

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 42-2004
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**

WHEREAS, the Hualapai Tribe is presently operating its Tribal Court and Police Department under an outdated Law and Order Code; and

WHEREAS, considerable time and work has been expended in working to develop and finalize a new Hualapai Law and Order Code based on the procedural standards required by the Indian Civil Rights Act, as amended.


NOW, THEREFORE, BE IT RESOLVED, that the Hualapai Tribal Council assembled this day of June 02, 2004, does hereby approve the attached revised Ordinance 9, Hualapai Law and Order Code, and hereby adopts said revised and updated Law and Order Code to be used to govern the administration of the justice by the tribe's criminal justice system.

BE IT FURTHER RESOLVED, that this revised Ordinance 9, Hualapai Tribal Law and Order Code, supercedes and replaces any and all prior Hualapai Law and Order Codes.

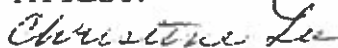
BE IT FURTHER RESOLVED, that this revised Ordinance 9, will go into effective midnight, July 01, 2004.

CERTIFICATION

I, the undersigned as Chairwoman of the Hualapai Tribal Council hereby certify that a Hualapai Tribal Council of the Hualapai Tribe is composed of nine(9) members of whom 8 constitution a quorum were present at a **SPECIAL COUNCIL MEETING** thereof held on this **02nd day of June, 2004**; and that the foregoing resolution was duly adopted by a vote of 8 in favor, 0 opposed, 0 not voting, 1 excused pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.


Louise Benson, Chairwoman
Hualapai Tribal Council

ATTEST:


Christine Lee, Secretary
Hualapai Tribal Council

LAW AND ORDER CODE

HUALAPAI TRIBE

July 2004

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**CHAPTER 1
GENERAL PROVISIONS**

Sec. 1.1 Constitutional Authority

This Code is adopted pursuant to the authority vested in the Hualapai Tribal Council under Article V, and in conformity with the provisions of Articles VI, IX, XIV and XVI, of the Constitution of the Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona, approved March 13, 1991.

Sec. 1.2 Prior Inconsistent Codes and Ordinances

Any code or ordinance of the Tribe that conflicts in any way with the provisions of this Code is hereby repealed to the extent that it is inconsistent with or is contrary to the spirit or purpose of this Code.

Sec. 1.3 Sovereign Immunity

Nothing in this Code, nor any individual Chapter or Section herein, shall be construed to be a waiver of the sovereign immunity of the Hualapai Tribe, its officers, officials, employees, agents, subdivisions or enterprises or corporate entities of any nature or type or to be a consent to any suit beyond the limits now or hereafter specifically stated by Tribal law.

Sec. 1.4 Territory, Persons and Property Affected

The jurisdiction and governmental authority of the Hualapai Indian Tribe applies to all of the following:

- A. All lands and related resources, including water, minerals, vegetation, wildlife, and air space, roads and bridges or any interests therein, notwithstanding the issuance of any patent or right-of-way, within the boundaries of the Hualapai Indian Reservation as established by the Executive Orders of January 4, 1883 and June 2, 1911, and Public Law No. 93-560, December 30, 1974; any and all lands and appurtenant resources held by the Hualapai Indian Tribe located outside the boundaries of the Hualapai Indian Reservation, whether trust or non-trust status, to the extent permitted by federal law; and such other lands and appurtenant resources or any interest therein subsequently acquired by the Hualapai Indian Tribe or by the United States for the benefit of the Hualapai Indian Tribe, or added to the Hualapai Indian Reservation.
- B. All persons, property and activities occurring within the geographical areas referred to in Subsection A, to the extent not prohibited by federal or Tribal law.

- C. All members of the Hualapai Indian Tribe.
- D. All persons and property outside the geographical areas referenced in Subsection A, to the extent not prohibited by federal or Tribal law, including any person who personally or through an agent does any of the following:
 - 1. Transacts any business on the Hualapai Indian Reservation or transacts any business concerning any property located on the Hualapai Indian Reservation;
 - 2. Commits a tortious act on the Hualapai Indian Reservation; or
 - 3. Contracts with any person located on the Hualapai Indian Reservation.

Sec. 1.5 Full Faith and Credit

It is the intention of this Code that all federal and state courts shall give full faith and credit to the public acts, records and judicial proceedings of the Hualapai Indian Tribe as to any proceeding brought under this Code to the same extent that full faith and credit is given to the public acts, records and judicial proceedings of any state as provided for in the United States Constitution.

Sec. 1.6 Construction

- A. This Code shall be liberally construed to effect its purpose and to promote substantial justice.
- B. As used in this Code, the singular includes the plural and the plural the singular; and the masculine includes the feminine and the feminine the masculine.

Sec. 1.7 Amendment

This Code may be amended in the manner provided for the adoption of Tribal ordinances. Amendments and additions to this Code shall become a part of the Code for all purposes and shall be codified and incorporated herein in a manner consistent with the numbering and organization of this Code.

Sec. 1.8 Definitions

As used in this Code, unless otherwise expressly provided, the following terms shall have the following meanings:

- A. "Business Day" means a day of the week other than a Saturday, a Sunday or a Federal or Tribal holiday.

- B. "Civil" refers to any non-criminal issue, matter, subject, case or controversy.
- C. "Clerk" means the Clerk of the Hualapai Tribal Court, or any employee or officer thereof.
- D. "Constitution" or "Tribal Constitution" means the Constitution of the Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona, adopted by the Hualapai Tribe February 14, 1991, and approved by the Department of the Interior March 13, 1991.
- E. "Contraband" means any dangerous item, drug or substance, the possession, sale, transportation or use of which has been deemed an offense under Tribal or Federal law; or any firearm or other weapon seized under Tribal or Federal law.
- F. "Criminal" refers to those offenses under this Code and any other Tribal law for which, upon conviction, a person may be subject to a fine or imprisonment or both, and to the cases involving such alleged offenses and to the procedures for their trial or other disposition.
- G. "Court" or "Tribal Court" means the Hualapai Tribal Court or any branch or division thereof.
- H. "Federal Law" includes statutes, acts and regulations enacted or promulgated by any branch or agency of the United States government.
- I. "Imprisonment" means incarceration in any detention facility.
- J. "Indian" means a person who is a member of, or who is eligible for membership in a federally recognized Indian Tribe.
- K. "Member" or "Tribal Member" means an enrolled member of the Hualapai Indian Tribe.
- L. "Misdemeanor" means any offense defined in Chapter 6 of this Law and Order Code, or any offense defined by any other jurisdiction to be a misdemeanor.
- M. "Non-Indian" means a person who is not a member of, or who is not eligible for membership in, any federally recognized Indian Tribe.
- N. "Party" means a person who is a participant, or involved in or subject of or to, whether active or inactive, voluntary or involuntary, including one made a party by the action of another person, in or to a case, trial, hearing, controversy, matter, relationship or proceeding that is governed by this Code or other Tribal law.

