

TITLE I

COURTS

Of the Standing Rock Sioux Tribal Code of Justice



**Approved and Amended by
Standing Rock Sioux Tribe Council
December 01, 2009 – Resolution No. 688-09**

**Rules of Court
Promulgated: February 28, 2007, As Amended**

**STANDING ROCK SIOUX TRIBAL COURT
STANDING ROCK SIOUX INDIAN RESERVATION**

RULES OF COURT

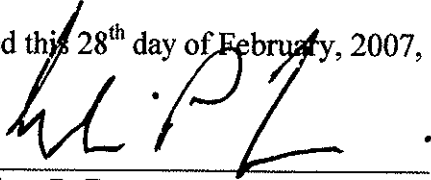
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**STANDING ROCK SIOUX TRIBAL COURT
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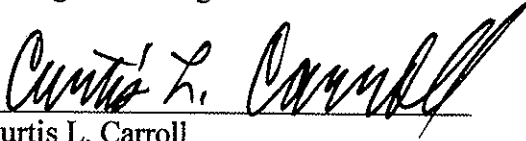
**ADMINISTRATIVE ORDER
ADOPTING RULES OF COURT**

Pursuant to the authority of Section 1-104 of the Standing Rock Sioux Tribe Code of Justice, the foregoing Rules of Court, 1 through 22, inclusive, are adopted as the Rules of Court for the Standing Rock Sioux Tribal Court.

Dated this 28th day of February, 2007,



William P. Zuger
Acting Chief Judge



Curtis L. Carroll
Acting Associate Chief Judge

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Rule 1 **Rules of Civil Procedure**

The Federal Rules of Civil Procedure in effect at the time of the trial or other state of the proceedings are adopted as rules of procedure for civil cases under Title II, §2-108(a), of the Standing Rock Sioux Tribe Code of Justice, unless such rules are in conflict with provisions of the Code, these Rules, or established traditions of the Standing Rock Sioux Tribe.

The Federal Rules of Civil Procedure, as they apply to proceedings of the Tribal Court, are amended, in their application, as follows:

The provisions of Rule 26, requiring Initial Disclosures and mandatory scheduling conferences before the Tribal Court shall not apply. The specific discovery to be pursued by the parties shall be determined by the parties as permitted by the rules of discovery otherwise permitted under Rules 26 through 37, inclusive. The parties or the Court may call for a scheduling conference or conferences, which shall be conducted telephonically, unless otherwise ordered by the Court.

To the extent that Rules 52 and 58 require separately stated and denominated Findings of Fact, Conclusions of Law and Order for Judgment or that the Order for Judgment and Judgment by entered as separate documents, they are amended in their application so that the Order for Judgment and Judgment may be prepared and entered as a single document and that separately denominated findings of fact and conclusions of law need not be prepared, as long as the factual and legal bases for the Court's actions are clearly stated, sufficiently to allow for appellate review of the decision.

Rule 2 **Rules of Criminal Procedure**

The Federal Rules of Criminal Procedure in effect at the time of the trial or other state of the proceedings are adopted as rules of procedure for criminal cases under Title III, §3-506(a), of the Standing Rock Sioux Tribe Code of Justice, unless such rules are in conflict with provisions of the Code, these Rules, or established traditions of the Standing Rock Sioux Tribe.

Rule 3 **Rules of Evidence**

The Federal Rules of Evidence in effect at the time of the trial or other state of the proceedings are adopted as rules of evidence for civil and criminal cases under Title II, §2-108(a) and Title III, §3-506(a), of the Standing Rock Sioux Tribe Code of Justice, unless such rules are in conflict with provisions of the Code, these Rules, or established traditions of the Standing Rock Sioux Tribe.

Rule 4 **Conduct in Court****A. Decorum**

1. Anyone entering the courtroom while court is in session shall immediately be seated. Everyone shall behave in a quiet and orderly manner. No person may enter or leave the courtroom while the court is charging the jury, except in an emergency.
2. Counsel shall stand while addressing the court except when stating an objection. All statements and communications by counsel to the court must be clearly and audibly made from the counsel table. While the court is in session, counsel may not approach the bench for conversation without permission of the court.
3. To the extent practicable, the examination of a witness must be conducted from the counsel table. Only one counsel for a party may examine any witness without permission of the court.
4. Whenever practical and appropriate, in the civil and criminal courtrooms, a judge must be robed while presiding over the trial of a case.
5. Counsel, parties and witnesses may not leave the courtroom until proceedings are adjourned or as otherwise permitted by the court.

B. Cameras and Recording Devices

No camera, sound recorder, or other device, except one operated for an official purpose, by or under the direction of the court, may be used to photograph, record, or broadcast a proceeding of the court, nor may those devices be brought in or allowed to remain in the courtroom while a proceeding is in progress. Unless the court permits otherwise, any wireless communication device in the courtroom must be turned off or muted.

C. Arguments of Counsel

1. Unless otherwise permitted by the court, only one counsel appearing for a party may be allowed to argue any question to the court or jury.
2. The court may set time limits for arguments.
3. Disruptive or contumacious behavior may be punished, after one warning, as either civil or criminal contempt.

D. Ex Parte Contact with the Court

Ex Parte contacts by attorneys, lay advocates and any parties or potential witnesses as to the merits of any pending case are forbidden. Recognizing that the Rules of Court and the Standing Rock Sioux Tribe Code of Justice are not presently published and available to those not employed in the Tribal Court, the Judges may entertain and answer requests for rules and code sections until such time as the Rules and Code become available.

Rule 5 Change of Judge

Upon filing of a request for recusal of any judge, under §1-308 of the Code, the clerk shall serve the request on all other parties if the requesting party has not done so and notify the presiding judge of the demand. A denial of the request shall be in writing. If the request is granted, the Chief Judge shall promptly reassign the matter to another judge.

Rule 6 Filing of Papers

A. All papers filed with the court shall be clearly readable. Except as otherwise permitted by the court all papers must be prepared on 8 ½" by 11" format. All papers must be filed by the clerk flat and unfolded and each set of papers firmly fastened together. Proof of service must accompany any documents received from lawyers or lay advocates, who are responsible for service. Service for unrepresented parties shall be done by the clerk, and the Court Administrator may charge for such service at such charge as will fairly compensate the court for its expenses. Facsimiles will be accepted for filing subject to prompt receipt of the originals.

