a judge or judicial officer is available; or

(2) Immediately consult with the Indian Child Welfare specialist or an agency, pursuant to §8.1.43, regarding placing the youth in an out-of-home placement. If the Indian Child Welfare specialist cannot be reached, the officer may place the youth out-of-home but shall continue attempts to notify the Indian Child Welfare specialist. Placement of the youth shall be in a facility approved by a member of the ICW department for emergency out-of-home placement in the particular case. A list of persons to contact in emergency placements may be set by the ICW staff and provided to law enforcement.

(c) If the youth's parent, guardian, or custodian has not been notified, they shall be notified at the earliest possible time, and the youth shall be returned to him or her if such action is appropriate. (Res. 98-004 §8.5.040, passed Feb. 2, 1998)

8.1.46. Emergency Custody Orders — Grounds. A family court judge or judicial officer shall issue an emergency custody order upon a sworn oral or written statement of facts showing probable cause to believe the youth is in need of care and that his or her health, safety, and welfare may be seriously endangered if not taken into custody. (Res. 98-004 §8.5.050, passed Feb. 2, 1998)

8.1.47. Emergency Custody Orders — Content. The emergency custody order shall specifically name the youth to be taken into custody, be signed by the judge or judicial officer, state the date and time issued, and name the person or persons authorized to take the youth into custody. An emergency custody order may be transmitted by the judge or judicial officer by telephone, computer, or fax. (Res. 98-004 §8.5.060, passed Feb. 2, 1998)

8.1.48. Emergency Custody Orders — Service and Duration. An emergency custody order must be executed within seventy-two (72) hours of issuance. A youth taken into custody under an emergency custody order may be held until the conclusion of the first hearing or as ordered by the Court. (Res. 98-004 §8.5.070, passed Feb. 2, 1998)

8.1.49. Emergency Protective Orders — Grounds. A family court judge or judicial officer shall issue an emergency protective order upon a sworn oral or written statement of facts showing probable cause to believe the youth is in need of care and that the

relief requested in the motion is critically important for the well-being of the youth. (Res. 98-004 §8.5.080, passed Feb. 2, 1998)

8.1.50. Emergency Protective Orders — Content. The emergency protective order shall specifically name the youth, be signed by the judge or judicial officer, state the date and time issued, set forth the change in legal custody, and set forth the conditions which the parties must fulfill prior to the first hearing. An emergency protective order may be transmitted by the judge or judicial officer by telephone, computer, or fax. (Res. 98-004 §8.5.090, passed Feb. 2, 1998)

8.1.51. Emergency Protective Orders — Service and Duration. An emergency protective order must be executed within seventy-two (72) hours of issuance. (Res. 98-004 §8.5.100, passed Feb. 2, 1998)

8.1.52. Request for First Hearing. A request for first hearing must be filed with the Court within seventy-two (72) hours of the execution of an emergency custody order or an emergency protective order. (Res. 98-004 §8.5.110, passed Feb. 2, 1998)

FIRST HEARING

8.1.53. Purpose of First Hearing. If a request for a first hearing is filed under this chapter, the Court must make the following determination at that hearing:

- (a) The tribal status of the youth;
- (b) Whether there is a probable cause to believe the youth is a youth in need of care;
- (c) The best interest of the youth with regard to any action to be taken; and
- (d) Whether continued out-of-home placement is necessary pending further proceedings. (Res. 98-004 §8.6.010, passed Feb. 2, 1998)

8.1.54. Rules of Evidence Relaxed. The rules of evidence, as set forth in STC §8.1.27, shall be relaxed. However, the Court may rely on the rules of evidence in determining what weight to give evidence. (Res. 98-004 §8.6.015, passed Feb. 2, 1998)

8.1.55. Request for First Hearing — Contents. A request for a first hearing shall include:

- (a) The name, birth date, residence, domicile, and tribal status, if known, of the youth;
- (b) The name and residence of the youth's parent(s), guardian, or custodian;

(c) A citation to the specific section of this code and the facts which gives the Court jurisdiction over the proceeding;

(d) A plain and concise statement of the facts which support the allegation that the youth is in need of care; and

(e) If the youth is in out-of-home placement, the time that youth was taken into custody. (Res. 98-004 §8.6.020, passed Feb. 2, 1998)

