

**ROUND VALLEY INDIAN TRIBES**  
*A Sovereign Nation of Confederated Tribes*

TRIBAL COUNCIL OFFICE  
77826 COVELO ROAD  
COVELO, CALIFORNIA 95428  
PHONE: 707-983-6126  
FAX: 707-983-6128



LOCATION: ON STATE HWY 162  
ONE MILE NORTH OF COVELO  
IN ROUND VALLEY  
TRIBAL TERRITORY SINCE TIME BEGAN

ROUND VALLEY RESERVATION ESTABLISHED 1856

**RESOLUTION NO. RV-2015-057**

**A RESOLUTION APPROVING THE ELDER PROTECTION CODE**

**WHEREAS**, the Round Valley Indian Tribes is a federally recognized Tribe by the United States government, and

**WHEREAS**, the Round Valley Indian Tribes are the sovereign Tribal Nation of the Indian Tribes of the Round Valley Indian Reservation, and

**WHEREAS**, the Round Valley Tribal Council is recognized by the Federal Government of the United States of America as the governing body for the Indians of the Reservation, and

**WHEREAS**, Article V, Section 1 of the Constitution of the Round Valley Indian Tribes authorizes the Round Valley Tribal Council to administer all Tribal Business, and

**WHEREAS**, the Round Valley Tribal Council is the autonomous elected governmental body for the Tribe and is empowered to take the necessary steps and actions to promote the health, welfare and economic well being of its membership, and

**WHEREAS**, with the adoption of the Tribal Court Code, the Round Valley Tribal Council establishes new areas of jurisdiction and may adopt ordinances/codes that is consistent with its governing Constitution, and

**WHEREAS**, the Round Valley Tribal Council approved a Temporary Elder Protection Code and extended the temporary approval date at various times, and

**WHEREAS**, the purpose of the Temporary Elders Protection Code was to protect the Elders within the jurisdiction of the Tribe from abuse, exploitation and neglect as defined in the Code, and

**WHEREAS**, it is the policy of the Round Valley Tribal Council to continue the traditional respect the members of the Tribe have had for elders as they are a valuable repositories and custodians of tribal history, language, culture and tradition to the Tribe, and

**RESOLUTION NO. RV-2015-057**

**Page 2**

**WHEREAS**, the Round Valley Tribal Council feels that it is in the best interest and protection of the Elders to approve the Elder Protection Code for the Round Valley Indian Tribes, and

**WHEREAS**, the Round Valley Tribal Council acknowledges that the Elder Protection Code is a living document and that as time goes on, revisions and/or amendments will be necessary to address current and unforeseen issues that will arise.

**NOW THEREFORE BE IT RESOLVED**, that the Round Valley Tribal Council hereby approves the Elder Protection Code for the Round Valley Indian Tribes.

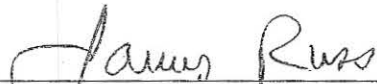
**BE IT FURTHER RESOLVED**, that the President of the Round Valley Tribal Council, and/or the Vice-President in the absence of the President is hereby authorized by the governing body to execute said resolution approving the Elder Protection Code for the Round Valley Indian Tribes.

**CERTIFICATION**

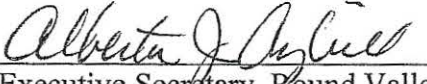
I, the undersigned as President of the Round Valley Indian Tribes do hereby certify that this resolution was adopted at a duly noticed and duly called special meeting of the Round Valley Tribal Council at which four (4) members were present, constituting a quorum, held on the 7<sup>th</sup> day of May 2015, and that this resolution was adopted by a vote of:

For	<u>Four (4)</u>
Against	<u>None (0)</u>
Abstentions	<u>None (0)</u>

And that said resolution has not been rescinded or amended in any way.

  
James A. Russ, President, Round Valley  
Tribal Council

ATTEST:

  
Executive Secretary, Round Valley  
Tribal Council

## ROUND VALLEY INDIAN TRIBES

### ELDER PROTECTION CODE

#### **1. TITLE**

This code shall be known and cited as the Round Valley Indian Tribes ("Tribe")'s Elder Protection Code ("Elder Code").

