MEMORANDUM OF UNDERSTANDING BETWEEN THE JUVENILE COURT OF OGLE COUNTY, ILLINOIS, THE STATE'S ATTORNEY OF OGLE COUNTY, ILLINOIS, THE OFFICE OF THE PUBLIC DEFENDER OF OGLE COUNTY, ILLINOIS, AND THE OGLE COUNTY, ILLINOIS PROBATION DEPARTMENT REGARDING THE SHARING, DISCLOSURE AND USE OF CERTAIN JUVENILE JUSTICE ASSESSMENT INFORMATION

This Memorandum of Understanding (MOU) is entered into between the Juvenile Division of the 15th Judicial Circuit Court, Ogle County, Illinois, The State's Attorney of Ogle County, Illinois, the Office of the Public Defender of Ogle County, Illinois, and the Ogle County, Illinois Probation Department as of the date set forth below. It is intended to set forth certain parameters with respect to the sharing, disclosure and use of certain information obtained by the Probation Department in the assessment of juvenile offenders as set forth below.

I. Purposes of MOU.

The signatories agree that this MOU is necessary for the following reasons:

1. All American citizens, including youth charged with committing acts of juvenile delinquency and/or crimes are guaranteed certain rights under the United States and Illinois Constitutions. Among these rights are the right against self-incrimination and the right to counsel afforded by the 5th, 6th, and 14th amendments to the United States Constitution.
2. In Ogle County, youths have initial contact with the juvenile justice system in various ways and for various reasons. These include contacts with police after the alleged commission of criminal acts or acts of delinquency, referral by the Regional Office of Education for truancy issues, referral for authoritative intervention for runaways, and other ways.
3. Regardless of the reason for the initial contact with the juvenile justice system, the point of entry for youths into the system is the juvenile division of the Ogle County Probation Department. All juvenile justice cases initially come to the attention of the Probation Department for intake purposes.
4. The juvenile officers and employees of the Probation Department, including a staff clinical therapist, decide during the intake process according to law and various protocols established by the Probation Department, how each individual juvenile justice case should be processed. Certain cases are held for probation adjustment and informal disposition according to the terms of the Juvenile Court Act. Other cases are referred directly to the State's Attorney for the filing of a petition for adjudication of delinquency under the Juvenile Court Act. Certain other cases are dismissed with no action taken, whether formal or informal.
5. Certain assessment tools exist to assist the Probation Department in the determination of what services youths in the juvenile justice system may require. These include interviews with the youths and their parents or guardians, social history investigations, medical and psychological examinations, review of records

of medical and psychological examination and treatment, and objective screening tools such as the Massachusetts Youth Screening Instrument-Second Version (MAYSI-2) and the Youth Assessment Screening Instrument (YASI). These various assessment tools are utilized at different stages in juvenile case processing.

6. The signatories to this MOU concur in the desire for a more rational, fair, effective, and developmentally appropriate juvenile justice system. The signatories agree it is vital to this goal that juveniles, their parents or guardians and their attorneys and other legal representatives be encouraged to provide frank, full and complete information to employees of the Probation Department for purposes of determining what services are necessary to assist them. The signatories agree also that this goal is best served by the completion of the assessment of the needs of the juvenile offender as early in the juvenile justice process as possible.

Therefore, the signatories agree as follows:

II. The Agreement.

This agreement shall apply to all juvenile cases referred to the Probation Department in whatever manner. "Juveniles" shall refer to those youths who have been referred to the Probation Department for case processing.

A. Pre-Petition Phase

1. After referral to the Probation Department but before the filing of a petition for adjudication of delinquency, a petition alleging that a minor is in need of authoritative intervention, or any other formal petition against the juvenile as allowed by law, a clinical therapist or other mental health professional employed by the Probation Department may informally contact juveniles and their parents or legal guardians and family members to assess what services may be required for the juvenile and the juvenile's family. The mental health professional may also discuss with the juvenile's family the need for court intervention in the case. However, it is expressly understood that the mental health professional shall not initiate conversation with the juvenile or the juvenile's family regarding the facts of the case that gave rise to the referral to the Probation Department. The Probation Department may use the information gathered for any purpose related to the treatment of the juvenile and the provision of services to the juvenile.