B. Juvenile and Involuntary Commitment files are closed to all persons not directly involved in those matters and copies of the file contents are available only on court order.

C. Other files are open to the public, unless any portion may be closed by the court. The Court Administrator may provide for reasonable charges for copies. No files, however, may be removed from the custody of the Clerk, without written approval by the Court Administrator or a Judge.

Rule 7 Submission of Briefs

Unless otherwise ordered by the Court in any civil or criminal case in which both parties are represented by lawyers, or in any case in the court's discretion, motions shall be considered on briefs, without a hearing. Any motion shall be filed with any supporting brief or other supporting material and the adverse party shall have 10 days after service to respond, the computation being in accordance with the Federal Rules of Civil Procedure. Any party may request oral arguments. The court may take testimony at its discretion, as well. Any appearances at hearing may be telephonic, at the court's discretion.

Rule 8 Dismissal for Lack of Prosecution

Any civil action in which there has been no prosecution of a claim upon which a party has an affirmative burden of proof; e.g., complaint, counterclaim, or cross claim; for more

than one year may be dismissed without prejudice by the court on its own motion, with notice to the parties at their last address of record. In divorce actions in which the 60 day waiting period has not been waived, the time runs from expiration of the waiting period.

Rule 9 Continuances

A. Except in case of emergency or other exceptions in the civil or criminal rules, any civil or criminal case or matter scheduled for hearing, trial or other appearance before the court will not be continued or rescheduled at the request of any party unless:

1. A request for continuance or rescheduling has been filed and served at least 7 days prior to such hearing, trial or appearance, and
2. The request is supported by a showing of good cause documented by the requesting party.

B. Emergency shall include:

1. Sickness or injury, requiring hospitalization or medically ordered bed rest of a complaining witness, a criminal defendant or civil party, or any subpoenaed witness.
2. Attendance at a funeral for an immediate relative (mother, father, sister, brother, husband, wife, child, grandparent, grandchild, or any persons having such degree of relationship under the accepted traditions and customs of the Tribe) by a complaining witness or criminal defendant, or civil party, or any subpoenaed witness.
3. Other case of *bona fide* emergency, at the discretion of the court.
4. The unexpected failure of any person to appear under summons, subpoena or other lawful process, and having a material impact on the moving party's case.
5. The appearance in a state of intoxication or under impairment of drugs of any person appearing under summons, subpoena or other lawful process, and having a material impact on the moving party's case.
6. Administrative necessity of the court.

Rule 10 Criminal Complaints

The following shall be contained and plainly stated in all criminal complaints prepared pursuant to §3-101 of the Code:

- A. The date and time of the alleged offense,
- B. A specific description of the location of the alleged offense,
- C. The name of the person who allegedly committed the offense,
- D. A detailed description of the offense, stating the Code section allegedly violated and the elements alleged to constitute said offense,
- E. The specific elements upon which the arresting officer determined probable cause to detain, if an arrest was made without a warrant for arrest.

The specification required by this Rule may be provided by attachment referenced in the Complaint, if additional room is necessary.

Rule 11 **Assistance in Drafting Criminal Complaints**

The Clerk of Court, any Assistant Clerk of Court, the Prosecutor and Prosecutor Advocate are designated as the individuals who will assist persons filling out criminal complaint information sheets pursuant to §3-101 of the Code.

Rule 12 **Screening and Approval of Criminal Complaints**

The Prosecutor and Prosecutor Advocate are designated by the Court as individuals authorized to screen complaints not brought by police officers, for sufficiency. They have the discretion to disapprove all complaints not found sufficient or when disapproval is necessary to serve the interests of justice. When a complainant is not reasonably available to sign, the Prosecutor and Prosecutor Advocate may approve the issuance of complaints on information relayed by electronic means, including telephone, radio or fax, in their sound discretion, subject to subsequent verification.

Rule 13 **Statement of Probable Cause**

In all criminal cases in which an arrest has been made without a warrant, the Complaint shall state the probable cause for arrest and shall be submitted to a judge for review of probable cause, within 48 hours of the arrest. This does not preclude submission of additional documents demonstrating foundation for probable cause for arrest.

Rule 14 **Withdrawal of Criminal Complaints**

Criminal complaints may be withdrawn only with the approval of a Prosecutor or Judge. The executed withdrawal form bearing the approval of a Prosecutor or Judge shall be attached to and filed with the complaint of record.

Rule 15 **Scheduling of Criminal Trials**

Except for good cause shown, each criminal case shall be set for trial at the time of arraignment, if not concluded by plea. The court may, at its discretion set the matter for further interim hearing or conference upon a party's motion for good cause.

Rule 16 Criminal Sentencing

A. The court shall pronounce sentence immediately upon the acceptance of a guilty plea or upon conviction of any offense, unless at the request of a party, or on the court's own motion, it finds good cause to delay or defer imposition of sentence.

B. If it appears that the person being sentenced suffers from a cognitive disability or may be addicted to alcohol or drugs, which substantially contributed to the offense, and the court deems it to be appropriate to consider it in passing sentence, the court may delay or defer sentencing until an evaluation of that person may be conducted and reported to the court. Time spent inpatient for any evaluation or treatment shall be credited as time spent in detention and credited to the sentence. Outpatient evaluation or treatment without detention may be credited to the sentence, in the court's discretion. Persons held in detention may be released on temporary pass, as necessary and appropriate to conduct any evaluation or treatment.

C. Before the court sentences any person, the Prosecutor shall advise the court if that person is under any suspension or deferment of sentence and of any prior convictions and sentences which the Prosecutor may deem pertinent.

Rule 17 Reduction in Sentence

A. All requests for reduction of sentence shall be by motion identifying the case in question, the sentence, the grounds for the request and the proposed change in sentence.

B. Reductions in sentence shall only be granted to correct manifest injustice or due to unforeseen pertinent circumstances arising since sentencing.