#### **2. AUTHORITY**

2.1 In accordance with Article VI, Section 3 of the Constitution, the Judiciary of the Round Valley Indian Tribes is bestowed the authority to:

2.1.1 Interpret, construe and apply the law of, or applicable to, the Tribe;

2.1.2 Declare the laws of the Tribe void if such laws are not in agreement with the Tribe's Constitution;

2.1.3 Issue injunctions, orders, attachments and writs regarding persons or entities within its jurisdiction; and

2.1.4 Establish new areas of jurisdiction and court procedures therefore, except that the Tribal Council may by ordinance alter such procedures consistent with its governing Constitution.

#### **3. POLICY**

It is the policy of the Tribe to continue the traditional respect the members of the Tribe have had for elders. Tribal Elders are a valuable resource to the Tribe because they are repositories and custodians of tribal history, language, culture and tradition; and, they are the best hope of the Tribe to pass on the tribal history, language, culture, and tradition to children of the Tribe. Thus, the interests of the Tribe, now and in the future, are advanced when its Elders can be confident they are protected from abuse, neglect, and exploitation and are free to fully participate in the activities and proceedings of the Tribe.

#### **4. PURPOSE**

The purpose of this code is to establish tribal law that protects Elders within the jurisdiction of the Tribe from abuse, exploitation and neglect as defined in this Code. The code shall be liberally interpreted in order to achieve its purpose and comport with the customs and traditions of the Tribe. The code provides for:

4.1 Identification and appropriate resolution of abuse and neglect cases;

4.2 Reporting abuse or neglect to the proper agency;

4.3 Receiving reports of and investigating suspected abuse or neglect; and

4.4 Delivering elder protection services.

## **5. CIVIL NATURE OF CODE**

This Code is civil and does not affect any applicable provision of the Tribe's Law and Order Code unless modified specifically by this code.

## **6. DEFINITIONS**

6.1 A person is guilty of elder abuse if they knowingly and willfully commit the following:

6.1.1 PHYSICAL ABUSE is any intentional or negligent infliction of bodily injury, unreasonable confinement, intimidation, or cruel punishment of an elder with resulting physical harm or pain or mental anguish by any person.

6.1.2 SEXUAL ABUSE is any physical contact that is not consented to by the elder intended for sexual gratification of any person making such contact or to abuse, humiliate, or degrade the elder.

6.1.3 EMOTIONAL ABUSE is the intentional infliction of threats, humiliation, intimidation or any other demeaning behavior towards an elder.

6.1.4 EXPLOITATION is the unauthorized or improper use of funds, property, or other resources of an elder; or the unauthorized or improper use of an elder by a caregiver or by any other person for personal gain or profit; or the failure to use the funds, property, or other resources of an elder to the elder's benefit or according to the elder's desires.

6.1.5 NEGLECT is the wanton, reckless, and grossly negligent:

6.1.5.1 failure of a caregiver to provide for the basic needs of an elder by not supplying resources, services, or supervision necessary to maintain an elder's physical and mental health and includes the inability of an elder to supply such basic needs for himself;

6.1.5.2 interference with the delivery of necessary services and resources;

6.1.5.3 failure to report abuse, exploitation or neglect of an elder by any person;

6.1.5.4 failure to provide services or resources essential to the elder's practice of his customs, traditions or religion; or

6.1.5.5 abandonment of an elder.

6.2 CAREGIVER is:

6.2.1 a person who is required by Tribal law or custom (or state or federal law) to provide services or resources to an elder;

6.2.2 a person who has voluntarily undertaken to provide care or resources to an elder;

6.2.3 an institution or agency which voluntarily provides or is required by Tribal law or custom (state or federal law, or Tribal-state agreement) to provide services or resources to an elder; or

6.2.4 an employee of any institution or agency specified within this code.

6.3 CONSENT is agreement given without intimidation or coercion by an elder with the capacity to make an agreement.

6.4 ELDER is a person subject to the jurisdiction of the Tribe who is at least sixty (60) years of age.

6.5 EMERGENCY is a situation in which an elder is immediately at risk of death or injury and is unable to consent to services that would remove the risk.

6.6 FAMILY is a person's parent, grandparent, aunt or uncle, sibling, brother-in-law or sister-in-law, niece or nephew, first or second cousin or step-parent, godparent or any other person defined by the laws and customs of the Tribe.