8.1.56. First Hearing — Time of Hearing. A first hearing shall be conducted within seven (7) working days of filing a request for a first hearing if the youth is placed out of his or her home, unless a judge or judicial officer is unavailable, in which case the hearing shall take place at the next scheduled court date. A first hearing shall be conducted within fourteen (14) working days if the youth is not placed out of his or her home, unless a judge or judicial officer is unavailable, in which case the hearing shall take place at the next scheduled court date. (Res. 98-004 §8.6.030, passed Feb. 2, 1998)

8.1.57. Notice. Notice of the first hearing shall be given to the parties by the court clerk or a person appointed by the Tribal Council to fulfill these duties under §8.1.32 at least three (3) days before the hearing, and shall include:

(a) The name of the court;

(b) A copy of the complaint;

(c) A copy of the request for first hearing; and

(d) The date, time, and place of the first hearing. (Res. 98-004 §8.6.040, passed Feb. 2, 1998)

8.1.58. Presence of Parent, Guardian, or Custodian. If the youth's parent(s), guardian, or custodian are not present at the first hearing, the Court shall determine what efforts have been made to notify and to obtain the presence of the parent(s), guardian, or custodian. If it appears that further efforts are likely to produce the parent(s), guardian, or custodian, the hearing shall be recessed for a reasonable period of time, and the Court shall direct continued efforts to obtain the presence of the parent(s), guardian, or custodian. If the parent(s), guardian, or custodian is not produced after a reasonable recess, the first hearing shall proceed without delay. (Res. 98-004 §8.6.050, passed Feb. 2, 1998)

8.1.59. Presence of Counsel — Continuance. The Suquamish Family Court may not continue a first hearing solely to allow a party to obtain legal representation; however, a party who appears at a first hearing without legal representation does not waive his or her right to appeal any procedural or substantive error made at the first hearing by

failing to make objections during the hearing. (Res. 98-004 §8.6.060, passed Feb. 2, 1998)

8.1.60. Court's Findings — Release of Youth. If the Court finds that there is not probable cause to believe the youth is in need of care, the youth shall be released to the custody of his or her parent(s), guardian, or custodian. (Res. 98-004 §8.6.070, passed Feb. 2, 1998)

8.1.61. Court's Findings — Youth in Need of Care. If the Court finds that there is probable cause to believe that the youth is in need of care, it may order:

(a) That the youth be released to his or her parent(s), guardian, or other custodian pending further proceedings.

(b) That out-of-home placement be continued, if the Court finds that there is probable cause to believe that:

(1) No parent, guardian, custodian, or other person is able, willing, or available to provide adequate supervision of and care for the youth;

(2) The youth will run away or otherwise be unavailable for further proceedings;

(3) The youth will be in an emergency situation if he or she is returned to his or her parent(s), guardian, or other custodian;

(4) The youth will cause serious damage to persons or property;

(5) The youth requires medical care, treatment, or evaluation or other services that he or she could not otherwise receive if he or she were to remain in the custody of his or her parent(s), guardian, or other custodian; or

(6) The youth has been abandoned.

(c) That any person who poses a threat to the youth's well-being be restrained from contacting the youth. Such an order may be entered to protect a youth in his or her home or while in an out-of-home placement.

(d) That the youth and his or her parent, guardian, or other custodian, or any other interested person within the Court's jurisdiction attend mediation and shall advise the parties as to the date, time, and place of such mediation.

(e) The Court may make other orders necessary for the protection and well-being of the youth and the family including but not limited to evaluation and treatment, including involuntary residential treatment, of substance abuse, mental illness, and emotional disturbance; classes; mandatory school attendance; visitation orders; and

other services or activities for the benefit of the youth and his or her family. The Court may make a particular placement conditional on compliance with any of its orders.