Rule 18 Bench Warrants

Whenever a person fails to appear in court as duly required by an order to show cause, subpoena, summons or other process requiring that person's appearance, in any civil or criminal case, the court may issue a bench warrant directed to any law enforcement officer directing the arrest and detention of said person for appearance before the court. The warrant shall be served in the same manner as any other arrest warrant.

Rule 19 Temporary Leave from Confinement

A. All requests for temporary leave or for temporary passes shall be submitted to the court after notice to and approval or disapproval by the Prosecutor, in writing. All requests shall be brought through the office of the Public Defender or such lawyer or lay

advocate who has appeared as counsel of record, and to the judge who sentenced the person seeking the pass. In cases of emergency the request may be submitted directly to the sentencing judge or, in his or her absence, to another judge.

B. Temporary leave or passes may be granted for the following reasons:

1. Appearance for substantiated medical appointments or emergency medical care.
2. Appearance for evaluations or treatment for chemical dependency.
3. Urgent personal or family matters such as funerals.
4. To relieve overcrowded detention conditions or for public health or safety reasons as a result of temporary detention facility conditions.
5. For persons who, for no fault of their own making, cannot be promptly arraigned.
6. For other cases for good cause in the discretion of the court.

C. Absent good cause, temporary leave or temporary passes will only be granted to persons who have exhibited good behavior while in confinement and the lawyer or lay advocate seeking release shall determine and accurately represent this to the court, as officers of the court. Persons who have pending charges or past convictions for escape, failure to return to detention or failure to appear in court shall not be eligible, except for compelling circumstances in the discretion of the court.

D. Temporary passes in excess of 8 hours will be granted only under exceptional circumstances.

E. Failure to abide by any conditions of a pass shall constitute criminal contempt, and failure to return on a timely basis, escape.

Rule 20

Assistance in Drafting Civil Complaints

The Clerk of Court shall provide procedural assistance to any party not represented by a lawyer or lay advocate in the drafting of any Complaint or Petition to the court for relief.

Rule 21

Closure of Juvenile and Involuntary Commitment Proceedings

All juvenile proceedings and hearings for involuntary commitment shall be closed to the general public. Only parties, witnesses, or persons with a legitimate interest in the proceedings may attend. Immediate family shall be deemed to have a legitimate interest, unless excluded by the court for good cause.

**STANDING ROCK SIOUX TRIBAL COURT
STANDING ROCK SIOUX INDIAN RESERVATION**

RULES OF COURT

Promulgated: June 10, 2009

Rule 22, Amended

Practice by Law Students

It is in the interest of the Tribe that law students gain a competence in Indian Law and Tribal Court practice. The Chief Judge may permit the practice by law students of the University of North Dakota School of Law and the University of South Dakota School of Law before the Tribal Courts, on the following conditions:

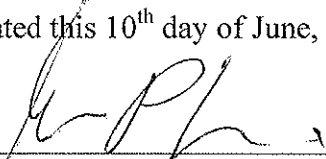
1. That any student must be first qualified and accepted for practice under the student practice provisions in the courts of North Dakota or South Dakota and so certified by the supervising attorney.
2. That any student practicing before the Tribal Court shall be subject to supervision by an attorney admitted to Tribal Court and subject to the same limitations of practice as provided by the laws of the state his or her limited admission.
3. The supervising attorney shall be responsible to the Tribal Court and the student's admission to practice before the Tribal Court shall be ancillary to under the Tribal license of the supervising attorney.

If under the supervision of a lawyer employed by the Standing Rock Sioux Tribe, the Chief Judge may allow the appearance in Tribal Court of any law student enrolled in any ABA accredited law school, subject to conditions 2 and 3.


**ADMINISTRATIVE ORDER
ADOPTING RULE OF COURT**

Pursuant to the authority of Section 1-104 of the Standing Rock Sioux Tribe Code of Justice, the foregoing Rule of Court, Rule 22 Amended, is adopted as a Rule of Court for the Standing Rock Sioux Tribal Court.

Dated this 10th day of June, 2009,



William P. Zuger
Chief Judge



Michael T. Swallow
Associate Chief Judge

RESOLUTION NO. 688-09

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, Section 1[a], 1[b], 1[c], 1[h], and 1[j], is authorized to negotiate with Federal, State and local governments and others on behalf of the Tribe, and is further authorized to promote and protect the health, education and general welfare of the members of the Tribe and to administer such services that may contribute to the social and economic advancement of the Tribe and its members; and is further empowered to authorize the direct subordinate boards, committees or Tribal Officials to administer the affairs of the Tribe and to carry out the directives of the Tribal Council; and is empowered to manage, protect and preserve the property of the Tribe and natural resources of the Standing Rock Sioux Reservation; and

WHEREAS, the Tribal Council has passed civil regulatory laws for the protection of the land, water, environment, fish and wildlife and cultural resources of the Standing Rock Sioux Indian Reservation, and to promote the general health and welfare of the enrolled members of the Standing Rock Sioux Tribe; and

WHEREAS, in furtherance of its sovereign power, and to generate revenue for essential government services, the Tribal Council has enacted numerous taxes and fees; and

WHEREAS, under Federal Law, Indian Tribes possess civil jurisdiction over non-Indians on fee lands when they enter consensual relations with the Tribe; and

WHEREAS, in order to exercise Tribal sovereignty in a manner consistent with the Constitution of the Standing Rock Sioux Tribe, and Federal Law, it is and shall be necessary to ensure that all person, corporations, businesses and other entities that enter consensual relations with the Tribe, fall under the civil jurisdiction of the Standing Rock Tribal Court;

NOW THEREFORE BE IT RESOLVED, that the Standing Rock Sioux Tribal Council hereby approves of the attached *Ordinance for the Civil Regulation of Persons and Entities who Enter Consensual Relations with the Standing Rock Sioux Tribe*, as Section 1-110 of the Standing Rock Sioux Tribe Code of Justice; and

BE IT FURTHER RESOLVED, that, upon the enactment of this Ordinance, the Chairman and the Judicial Committee shall take such actions as deemed necessary to incorporate the requirements of this Ordinance into the SRST Financial Management Manual; and

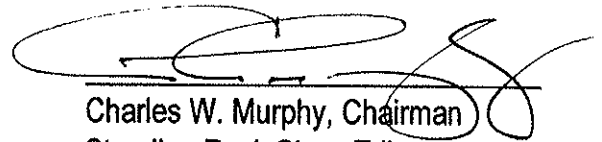
BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION


We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of [17] member, of whom 13, constituting a quorum, were present at a meeting duly and regularly, called, noticed, convened and held on the 1st day of **DECEMBER, 2009**, and that the foregoing resolution was duly adopted by the affirmative vote of 11 members, with 0 and with 2 not voting. **THE CHAIRMAN'S VOTE IS NOT REQUIRED, EXCEPT IN CASE OF A TIE.**

DATED THIS 1st DAY OF DECEMBER, 2009.