6.7 GOOD FAITH is a reasonable person's honest belief or purpose and the lack of intent to defraud.

6.8 INCAPACITY is a legal determination made by tribal/state court regarding the current inability (functional inability) of a person to sufficiently understand, make, and communicate responsible decisions about themselves as a result of mental illness, mental deficiency, physical illness or disability, or chronic use of drugs or liquor, and to understand the consequences of any such decision. Incapacity may vary in degree and duration and shall not be determined solely on the basis on age.

6.9 LEAST RESTRICTIVE ALTERNATIVE is an approach, which allows an elder independence and freedom from intrusion consistent with the elder's needs by requiring that the least dramatic method of intervention be used when intervention is necessary to protect the elder from harm. Caregivers, tribal/state courts and any other person/entity providing services to elders will be controlled by this standard.

6.10 **POWER OF ATTORNEY** is a written document signed by an elder and notarized providing another person with the legal authority to conduct business on behalf of the elder in the name of the elder. There are two main types of power of attorney.

6.10.1 A General Power of Attorney covers all the elder's business activities, including signing papers, title documents, contracts, bank accounts, etc.

6.10.2 A Special Power of Attorney grants powers limited to specific areas as set forth in the document.

6.11 **PROTECTIVE PLACEMENT** is placement of an elder in a hospital, nursing home, residential care facility or the transfer of an elder from one such institution to another by tribal/state court with the elder's consent or appropriate legal authority.

6.12 **PROTECTIVE SERVICES** are services provided to an elder with the elder's consent or with appropriate legal authority and include, but are not limited to: social case work, psychiatric and health evaluation, home care, day care, legal assistance, social services, health care, case management, guardianship and other services consistent with this code. Protective services include protective supervision, but they do not include protective placement.

6.13 **RETALIATION** is threatening of a reporter mandatory or otherwise of elder abuse or the reporter's family in any way; causing bodily harm to the reporter or the reporter's family; causing the reporter or any of the reporter's family to be terminated, suspended from employment, or reprimanded by an employer; or damaging the reporter's or the reporter's family's real or personal property in any way.

## **7. DUTY TO REPORT ABUSE OR NEGLECT OF AN ELDER**

7.1 Any person who has reasonable cause to suspect that an elder has been abused, neglected, self-neglected, or exploited shall immediately report the abuse, neglect, or self-neglect, or exploitation to the Tribal Police unless they have a privileged relationship as attorney-client, doctor-patient or priest-penitent. The following individuals have a special duty in reporting abuse, neglect, self-neglect or exploitation:

7.1.1 the elder's family or caregiver as defined within this code;

7.1.2 any employee or elected official of the Tribe;

7.1.3 any medical doctor, physical therapist, coroner, or medical examiner;

7.1.4 any nurse, physician's assistant; or health aide;

7.1.5 any dentist or dental hygienist;

- 7.1.6 an elder and adult program services case/social worker, or elder services provider;
- 7.1.7 any mental health practitioner or counselor;
- 7.1.8 any law enforcement officer;
- 7.1.9 any person with a fiduciary duty to the elder, including but not limited to a guardian or employee of elder/nursing home;
- 7.1.10 any Tribal Court employee; and
- 7.1.11 any person subject to federal reporting requirements under Title 18 United States Code Section 1169.

## **7.2 CONFIDENTIALITY**

The identity of a person who in good faith reports suspected elder abuse, neglect, self-neglect or exploitation is confidential and shall not be released unless the reporter consents or the tribal/state court orders the release because it finds, after notice to the reporter and an opportunity to be heard; that the need to protect the elder outweighs the reporter's interest in confidentiality.

## **7.3 STANDARD OF PROOF**

The standard of proof for actions brought under this section is the preponderance of evidence.

## **7.4 IMMUNITY FOR REPORTING**

A person who in good faith reports suspected abuse or neglect for an elder is immune from any civil or criminal suit based on that person's report.

## **7.5 FAILURE TO REPORT; CIVIL PENALTY; DAMAGES; CRIMINAL LIABILITY**

Any person who is required by this code to report suspected elder abuse and fails to do so is subject to a civil penalty of up to \$5,000. The Tribal Court shall assess the penalty only after petition, notice, an opportunity for a hearing, and a determination that the person had a mandated duty to report, had good reason to suspect elder abuse or neglect, and failed to report it as required by this code. Further, the person failing to report is subject to any civil suit brought by or on behalf of the elder for damages suffered as a result of the failure to report and to any penalties set out in the Tribe's Law and Order Code or as allowed by this Code.

