

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 21-2018
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALPAI INDIAN RESERVATION
PEACH SPRINGS, ARIZONA**

Revision to the Hualapai Law and Order Code
Adding new Chapter 20 – Grandparents’ Contact and Visitation Rights

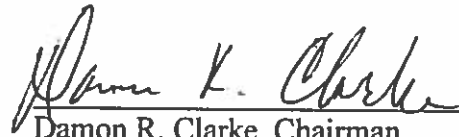
- WHEREAS,** the Hualapai Tribal Council is the legislative body of the Hualapai Tribe and is empowered by the Hualapai Constitution to enact legislation regarding the health, welfare, and safety of the Hualapai Tribe; and
- WHEREAS,** the Hualapai Tribal Council adopted a Revised Law and Order Code on June 2, 2004, pursuant to the Constitution of the Hualapai Indian Tribe; and
- WHEREAS,** the Preamble of the Hualapai Constitution declares that the Constitution was adopted in order to “maintain our culture, language and tribal identity” and to “Protect the individual rights of our members; and
- WHEREAS,** the Revised Law and Order Code, Chapter 12-Domestic Relations, addresses visitation rights between the parents of children; and
- WHEREAS,** the Revised Law and Order Code at Chapter 13-Juvenile Court and Procedure, addresses visitation rights of parents in child dependency, neglect and guardianship cases; and
- WHEREAS,** the Tribal Council recognizes the valuable social and cultural contributions of grandparents to the care, development and nurturance of their grandchildren; and
- WHEREAS,** several other Indian tribes throughout the United States have enacted tribal laws to affirm and guarantee the visitation rights of grandparents; and
- WHEREAS,** the Revised Law and Order Code does not contain any provisions for grandparents’ visitation rights; and
- WHEREAS,** the Tribal Council wants to ensure that grandparents’ visitation rights are affirmed and guaranteed under Hualapai Tribal law.

NOW, THEREFORE, BE IT RESOLVED that the Hualapai Tribal Council assembled this 7th day of April 2018 does hereby approve the addition of Chapter 20 - Grandparents’ Contact and Visitation Rights to the Revised Law and Order Code, which is attached hereto and incorporated herein by reference.

BE IT FINALLY RESOLVED that Chapter 20 - Grandparents’ Contact and Visitation Rights of the Revised Law and Order Code shall become effective immediately


CERTIFICATION

I, the undersigned as Chairman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of (9) nine members of whom (7) members were present at a **Regular Council Meeting** thereof, held on this **7th day of April, 2018**; and that the foregoing resolution was duly adopted by a vote of **7 in favor, 0 opposed, 0 not voting, 2 excused**; pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.



Damon R. Clarke, Chairman
HUALAPAI TRIBAL COUNCIL

ATTEST:



Shanna Salazar, Administrative Assistant
HUALAPAI TRIBAL COUNCIL

CHAPTER 20. GRANDPARENTS' CONTACT AND VISITATION RIGHTS.

Sec. 20.1. Purpose.

Grandparents, as Tribal elders, are very important and highly respected within the Hualapai social structure. They are the caretakers of the rich culture and traditions of the Tribe, and historically played a significant role in the raising of their young grandchildren. Therefore, the Tribe in recognition desires to emphasize the importance of that traditional role by formally establishing in Hualapai tribal law a grandparent's right to visitation and contact with their minor grandchildren.

The purpose of this Chapter is to preserve the opportunity of minor children, especially tribal member children and those children eligible for enrollment in the Hualapai Tribe, to form and maintain continuing relationships with grandparents, who play such a vital role in their care, development, cultural education, and nurturance.

Sec. 20.2. Definitions.

- A. "Child" or "minor child" means a person under the age of 18 years.
- B. "Code" means the Hualapai Law and Order Code.
- C. "Court" means either the Hualapai Tribal Court or the Hualapai Juvenile Court as the context may require.
- D. "Grandparent" as used in this Chapter includes the legal or biological grandparent, great-grandparent, or great-great-grandparent of a minor child.
- E. "Guardian" means a person appointed as the legal guardian of a minor child by order of any court of competent jurisdiction.
- F. "Legal Parent" includes an adoptive parent, but does not include a step-parent.
- G. "Parent" means the legal or biological parent of a minor child, but does not include a step-parent.
- H. "Petition" as used in this Chapter means a petition filed in the Hualapai Tribal Court pursuant to Sec. 20.7 of this Chapter.
- I. "Tribe" means the Hualapai Indian Tribe.