ATTEST:



Charles W. Murphy, Chairman
Standing Rock Sioux Tribe



Adele M. White, Secretary
Standing Rock Sioux Tribe

[OFFICIAL TRIBAL SEAL]

Meeting Date: 12-01-2009
Motion No.: 61

**STANDING ROCK SIOUX TRIBE
CODE OF JUSTICE**

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TITLE I. COURTS

Chapter I. Standing Rock Sioux Tribal Court

1-101. Creation of the Court.

There is hereby established the Standing Rock Sioux Tribal Court as a court of record.

1-102. Composition of the Court.

The Court shall consist of a chief Judge and an Associate Chief Judge, each of whose duties shall be regular and permanent, and as many Associate Judges as the Tribal Council may from time to time determine to be necessary to carry on the business of the Court. The Associate Judges may be called to service by the Chief Judge or the Associate Chief Judge when occasion requires.

1-103. Records of Court.

The Court shall keep a record of all proceedings of the Court, showing the title of the case; the names and addresses of the parties, attorneys and witnesses; the substance of the complaint; the dates of hearings or trials; the name of the judge; the verdict of the jury and the judgment; the preservation of testimony for perpetual memory by electronic recording, or otherwise, together with any other facts or circumstances deemed of importance to the case. A record of all proceedings leading to incarceration shall be submitted to the Superintendent, Standing Rock Agency, to be made a part of the records of the Agency office as required by 25 U.S.C. 200. Unless specifically excepted by this Code, the records of the Court shall be public.

1-104. Rules of Court..

The Chief Judge and Associate Chief Judge, together, may prescribe written rules of Court consistent with the provisions of this Code. The rules shall be delivered to the Chairman of the Standing Rock Sioux Tribal Council.

1-105. Services to Court by Tribal or Federal Employees.

The Court may request and utilize social service, health, education, or other professional services of tribal employees as requested, and of federal employees as authorized by the Secretary of the Interior of his authorized representative.

1-106. Criminal Jurisdiction of the Standing Rock Sioux Tribal Court.

The Court shall have jurisdiction over all offenses committed by an Indian within the boundaries of the Standing Rock Indian Reservation against the law of the Tribe as established by duly enacted ordinances of the Tribal Council.

1-107. Civil Jurisdiction of the Standing Rock Sioux Tribal Court.

The judicial power shall extend to all cases in law and equity arising under the Tribal Constitution, the customs or the laws of the Tribe, and to any case in which the Tribe, a member of the Tribe, an Indian residing on the Reservation or a corporation or entity owned in whole or in substantial part by any Indian shall be a party.

1-108. Tribe Immune From Suit.

The Tribe shall be immune from suit, except to permit garnishment of Tribal employee wages in accordance with Title II, Section 2-211 of this Code.

1-109. Suits Against Tribal Officials.

(a) Suits for Money Damages. No elected official or employee of the Tribe shall be subject to suit for money damages for actions taken in the course of his official duties, or in the reasonable belief that such actions were within the scope of his official duties unless, in the case of a tribal employee who does not hold elected office, it is established that such action was taken with malicious intent and in bad faith.

(b) Suits Seeking Declaratory and Equitable Relief. The Court shall have exclusive jurisdiction over all suits in which tribal officials are defendants, except habeas corpus proceedings authorized by 25 U.S.C. 1303, where only declaratory and equitable relief is sought and where service of process has been made under Section 2-102 (c) and proof such service has been received by the Court.

1-110. Jurisdiction over Persons or Entities who Enter Consensual Relations With Standing Rock Sioux Tribe

(a) For the purpose of this Ordinance, the term "person," includes a corporation, partnership, business or any other legal entity.

(b) Every person who enters a contract with the Standing Rock Sioux Tribe, or an agency, instrumentality or corporation of the Tribe shall be required to consent to the civil jurisdiction of the Tribe. Consultant agreements and other contracts shall contain the following clause, or language substantially similar to the same,

"This agreement constitutes a consensual relationship with the Standing Rock Sioux Tribe, and, as such, the contractor shall be deemed to consent to all applicable Tribal Laws and Regulations."

(c) Every request for bids or request for proposals for a contract for construction, professional services, or sales of durable goods, shall contain the following clause, or language substantially similar to the same,

“The person or firm awarded the contract shall be entering a consensual relationship with the Standing Rock Sioux Tribe, and, as such, the contractor shall be deemed to consent to all applicable Tribal Laws and Regulations.”

(d) Every lease for Tribal land shall include a provision or an addendum containing the following clause, or language substantially similar to the same,

“This lease agreement constitutes a consensual relationship with the Standing Rock Sioux Tribe, and as such, the lessee consents to all applicable Tribal Laws and Regulations.”

(e) The Tribal Council may waive the requirements of this section, upon a finding of good cause therefore.

Chapter 2. Supreme Court of the Standing Rock Sioux Tribe

1-201. Creation of the Supreme Court.

There is hereby created a Supreme Court of the Standing Rock Sioux Tribe.

1-202. Jurisdiction of the Supreme Court.

The Supreme Court shall have exclusive jurisdiction of all appeals from final orders and judgments of the Standing Rock Tribal Court. The Supreme Court, or the Chief Justice alone, shall have jurisdiction (a) to take all steps necessary to preserve and protect the jurisdiction of the Court, (b) during the pendency of any appeal, to release the appellant on his own recognizance or an bail pursuant to Section 3-402 of this code, and (c) to make any order appropriate to preserve the status quo or to protect any ultimate judgment of the Supreme Court.