## **7.6 BAD FAITH REPORT; CIVIL PENALTY; DAMAGES; CRIMINAL LIABILITY**

Any person who makes a report of suspected elder abuse knowing it is to be false is subject to a civil penalty of up to \$5,000. The Tribal Court shall assess the penalty only after petition, notice,

an opportunity for a hearing, and a determination that the reporter made the report knowing it to be false. Further, the reporter is subject to any civil suit brought by or on behalf of the person(s) named as suspected abusers in the false report for damages suffered as a result of the false report, including reasonable attorney's fees, and to any criminal penalties set out in the Tribe's Law and Order Code or as allowed by this Code.

## **7.7 REPORTS**

Reports of suspected elder abuse, neglect, self-neglect or exploitation shall be made to Tribal Police. The officer taking an oral report shall immediately complete a written incident report. Unless anonymously made, the incident report should contain the name of the reporter and, if possible, the reporter should sign the report. Anonymous reports shall be investigated as required by this code. The following information, if possible, should be part of the incident report:

- 7.7.1 the elder's name, address and/or location, telephone number;
- 7.7.2 the name, address or location, telephone number of the person(s) or agency who is suspected of abusing, neglecting, or exploiting the elder;
- 7.7.3 the current general condition of the elder, including the suspected nature and degree of incapacity of the elder, if any;
- 7.7.4 the name, address or location, and telephone number of the witnesses;
- 7.7.5 the name, address or location, telephone number of the elder's family or caregiver;
- 7.7.6 a description of the acts which are complained of as abusive or neglectful; and
- 7.7.7 any other information that the reporter believes might be helpful in establishing abuse, neglect or exploitation.

## **7.8 INVESTIGATION**

- 7.8.1 The Tribal Police shall investigate the report within 24 hours and prepare a written report of the investigation which shall include the information set out in Section 7.7 as well as the results of interviews, observations, photographs necessary to document injuries or conditions which have or may result in abuse and neglect, assessments and other fact finding. The investigator shall conduct in-person interviews with the elder, elder's family and caregiver, the person or persons suspected of having committed the acts complained of, employees of agencies or institutions with knowledge of the elder's circumstances, and any other person the investigator believes has pertinent information. The existence and contents of medical records and other reports of abuse and neglect shall be ascertained. The investigator personally shall assess the elder's living conditions including the elder's sleeping quarters, using the Tribe's general housing standards.
- 7.8.2 The Tribal Court may issue subpoenas for the release of medical records or financial records upon request of the Tribal Council. Such motions shall receive expedited consideration by the Tribal Court in order to facilitate prompt investigation of reported elder abuse, neglect or exploitation.

- 7.8.3 The investigation report shall be filed within seven (7) days and remain on file and not be destroyed for a period of two (2) years, even if it is determined that there is insufficient evidence to pursue any legal action. However, if the investigating agency determines that the investigation report was made in bad faith, it shall be held and maintained as an inactive file for possible use in a civil violation or proceeding pursuant to Section 7.6 of this code.

## **7.9 INTERFERENCE WITH INVESTIGATION AND RETALIATION PROHIBITED; CIVIL PENALTY**

- 7.9.1 No person shall interfere intentionally with a lawful investigation of suspected elder abuse.
- 7.9.2 No person shall retaliate by any means against any person who has made a good faith report of suspected elder abuse or who cooperates with an investigation of suspected elder abuse.
- 7.9.3 Any person who violates the provisions of paragraphs A or B of this section shall be enjoined from such activity and shall be subject to a civil penalty of up to \$5,000 per occurrence and, if a tribal employee, to appropriate disciplinary action as allowed by the tribal personnel policies and procedures. The penalty shall be assessed by the Tribal Court only after petition, notice, an opportunity to be heard and a determination that either interference or retaliation as set out in this Section occurred. Further, notice of such determination shall be provided to the person's tribal employer and appropriate licensing agencies.

## **7.10 PRIVILEGED COMMUNICATION**

No evidentiary privilege, except for the attorney-client, doctor-patient or priest-penitent privilege as detailed in this Code, may be raised as a justifiable defense or reason for failing to report suspected elder abuse or neglect or for testifying as required by this Code.