Sec. 20.3. Contact and Visitation Rights.

A. The Hualapai Tribe recognizes that grandparents have an inherent right to reasonable contact and visitation with their grandchildren, which right can be promoted, preserved, protected, modified, restricted or terminated by order of the Court.

B. In any case pending before the Court pursuant to Chapter 12 or Chapter 13 of the Code, the Court, in its discretion, may grant visitation rights with or without a petition by the grandparent(s) pursuant to this Chapter.

C. In any case between the parents of a child pursuant to Chapter 12 of the Code where the legal and physical custody of a child has been adjudicated, a grandparent may petition the Court to assert his or her grandparent contact or visitation right regardless of the disposition of the custody adjudication between the parents.

D. A grandparent may petition the Court to assert his or her grandparent contact or visitation right subsequent to the adjudication or other final disposition of the following matters pursuant to Chapter 13 of the Code:

1. An action to establish paternity filed pursuant to Sec. 13.3(D);
2. An action regarding child dependency or child neglect initiated by the Hualapai Tribe pursuant to Sec. 13.5(F) or (M);
3. A private action for 3rd party custody based on child dependency or child neglect pursuant to Sec. 13.5(F) or (M);
4. A private action for guardianship pursuant to Sec. 13.25(C) and (I).

E. A grandparent may petition the Court to assert his or her grandparent contact or visitation right prior to the adjudication or other final disposition of an action for termination of parental rights pursuant to Hualapai Code Chapter 13, Sec. 13.28 and 13.32.

Sec. 20.4. Personal and Territorial Jurisdiction.

A. In an action to establish grandparents' visitation rights pursuant to this Chapter, the Court may only exercise personal jurisdiction over the parties if the Court first determines:

1. That personal jurisdiction is proper pursuant to the Hualapai Law and Order Code, Sec. 1.4, Sec. 2.2, Sec. 2.4, Sec. 12.1, Sec. 12.29, or Sec. 13.3, whichever provision(s) may apply and control; and
2. Whether there exists a preferred forum in the event that any court in any other jurisdiction may have concurrent jurisdiction over the parties and subject matter of the Petition; and
3. That no court in any other jurisdiction has previously assumed or exercised jurisdiction regarding custody of the child or children who are the subject of the Petition.

Sec. 20.5. Exceptions and Miscellaneous.

The provisions of Sec. 20.3 do not apply in the following circumstances:

- A. To the parents of a putative father of a child if paternity has not been established by operation of law or by order of a court of competent jurisdiction.
- B. To the parents of a child's parent if the parental rights of the child's parent have been terminated prior to the filing of a petition pursuant to this Chapter.
- C. If the child has been placed for adoption with a person other than the child's stepparent or grandparent.
- D. Any grandparent visitation rights granted pursuant to this Chapter prior to the placement for adoption of the child are terminated upon the adoption unless otherwise specified in the adoption decree and order.

Sec. 20.6. Factors and Standards.

A. Prior to issuing an order establishing a grandparent's visitation right, the Court shall take into consideration all of the following factors:

- 1. The family relationship of the petitioner to the child;
- 2. The length and quality of the relationship of the petitioner with the child;
- 3. The family relationship and quality of the relationship between the petitioner and each of the child's parents or guardians;
- 4. The relationship between the child's parents, provided that visitation rights may be awarded, whether or not the parents' relationship is intact;
- 5. The child's wishes, taking into account the age of the child;
- 6. The benefits and detriments to the child of awarding visitation rights to the petitioner;
- 7. The feasibility of fashioning an award of visitation rights while minimizing interference with the parents' custodial or visitation rights;
- 8. The reason(s) that the child's parent, guardian, or legal custodian has previously restricted contact or visitation with the grandparent(s);
- 9. Any other reliable information presented to the Court that is relevant to the petitioner's ability to provide a safe and nurturing environment that will protect the safety and welfare of the child if visitation is awarded; and,
- 10. Whether the petitioner has shown sufficient information to rebut that the child's parent, guardian, or legal custodian was acting in the best interest of the child by previously denying visitation to the petitioner.

B. The Court may issue an order establishing a grandparent's visitation rights if, after a hearing for which all necessary parties were provided adequate notice, and upon consideration of all of the factors in Subsection (A) of this Section, the Court finds by a preponderance of the evidence that the best interests of the child will be served by granting visitation.