1-203. Composition of the Supreme Court.

The Court shall consist of a Chief Justice and two Associate Justices, none of whom shall be Judges of the Standing Rock Sioux Tribal Court.

1-204. Records of the Supreme Court.

The Supreme Court shall keep a record of all proceedings of the Court, showing the title of the case, the names and addresses of all parties and attorneys, the briefs, the date of any oral argument, the names of the Justices who heard and decided the

case, and the judgment, together with any other facts and circumstances deemed of importance to the case. A record of all proceedings leading to incarceration shall be submitted to the Superintendent, Standing Rock Indian Agency, to be made a part of the records of the Agency office as required by 25 U.S.C. 200. Unless specifically excepted by this Code, the records of the Court shall be public.

1-205. Place and Time of Sessions of the Supreme Court.

If the business of the Supreme Court requires, the Court shall hold up to four terms a year, two terms at Fort Yates, and two terms in the City of McLaughlin, as designated by the Chief Justice. The terms of court shall begin on the First Monday of February, the first Monday of May, the first Monday of August, and the first Monday of November, unless any such Monday is a legal holiday, in which case the term shall commence on the next day which is not a holiday. The Court shall dispose of all appeals on the docket before it ends the term. The Chief Justice, on his own initiative with approval of the Standing Rock Sioux Tribal Council, or upon request of the Council, may convene special terms of Court at such times and places as may be necessary.

1-206. Right of Appeal.

(a) Criminal Cases. The defendant in a criminal case shall have an appeal as right from a judge of conviction. The Tribe shall have no right of appeal from a jury verdict of "Not Guilty" in criminal cases, but shall have a right of appeal from a judgment of "Not Guilty" rendered by the Standing Rock Sioux Tribal Court without a jury. Appeals in criminal cases shall be taken as provided in Section 1-207.

(b) Civil Cases. Any party who is aggrieved by any final order or judgment of the Standing Rock Sioux Tribal Court may file a petition requesting the Supreme Court to review that order or judgment as provided in Section 1-208.

1-207. Procedure on Appeal of Criminal Cases.

(a) Time to Appeal and How to Appeal. An appeal must be taken within forty-five (45) days from the judgment appealed from by filing a written notice of appeal with the clerk of the Tribal Court. No extensions of the forty-five-day period shall be granted. Upon request, the clerk of the Tribal Court shall prepare the notice of appeal.

(b) Notice of Appeal. The notice of appeal shall specify the party or parties taking the appeal, shall designate the judgment, or part thereof, appealed from, and shall contain a short statement of reasons for the appeal. The clerk shall mail a copy of the notice of appeal to all parties other than the party taking the appeal.

(c) Designation of Parties. The party taking the appeal is an appellant. All other parties are appellees.

(d) Release on Bond Pending Appeal. In criminal cases, the defendant may be continued on release or be released on bail, as provided in Section 3-402 of this Code

by the Standing Rock Sioux Tribal Court. The appellant may petition the Supreme Court, or the Chief Justice thereof, to review any decision of the Standing Rock Sioux Tribal Court taken under this section.

1-208. Procedure on Petition for Review.

(a) Time to Petition and How to Petition. A party to a civil case may petition for review. Upon request, the clerk of the Tribal Court shall prepare the petition for review. A petition for review must be taken within thirty (30) days from the date of entry of the final order or judgment appealed from by filing such petition with the clerk of the Tribal Court together with any bond required pursuant to Section 2-208. No extensions of thirty day period shall be granted.

(b) Contents of Petition for Review. The petition for review shall specify the parties taking the appeal, shall designate the final order or judgment, or part thereof appealed from, and shall contain a short statement of reasons why the petition should be granted. The clerk shall mail a copy of the petition for review to all parties other than the petitioner. Other parties shall have fifteen (15) days to respond to the petition for review, after which time the Supreme Court or the Chief Justice thereof shall grant the petition and allow the appeal to be heard or shall deny the petition.

(c) Designation of Parties. The party taking the appeal is an appellant. All other parties are appellees.

(d) Stay on Appeal. In civil cases, the petitioner may request the Standing Rock Sioux Tribal Court to stay the judgment pending action on the petition and on the appeal if the petition is granted, and either party may request the Standing Rock Sioux Tribal Court to grant or stay an injunction pending appeal. The Court may condition a stay or injunction pending appeal on the depositing of case or a bond satisfactory to the Tribal Court. The cash or bond may be effective when the deposit of cash or bond is approved by the Tribal Court. The appellant may petition the Supreme Court, or the Chief Justice thereof, to review any decision of the Standing Rock Sioux Tribal Court under this section.

1-209. Judgment Against Surety.

Any surety to a bond thereby submits himself to the jurisdiction of the Standing Rock Sioux Tribal Court, and irrevocably appoints the clerk of the Court as his agent upon whom any papers affecting his liability on the bond may be served. The liability of a surety may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the Court prescribes may be served on the clerk of the Court who shall forthwith mail copies to the surety at his last known address.

1-210. Record of the Standing Rock Sioux Tribal Court.

Within five (5) days after a notice of appeal is filed in criminal cases, or petition for review is filed in civil cases, the clerk of the Standing Rock Sioux Tribal Court shall certify and file with the Supreme Court all papers comprising the record in the case.

1-211. Briefs and Memoranda.

Within thirty (30) days after the notice of appeal is filed or a petition for review is granted, or within such other time as the Court allows, the appellant may file a written brief, memorandum, or statement in support of his appeal. An original, and one copy for each appellee, shall be filed with the clerk who shall mail one copy, registered or certified mail, return receipt requested, to each appellee. The return receipt shall be filed with the clerk.

The appellee shall have fifteen (15) days after receipt of the appellant's brief, memorandum, or statement, or such other time as the Court allows, within which to file an answer brief, memorandum, or statement if he desires. An original, and one copy for each appellant, shall be filed with the clerk who shall mail one copy, registered or certified mail, return receipt requested, to each appellant. The return receipt shall be filed with the clerk.

No further briefs, memoranda, or statements shall be allowed without leave of Court.

1-212. Oral Argument.