- O. "Peace Officer" means any law enforcement officer or any other person who has been commissioned or deputized by the Tribal Council to administer justice and maintain law and order on the Hualapai Indian Reservation.
- P. "Person" means an individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, corporation, association, society, political entity, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise.
- Q. "Property" means realty and personalty, of whatever nature, including fixtures, money, claims, intangible rights and interests in property.
- R. "Public Place" means a place to which the general public has a right to resort; a place visited by many persons and usually accessible to the neighboring public. Any place so situated that what passes there can be seen by any considerable number of persons, if they happen to look. Also, a place exposed to the public, where the public gather together or pass through.
- S. "Reservation" or "Hualapai Indian Reservation" means the Hualapai Indian Reservation established by Executive Orders dated January 4, 1883 and June 2, 1911, and by Public Law No. 93-560, December 30, 1974, any and all additional lands hereafter acquired by the Tribe or by the United States in trust for and on behalf of the Tribe, including lands, islands, waters, roads and bridges, or any interests therein, whether in trust or non-trust status, and notwithstanding the issuance of any patent or right-of-way, and includes, without limitation, surface rights, subsurface rights, tenements, hereditaments, water rights, accretions and air space.
- T. "Resident" means any person who claims residency for a period of not less than 30 days and has a physical or mailing address within the exterior boundaries of the Reservation.
- U. "Serious misdemeanor" means a Tribal offense, or an offense defined as a misdemeanor by federal or state law, which involves violence or harm to a person, dishonesty, or a second or subsequent offense involving intoxication.
- V. "Signature" means the written signature, official seal, or witnessed thumbprint or mark of any person.
- W. "Tribal Council" means the Tribal Council of the Hualapai Indian Tribe elected, existing and functioning pursuant to the Constitution.
- X. "Tribal Law" means all laws duly enacted by the Hualapai Indian Tribe, including codes, ordinances and resolutions.

Y. "Tribe" or "Tribal" means and refers to the Hualapai Indian Tribe, a federally recognized Indian Tribe.

CHAPTER 2 THE TRIBAL COURT SYSTEM

Sec. 2.1 Reaffirmation of Court System

The Tribe hereby reaffirms establishment of a court system pursuant to the provisions of Article VI of Tribal Constitution, known as the Hualapai Court System, which consists of a Tribal Court, including such divisions thereof as provided for in this Code, and the Tribal Court of Appeals.

Sec. 2.2 Civil Jurisdiction

The Tribal Court shall have general civil jurisdiction over all actions arising under Tribal law, including the Constitution, this Code, any ordinance or resolution adopted by the Hualapai Indian Tribe, and the Tribal Common Law; over all general civil claims which arise within the Tribal jurisdiction; and over all transitory claims in which the defendants may be served within the Tribal jurisdiction.

Sec. 2.3 Criminal Jurisdiction

The Tribal Court shall have original jurisdiction over all criminal offenses enumerated and defined by Tribal law, including those set forth in Chapter 6 of this Code, insofar as not prohibited by Tribal or federal law.

Sec. 2.4 Personal Jurisdiction

The Tribal Court shall have personal jurisdiction over all defendants served within the territorial jurisdiction of the Tribe, or served anywhere in cases arising within the jurisdiction of the Tribe, and over all persons consenting to such jurisdiction. Any person entering the Hualapai Indian Reservation shall be deemed to consent to the exercise of personal jurisdiction over such person by the Tribal Court.

Sec. 2.5 Concurrent Jurisdiction

With respect to any of the offenses enumerated in Chapter 6 of this Code or otherwise defined by Tribal law over which federal, state or other tribal courts may have lawful jurisdiction, the jurisdiction of the Hualapai Tribal Court shall be concurrent. In accordance with the provisions of Section 5.30 of this Code, the Tribal Court may order delivery to the proper authorities of the federal or state government or any other tribe or reservation for prosecution, any offender, there to be dealt with according to the law of the government asserting jurisdiction.

Sec. 2.6 Composition of Tribal Court

The Hualapai Tribal Court shall be composed of one Chief Judge and such Associate

Judge(s) as may be determined necessary by the Tribal Council.

Sec. 2.7 Appointment of Judges and Filling of Vacancies

The Chief Judge and Associate Judge(s) shall be appointed by the Tribal Council. Should a vacancy occur through death, resignation, or otherwise, for the position of Chief Judge or Associate Judge(s), the Tribal Council shall appoint a person or persons to fill such vacancy or vacancies.

Sec. 2.8 Term of Office

Each Judge shall hold office for a period of two years, unless sooner removed for cause or by reason of the abandonment of the office; however, the Chief Judge and Associate Judge(s) shall be eligible for re-appointment.

Sec. 2.9 Qualifications

Any person shall be eligible for the office of Tribal Judge, regardless of whether he or she is a resident of the Hualapai Indian Reservation, if he or she meets all of the following criteria:

- A. He or she is 21 years of age or older.
- B. He or she is a graduate from high school and is proficient in reading, writing and speaking the English language.
- C. He or she has never been convicted of a felony, or, within one year of the date of application filed with the Hualapai Tribal Council, has not been convicted of a serious misdemeanor.
- D. He or she has never been removed from elected office for violation of the Hualapai Tribe's Code of Ethics.
- E. He or she is of good moral character.
- F. He or she consents to undergo such training as the Tribal Council or the Tribal Chairperson specifies.

Sec. 2.10 Disqualification to Act

No Judge shall be qualified to act in any case wherein the judge has any direct interest or wherein any relative by marriage or blood in the first degree is a party.

Sec. 2.11 Removal of Judges

Any Judge of the Hualapai Tribal Court may be suspended, dismissed or removed by

the Hualapai Tribal Council for any of the following reasons:

- A. Conviction of a felony in any court;
- B. Conviction of any two misdemeanors in any tribal, federal or state court;
- C. Performing official duties while under the influence of alcoholic beverages;
- D. Conviction, in any tribal, federal or state court, of driving under the influence of alcohol, or the equivalent crime;
- E. Failure to disqualify himself or herself under Section 2.10 above;
- F. Unnecessary and repeated lengthy delays in hearing and adjudicating matters filed in the Tribal Court;
- G. Violating Article VII, Section 13 of the Tribal Constitution;
- H. For good cause by at least seven members of the Tribal Council.
- I. A Judge shall be given full and fair opportunity to reply to any and all charges for which the judge may be suspended, dismissed or removed from the judge's judicial office.
- J. A Judge suspended, dismissed or removed under Subsections A through G of Section 2.11 may appeal such action directly to the Tribal Court of Appeals. Removal of a Judge under Subsection H of Section 2.11 shall be determined solely by the Tribal Council, and the Council's decision is non-appealable.