C. Any visitation schedule offered by the parties for consideration, or judicially created, must also be judicially determined to be in the best interests of the child and cannot work an unreasonable hardship upon any party.

Sec. 20.7. Petition.

A. A grandparent initiates a request to secure contact and visitation rights by filing a petition with the Court.

1. Pursuant to Sec. 20.3(B), a grandparent shall file a petition using the same court and same case number as the pending action.
2. Pursuant to Sec. 20.3(C), a grandparent may file a petition with the Tribal Court using the same case number as the adjudicated action.
3. Pursuant to Sec. 20.3(D), a grandparent may file a petition with the Juvenile Court using the same case number as the adjudicated action.

B. A petition to establish grandparents' contact and visitation rights shall contain the information listed below, and if any required information is unknown to the petitioner, the petition shall identify what information is unknown.

1. The name, date of birth, and tribal affiliation of each child for which the petitioner wants to establish contact and/or visitation.
2. The names, addresses (both mailing and physical street address), and tribal affiliation of each parent of the child for which the petitioner wants to establish contact and/or visitation.
3. The names, addresses (both mailing and physical street address), and tribal affiliation of each legal guardian (if applicable) of the child for which the petitioner wants to establish contact and/or visitation.
4. The names, addresses (both mailing and physical street address), and tribal affiliation of each legal custodian pursuant to a 3rd Party Custody Petition (if applicable) of the child for which the petitioner wants to establish contact and/or visitation.
5. Whether the child is the subject of an on-going dependency or neglect petition filed by the Tribe and the child is a temporary ward of the Court with care, supervision, and placement of the child awarded to Hualapai Human Services.
6. The petitioner's tribal affiliation and relationship to the child (maternal or paternal).

7. A list or brief narrative account of the previous efforts by the petitioner to establish visitation through the parent, guardian, legal custodian, or Hualapai Human Services (as applicable).
8. The specific details of the visitation requested including, but not limited to:
 - (a) the type of desired visitation (e.g., telephonic visitation, internet electronic visitation, in-person visitation, etc.);
 - (b) the frequency of the desired visitation (e.g., weekly, biweekly, monthly, etc.);
 - (c) the nature and duration of the desired visitation (e.g., specific day(s) and time, full day, overnight, extended visit, specific holidays, etc.);
 - (d) the location of the proposed visitation (e.g., at the child's current residence, at the petitioner's residence, at a neutral location (such as a park or shopping mall));
 - (e) whether the visitation should be supervised by a third party (e.g., family friend, another relative, Hualapai Human Services, etc.);
 - (f) any other desired details, terms, or conditions of the proposed visitation, including a specific schedule, if applicable.

C. The petition must be verified by a court clerk or notary public.

Sec. 20.8. Procedure.

A. A request to assert grandparents' contact and visitation rights is initiated by the filing of a petition pursuant to Sec. 20.7(A).

1. The Tribal Court will make available a self-help petition form for use by petitioners who have not retained legal counsel.

2. Any petition that meets the requirements set forth in Sec. 20.7(B) and incorporates any additional information consistent with information identified on the self-help petition form will be accepted for filing except as provided in Subsection (A)(3)(a) below.

3. Every petition submitted must be completed in full or, pursuant to Sec. 20.7(B), must state on the petition that any required information is "unknown."

(a) The Clerk of the Court may reject any petition that, on its face, is clearly substantially incomplete, or does not contain the designation of "unknown" for all required information that is unknown to the petitioner at the time of filing.

(b) The petitioner has the responsibility to obtain all required information that was unknown to the petitioner at the time of filing of the petition and to provide such information to the Court in writing upon its discovery.

(c) If any required information that was identified as "unknown" at the time of filing has not been provided to the Court by the time of the hearing on the petition and the lack of such information does not allow the Court to make findings as provided in Sec. 20.6(A), or make a finding of whether the proposed visitation is in the child's best interest consistent with Sec. 20.6(B), the Court *sua sponte* may stay further proceedings regarding the petition until such required information is provided.

B. There shall be no filing fee for a petition filed pursuant to this Chapter, however, if the grandparent uses the services of an attorney or advocate, the attorney/advocate appearance fee is still required before the Court will allow the attorney/advocate to file any documents or to appear at any hearing in a representative capacity.