2. Information obtained by the mental health professional in the pre-petition phase of a juvenile justice case shall be shared with the State's Attorney's office for the purpose of the State's Attorney's determination of whether to file a formal juvenile petition with the Court. This information shall not be shared with the Court either formally or informally unless the Court orders otherwise, or unless otherwise specifically allowed by this MOU.

3. The State's Attorney's office agrees that it shall not use any information gathered in the pre-petition phase by the mental health professional, or by any other employee of the Probation Department, against the juvenile in the prosecution, trial and adjudication of the juvenile in a delinquency case or a criminal case filed as a result of the contact that led to the referral of the juvenile to the Probation Department. The State's Attorney also agrees not to provide this information to the Court for any other purpose unless ordered to do so, or unless otherwise specifically allowed by this MOU.

B. Post-petition phase.

1. Once a petition for adjudication of delinquency, a petition alleging that a minor is in need of authoritative intervention, or any other formal petition allowed by law has been filed against the juvenile in court, a clinical therapist or other mental health professional employed by the Probation Department may initiate a formal social investigation of the juvenile. Such a social investigation may include, but shall not be limited to, further interviews with the juvenile and the juvenile's parents or guardians and other family members, social history investigations, medical and psychological examinations, review of records of medical and psychological examination and treatment, and the use of objective screening tools such as the Massachusetts Youth Screening Instrument-Second Version (MAYSI-2) and the Youth Assessment Screening Instrument (YASI). The mental health professional may prepare a written report of the social investigation.

2. All social investigation shall be conducted by the Probation Department according to federal and state privacy laws.

3. The information obtained by the mental health professional during post-petition social investigation and any report prepared by the mental health professional shall be made available to the public defender appointed to represent the juvenile on the petition or to any private attorney who enters his or her appearance on behalf of the juvenile.

4. The information obtained by the mental health professional during post-petition social investigation and any report prepared by the mental health professional shall not be disclosed to the State's Attorney's office. The State's Attorney's office agrees that it will not seek this information from the Probation Department or the mental health professional, and that, should any such information inadvertently be provided to or obtained by the State's Attorney's office, no such information shall be used against the juvenile in the prosecution, trial and adjudication of the juvenile in a delinquency case or a criminal case filed as a result of the contact that led to the referral of the juvenile to the Probation Department.

5. The Probation Department and the State's Attorney (if the State's Attorney inadvertently obtains such information) agree not to provide to the Court

information obtained during post-petition social investigation unless ordered to do so, or unless otherwise specifically allowed by this MOU.

C. Disposition Phase.

1. It is hereby expressly understood that, notwithstanding any other provision of this MOU to the contrary, nothing shall prevent information gathered by the Probation Department, its officers and employees, including mental health professionals employed by the Probation Department, from disclosure to the State's Attorney's office and the Court for purposes of determining the appropriate disposition of the juvenile following an admission by the juvenile of the allegations contained in a formal petition, an adjudication of delinquency or an adjudication finding the need for authoritative intervention as to the juvenile. Any such disclosure shall be made according to law.

III. Signatories

In witness whereof the parties have hereto have executed this Memorandum of Understanding as of _____, 2009. This Memorandum of Understanding shall continue in full force and effect unless and until a signatory or their successor in office shall give written notice to the others or their successors in office of the signatory's or successor in office's intent no longer to be bound by this MOU. In the case of the Office of the Public Defender, inasmuch as there are several individually appointed Public Defenders in Ogle County, this MOU shall become effective upon the execution of the MOU by a majority of all of the appointed Public Defenders. Likewise, the written notice by a majority of the appointed Public Defenders to the other signatories of this MOU shall be required to terminate the MOU. In case of termination of this MOU, the terms of the MOU shall continue as to all currently pending juvenile cases and case referrals and shall cease to be effective only as to referrals made to the Probation Department subsequent to the written notice given to the other signatories as provided in this MOU.

SIGNATURE PAGE FOLLOWS.

Executed at Oregon, Illinois this _____ day of _____, 2009.

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Hon. Kathleen Kauffmann,
Presiding Juvenile Court Judge

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John B. Roe IV,
Ogle County State's Attorney

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Greg Martin,
Director, Ogle County Probation Department

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Donald Miller,
Public Defender

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Dennis Riley,
Public Defender

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John Redington,
Public Defender

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Eric Morrow,
Public Defender