The supreme Court shall assign all criminal cases for oral argument. The Supreme Court may in its discretion assign civil cases for oral argument or may dispose of civil cases on the briefs without argument.

1-213. Separate Docket for Supreme Court.

A separate docket shall be maintained for the Supreme Court in which all actions taken at each stage of the proceedings in the Supreme Court shall be recorded.

1-214. Rules of Supreme Court.

Written rules of Supreme Court consistent with the provisions of this Code may be prescribed by the Chief Justice of the Supreme Court. The rules shall be delivered to the Chairman of the Standing Rock Sioux Tribal Council.

Chapter 3. Judges and Justices

1-301. Qualifications of Judges and Justices.

To be eligible to hold the office of Judge or Justice, a person; (1) must be at least 25 years of age for Chief Judge, Chief Justice or Associate Chief Judge and 21 years of age for the offices of Associate Judges and Associate Justices; (2) must be of high moral character and integrity; (3) must have never been convicted of a criminal offense, other than traffic offenses, for which a punishment of imprisonment was imposed; (4) must not have been dishonorably discharged from the Armed Services; and (5) must be physically able to carry out the duties of the office. The Chief Judge, Chief Justice and the Associate Chief Judge must have a degree in law from an accredited law school and be a member in good standing of the bar of any state or federal court. All Associate Judges and Justices must be a high school graduate or its equivalent.

1-302. Initial Appointment of Judges and Justices.

Each Judge and Justice shall initially be appointed by a two-thirds vote of the Tribal Council taken by roll call at a meeting at which a quorum is present. After May 11, 1984, Judges and Justices shall be appointed for an initial term commencing with the date fixed by the Tribal Council and ending at the next regular tribal elections, unless removed for cause as provided in the Tribe's Amended Constitution and Code of Justice. Should a vacancy in a judgeship occur between sessions of the Tribal Council, the Chairman of the Tribal Council may fill the vacancy, subject to confirmation by a two-thirds vote of the Tribal Council taken by roll call vote at the next meeting of the Tribal Council at which a quorum is present.

1-303. Oath of Office.

On taking office, each judge shall take an oath as follows:

I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the Standing Rock Sioux Tribe and uphold tribal law and the Treaty of April 29, 1868 and will faithfully discharge the duties of my office according to the best of my ability, so help me God."

1-304. Referendum of Judges and Justices.

(a) Each Judge or Justice appointed by the Council who is validly holding office on May 11, 1984 shall be subject to a referendum at the regular tribal election for the year of 1984. Each Judge or Justice appointed after May 11, 1984 pursuant to Section 1-302, shall be subject to a referendum at the next regular tribal election following the appointment. At the election, the qualified voters of the Tribe shall vote by referendum on whether each such Judge or Justice shall be retained in Office. The referendum shall read, in substance, "Whether__(name)__shall be retained as a Judge (or Justice)

of the Standing Rock Sioux Tribal Court (or Standing Rock Sioux Supreme Court) YES /___/ NO /___/.”

(b) The referendum on each Judge or Justice shall appear on a Notice of Election at least 50 days prior to the election, provided that the Council may fix a shorter period if necessary. In all other respects the referendum elections regarding Judges and Justices shall be as provided in Title XV of this Code.

(c) If a majority of the votes cast by qualified voters of the Tribe are in favor of retaining the Judge or Justice in office, the Judge or Justice shall serve a four (4) year term, beginning with the date of the election, unless removed for cause as provided in the Tribe's Constitution and Code of Justice. If a majority of the votes cast by the qualified voters of the Tribe are against retaining the Judge or Justice in office, the Tribal Council shall appoint a successor and the Judge or Justice shall remain in office until his successor is so appointed and sworn in.

(d) Each Judge or Justice whose four-year term expires shall be subject to another referendum election at the regular tribal election which is concurrent with the expiration of that term.

1-305. Duties of Judges and Justices.

(a) The Judges and Justices shall administer justice and discharge all duties impose upon them by law and shall hear and decide causes and enter judgments or orders disposing of each cause. The chief Judge of the Standing Rock Sioux Tribal Court shall be responsible for the administration of the Court, the assignment of cases and the management of the Court's calendar and business and shall in the absence of a clerk of court, perform the clerk's duties in addition to his own. All judges of the Court shall have the power to receive cash bail whenever the clerk is not available.

(b) All Judges of the Standing Rock Sioux Tribal Court shall (1) issue arrest warrants, search warrants and summonses when occasion requires; (2) deputize special tribal police officers when occasion requires; and (3) perform all other duties specifically assigned to them by this Code.

1-306. Compensation and Bond of Judges and Justices.

The compensation of the Chief Judge, Chief Justice, Associate Chief Judge and Associate Judges and Associate Justices shall be fixed by the Tribal Council or the United States, dependent on which pays the compensation. The rates of compensation so established may not be decreased during their term of office. The Chief Judge and Associate Chief Judge shall be bonded by a surety bond satisfactory to the Tribal Council or the United States depending on which pays the compensation. Justices of the Supreme Court shall receive compensation only for those days they sit as members of the Supreme Court or otherwise perform the duties of their office.

1-307. Removal of Judges and Justices.

Upon written charges of specific misconduct in office or physical or medical inability to carry out the duties of office made by any member of the Tribal Council, adopted by a two-thirds vote of those voting at a meeting of the Tribal Council at which a quorum is present, the Council may initiate proceedings to remove a Judge or Justice from office. "Misconduct", as used in this section, shall mean:

- (a) conviction of a felony, or a misdemeanor involving dishonesty or acts offensive to the morals of the community;
- (b) repeated abusive or clearly incompetent performance of duties in office, or repeated failure to perform the duties of office.

All charges shall be in writing and served on the Judge or Justice personally, or by certified or registered mail, return receipt requested, as promptly as possible after adoption by the Tribal Council and not less than ten nor more than twenty days prior to the date of hearing before the Tribal Council on the charges. The Council in its discretion may direct that the Judge or Justice shall be suspended from duty for not to exceed twenty days between the time charges are authorized and the date of hearing on the charges. A Judge or Justice so charged shall be given as opportunity to answer by written and oral presentation before the Council, to have the charges proven only by sworn testimony of witnesses and documentary evidence, to have the right to cross-examine witnesses and to present his own witness, and to have the right to be represented by counsel at his own expense at the hearing. After hearing, or default, a Judge or Justice may be removed by a vote of two-thirds of those voting taken by secret ballot at a meeting of the Tribal Council at which a quorum is present. The decision of the Tribal Council shall be final.