(f) The parties shall keep the Court informed of any changes in their whereabouts and mailing addresses. (Res. 98-004 §8.6.080, passed Feb. 2, 1998)

8.1.62. Out-of-home Placement. If a youth is placed out-of-home, the Court shall follow the placement preferences below:

(a) The home of an extended family member, provided that amongst equally qualified extended family members, those residing on or closest to the reservation shall have priority;

(b) A private home recommended by the tribal human services staff and the Indian Child Welfare department (this will usually be a responsible member of the youth's extended family);

(c) A foster home approved or licensed by the Tribe; or

(d) Any other facility approved by the Tribe. (Res. 98-004 §8.6.090, passed Feb. 2, 1998)

8.1.63. Fact-finding Hearing — Scheduling at First Hearing. If it appears a petition for fact-finding will soon be filed upon the findings at the first hearing, the Court shall set a date and time for the fact-finding hearing; shall advise the parties of the date, time, and place of the hearing; and shall order their attendance at the hearing. If the parent, guardian, or other custodian is not present at the first hearing, notice of the fact-finding hearing may be served in accordance with §8.1.57. (Res. 98-004 §8.6.100, passed Feb. 2, 1998)

8.1.64. Petition for Fact-finding Hearing — When to File. A petition for a fact-finding hearing shall be filed within five (5) working days of the first hearing. (Res. 98-004 §8.6.110, passed Feb. 2, 1998)

FACT-FINDING HEARINGS

8.1.65. Purpose. The Court shall conduct a fact-finding hearing for the purpose of determining whether a youth is in need of care. (Res. 98-004 §8.7.010, passed Feb. 2, 1998)

8.1.66. Request for Fact-finding Hearing. A request for a fact-finding hearing may be initiated at the first hearing under §8.1.53 or by a petition filed by the presenting officer or the Indian Child Welfare specialist. (Res. 98-004 §8.7.020, passed Feb. 2, 1998)

8.1.67. Petition — Contents. A petition for fact-finding hearing shall include:

(a) The name, birth date, residence, domicile, and tribal status of the youth.

(b) The names, residences, and tribal status of the youth's parent(s), guardian, or custodian, if known.

(c) A citation to the specific section of this code and the facts which give the Court jurisdiction over the proceeding.

(d) A detailed statement of facts and reasons which support the allegation that the youth is a youth in need of care. However, if a request for first hearing was filed previously, the petition may incorporate by reference the contents of the request.

(e) If the youth is in out-of-home placement, the location of the placement and the time taken into custody. (Res. 98-004 §8.7.030, passed Feb. 2, 1998)

8.1.68. Time of Hearing. If the youth is in out-of-home placement, the Court shall set the date for hearing within thirty (30) days of receipt of a petition. If the youth is not placed outside of his usual residence, the Court shall set the date for hearing within sixty (60) days of receipt of the petition. (Res. 98-004 §8.7.040, passed Feb. 2, 1998)

8.1.69. Notice. Notice of the fact-finding hearing shall be served as specified under §8.1.32 by the court clerk or other person designated by the Tribe to perform this duty, at least five (5) working days before the hearing. The notice shall include the name of the court; the date, time, and place of the hearing and a copy of the petition. The notices shall be served on:

(a) The youth's parent(s), guardian, or custodian;

(b) Any person the Court believes necessary for the hearing;

(c) Any person the parties believe necessary for the hearing; and

(d) The Indian Child Welfare specialist. (Res. 98-004 §8.7.050, passed Feb. 2, 1998)

8.1.70. Burden of Proof. The Tribe bears the burden of proving, by clear and convincing evidence, that the youth is a youth in need of care. (Res. 98-004 §8.7.070, passed Feb. 2, 1998)

FAMILY PROTECTION PLAN

8.1.71. Proposed Family Protection Plan. The Indian Child Welfare specialist shall prepare a written plan describing all reasonable and appropriate alternatives for caring for the youth and assisting his or her family. It shall explain why the plan is necessary and its benefits to the youth and to the family. It shall fully explain any recommendations for placement of the youth. The professional opinions of all persons

consulted shall be included. The Indian Child Welfare specialist shall file the report with the Court and provide copies to all parties at least seven (7) days prior to any hearing on the plan. (Res. 98-004 §8.8.010, passed Feb. 2, 1998)

8.1.72. Other Proposed Plans. Any party who is involved with a youth-in-need-of-care case may make recommendations to the Court in the form of a proposed family protection plan. Copies shall be provided to all parties to the case at least three (3) days prior to any hearing on the plan. (Res. 98-004 §8.8.020, passed Feb. 2, 1998)