Sec. 2.12 Juvenile Court

The branch of the Hualapai Tribal Court known as the Juvenile Court is hereby reaffirmed. The jurisdiction, composition and procedure of the Juvenile Court shall be governed by the provisions of Chapter 13 of this Code.

Sec. 2.13 Family Conciliation Division

The Hualapai Tribal Court may establish a Family Conciliation Division. The jurisdiction, composition and procedure of which shall be governed by the provisions of Chapter 12 of this Code, and rules promulgated by the Tribal Court.

Sec. 2.14 Court of Appeals

The jurisdiction, composition and procedure of the Tribal Court of Appeals shall be governed by the provisions of Chapter 10 of this Code.

Sec. 2.15 Tribal Court Administrator; Duties

A Tribal Court Administrator, and such deputies and assistants as may be required to administer the Tribal Court, shall be employed by the Tribal Court. The Administrator shall render support assistance with complaints, subpoenas, warrants, commitments and any other documents incidental to the lawful function of the Court. The Administrator shall have authority to attend and keep a record of all proceedings of the Hualapai Tribal Court, to read complaints to defendants, to administer oaths to witnesses, to collect all fines paid pursuant to judgments and orders of the Court, and to make an accounting of all fines collected to the proper Tribal officials. The Administrator shall act as Clerk of the Court for all branches and divisions of the Hualapai Tribal Court.

CHAPTER 3
TRIBAL COURT PROCEDURE - GENERAL

Sec. 3.1 Application of Law

- A. In the decision of any matter before it, the Tribal Court shall apply written law as follows:
 - 1. The Tribal Constitution;
 - 2. Codes, ordinances and resolutions of the Tribe, including this Law and Order Code; and
 - 3. Any applicable laws of the United States.

- B. Except as required by federal law, no federal or state law or law of another tribe shall be applied by the Tribal Court unless specifically incorporated into Tribal law.

- C. In matters not addressed by the written law identified in Subsections A and B of this Section, the Tribal Court shall apply traditional Tribal customs and usages, which shall be called Tribal Common Law. When in doubt as to the Tribal Common Law, the Tribal Court may request the advice of counselors and tribal elders familiar with it.

- D. As to any matters that are not covered by the Tribal Constitution, codes, ordinances or resolutions of the Tribe or by Tribal Common Law or by applicable federal law or regulation, the Tribal Court may be guided by common law as developed by other Tribal, federal or state courts.

Sec. 3.2 Copies of Laws

Copies of all written Tribal law shall be maintained at the Tribal Court, and shall be made available for inspection during regular business hours by any person who is or may be subject to such laws.

Sec. 3.3 Time: Computation

In computing any time period established by this Code, the day of the act from which the time period to be calculated occurs shall not be included, but the last day of the time period shall be included. Unless otherwise specified, only Business Days shall apply in computing any time period of 10 or fewer days; for any time period greater than 10 days, calendar days shall be used.

Sec. 3.4 Pre-Trial Conference; Alternative Dispute Resolution

In every proceeding before the Tribal Court, prior to the trial of the matter, the Judge may review the matter and schedule a conference of the parties to determine if it may be appropriate to seek resolution by means other than the trial procedures set forth in this Code, such as through mediation, settlement, plea bargain, referral to the Family Conciliation or Wellness Court Division, or through other traditional Tribal dispute resolution mechanisms. In the event that such alternative dispute resolution is deemed inappropriate by the court and the parties, or that attempts to resolve the dispute through such alternative methods fails, the case shall be set for trial.

Sec. 3.5 Jury List

- A. A list of eligible jurors shall be prepared by the Tribal Court no later than July 20th of each year.
- B. An eligible juror is a Resident who has reached the age of 18 years, has not been convicted of a felony, and is not otherwise unqualified according to standards established by the Tribal Court.

Sec. 3.6 Jury: How Constituted

All civil and criminal juries shall consist of six individuals, drawn from the list of eligible jurors by some disinterested person or persons appointed by the Judge. Any party to a proceeding may challenge not more than two members of the panel so chosen. In case of challenges, additional jurors shall be drawn until six are selected.

Sec. 3.7 Jurors' Fees

Each juror who serves upon a jury shall be entitled to a fee for each day his or her services are required in Court, the amount of said fee to be determined by Tribal Council, and paid from the General Court Fund.

Sec. 3.8 Evidence

In any trial of a matter, the Tribal Court shall not be bound by any federal, state or common law rules of evidence, but may accept any evidence which it deems, in its discretion, necessary, relevant, reliable and probative; PROVIDED, however, that no evidence shall be admitted or omitted by the Court in violation of the Article VI, Section 13, or Article IX of the Tribal Constitution.

Sec. 3.9 Witnesses: Testimony

Except as otherwise provided by Tribal law, any party to a proceeding may call witnesses to testify at the trial of the matter. Witnesses may appear voluntarily, and must

appear if duly served with a subpoena issued pursuant to Section 3.11 below. Oral testimony shall be given in open court and under oath unless the Court directs otherwise for good cause.

Sec. 3.10 Witnesses: Subpoenas

All Tribal Court Judges shall have the power to issue subpoenas for the attendance of witnesses either on their own motion or on motion of a party to the case. Each subpoena shall bear the signature of the issuing Judge, and shall provide that witnesses subpoenaed in behalf of the Hualapai Tribe. Subpoenas shall be served in accordance with Section 4.5.

Sec. 3.11 Failure to Obey Subpoena

Failure to obey a subpoena duly issued and served under Section 3.11 above shall be deemed an offense against the Hualapai Indian Tribe punishable as provided in Chapters 6 and 8 of this Code.

Sec. 3.12 Jury Instruction

Upon the close of presentations of evidence in a jury trial, the Judge shall instruct the jury regarding the law governing the case. In formulating jury instructions in any case, the Judge shall consider and rule upon the written requests of any party concerning the content of the instructions submitted to the Court prior to the close of evidence, or by such other time as the Court may fix. The Judge must explain to the jury which party has the burden of proving each issue of fact, and the jury's verdict options.

Sec. 3.13 Jury Deliberation

Upon retiring, the jury must be kept together in a convenient place and under the charge of an officer of the Tribal Court until they reach a verdict. Prior to rendering the verdict, the jury is prohibited from communication with any person concerning the state of their deliberations or the agreed upon verdict.

Sec. 3.14 Judgment of the Court

Upon return of a jury verdict, or at the close of evidence in a bench trial, the Court shall issue a written final judgment or order embodying the disposition of the case, including sentencing in criminal cases, and, as provided in this Code or as otherwise appropriate, the reasons therefore.

Sec. 3.15 Installment Payments of Fines and Monetary Awards

As the equities of the case dictate, and as provided elsewhere in this Code, the court may establish an installment plan for the payment of any fines or monetary awards rendered against a defendant in a criminal or civil case. In the event the defendant fails to adhere to any such installment payment plan, the court shall take such further action as provided in this Code.