C. The Clerk of the Court shall schedule a hearing on the petition within forty-five (45) days of its filing and prepare a notice of hearing.

(1) The time for hearing on the petition may be continued or extended by order of a judge only upon timely written request by the petitioner or any other party, or upon the court's own motion, and only for good cause.

D. The Clerk of the Court will cause a copy of the petition and the notice of hearing to be served upon each parent, guardian, legal custodian, or Hualapai Human Services (if the child is the subject of a pending dependency or neglect action) without undue delay.

E. Hearings on petitions to establish grandparents' visitation shall be confidential and closed to the public. Only the parties, those persons to whom the Court issues a notice of hearing, and those persons approved by the judge shall be allowed in the courtroom during the hearing.

F. At the hearing, the petitioner has the burden of demonstrating to the Court by a preponderance of the evidence that all factors to be considered pursuant to Sec. 20.6(A) support the requested visitation, and that the requested visitation is in the best interests of the child.

G. The judge presiding over the hearing may announce his or her decision on the petition at the conclusion of the hearing, or the judge may take the matter under advisement for further consideration, provided that the judge must render his or her decision consistent with Sec. 20.9(A) below.

Sec. 20.9. Orders.

A. Within thirty (30) calendar days after the hearing, the Court shall grant or deny the petition, or grant the petition conditionally or with such modifications as are in the best interest of the

child. All orders shall be in writing and shall specify to the greatest extent practicable the particular rights, if any, which are awarded.

B. An order may award:

1. Visitation rights under the circumstances prevailing at the time of the order; and
2. Contingent visitation rights under circumstances prevailing at the time of the order; and
3. Contingent visitation rights under circumstances that may reasonably be expected to occur at a future time, provided that any such award of contingent rights is reviewable under Sec. 20.10.

C. The Court may order reasonable restrictions on the visitations, such as requiring that visits be supervised, or restricting the petitioner's use or consumption of alcohol during and within 12 hours prior to the start of the visit, or any other restrictions the Court deems necessary or prudent.

D. A written order awarding or denying visitation to the petitioner must state the findings of the Court regarding evidence presented to the Court as it applies to any applicable factors in Sec. 20.6(A) supporting the Court's conclusion by a preponderance of the evidence whether awarding or denying visitation is the best interests of the child.

E. Any person served with a copy of a notice and petition under this Chapter, and with a copy of an order under this section, shall be required to comply with the terms of the order, and is subject to contempt of court proceedings for any noncompliance or interference therewith.

Sec. 20.10. Modification.

A. Any order issued pursuant to this Chapter may be modified upon motion submitted to the Court. The individual submitting the motion must provide a copy of the motion to all other interested persons and parties.

B. After a motion to modify has been submitted to the Court, a hearing will be scheduled as soon as practical and notice of the hearing will be provided to all interested persons and parties.

C. If, after the hearing, the Court finds by a preponderance of the evidence that the best interests of the child will be served by granting the proposed modification of grandparental visitation, the Court will issue a modified visitation order. A modified visitation order will supersede all previous grandparents' visitation orders unless otherwise provided in the modified order.

Sec. 20.11. Enforcement.

If, after an award of grandparental visitation by order of the Court, the child's parent, guardian or custodian fails or refuses to allow the grandparent visitation as required by the court order, the grandparent may file a Motion for Order to Show Cause with the Court, detailing the specific dates, times and circumstances of the denial of visitation. If the Court grants the Motion, an Order to Show Cause shall be issued to the alleged non-compliant person setting forth a date and time of hearing when the alleged non-compliant person shall appear before the Court to show cause why he or she should not be held in contempt of court for failing or refusing to comply with the visitation order.

Sec. 20.12. Costs of Visitation.

Unless otherwise agreed upon between the petitioner(s) and the child's parent(s), guardian(s), or legal custodians, any transportation costs or other costs arising from any visitation ordered pursuant to this Chapter shall be paid by the grandparent(s) who requested such visitation.

Sec. 20.13. Full Faith and Credit.

A. Orders of any state court or other tribal court involving a grandparent's visitation rights shall be recognized and given full faith and credit by the Hualapai courts if:

1. The issuing court properly possessed and exercised jurisdiction over all parties and the subject matter;
2. All procedures specified in the Indian Child Welfare Act, 25 U.S.C. §1901 *et seq.*, and all regulations contained in 25 C.F.R. §23.1 *et seq.*, if applicable, were properly followed; and,
3. Due process and other rights guaranteed by the Hualapai Constitution, Hualapai Law and Order Code, the Indian Civil Rights Act, 25 U.S.C. §1301 *et seq.*, and the United States Constitution, if applicable, were afforded to all interested parties.