8.1.73. Hearing for Family Protection Plan. A hearing shall be held no sooner than ten (10) days and no longer than thirty (30) days after the fact-finding hearing to decide what plan will best meet the needs of the youth and assist his or her family. The Court shall determine the scheduling and shall direct the court clerk to notify the parties. The Court shall hear testimony and consider all proposed family protection plans filed. All parties shall be given an opportunity to contest the facts and conclusions presented in each plan. (Res. 98-004 §8.8.030, passed Feb. 2, 1998)

8.1.74. Court-ordered Family Protection Plan (Disposition). If a youth has been determined to be in need of care, the Court shall order a family protection plan for his or her protection and well-being. The plan shall either allow the child to remain with his or her parent(s), guardian, or custodian, subject to any such limitations and conditions the Court may order; or the Court may order an out-of-home placement subject to the following placement preferences:

(a) The home of an extended family member subject to any limitations and conditions the Court may prescribe; provided that amongst equally qualified extended family members, those residing on or closest to the reservation shall have priority;

(b) A private home recommended by the tribal human services staff and the Indian Child Welfare Committee subject to any limitations and conditions the Court may order;

(c) A foster home approved or licensed by the Tribe subject to any limitations and conditions the Court may order; or

(d) Any other facility approved by the Tribe subject to any limitations and conditions the Court may order.

The Court may make other orders necessary for the protection and well-being of the youth and family. Such orders may include but are not limited to: evaluation and treatment, including involuntary residential treatment, of substance abuse, mental illness, and emotional disturbance; parenting classes; mandatory school attendance; mediation; visitation orders; restraining orders; and other services or activities for the benefit of the youth and his or her family. The Court may make a particular placement conditional on compliance with any of the above orders. (Res. 98-004 §8.8.040, passed Feb. 2, 1998)

8.1.75. Placement Contingent on Consent of Jurisdiction. Placement of a youth with anyone who does not reside within the jurisdiction of the Port Madison Indian Reservation shall be contingent on the person's written agreement to accept the jurisdiction of the Family Court and to cooperate fully with the Indian Child Welfare specialist and law enforcement. (Res. 98-004 §8.8.050, passed Feb. 2, 1998)

8.1.76. Review Hearing. The Court shall conduct a hearing to review its family protection plan at least once every six (6) months or earlier upon motion of any party. The Court shall review whether the parties are complying with the plan and shall consider whether modification of the order is necessary for the best interests of the youth and to strengthen the youth's family. (Res. 98-004 §8.8.060, passed Feb. 2, 1998)

8.1.77. Review Hearing Reports. The Indian Child Welfare specialist who is staffing the case shall submit a written report to the Court and the parties no later than five (5) days prior to a review hearing. (Res. 98-004 §8.8.065, passed Feb. 2, 1998)

8.1.78. Closing a Case. If a moving party can establish by clear and convincing evidence that there is no longer a factual basis for the Court to find that a youth is in need of care, the Court shall close the case. (Res. 98-004 §8.8.070, passed Feb. 2, 1998)

INFORMAL RESOLUTION — MEDIATION CONFERENCE

8.1.79. When Scheduled. Prior to the filing of a petition for fact-finding pursuant or, if the youth has been removed from his or her home, after the filing of a petition but prior to a fact-finding hearing, the Indian Child Welfare specialist shall attempt to resolve informally the problems that led to the complaint. A mediation conference shall be scheduled as soon as possible, and all parties shall be provided notice. (Res. 98-004 §8.9.010, passed Feb. 2, 1998)

8.1.80. Indian Child Welfare Specialist's Duties. The Indian Child Welfare specialist shall investigate the complaint to provide information to assist in reaching an agreed disposition. If the Indian Child Welfare specialist and the youth and his or her family are unable to resolve the problem among themselves, the Indian Child Welfare specialist shall:

(a) Request the Court to appoint a mediator to assist the Indian Child Welfare specialist and the youth and his or her family to resolve the problem;

(b) Serve as mediator, provided that the Indian Child Welfare specialist is able to maintain impartiality; or