Sec. 3.16 Injunctions; Cease and Desist Orders

Whenever authorized by Tribal law, or when the circumstances of a case before the court otherwise warrant, the Tribal Court may issue an Injunction or a Cease and Desist Order which prohibits a person from engaging in specific conduct which violates Tribal law. Such an Injunction or Order shall describe with specificity the mandatory or prohibited conduct, penalties for violation of the Injunction or Order, and such other information as may be required by Tribal law. Such Injunctions or Orders may be temporary in nature, pending a hearing or trial of the matter, or may be permanent.

Sec. 3.17 Restraining Orders

- A. The Court may issue a Restraining Order preventing a person from coming into physical proximity of another, or otherwise prohibiting certain conduct, upon a showing by the person seeking the Restraining Order that the person against whom the Order is sought poses a threat of actual or imminent harm or harassment.
- B. A Temporary Restraining Order may be issued, pending a hearing on the matter, upon application to the Court without prior notice to the person sought to be restrained. Upon issuance, the Temporary Restraining Order shall be served immediately upon the person restrained by any Peace Officer or Court approved Process Server. The Temporary Restraining Order must state, at a minimum, the name(s) and address(es) of the applicant(s), the protected person(s), if other than the applicant(s), and the restrained person; a specific description of conduct prohibited by the Order and the reason(s) therefore; the date of expiration of the Order; and the date and time the matter is set for hearing.
- C. After a hearing on the matter, of which all parties have notice and the opportunity to be heard, the court may extend the duration of the Restraining Order for a specified period of time, or issue a permanent Order.

Sec. 3.18 Appeals

Appeals from final judgments and court orders may be taken as provided in Chapter 10 of this Code.

Sec. 3.19 Records and Fines to be Transmitted

Within 15 days after final disposition of a case, the Judge shall transmit all papers, including the information required by Section 3.21 below and any fines collected, to the Clerk of the Court; and the Judge or Clerk shall further transmit such reports and/or copies of such papers to other Tribal Departments or Programs as may be required by Tribal law.

Sec. 3.20 Maintenance of Court Records

The Hualapai Tribal Court shall be required to keep for inspection by the public a record of all proceedings of the court, which record shall reflect the titles of cases, the names of the parties, the substance of the complaints, the names of all witnesses, the dates of hearings, pre-trial conferences and trials, by whom conducted, the findings of the court, and the final judgments and orders, together with any other facts or circumstances deemed of importance in any case. After final judgment, the record of any proceeding, except a juvenile proceeding, may be made available for public inspection.

Sec. 3.21 Relations with the Court

No person shall obstruct, interfere with or control the functions of any Hualapai Tribal Court, or influence such functions in any manner except as permitted by this Code or in response to a request for advice or information from the Court. The Court may request employees of the Bureau of Indian Affairs and/or the Hualapai Indian Tribe, particularly those who are engaged in social work, health and education work, to assist in the preparation and presentation of the facts in the case and in the proper treatment of individual offenders.

Sec. 3.22 Rules of Court

The time and place of court sessions and other details of judicial procedure not prescribed by this Code shall be set forth in rules of court promulgated by the Tribal Court.

CHAPTER 4 CIVIL PROCEDURE

Sec. 4.1 Commencement of Action

Actions shall be commenced in the Hualapai Tribal Court by the filing of a written complaint identifying in concise and plain terms the parties to the proceeding, the nature of the claims, with the reference to written Tribal law, as appropriate, and the remedies sought. The plaintiff or the plaintiff's agent shall verify the complaint by oath or affirmation, and shall affix his or her witnessed signature thereto. The Clerk may, at the request of any individual, assist him or her in preparing the complaint and other papers required to be filed in an action under this Chapter.

Sec. 4.2 Limitation on Time to Institute Proceeding

Except as otherwise provided by Tribal law, civil action shall be instituted unless the offense, violation or other event forming the basis of the action occurred within a one-year period prior to the date of the initiation of the action.

Sec. 4.3 Filing Fee

An administrative fee to be fixed by the Court shall be collected by the Clerk at the time a complaint is filed initiating any civil action, which fee shall not be refunded if the complaint is withdrawn or dismissed.

Sec. 4.4 Duty of Clerk upon Receipt of Complaint; Issuance of Summons and Notice of Hearing

When a complaint is filed, the Clerk shall:

- A. Stamp the original complaint the day and hour on which it was filed and the case number assigned to the matter;
- B. Immediately issue a summons and notice of hearing in the form prescribed by the Tribal Court, for service on the defendant as provided in Section 4.5; and
- C. Upon verified service on the defendant/respondent the clerk shall fix a date for hearing which shall take place, not less than 30 days nor more than 60 days;
- D. Provide a copy of the notice of hearing to the plaintiff.

Sec. 4.5 Service of Process

- A. The summons, notice of hearing and a copy of the complaint shall be served together. Service shall be made as follows:

1. Upon any individual by personal service by any Peace Officer or Court approved process server.
 2. If service of the summons and complaint cannot be personally made within the jurisdiction of the Hualapai Tribal Court, a copy of the summons and complaint shall be mailed by Registered or Certified Mail, Receipt Return Requested, to the defendant's last known post office address by the Clerk of the Tribal Court.
- B. Service of a summons, notice of hearing and a copy of the complaint shall be attested to by an affidavit of the person who actually served the documents or by affidavit of the Clerk who mailed the documents.
- C. Service shall be deemed complete at the time personal service is made, or at the time of the mailing is the method of service.

Sec. 4.6 Time to Respond

If the defendant wishes to respond in writing to the complaint, the defendant shall have 30 days from the date service of summons, notice of hearing and complaint is deemed completed in which to do so.

Sec. 4.7 Written Answer: Form; Content

The written answer shall state the names of the plaintiff and defendant, a concise statement of defense to the claims asserted in the complaint, and any counterclaims or setoffs asserted by the defendant. Service of the written answer shall be made in the manner described in section 4.5 herein.

Sec. 4.8 Counterclaims and Setoffs

If a written response is filed, the defendant must state therein any counterclaims or setoffs asserted against the plaintiff. In the event the defendant chooses not to respond in writing to the complaint, any counterclaims shall not be considered by the Court.

Sec. 4.9 Pre-Trial Proceedings

- A. At the initial pre-trial hearing of every civil matter, the Tribal Court shall first advise the defendant of claim(s) made against the defendant and, if the defendant has not filed a written response to the complaint, inquire as to whether the defendant contests the claims made against the defendant, or has any counterclaims against the plaintiff.
- B. If the defendant does not contest the claim(s), the Tribal Court shall, in its discretion, either:

1. Enter an order imposing the remedy sought by the plaintiff or some other remedy deemed appropriate by the Tribal Court, considering all the circumstances of the case; or
 2. Schedule the matter for further hearing to determine what remedy to impose; provided, however, that in no event shall the further hearing to impose remedies take place more than 30 days after the initial pre-trial hearing of the matter.
- C. If the defendant contests the claim(s), either in writing or at the pre-trial hearing, the Court shall determine whether it is appropriate to dispose of the matter by mediation, settlement, or other dispute resolution method based on Tribal customs and traditions.
1. In the event the Court and the parties determine such a method should be pursued, the Court will so order, and schedule a further status hearing to be held within 30 days.
 2. In the event the parties determine, either at the first pre-trial hearing or at the subsequent status hearing that the case must proceed to trial, the Court shall set a trial date.