## **7.11 CRIMINAL INVESTIGATION**

The investigation and any other procedures allowed by this code may continue regardless of any criminal investigation that might be instigated or pursued by the Tribe. In all instances the safety and welfare of the elder shall be paramount regardless of the nature and status of the investigation.

## **7.12 ELDER PROTECTIVE SERVICES AND ELDER PROTECTIVE PLACEMENT; OTHER SERVICES; EVALUATION PROCEDURE; DUTY TO PAY**

- 7.12.1 Protective services or protective placement are provided either on a voluntary or involuntary basis. Such services or placement may be provided on a voluntary basis by the Tribe when requested by any abused or neglected elder, and the elder is found by the Tribal Council to be in need of such services or placement. Such services or placement shall be provided on an involuntary basis only if the Tribal Court determines they are necessary. Such services or placement may be

provided on an emergency basis or, if necessary, on a permanent basis through a guardian appointed pursuant to tribal law and shall be provided in a manner least restrictive of the elder's liberty and rights consistent with the elder's welfare and needs. The Tribal Court's determination of the degree of incapacity, if any, as well as whether elder abuse or neglect has occurred is the standard the Tribal Council shall use to develop a plan for the delivery of elder protection services.

7.12.2 Voluntary protective services or protective placement are provided subject to available appropriations and resources and only as determined necessary by the Tribal Council. If the elder's consent to such services or placement is withdrawn, they shall cease. Such protective services or protective placement shall be provided for a period of no more than 90 days for each occurrence. At the end of each period, the Tribal Council shall reassess the elder's needs before agreeing to continue providing services and placement. Voluntary placement shall not be continued without a Tribal Court order permitting continued voluntary placement after the elder has been in such placement for 90 days.

7.12.3 Involuntary protective services or protective placement shall be provided to any elder who is incapacitated or who is abused, neglected, or exploited and incapacitated and only upon Tribal Court order as required by this Code.

7.12.4 Services as determined necessary by the Tribal Council may be delivered to the elder's family or caregiver in order to protect the elder.

7.12.5 The elder, and, where appropriate, the elder's family and caregiver shall be informed by the Tribal Council of rights as allowed under this code and other tribal law, including the right to refuse voluntary services and placement and the right to have the Tribal Court determine the necessity of involuntary services and placement.

7.12.6 The elder and where appropriate, the elder's family and caregiver, if able to do so, shall pay for all or part of the costs of services or placement provided to the elder. In the case of voluntary services or placement, the elder and where appropriate, the elder's family and caregiver shall pay the cost as determined by applicable standards and income guidelines.

## **8. EMERGENCY PROTECTION ORDER**

8.1 The Tribal Court shall issue an emergency protection order authorizing protective services or protective placement on an emergency basis upon petition supported by clear and convincing evidence that:

8.1.1 the elder is at risk of immediate (physical) harm;

8.1.2 the elder is incapacitated and cannot consent to protective services;

8.1.3 there is no one is authorized, or the person possessing power of attorney for the elder is unavailable, by law or court order to give consent on an emergency basis; and

8.1.4 an emergency exists.

8.2 The emergency protection order shall:

8.2.1 set out the specific emergency services to be provided to the elder to remove the conditions creating the emergency;

8.2.2 provide only those services which will remove the emergency;

8.2.3 allow protective placement only if the evidence shows that it is necessary; and

8.2.4 be issued for a maximum of seven (7) and may be renewed only once for a maximum of fourteen (14) days, provided the evidence shows that the emergency is continuing.

8.3 The Tribal Court may authorize forcible entry by law enforcement to enforce the emergency protection order after it has been shown that attempts to gain voluntary access to the elder have failed.

8.4 The petition for an emergency protection order shall contain the name/address/location and interest in the petitioner; name/address/location and condition of the elder; the nature of the emergency; the nature of the elder's incapacity; the proposed protective services, and where applicable, protective placement; the attempts, if any to secure the elder's consent to services; and, any other facts the petitioner believes will assist the Tribal Court.

8.5 The emergency protection order shall be issued only after notice. The notice accompanied by a copy of the petition shall be given to the elder, the elder's family and caregiver at least 72 hours before a hearing on the petition is scheduled and the Tribal Court has had the opportunity to hear all parties and the evidence. The Tribal Court may waive the waiting period if the emergency is such that the elder will suffer immediate and irreparable harm or reasonable attempts have been made to notify the parties.