(c) Recommend that the presenting officer file a formal complaint; or if a complaint has been filed, a petition for fact-finding hearing; or proceed to the fact-finding hearing, if a petition has been filed. (Res. 98-004 §8.9.020, passed Feb. 2, 1998)

8.1.81. Agreed Disposition. An agreed disposition shall be set forth in writing by the mediator, including any conditions or requirements to be performed. The youth, the youth's custodian, and the Indian Child Welfare specialist or the presenting officer on behalf of the Tribe shall sign the agreed disposition. The disposition shall be for a fixed time period and shall not continue beyond the youth's eighteenth birthday. Agreed dispositions shall be binding. All Court-approved agreed dispositions shall be reviewed at the Court's discretion but at least every twelve (12) months or at least every six (6) months if the child is placed outside his or her home.

The parties may request, and the Court shall approve and enter as a court order, any agreed disposition in which:

(a) The Court has jurisdiction over the youth;

(b) All parties to the agreement have notice of the agreement;

(c) There is no clear and convincing evidence that the agreement is not in the best interest of the youth; and

(d) In the case of agreed placement outside the youth's home, the terms and consequences of the custodian's consent to the placement were fully understood by him or her, and the custodian signed the agreement before a youth court judge. (Res. 98-004 §8.9.030, passed Feb. 2, 1998)

8.1.82. Failure to Reach Agreement. If the parties are unable to reach agreement on a disposition, and there is still cause to believe that the youth is a youth in need of care, the presenting officer shall file a petition within three (3) working days after the determination and the matter shall be resolved formally under §§8.1.65–70. (Res. 98-004 §8.9.040, passed Feb. 2, 1998)

8.1.83. Monitoring. The Indian Child Welfare specialist shall monitor the agreed disposition throughout its term. If the Indian Child Welfare specialist finds that the youth or parent or custodian failed to comply with the terms of the agreed disposition, the Indian Child Welfare specialist may recommend that the presenting officer file a formal petition. The Indian Child Welfare specialist shall notify the youth and his or her parent or custodian of his or her findings and recommendations within three (3) days of the determination and shall also notify the parent, guardian, or custodian of the right to request a hearing to contest the finding of a violation. (Res. 98-004 §8.9.050, passed Feb. 2, 1998)

8.1.84. Challenge to Indian Child Welfare Specialist's Findings of Violated Agreement. Prior to the fact-finding hearing and within five (5) days of being notified of a finding of violation, the party may challenge before the Court the Indian Child Welfare specialist's

findings that the party violated the agreed disposition. If after full opportunity for all parties to be heard the Court finds that the party has complied with the agreed disposition, the Court shall dismiss the petition without prejudice and reinstate the agreed disposition. (Res. 98-004 §8.9.060, passed Feb. 2, 1998)

8.1.85. Completion of Agreed Disposition. Upon successful completion of the agreed disposition, the case shall be closed without further procedure. (Res. 98-004 §8.9.070, passed Feb. 2, 1998)

8.1.86. Admissibility of Agreed Dispositions. When a youth or any other party enters an agreed disposition, the Court may receive the following information for dispositions in any further proceedings in the case or in any subsequent cases:

(a) The facts of the complaint;

(b) A copy of the agreed disposition; and

(c) Whether the youth or the custodian performed his or her obligations under the agreement. (Res. 98-004 §8.9.080, passed Feb. 2, 1998)

8.1.87. Statements. Statements made during the mediation conference shall not be admissible as evidence in any court proceeding. (Res. 98-004 §8.9.090, passed Feb. 2, 1998)

8.1.88. No Bar to Other Voluntary Agreements. Nothing in this chapter shall be construed to prohibit ICW from entering into other forms of voluntary agreements with parents, guardians, custodians, and youths. (Res. 98-004 §8.9.100, passed Feb. 2, 1998)

8.1.89. Admissibility of Other Voluntary Agreements. When a youth or any other party enters a voluntary agreement other than an agreed disposition, the Court may receive the following information for dispositions in any further proceedings in the case or in any subsequent cases:

(a) The facts giving rise to the entry of the voluntary agreement;

(b) A copy of the voluntary agreement; and

(c) Whether the youth or the custodian performed his or her obligations under the agreement. (Res. 98-004 §8.9.110, passed Feb. 2, 1998)