Sec. 4.10 Setting a Trial Date

In the event disposition of a civil case has not otherwise been achieved through pre-trial proceedings, the Judge shall set a date for trial of the case which shall take place not more than six months after the complaint has been filed, unless extraordinary circumstances exist which require further delay and all parties consent to such a delay.

Sec. 4.11 Trial by the Tribal Court

Unless otherwise provided by the Tribal law, all civil cases shall be tried by the Tribal Court and not by jury.

Sec. 4.12 Trial Proceedings

Unless the Court, in its discretion, otherwise directs, in every civil trial:

- A. The plaintiff's case shall be presented first, followed by the presentation of the defendant's case.
- B. The trial shall proceed with opening statements, presentation of evidence, closing arguments and judgment or order of the Tribal Court, including disposition.

Sec. 4.13 Failure of Parties to Appear

- A. If the defendant fails to appear at any pre-trial proceeding or at the trial of a civil matter:
1. If the defendant was absent for good cause, the Tribal Court may continue the matter for an additional period of time not to exceed 30 days, subject to other deadlines set forth herein.
 2. If the defendant was absent without cause, judgment may be entered for the plaintiff by default without further proof if the claim is for a liquidated amount; when the amount is unliquidated, the plaintiff may be required to present proof by a preponderance of the evidence of the amount of civil penalty that the Tribal Court should impose. Additionally, any cash or property posted as a bond may be forfeited and disposed of as provided by Tribal law.
- B. If the plaintiff fails to appear at any pre-trial proceeding or at the trial of a civil matter:
1. If the plaintiff is absent for good cause, the Tribal Court may continue the matter for an additional period of time, not to exceed 30 days, subject to other deadlines set forth herein.
 2. If the plaintiff is absent without cause, the Judge may dismiss the case for want of prosecution, or defendant may proceed to trial on the merits, and other fees posted by the plaintiff may be forfeited.
- C. If the parties fail to appear, the Tribal Judge may return the case to the files, or order the case dismissed for want of prosecution, or make any other just and proper disposition thereof as justice may require.

Sec. 4.14 Judgment – Stay of Entry and Execution – Installment Payment

When judgment is to be rendered and the party against whom it is to be entered requests it, the Tribal Judge shall inquire fully into the earnings and financial status of such party and shall have full discretionary power to stay the entry of judgment, and to stay execution, except in cases involving wage claims, and to order partial payments in such amounts, over such period, and upon such terms, as shall seem just under the circumstances and as will assure a definite and steady reduction of the judgment until it is finally and completely satisfied. Upon a showing that such party has failed to meet any installment payment without just excuse, the stay of execution shall be vacated. When no stay of execution has been ordered or when such stay of execution has been vacated as provided herein, the party in whose favor the judgment has been entered shall have the right of avail to use all remedies otherwise available in the Tribal Court for the enforcement of such judgment, including civil contempt proceedings.

Sec. 4.15 Judgment for Wages – Examination – Payment

In all cases where the judgment is founded in whole or in part on a claim for wages or personal services, the Tribal Judge shall, upon a motion of the party obtaining the judgment, order the appearance of the party against whom such judgment has been entered, but not more often than once each four weeks, for oral examination under oath as to his or her financial status and ability to pay such judgment. The Tribal Judge shall make such supplementary orders as may seem just and proper to effectuate the payment of the judgment.

Sec. 4.16 Non-Indian Right of Claim

A Non-Indian may prosecute a claim against an Indian in the Tribal Court and in the event of an action filed by a Non-Indian; all provisions of this Chapter are applicable to said Non-Indian as a party plaintiff.

Sec. 4.17 Forfeiture of the Property

A civil judgment may include the forfeiture of property to satisfy the payment of a damage award or civil penalties, or in addition thereto, as provided by Tribal Law.

Sec. 4.18 Appeals

Appeals from judgments in civil actions may be taken as provided in Chapter 10 inclusive of this Code.

CHAPTER 5 CRIMINAL PROCEDURE

Sec. 5.1 Tribal Prosecutor: Authority; Duties

- A. One or more Tribal Prosecutors appointed by the Tribal Council shall be responsible for the timely prosecution, pursuant to the provisions of this Chapter, of all criminal cases brought hereunder.
- B. Each Tribal Prosecutor shall represent the Tribe in all criminal cases as provided by Tribal law; shall prepare and file criminal and civil complaints on behalf of the Tribe; negotiate plea bargains; attend pre-trial conferences and make recommendations regarding alternative dispute resolution such as referrals to the Wellness Tribal Court; prosecute criminal cases through trial and sentencing; and make sentencing recommendations to the Tribal Court.

Sec. 5.2 Representation of Defendant

Every criminal defendant shall have the right to assistance of a professional attorney or an advocate at the defendant's own expense.

Sec. 5.3 Criminal Complaint: Basis; Content; Amendment

- A. Every criminal case shall be initiated by the filing of a written complaint based on information or charges brought by the Tribal Prosecutor.
- B. The complainant shall be the Tribe and the defendant shall be the person alleged to have committed the offense(s) charged. The complaint shall set forth in plain terms the act(s) of the defendant alleged to constitute the offense(s) charged, the date, time and place of such act(s), the provision(s) of Tribal law alleged to have been violated.
- C. Failure to cite a specific provision of law, such as a Subsection of a Section cited, shall not be grounds for dismissal with prejudice of a criminal complaint, provided the complaint clearly articulates the actions of the defendant(s) and the general provision(s) of law which those actions are alleged to violate. If the provision of law alleged to have been violated is not, in the view of the Tribal Court, articulated with sufficient specificity, the Tribal Court shall provide the prosecutor a reasonable opportunity to amend the complaint to address the defect.

Sec. 5.4 Criminal Complaint: Time for Filing

- A. Except as otherwise provided by Tribal law, no criminal action shall be instituted unless the offense, violation or other event forming the basis of the

action occurred within a one-year period prior to the date of the initiation of the action.

- B. If a criminal defendant has been apprehended pursuant to the provisions of Section 5.8 below, the complaint must be filed prior to the arraignment of the defendant.

Sec. 5.5 Right to Jury

Every criminal defendant accused of any violation of Tribal or applicable federal law shall have the right to trial by jury in the Tribal Court. To assert this right, the defendant must request a jury trial in writing at or before the pre-trial hearing provided for in Section 5.13 below.