1-308. Disqualification of Judges or Justices in Particular Cases.

A Judge or Justice shall disqualify himself in any proceeding in which his impartiality might reasonable be questioned, in which he has any personal bias or prejudice concerning any party, in which he or a member of his immediate family might be a witness or has any personal knowledge of disputed evidentiary facts concerning the proceeding, in which he or any member of his immediate family is a party or has any financial or other interest in the proceeding or has acted or is acting as a lawyer or lay counselor in the proceeding, or in which he might otherwise appear to be biased or prejudiced.

Chapter 4. Court Administration

1-401. Office of Clerk.

There shall be a chief clerk of court and such assistant clerks of court as may be necessary. The chief clerk shall serve as clerk of both the Standing Rock Sioux Tribal Court and Supreme Court.

1-402. Qualifications.

To be eligible to serve as chief clerk of court, a person(1) must be at least 21 years of age; (2) must be of high moral character and integrity; (3) must be a high school graduate or equivalent; (4) must be proficient in typing; (5) must never have been convicted of a felony; (6) must never have been dishonorable discharged from the Armed Services; (7) must be physically able to carry out the duties of the office; (8) must be a member of the Standing Rock Sioux Tribe; and (9) must be able to understand the Sioux Language and to communicate in English. To serve as an assistant clerk of court, a person must satisfy all the foregoing requirements except that an assistant clerk shall be at least 18 years of age. Preference shall be given to persons able to speak the Sioux Language.

1-403. Appointment, Compensation and Bond.

The clerk and assistant clerks of court shall be appointed as provided in the Personal Policies and Procedures of the Standing Rock Sioux Tribe. The chief clerk shall be bonded. The compensation of the chief clerk and amount of the clerk's bond and the compensation of assistant clerks shall be fixed by the Tribal Council or the United States, depending on which pays the compensation.

1-404. Oath of Office.

Before entering upon the duties of office, the clerk and assistant clerks shall take the following oath or affirmation:

"I, _____, Having been appointed clerk of the Tribal Court, do solemnly swear (or affirm) that I will truly, faithfully, and impartially discharge all duties of my office to the best of my abilities and understanding. So help me God."

1-405. Termination of Services.

Termination of services of a clerk or any assistant clerk shall be governed by the Personnel Policies and Procedures of the Standing Rock Sioux Tribe.

1-406. Duties.

The clerk shall assist the courts, the authorized law enforcement officers of the Reservation, and Indians of the Reservation, in preparing all necessary papers including complaints, subpoenas, warrants, and notices of appeal, petitions for review, and other documents relating to the functions of the courts. The clerk shall attend and keep written records of all proceedings of the Courts, administer oaths and collect fines, costs, fees, and other moneys. The clerk shall account to the authorized authority for all moneys collected.

1-407. Tribal Court Administrator.

A Tribal Court Administrator shall be appointed as provided in the Personnel Policies and Procedures of the Standing Rock Sioux Tribe.

1-408. Qualifications.

To be eligible to serve as the Tribal Court Administrator, a person (1) must be at least 25 years of age; (2) must be of high moral character and integrity; (3) must be a college graduate or equivalent; (4) must never have been convicted of a felony; (5) must never have been dishonorable discharged from the Armed Services; and (6) must be physically able to carry out the duties of the office. Preference shall be given in selection of the Tribal Court Administrator to members of the Standing Rock Sioux Tribe, and to persons able to speak and understand the Sioux language.

1-409. Compensation and Bond.

The Tribal Court Administrator shall be bonded. The compensation of the Tribal Court Administrator and amount of the bond shall be fixed by the Tribal Council or the United States, depending on which pays the compensation.

1-410. Oath of Office.

Before entering upon the duties of office, the Tribal Court Administrator shall take the following oath or affirmation:

" I, _____, having been appointed Tribal Court Administrator of the Tribal Court, do solemnly swear (or affirm) that I will truly, faithfully, and impartially discharge all duties of my office to the best of my abilities and understanding. So help me God."

1-411. Termination of Services.

The services of the Tribal Court Administrator may be terminated as provided in the Personnel Policies and Procedures of the Standing Rock Sioux Tribe.

1-412. Duties.

The Tribal Court Administrator shall be responsible for the planning and management of the administration of the Supreme Court and the Standing Rock Sioux Tribal Court. He shall supervise all employees of the Supreme Court and the Standing Rock Sioux Tribal Court, except for Judges, Justices, and tribal court prosecutor and tribal public defender. The Tribal Court Administrator shall plan, prepare, and manage the budget, acquisition of supplies and services, and the necessary financial accounting practices of the courts, and shall oversee all recordkeeping and reporting of the courts.

Chapter 5. Tribal Court Prosecutor and Public Defender

1-501. Office of Tribal Court Prosecutor.

There shall be a tribal court prosecutor, and such assistant prosecutors as the Tribal Court may determine.

1-502. Qualifications.

(a) To be eligible to serve as a Tribal Court prosecutor or assistant prosecutor, a person shall (1) be a member in good standing of the bar of any state or federal court; (2) be at least 21 years of age; (3) be of high moral character and integrity; (4) have a degree on law school from an accredited law school; (5) have never been convicted of a felony; (6) not have been dishonorably discharged from the Armed Services; (7) be physically able to carry out the duties of the office.

(b) To be eligible to serve as tribal court prosecutor or assistant prosecutor, a person shall be qualified as spelled out in Chapter 6 Section 1-601 (b) (7) Qualifications to admission as attorney.

1-503. Appointment and Compensation.

The tribal court prosecutor shall be appointed by a two-thirds vote of the Tribal Council taken at a meeting at which a quorum is present. Assistant tribal prosecutors shall be appointed by a majority vote of those voting at a meeting of the Tribal Council at which a quorum is present. The Tribal Court shall establish rates of compensation of the tribal court prosecutor and any assistants.