8.6 The Tribal Court shall hold a hearing on a petition to provide protective services or placement to an elder within 72 hours after an emergency protection order is issued.

8.7 The Tribal Court can set aside an emergency protection order upon a petition of any party showing good cause.

8.8 If there is good cause to believe that an emergency exists and that an elder is at risk of immediate and irreparable (physical) harm and, based on personal observation, a Tribal Police officer believes that the elder will be irreparably harmed during the time an

emergency protection order is secured, the Police Officer shall immediately protect the elder, including, where necessary, transporting the elder for medical treatment or to an appropriate facility. Immediately after the elder is protected, a petition for an emergency protection order shall be filed and the procedures set out in this section followed.

8.9 Any person who acts in good faith pursuant to this section is immune from any civil or criminal suit based on that person's actions.

## **9. RIGHTS OF ELDERS, THEIR FAMILIES AND CAREGIVERS**

9.1 An elder, the elder's family and caregiver shall be informed about an elder abuse investigation before it begins unless an emergency exists, in which case, they shall be informed as soon as possible, but no later than 48 hours after the investigation begins.

9.2 An elder may refuse to accept elder protection services even if there is good cause to believe that the elder has been or is being abused, neglected, or exploited provided that the elder is able to care for himself or herself and has the capacity to understand the nature of the services offered.

9.3 The elder's family or caregiver may refuse for themselves, but not for the elder, those elder protection services offered pursuant to this Code.

9.4 An elder, the elder's family or caregiver may refuse to allow an investigator into their home and the investigator shall so inform the elder, the elder's family and caregiver of this right before seeking entry. The Police Officer shall also inform them of the right of the investigator to seek a warrant to gain access.

9.5 Service of Process. The elder, elder's family and caregiver shall be served personally with a petition filed pursuant to this code.

9.6 The elder, elder's family and caregiver have the right to attend any proceeding pertaining to the determination of the elder's capacity and the elder shall be present at all proceedings unless the Tribal Court determines the elder's health would be at risk at such proceeding.

9.7 The elder, elder's family and caregiver have the right to be represented by counsel at all proceedings at their own expense.

9.8 The elder, elder's family and caregiver have the right to seek independent medical, psychological, or psychiatric evaluation of the elder at the elder's or the elder family's expense.

## **10. PROCEDURES FOR DETERMINING INCAPACITY, ABUSE, NEGLECT OR EXPLOITATION**

10.1 The Tribal Court shall determine whether an elder is incapacitated and the degree of incapacity, and, where necessary, whether elder abuse, neglect, or exploitation has occurred. The determination of incapacitation shall be made only after petition, notice, and hearing.

10.2 The Tribal Court shall determine whether an elder has been a victim of abuse, neglect or exploitation as defined in this code.

## **11. CONFIDENTIALITY OF REPORTER, RECORDS, HEARINGS; PENALTY FOR NOT COMPLYING WITH CONFIDENTIALITY**

11.1 Name of Reporter. The name of the person who reports abuse or neglect as required by this code is confidential and shall not be released to any person unless the reporter consents to the release or release is ordered by the Tribal Court. The Tribal Court may release the reporter's name only after notice to the reporter is given, a closed evidentiary hearing is held, and the need to protect the elder is found to be greater than the reporter's right to confidentiality. The reporter's name shall be released only to the extent determined necessary to protect the elder.

11.2 Investigation and Hearing Records. Records of an investigation of elder abuse or of a Tribal Court hearing regarding elder abuse are confidential. Such records shall be open only to the elder and the elder's family and caregiver unless the family or caregiver is the suspected abuser. If the Tribal Council, law enforcement officers, court officials, coroner, medical examiner, or any other person who has reason to believe that an elder died as the result of abuse, neglect or exploitation, the Tribal Court will determine who has reasonable cause to have access to such records.

11.3 Court Proceedings. A proceeding held pursuant to this code shall, at the option of the elder who is not incapacitated, be closed and confidential. Persons who may attend are the elder, the elder's family and caregiver, the Tribal Council, necessary Tribal Court officials, and attorneys for the parties. If the hearing is closed, other persons may appear only to testify. No one attending or testifying at such a proceeding shall reveal information about the proceeding unless ordered to do so by a Tribal Court order.