Sec. 5.6 Complaint against Defendant not in Custody: Tribal Court Action

- A. Upon the filing of a criminal complaint against a defendant not then in custody, the Tribal Court must either:
 - 1. Issue a warrant to apprehend the defendant for detention pending arraignment, execution of such a warrant to be made by any Peace Officer; or
 - 2. Issue a summons, which shall be personally served by any Peace Officer on the defendant commanding the defendant's presence for arraignment at a specified date and time.
 - 3. If personal service of process is impractical under the circumstances, the Tribal Court may order service by registered mail with return receipt requested to be signed by the addressee only, to be addressed to the last known address of the person to be served. Service shall be complete upon return of the signed receipt to the Tribal Court.
- B. The warrant or summons must be issued within five days of the date the complaint is filed and must be served immediately.

Sec. 5.7 Arrest Warrants

Every Judge of the Hualapai Tribal Court shall have authority and discretion to issue a warrant commanding the arrest and detention of a person against whom a criminal complaint has been filed. No arrest warrant shall be valid unless signed by a Judge of the Hualapai Tribal Court and executed by a Peace Officer.

Sec. 5.8 Arrests

- A. Any Peace Officer shall arrest any person for an offense when:

1. Such offense has occurred in the presence of the arresting peace officer, or
 2. The arresting Peace Officer has reasonable cause to believe that the person has committed an offense, or
 3. The peace officer has a warrant commanding him to apprehend such person, duly issued as provided in Section 5.6 A above.
- B. No person shall be arrested in a dwelling house or other privately owned structure unless a valid warrant for the person's arrest has been issued or where the consent of the person in rightful possession of the premises to enter for the purpose of arrest has been obtained; provided, that a Peace Officer may forcefully enter such premises when the Peace Officer has reasonable cause to believe that there exists danger of imminent harm or damage to persons or property.

Sec. 5.9 Search and Seizure

A. Search Warrants

1. Every Judge of the Hualapai Tribal Court shall have authority to issue warrants for search and seizure of the premises and property of any person under the jurisdiction of said Tribal Court.
 2. No warrant of search and seizure shall be issued except upon a duly signed and written affidavit based upon reliable information or belief charging that an offense has been committed against the Hualapai Indian Tribe.
 3. No warrant for search and seizure shall be valid unless it contains the name or description of the person or the persons or property to be searched and describes the articles or property to be seized and bears the signature of a duly qualified Judge of the Hualapai Tribal Court.
 4. Execution of a search warrant and seizure of property shall be made only by a Peace Officer from 7:00 A.M. to 7:00 P.M. according to local time, unless authorized otherwise by a duly qualified Judge of the Hualapai Tribal Court.
 5. Search warrants not executed within five calendar days of issuance must be returned to the Tribal Court and voided.
- B. Search and Seizure without a Warrant - No officer shall search and seize any property without a warrant unless the officer knows or shall have probable

cause to believe that the person in possession of such property is engaged in the commission of an offense defined under Tribal law.

Sec. 5.10 Arraignment

- A. Every criminal defendant shall appear before a Tribal Court Judge for arraignment at a time specified by Tribal law or in a summons.
- B. At the arraignment, the criminal complaint shall be read to the defendant in a language which the defendant understands; and the defendant shall be advised of his or her rights under Tribal law, including the right to remain silent, to have a trial by jury, to confront accusers and to have the assistance of an attorney or an advocate at the defendant's own expense.
- C. The Tribal Court shall ask the defendant to enter a plea of guilty or not guilty.
 1. If the defendant pleads guilty or no contest to the charges in the complaint, the Judge shall inquire if the defendant has any reason for not being sentenced at that time.
 - a. If no reason is advanced, the Judge shall pass sentence forthwith in accordance with the sentencing procedures set forth below.
 - b. If the defendant advances reason why sentence should not be passed at that time, the Judge shall give due consideration and act thereon within his discretion considering his oath to uphold the laws; provided, however, that in no event shall sentencing be delayed more than 30 days from the date of entry of the guilty or no contest plea.
 2. If the defendant pleads not guilty,
 - a. The matter will be set for pre-trial hearing at the earliest practicable date, or as otherwise provided by Rules of Tribal Court; and
 - b. The Judge shall set bail, or remand the defendant to temporary custody pending the pre-trial hearing, pursuant to the bail and commitment provisions set forth below.
 3. If the defendant refuses to plead, the judge shall enter a plea of not guilty on the defendant's behalf, and shall follow the procedures set forth in Subsection C. 2. above.
- D. If the defendant pleads not guilty, or if the defendant pleads guilty or no

contest and sentencing is deferred, the Tribal Court shall determine whether the defendant should be committed to the Tribal Jail pending further proceedings, or released pursuant to the provisions of Section 5.11 below.

Sec. 5.11 Pre-Trial Release: Bail or Bond

- A. Every person arraigned for an offense may be released on bail or bond pending further proceedings in the case. Bail may be made by any reliable member of the Hualapai Indian Tribe, who shall execute an agreement in the form prescribed, or by a personal bond by the defendant upon deposit with the Tribal Court of money order or certified cashiers check. In no case shall the defendant's deposit, or the penalty specified in the agreement exceed twice the maximum penalty set by Tribal law for the offense(s) charged. A Tribal Judge may release a defendant on the defendant's own recognizance if the Tribal Judge finds, by a preponderance of the evidence, that the defendant will obey any order of the Tribal Court, including orders setting proceedings, and that the defendant is not a danger to any person, including the defendant.
- B. If a defendant released on bail or bond fails to appear before the Tribal Court as required, the Tribal Court shall order any posted cash or bond to be forfeited and shall issue a warrant for the defendant's arrest pending further proceedings in the case.

Sec. 5.12 Commitments

- A. Except as provided in Subsection B below, no person shall be detained, jailed or imprisoned for a longer period than 24 hours absent a temporary or final commitment order bearing the signature of a Tribal Court Judge.
- B. Any person arrested for the commission of an offense involving violence, including weapons and sexual abuse offenses, driving under the influence of intoxicating liquor or other drugs shall automatically be subject to a commitment period of up to 72 hours pending arraignment.

Sec. 5.13 Pre-Trial Hearings

In every criminal case in which the defendant enters a plea of not guilty, or such a plea is entered on the defendant's behalf by the Tribal Court, the Tribal Court shall schedule a pre-trial hearing to take place not more than 30 days after arraignment. At the pre-trial hearing the Tribal Court shall determine whether it is appropriate to dispose of the matter by plea bargain, referral to the Wellness Tribal Court Division, or some other alternative method of resolution. In the event the Tribal Court and parties determine such a method should be pursued, the Tribal Court will schedule a further status hearing to be held within 60 days. In the event the Tribal Court and parties determine, either at the first pre-trial hearing, or at a subsequent status conference, that the case must proceed to trial, the Tribal Court shall set a trial date, subject to the provisions of Section 5.15 below. In order to preserve the right to a

jury trial, a criminal defendant must submit a written request for trial by jury at or before the first pre-trial hearing.