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HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 18-2017
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION
PEACH SPRINGS, ARIZONA

(Amendment to Hualapai Law and Order Code, Chapter 9, Section 6.242 (c) and Section 6.154)

WHEREAS, the Hualapai Tribal Council is the legislative body of the Hualapai Tribe and is empowered by the Constitution of the Hualapai Indian Tribe to enact laws for the preservation of health, safety, and welfare of the Hualapai Tribe and to enact ordinances governing law enforcement on lands within the jurisdiction of the Tribe; and;

WHEREAS, the Hualapai Tribal Council has the power to exclude Non-Members of the Hualapai Indian Tribe from the Hualapai Reservation to the full extent of Federal Law; and

WHEREAS, the Hualapai Tribal Council has the power to enact laws regulating the exclusionary process, procedure, and enforcement within the exterior boundaries of the Hualapai Reservation.

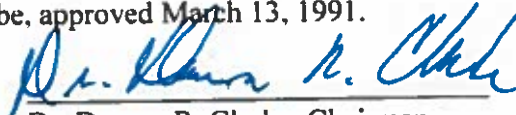
NOW THEREFORE BE IT RESOLVED, that the Hualapai Tribe desires to enact amendments to Chapter 9 of the Hualapai Tribal Code, attached as Exhibit A, to regulate the exclusionary process, procedure, and enforcement of Non-Members:

BE IT FURTHER RESOLVED, that the Hualapai Tribal Council desires to enact Section 6.242(c) of the Hualapai Law and Order Code, attached as Exhibit B, such that Orders of Exclusion against Non-Members may be enforced by the criminal code.

BE IT FURTHER RESOLVED, that the Hualapai Tribal Council desires to enact Section 6.154 of the Hualapai Law and Order Code, attached as Exhibit C, such that Orders of Exclusion against Non-Members may be enforced by the criminal code.

CERTIFICATION

I, the undersigned as Chairman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom **(8)**, constituting a quorum, were present at a **Regular Council Meeting** held on the **4th Day of March, 2017**; and that the foregoing resolution was duly adopted by a vote of **(7) in favor, (0) opposed, (0) not voting, (2) excused**, pursuant to authority of Article V, section (a), (f), (g), (j), (o), and (r) of the Constitution of the Hualapai Tribe, approved March 13, 1991.



Dr. Damon R. Clarke, Chairman
Hualapai Tribal Council



Shanna Salazar, Administrative Assistant
Hualapai Tribal Council

CHAPTER 9

NON-HUALAPAI MEMBER

EXCLUSION OFF THE HUALAPAI INDIAN RESERVATION

Sec. 9.1 – Jurisdiction.

Under Hualapai Constitution Article V and the inherent sovereignty of the Hualapai Indian Tribe, the Tribal Council enacts this Chapter authorizing, recognizing, and vesting to the full extent of Federal Law the Hualapai Tribal Courts with civil jurisdiction over all Non-Members of the Hualapai Tribe with respect to the exclusion and removal of Non-Members from the Hualapai Indian Reservation.

Sec. 9.2 – Who May Be Excluded from the Hualapai Indian Reservation.

Any Non-Member of the Hualapai Tribe may be excluded or removed from the Hualapai Indian Reservation pursuant to the provisions of this Chapter. A Non-Member is any person who is not enrolled as a member of the Hualapai Tribe pursuant to Article II of the Hualapai Constitution.

Sec. 9.3 – Grounds for Exclusion.

The commission of any of the following; by a Non-Member of the Hualapai Tribe constitutes a basis for exclusion of the Non-Member from the Hualapai Indian Reservation:

- A. Entering an area of the Hualapai Reservation for which a permit is required under any tribal law, without first obtaining the requisite permit.
- B. Failure or refusal to pay any taxes, rents, fees, or other charges due the Tribe after reasonable notice and an opportunity to pay;
- C. The commission of any offense defined under tribal, state or federal law, including violation of any provision of the Hualapai Environmental Review Code and/or any of its subtitles. Commission, as used in this Chapter, includes the past commission of any offense defined under tribal, state or federal law evidenced by a non-member's history for which there was a conviction, plea of guilt or no-contest to involving the violation of an offense under tribal, state or federal law;
- D. Unauthorized taking of any property from the Reservation;
- E. Any act causing physical loss or damage of any nature to any property or to the property of any person lawfully on the Hualapai Reservation;
- F. Any action, cause, or condition constituting a threat to the health, welfare, security, or property of the Hualapai Tribe or any person lawfully on the Hualapai Reservation.
- G. Where any statute or resolution of the Hualapai Tribe or statute or order of the United States now or in the future provides for a criminal penalty or for the exclusion of Non-Members of the Hualapai Tribe, such statute, resolution or other provision shall provide grounds for proceedings under these rules.

Sec. 9.4 – Detainment or Arrest of Non-Members of the Hualapai Tribe.

- A. Any Hualapai law enforcement officer, including any Hualapai Police officer or other law enforcement official vested with the authority to enforce the laws of the Hualapai Tribe, and any person authorized by the Bureau of Indian Affairs, may detain any person alleged to be in violation of an Exclusion Order, or any criminal law of the Hualapai Tribe even though such person may not be a member of the Hualapai Tribe

or may not be an Indian. Such civil detention powers are pursuant to the sovereign powers of the Hualapai Tribe to effect the lawful exclusion of Non-Members so as to provide for public safety, health and welfare of the Hualapai Tribe.

B. Non-Indian Non-Member

1. Any Non-Indian Non-Member of the Hualapai Tribe may be civilly detained, after verification that the Non-Indian Non-Member has a lawful Exclusion Order against them, under the same standards and with the same procedures as are provided by the Hualapai Tribal Code and the Rules of the Hualapai Tribal Courts.
2. Any Non-Indian Non-Member detained shall be immediately brought before a Judge of the Hualapai Tribal Court. "Immediately" shall mean no later than the first day of regular court business following detention.
3. Upon the detention of a Non-Indian Non-Member offender, the appropriate jurisdictional authority having criminal jurisdiction over such offender should be notified.

C. Non-Member Indians

1. Any Non-Member Indian may be civilly detained or arrested, after upon verification that the Non-Member has a lawful Exclusion Order against them, upon the same standards and with the same procedures as are provided by the Hualapai Tribal Code and the Rules of the Hualapai Tribal Courts.
2. Any Non-Member Indian detained or arrested shall be immediately brought before a Judge of the Hualapai Tribal Court. "Immediately" shall mean no later than the first day of regular court business following detention.
3. Pending a hearing on the interim (temporary) or permanent exclusion of a Non-Member Indian from the Hualapai Reservation, bond to secure the appearance of such person in the same amount as is normally required for the corresponding criminal offense for which the person was detained may be posted with the Hualapai Police or the Clerk of Court, and the person detained may be released.

Sec. 9.5 – Nature of Exclusion Actions.

All exclusion actions are civil in nature. Court proceedings for exclusion shall be summary in nature, and the rules of civil procedure as to motions; the time for making and hearing motions, initial hearings, and all other provisions inconsistent with summary proceedings shall not apply. The summary proceeding shall be a one-time hearing concluded within the same day. If a general rule of civil procedure is inconsistent with this Chapter 9, the Chapter 9 provision shall prevail. Due process is provided through service of the petition which provides notice of grounds for exclusion, and the hearing which provides, upon appearance, for the Respondent an opportunity to respond to the grounds for exclusion.

Sec. 9.6 – Initiation of Civil Permanent Exclusion Proceedings.

An exclusion action under this Chapter shall be initiated by the filing of a written Petition with the Hualapai Tribal Court by any Tribal Prosecutor or the Hualapai Tribal Council by and through their legal counsel. The Petition shall state in plain terms the reason(s) for the proposed exclusion.

Sec. 9.7 – Contents of Petition for Permanent Exclusion.

- A. Terms for parties.** All actions will be brought in the name of the Hualapai Tribe and it shall be referred to in all court documents as the Petitioner. The Non-Member against whom civil proceedings are brought under these rules shall be referred to as the Respondent.