11.4 Penalty. Any person who violates any paragraph of this section shall be subject to a civil penalty of up to \$5,000 per occurrence. The Tribal Court shall assess the penalty after petition, notice, opportunity to be heard, and a determination that a violation occurred. In addition, if the violation is committed by an employee of the Tribe, the employee shall also be subject to employee disciplinary action as allowed in the Tribe's employment laws.

## **12. ELDER PROTECTION ORDER; TIME LIMITS**

12.1 If the Tribal Court determines that an elder is incapacitated or incapacitated and abused, neglected, or exploited, the Tribal Court shall issue an elder protection order

which provides appropriate protection for the elder. Such protection may include, but is not limited, to the following:

12.1.1 Removing the elder from the place where the abuse or neglect has taken or is taking place for no longer than fourteen (14) days;

12.1.2 Removing the person who has abused or neglected an elder from the elder's home;

12.1.3 Restraining the person who has abused or neglect an elder from continuing such acts;

12.1.4 Placing the elder under protective supervision, wherein the elder is permitted to remain in the home providing the Department or a designated agent provides supervision and assistance to correct the abuse, neglect or exploitation of the elder;

12.1.5 Requiring an elder's family or caregiver or any other person with a fiduciary duty to the elder to account for the elder's funds and property;

12.1.6 Requiring any person who has abused, neglected, or exploited an elder to pay restitution to the elder for damages resulting from that person's wrongdoing;

12.1.7 Appointing a representative or guardian ad litem for the elder; and

12.1.8 Recommending that a representative payee be named.

12.2 No protection order shall be issued until seven (7) days after the petition is served on all parties, except for an emergency protection order.

12.3 An initial non-emergency elder protection order shall be issued for a period not to exceed ninety (90) days.

12.4 The non-emergency protection order may be extended as many times as necessary to protect the elder. An extension of a protection order can only be issued after a petition is filed by the party seeking an extension and notice, opportunity for hearing, and a determination based on preponderance of the evidence that such an extension is necessary for the protection of the elder. Each extension shall be for a period not to exceed ninety (90) days.

### **13 SEVERABILITY**

If any section, clause, or provision of this Probate Code, or its application to any person or circumstance, is declared invalid for any reason by a court of competent jurisdiction, the remaining provisions of the Probate Code and application to any other person or circumstance shall remain be valid and in effect.

### **14 JURISDICTION/POLICE PROCEDURES**

- 14.1 This Code shall fall within the inherent jurisdiction of the Round Valley Indian Tribes, which per federal law includes civil regulatory jurisdiction over all persons; member or non-member, while in Round Valley Indian Country, and over all Indians while upon any Reservation or Indian Country lands. Nothing about this Code shall operate or construed to cause the Tribe to accede to any state civil regulatory jurisdiction in Round Valley Indian Country. The Tribal Council hereby disclaims any application or enforcement of state civil regulatory laws in Round Valley Indian Country, including in instances wherein the state has asserted adjudicatory jurisdiction pursuant to Public Law 280.
- 14.2 When a tribal member is situated on Indian Country trust land, a state officer's civil regulatory authority extends only so long as that officer does not circumvent or contravene governing Tribal procedure. Because of the likelihood that State officers will seek to enforce state laws upon persons in Round Valley Indian Country, state police officers shall give reasonable advance tribal notification prior to entrance into Round Valley Indian Country if it is reasonably likely that said entrance will result in the enforcement of state laws.
- 14.3 State police officers shall not only provide that reasonable advance tribal notification required by Section 14.3, but shall also consult, communicate, and coordinate any state law enforcement investigation activities, with Tribal Police. Should the Tribal Police elect to cooperate in the execution any such activities, state police officers shall not frustrate such cooperation by any dispatched Tribal Police officer.
- 14.4 The Tribal codified procedures concerning any state law investigation activities in Round Valley Indian Country, set forth in Sections 14.2, 14.3 and 14.4, are mandatory.
- 14.5 Any person found committing abuse, neglect, or exploitation of the elder under this Code is subject to a civil penalty of up to \$5,000. The Tribal Court shall assess the penalty only after petition, notice, an opportunity for a hearing, and a determination that the person committed the violation. Further, the person found to have committed the violation is subject to any civil suit brought by or on behalf of the elder for damages suffered as a result of the violation and to any penalties set out in the Tribe's Law and Order Code or as allowed by this Code.