Sec. 5.14 Wellness Tribal Court Division

The administration and procedures of the Wellness Tribal Court Division shall be governed by rules promulgated by the Tribal Court.

Sec. 5.15 Setting a Trial Date

- A. In the event disposition of a criminal case has not otherwise been achieved through pre-trial proceedings, the Tribal Court shall set a date for the trial of the case. The trial of a criminal case shall take place within 90 days after the date on which the complaint initiating the case was filed, unless extraordinary circumstances exist which require further delay or the defendant consents in writing to a delay.
- B. As used in Subsection A above, the phrase “disposition of a criminal case” shall mean either (1) a plea bargain has been entered and approved by the Tribal Court; or (2) the defendant has pled guilty or no contest and final sentence has been imposed by the Tribal Court; or (3) the defendant has been referred to the Wellness Court Division, and has satisfied all obligations imposed in connection with that referral.
- C. The Tribal Court shall retain jurisdiction over matters referred under Subsection B. 3 above, and if the defendant fails to adhere to all conditions imposed in connection with any such referral, the Tribal Court may rescind the referral; in that event, the Tribal Court shall set the matter for trial within 30 days of the date the referral is rescinded.

Sec. 5.16 Trial

- A. The complaint shall be read to the defendant and the defendant may (1) change his or her plea; or (2) stand trial. If the defendant changes his or her plea from “not guilty” to “guilty” sentence may be entered or deferred under the same procedure and subject to the same time limits as provided in Section 5.10 C. 1 above.
- B. If the defendant chooses to stand trial, the jury shall be empanelled if the defendant has made a timely jury trial request, as provided in Sections 5.5 and 5.13 above. The Tribal Court shall require the defendant and witnesses to be sworn and proceed to hear evidence. Unless the Tribal Court for good cause directs otherwise, the prosecution’s case shall be presented first, followed by the presentation of the defendant’s case. Throughout the proceeding, the Judge must preserve to the defendant the rights guaranteed to the defendant under Article VI, Section 13, and Article IX of the Tribal Constitution.

- C. In the case of a jury trial, at the close of evidence, the jury shall receive instruction and deliberate as provided in Sections 3.13 and 3.14 of this Code.

Sec. 5.17 Jury Verdict

In every criminal case tried to a jury, the jury must reach a unanimous verdict of guilty or not guilty. If the jury in a criminal case is unable to reach a unanimous verdict after due deliberation, the Tribal Court shall declare a mistrial and the case may be re-tried at the option of the Tribal Prosecutor upon written request to the Tribal Court within 90 days of the Tribal Court's declaration of mistrial.

Sec. 5.18 Judgment

After the return of the jury verdict, or after evidence has been submitted in a bench trial, the Tribal Judge shall issue a final judgment of guilty or not guilty.

- A. If found "not guilty" the defendant shall be released forthwith.
- B. If the defendant is found "guilty" the Tribal Judge shall then ascertain if the defendant has any reason why sentence should not there and then be imposed. If the defendant advances such reason, the Judge, after weighing merits of the reasons given, may: (a) defer sentence for not more than five days for an opportunity to investigate, during which time defendant shall remain in the same status as to the defendant's personal liberty as prevailed immediately preceding his or her trial; or (b) impose sentence.

Sec. 5.19 General Principles

In imposing a sentence for a violation of this Chapter, the Tribal Court in each case shall consider the protection of the public, the gravity of the offense, the impact of the crime on the victim, and the results of any pre-sentencing reports.

Sec. 5.20 Nature of Sentence

Except where Tribal law provides for specific mandatory penalties, the Tribal Court may, in its discretion, impose as a sentence upon a person convicted of a criminal offense any combination of the following:

- A. A term of imprisonment, not to exceed one year, corresponding to the offense for which the defendant was convicted as provided in Chapter 6 or elsewhere under Tribal law; and/or
- B. A fine, not to exceed \$5,000, corresponding to the offense for which the defendant was convicted as provided in Chapter 6 or elsewhere under Tribal law; and/or

- C. A term of Community Service; and/or
- D. Forfeiture of property; and/or
- E. To pay restitution or perform any other act for the benefit of any person or party injured personally or in the property by the person adjudged guilty provided such injuries are fairly attributable to the act or failure to act constituting the offense for which guilt was adjudged; and/or
- F. To treatment, counseling and/or rehabilitation; and/or
- G. To probation and/or suspension of sentence on such terms and conditions as the Tribal Court may direct, including payment of probation program costs; and/or
- H. Other penalties, including paying Tribal Court costs, deemed appropriate by the Tribal Court to address or rectify the offense committed.

Sec. 5.21 Determining Factors

In determining the character and duration of the sentence which shall be imposed, the Tribal Court shall take into consideration the previous conduct of the defendant, the circumstances under which the offense was committed, whether the offense was malicious or willful and whether the offender has attempted to make restitution, the extent of the defendant's resources and the needs of the defendant's dependents. The penalties listed in Chapter 6 of this Code are provided to guide the Tribal Court in determining appropriate sentencing except where they are specifically identified as mandatory.

Sec. 5.22 Imprisonment

Terms of imprisonment shall be served by incarceration in any detention facility.

Sec. 5.23 Fines

Assessed fines shall be paid by money order or certified cashier check, to the Clerk of the Tribal Court either in a lump sum or, at the discretion of the Tribal Court, in installments. In the event an offender is granted an installment plan for payment of a fine, the Tribal Court shall set a reasonable time limit on the payment; if the defendant does not adhere to the payment schedule fixed by the Tribal Court, the Tribal Court shall issue a warrant for the arrest of the offender, who may be required to serve a term of imprisonment in lieu of payment of the fine, and may be subject to additional charges for contempt of Tribal Court and/or disobedience of a lawful Tribal Court order.

Sec. 5.24 Community Service

- A. A person convicted of a criminal offense may be required to perform work for

the benefit of the Tribe for a period of time deemed appropriate by the Tribal Court, which time period shall not exceed the maximum period of imprisonment designated for the offense as set forth in Chapter 6 of this Code or elsewhere under Tribal law. The work shall be performed under the supervision of Tribal Court or any other Tribal department, program or personnel.

- B. During the period of sentence, the convicted person may be confined in a detention facility if so directed by the Tribal Court or to such other approved facility as the Tribal Court may deem to be in the best interests of the convicted person or of the Hualapai Tribe.
- C. If any convicted person is unwilling, or otherwise fails to perform community service, the Tribal Court may sentence him or her to imprisonment for the remainder of the term of community service imposed.