- B. **Time of filing.** Petitions for Exclusion must be filed and served upon Respondents no later than ten days prior to an exclusion hearing. The petition need not be filed at the time of the presentation of a respondent before the court upon detain.
- C. **Contents.** All Exclusion Petitions must contain the following:
 - 1. Name and address of last known residence for Non-Member and;
 - 2. Clear explanation of the grounds for exclusion including any citations to Tribal, state, or Federal statutes which the Non-Member may be in violation of and;
 - 3. The facts, events, or conduct which allegedly provide grounds for exclusion, including a statement of any injury or damages caused to or suffered by the Tribe, or to Tribal, Federal or State property, or Tribal members resultant from the Non-Member's actions and;
 - 4. Names of witnesses who will appear in support of the petition and;
 - 5. The name and title of the individual(s) filing the petition.
- D. **Verification of petition.** All petitions must be verified under oath by an individual responsible for the prosecution of the exclusion action. Verifications need not be made by persons having direct knowledge but may be made by persons who base their verification upon investigation in the performance of official duties.

Sec. 9.8– Notice of Proposed Permanent Exclusion and Service of Process.

Upon the filing of a Petition for Permanent Exclusion; the Clerk of Court shall immediately, without undue delay, bring the petition to the attention of the presiding Tribal judge. If the presiding judge is satisfied that the petition complies with the requirements of Section 9.7 of this Chapter, such judge shall immediately issue a Notice of Proposed Permanent Exclusion to the named Respondent to appear before the court at a time, date and place certain to respond to the petition. The Notice of Proposed Permanent Exclusion to Respondent shall indicate that the proceedings are for the purpose of permanently excluding the Respondent from the Hualapai Reservation and that an exclusion order may be entered by default judgment if he or she fails to appear. Service of the Notice of Proposed Permanent Exclusion upon the Respondent shall be made in accordance with the Hualapai Law and Order Code Section 4.5 to the extent Section 4.5 does not conflict with this Chapter 9. The Notice of Proposed Permanent Exclusion must inform the Respondent of the following information:

- A. A copy of the Petition for Permanent Exclusion shall be included in the Notice of Proposed Permanent Exclusion; and
- B. The date, time and place at which the Non-Member proposed to be permanently excluded may appear; and
- C. The nature of the proceeding to be heard (hearing on Petition for Permanent Exclusion); and
- D. Right to representation at own expense of the Non-Member proposed to be permanently excluded;
- E. Notice that his/her failure to appear may result in entry of default judgment against the Non-Member proposed to be permanently excluded;
- F. If the Tribe applied for an Ex Parte Temporary Emergency Order of Exclusion a copy of such as well as any order rendered will accompany the Notice of Proposed Exclusion and Petition served on the Non-Member proposed to be excluded.
 - 1. If any Ex Parte Emergency Temporary Exclusion Order is granted for the Tribe; the Court shall instruct the manner in which the Non-Member proposed to be excluded shall enter the Hualapai Reservation for the purpose of attending his/her Permanent Exclusion hearing.

Sec. 9.9 – Timing of Hearing.

The hearing shall take place no less than five business days after the completion of service of the Petition for Exclusion and Notice of hearing on the Non-Member Proposed to be excluded. If a Judge of the Hualapai Tribal Court believes that an emergency exists, and the notice so states, the hearing may be held a minimum of 24 hours after completion of service.

Sec. 9.10 – Pleadings by Respondents.

Respondents need not file any pleadings in response to a petition for exclusion. However, a respondent may file a motion to dismiss the petition for any defense available at any time prior to the exclusion hearing or at the time of hearing.

Sec. 9.11 – Hearings.