1-504. Oath of Office.

Before entering upon the duties of office, the tribal court prosecutor and assistant prosecutors shall take the following oath of affirmation:

"I, _____, do solemnly swear (or affirm) that I will truly, faithfully and impartially discharge all duties of my office as prosecutor to the best of my abilities and understanding. So help me God."

1-505. Term of Office.

The term of office for the tribal court prosecutor and assistant prosecutors shall be two years. The initial appointment shall be for a probationary period of not to exceed six months. An incumbent shall be eligible for reappointment.

1-506. Duties.

The tribal court prosecutor and assistant prosecutors shall, in the name of the Tribe, prosecute criminal cases in Tribal Court. The prosecutors shall supervise the gathering of evidence by law enforcement officers to make sure each case is promptly and fairly presented, shall be authorized to represent the Tribe at arraignments, and shall be authorized to dismiss any criminal complaint that is not supported by sufficient evidence or is improvidently brought. The tribal court prosecutor and assistant prosecutors shall represent juveniles in Juvenile Court proceedings where parents or guardians are charged with neglect, abuse or abandonment, or where the custody of a child is disputed. The tribal court prosecutor shall make recommendations from time to time to the Tribal Court on the administration of justice on the Reservation.

1-507. Termination of Services of Tribal Court Prosecutor.

The services of the tribal court prosecutor may be terminated with cause upon a two-thirds vote of the Tribal Council taken at a meeting at which a quorum is present. Any assistant prosecutor may be terminated with cause upon a majority vote of the Tribal Council at a meeting at which a quorum is present.

1-508. Office of Tribal Public Defender.

The Tribal Council may appoint a tribal public defender and any assistants it deems necessary by a majority vote of those voting at a meeting of the Tribal Council at which a quorum is present.

1-509. Qualifications.

(a) To be eligible to serve as tribal public defender or assistant defender, a person shall (1) be a member in good standing of the bar of any state or federal court; (2) be at least 21 years of age; (3) be of high moral character and integrity (4) have a degree in law from an accredited law school; (5) have never been convicted of a felony; (6) not have been dishonorably discharged from the Armed Services; (7) be physically able to carry out the duties of the office.

(b) To be eligible to serve as tribal public defender or assistant public defender, a person shall be qualified as spelled out in Chapter 6 Section 1-601 (b) Qualifications to admission as attorney.

1-510. Compensation.

The Tribal Council shall establish rates of compensation for the tribal public defenders and assistants.

1-511. Oath of Office.

Before entering upon the duties of office, the tribal public defender and assistant defenders shall take the following oath or affirmation:

"I, _____, do solemnly swear (or affirm) that I will truly, faithfully, and impartially discharge all duties of my office as defender to the best of my abilities and understanding. So help me God."

1-512. Term of Office.

The term of office for the tribal public defender and assistants shall be for one year. An incumbent shall be eligible for reappointment.

1-513. Duties.

The tribal public defender and assistants shall, without charge, represent persons accused of crimes in Tribal Court with consent of the defendant. Representation shall be provided at all stages of the proceeding following the filing of a complaint, and the tribal public defender shall take all necessary steps to investigate the facts of any case and shall have access to all tribal and BIA social services personnel.

1-514. Termination of Tribal Public Defender.

The tribal public defender and assistants may be terminated at any time with cause upon a majority vote of the Tribal Council at a meeting at which a quorum is present.

1-515. Exemption from Personnel Policies and Procedures.

The tribal court prosecutor and assistants and the tribal public defender and assistants shall be exempt from the Personnel Policies and Procedures of the Standing Rock Sioux Tribe.

Chapter 6. Attorneys and Lay Counselors

1-601. Qualifications to Admission as Attorney

(a) No person may practice as an attorney before the Standing Rock Sioux Tribe Court or the Supreme Court unless admitted to practice and enrolled as an attorney of the Tribal Court upon written application. Any attorney at law who is a member in good standing or the bar of any state or federal court shall be eligible for admission to practice before the Tribal Court.

(b) Any Indian of the Reservation shall be admitted to practice before the Court as a lay counselor upon application accompanied by proof satisfactory to the Court (1) that he is at least 21 years of age; (2) that he is a person of good moral character and integrity; (3) that he has successfully completed at least two years of high school or its equivalent; (4) that he has never been convicted of a felony for which he has not received a pardon or restoration of civil rights; (5) that he has not been dishonorably discharged from the Armed Services; (6) that he is not a member of the Tribal Council or Judge, Justice or employee of the Tribal Court or Supreme Court; and (7) that the Tribal advocate or lay counselor shall have completed a basic tribal advocacy course offered by Dakota Plains Legal Services, Standing Rock Community College, the American Indian Lawyer Training Program for Tribal Advocates, or training program approved by the Judicial Committee of the Standing Rock Sioux Tribe. Such a course shall be at least 20 hours in duration and shall include instruction in Trial Procedure.

(c) Nothing in this section shall affect the right of any person to represent himself in any proceeding, with the approval of the court.

1-602. Oath Upon Admission.

As a condition to admission, each attorney and lay counselor shall take the following oath or affirmation:

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States of American against all enemies, foreign and domestic; that I will faithfully discharge all duties incumbent on me as an attorney to the best of my abilities and understanding. So Help me God."

1-603. Attorneys' Roll.

A roll of attorneys and lay counselors admitted to practice before the Court shall be maintained by the clerk of Court.

1-604. Disbarment.

The Tribal Court or the Supreme Court may disbar an attorney or lay counselor from practice before the Courts, or impose suspension from practice for such time as the Court deems appropriate on any of the following grounds:

- (a) False swearing
- (b) Conviction of a felony
- (c) Disbarment by a federal or state court
- (d) Conduct unbecoming an officer of the Court
- (e) Behavior in violation of the Code of Professional Responsibility

1-605. Right to Counsel.

Any person at his own expense may have assistance of counsel of his choice.

1-606. Council Members Shall Not Practice as Attorneys or Lay Counselors.

No member of the Tribal Council shall practice before the Tribal Court or the Supreme Court during his term of office.