Sec. 5.25 Probation Officers

- A. The Hualapai Tribal Court, with the approval of the Tribal Council, may appoint probation officers and other persons as may be required to carry out the probationary functions of the Tribal Court.
- B. Probation Officers may be assigned, among others, the following duties:
 - 1. Make preliminary inquiries, social studies, and such other investigations as the Tribal Court may direct, keep written records of such investigations or studies, and make reports to the Tribal Court;
 - 2. Upon the placement of any person on probation, explain to the person the meaning and conditions of probation;
 - 3. Keep informed concerning the conduct and condition of each person on probation and report thereon to the Tribal Court;
 - 4. Use all suitable methods to bring about improvements in the conduct or condition of persons on probation.
- C. The activities, duties and authority of Probation Officers may be further governed by rules promulgated by the Tribal Court.

Sec. 5.26 Violation of Probation

If the Tribal Court, finds after a hearing in open court that a person has violated the terms of probation, said person may be ordered to serve part or all of the term of the original sentence. If the cause for violation involves the commission of a separate offense which violates any federal or Tribal law, the probation violator, if convicted, may be sentenced in

accordance with the penalties prescribed for that particular violation. Such sentence may be imposed upon the violator in addition to reinstatement of the original suspended sentence and shall run consecutively to the original sentence.

Sec. 5.27 Early Release from Imprisonment

Any person committed to a term of imprisonment by the Tribal Court, who has without misconduct served three-fourths of the sentence imposed, shall be eligible for early release from imprisonment. Early release shall be granted only by a Judge of the Hualapai Tribal Court upon such terms and conditions as the Judge deems appropriate. The Tribal Court may order that the remainder of the sentence be served under the supervision of a Probation Officer, subject to the provisions contained in Section 5.26 herein.

Sec. 5.28 Deposit and Disposition of Fines

Except where Tribal law expressly requires another disposition of fines collected, all money fines imposed upon conviction of a criminal offense shall be applied to Tribal Court expenses. The fines assessed shall be paid by the Tribal Court Administrator to the Tribe for deposit as "Tribal Court Funds" to the credit of the Hualapai Indian Tribe. The Tribal Treasurer shall withdraw such funds in accordance with existing regulations. The Tribal Treasurer and the Tribal Court Administrator shall keep an account of all such deposits and withdrawals for the inspection of any person interested. Except where Tribal law provides otherwise, whenever such funds exceed the amount necessary with a reasonable reserve for the payment of court expenses.

Sec. 5.29 Failure to Appear

In any criminal case, if the defendant fails to appear for any proceeding and the defendant is not then in custody, the Tribal Court shall immediately issue a warrant for the arrest of the defendant. In addition, if the defendant has posted a cash or property bond or if, in connection with the case, any property of the defendant has been seized, failure of the defendant to appear before the Tribal Court as required by Tribal law or by any notice or order of the Tribal Court shall result in forfeiture of the posted or seized property or cash bond, and disposition of such cash or property as provided by Tribal law.

Sec. 5.30 Fugitive from Justice

- A. Authority to Extradite. Any person within the boundaries of the Hualapai Reservation who is named in an arrest warrant issued by any state or duly constituted tribal court of any federally recognized Indian tribe may be extradited to that jurisdiction.
- B. Commencement of Action. A copy of the warrant of arrest under signature and seal of the issuing off-reservation court may be presented to the Hualapai Tribe's Office of the Prosecutor, who shall prepare a tribal extradition order

request based on the warrant information. Tribal prosecutors shall present the request for tribal extradition to the Tribal Court.

- C. Preliminary Determination on Warrant. The Tribal Court shall promptly examine the warrant and the request for tribal extradition, and shall consider any relevant information as may be presented to the court by any person. The Tribal Court shall make a preliminary determination on the apparent validity of the warrant.

Sec. 5.31 Fugitive Warrant of Arrest

After preliminary determination by the Tribal Court on the validity of the off-reservation warrant, the Tribal Court shall issue a fugitive warrant of arrest for the person named on the off-reservation warrant. The person named in the warrant shall be brought before the court for a extradition hearing within seventy-two hours after being arrested.

- A. Issues at Hearing. The Tribal Court shall conduct a hearing to determine the validity of the off-reservation warrant, and to determine whether the person arrested on the tribal fugitive warrant is the same person named on the off-reservation warrant. The Tribal Court shall consider any other relevant circumstances and information that may be presented at the time of hearing. Upon determination that the warrant from the off-reservation jurisdiction is valid and the person in custody is the same person named on the off-reservation warrant, and after considering all other relevant information presented, the court shall issue an order directing that the person be released to lawful authorities presenting the off-reservation warrant.
- B. Notification; Authorization, and Removal of the Alleged Offender. If the Tribal Court executes an order for extradition, either the Hualapai Office of the Prosecutor or the tribal police shall notify the off-reservation jurisdiction that the person named in their warrant is in custody and that he/she may be picked up within forty-eight hours. If the person named in the off-reservation warrant is not picked up or transferred to the off-reservation jurisdiction within forty-eight hours, the person in custody shall be released from custody. The person named in the off-reservation warrant cannot be taken into custody for the same charge except upon the issuance of a new warrant by the jurisdiction that originally sought the extradition.
- C. Reciprocity. In no case shall a warrant for arrest from an off-reservation jurisdiction be honored by the Tribal Court if that jurisdiction, by its laws, rules or practices prohibits or refuses to provide reciprocal extradition of persons who may be subject to warrants of arrest issued by the Tribal Court.

Sec. 5.32 Confiscated Contraband and Abandoned Property

- A. The disposition of all property, confiscated as contraband or seized as

evidence shall be determined at a hearing before the Tribal Court.

- B. The Tribal Court shall, upon satisfactory proof of ownership, order such property to be delivered to the rightful owner, unless such property is required as evidence. Where the property is required as evidence, it shall not be returned until final judgment in the case is entered. In no case shall property be returned where possession of such property is unlawful. Such property may be declared property of the Hualapai Indian Tribe and may be destroyed.
- C. Except as otherwise provided by Tribal law, the Tribal Court shall not return any property confiscated pursuant to a conviction of:
 - 1. Carrying a concealed weapon; or
 - 2. An offense involving the use of any weapon or instrument in the commission of such offense.
- D. Any property not claimed by the owner when delivered or any property, for which an owner has not been determined within six months after a Tribal Court hearing, shall become the property of the tribe.
- E. Property delivered to the custody of the Tribal Court by a private person shall become the property of such person if it is not claimed within 30 days after the hearing.
- F. Any property declared to be the property of the United States shall be dealt with as directed by federal law.
- G. The Administrator of the Hualapai Tribal Court shall keep written records of all transfers and dispositions of property taken into the custody of the Tribal Court.

Sec. 5.33 Eligible Age for Criminal Prosecution

After a hearing and at the discretion of the Hualapai Tribal Court, any person who was 14 years of age at the time the person allegedly committed the offense can be tried as an adult and convicted for any criminal offense enumerated in Chapter 6 of this Code or elsewhere under Tribal law.