- A. **Generally.** The hearing to determine whether the Non-Member shall be excluded from the Hualapai Reservation shall be conducted as a summary hearing as provided in Section 9.5 above and under Chapter 4, Section 4.12 – Civil Trial Proceedings to the extent Section 4.12 does not conflict with Section 9.5. The Non-Member shall be given an opportunity to present his/her defense and may at his/her own cost, be represented by legal counsel.
- B. **Preponderance of evidence.** A Permanent Order of Exclusion may be based upon a showing of one of the grounds for exclusion under Section 9.3 by a preponderance of the evidence. A “preponderance of the evidence” is defined to mean evidence, which leads the court to find that the existence of a contested fact upon which one of the grounds for exclusion can be based is more probable than its non-existence. A “preponderance of the evidence” is also defined to mean evidence, which is more convincing to the court than the opposing evidence.
- C. **Admission.** An order of the exclusion may be based upon an admission, either in open court or in a document or pleading filed with the court, that he or she committed the act in question which would constitute one of the grounds for exclusion under Section 9.3.
- D. **Consent.** A court may make an order excluding a Non-Member upon a written consent to exclusion acknowledged by the Non-Member and filed with the court as provided in Section 9.13.
- E. **Upon arrest.** Where any Indian Non-Member is arrested under the provisions of Section 9.3, he or she shall be brought before a Tribal judge for a hearing upon the following matters:
 1. Release upon bond or personal recognizance;
 2. Immediate exclusion by consent;
 3. The setting of an exclusion hearing prior to the filing of a petition for exclusion.
- F. **Upon detainment.** Where any Non-Member is detained under the provisions of Section 9.3, he or she shall be brought before a Tribal judge for a hearing upon the following matters:
 1. Release upon personal recognizance;
 2. Transfer to authorities with criminal jurisdiction over the Non-Member;
 3. Immediate exclusion by consent;
 4. The setting of an exclusion hearing prior to the filing of a petition for exclusion.
- G. **Permanent Exclusion Hearing.** At the time of the permanent exclusion hearing the court will conduct such hearing as follows:
 1. The court will ascertain the respondent’s correct name, residence and employment;
 2. The court will ask the respondent whether he or she consents to exclusion;
 3. The court will ask whether the Non-Member admits the act or acts alleged in the petition;

4. If the allegations are denied and no facts are admitted which form a basis for the courts to conclude a ground for exclusion exists, the petitioner will present its case;
5. At the close of the petitioner's case the respondent may move for dismissal for failure to state a case;
6. The respondent may present his or her defense;
7. The court will immediately make its decision and order the preparation of an appropriate judgment.

Sec. 9.12 – Order of the Court after Exclusion Hearing.

- A. At the conclusion of the hearing, or after the time set for the hearing in the event the Non-Member fails to appear or obtain a continuance thereof, the Court shall issue an order:
 1. Excluding the Non-Member from the Hualapai Reservation if the elements for the basis of the exclusion is substantiated through the summary evidentiary proceedings heard;
 2. Deny and dismiss the action of the Tribe if the elements for the basis of exclusion have not been met; or
 3. Enter an order upon any stipulated terms reached by the parties found to be proper.
- B. All Orders of Exclusion, except those not upheld or vacated on appeal under Section 9.20, shall remain in force until such time the Hualapai Tribal Council has agreed by resolution to lift the exclusion order; the Non-Member affected shall be the moving party to revoke or modify the terms of the Court's order only after he or she has secured a resolution from the Hualapai Tribal Council.
- C. **Contents of order.** Any order or judgment excluding a Non-Member from the Hualapai Indian Reservation must contain:
 1. A statement of the conclusions to be drawn from the evidence as to the facts of the case;
 2. A statement of the applicable statute or statutes which form the grounds for exclusion;
 3. A statement of how or why the concluded facts constitute a violation of the applicable statute or statutes;
 4. A statement of the status of the Respondent as a Non-Member;
 5. A statement of any particular considerations found by the court as a basis for the order or judgment given;
 6. Where appropriate, an order to a law enforcement officer of the Hualapai Tribe to remove the Respondent from the exterior boundaries of the Hualapai Reservation;
 7. A clear order or direction to the Respondent that he or she must not enter the Hualapai Reservation upon exclusion; and

Sec. 9.13 – Immediate Exclusion by Consent.

A Non-Member of the Hualapai Tribe may be immediately excluded from the Hualapai Reservation by means of written consent. The consent shall contain the following information:

- A. A brief statement of the facts or charges against the Non-Member and the citation to the statute which the Non-Member has allegedly violated;
- B. A statement of the Non-Member's right to a hearing before his/her exclusion;
- C. A clear waiver of rights statement;
- D. Notice of the time, date and place of the exclusionary hearing;
- E. Notice that the person may not re-enter the Hualapai Indian Reservation until the time and date of the exclusion order;

- F. Upon execution, the Consent will be filed with the court. If the Court is satisfied that the above listed criteria are met, the court will enter a judgment on the validity of the Exclusion by Consent and serve a copy of the judgment, with the Consent attached, to the Prosecutor and Non-Member.

Sec. 9.14 – Emergency Temporary Exclusion.

In situation where the presence of a Non-Member within the exterior boundaries of Hualapai Reservation causes a danger to public health or safety, or property of the Tribe or any of its members, or to others lawfully residing in the Hualapai Reservation, or where any delay would result in irreparable damage, the Non-Member may be immediately, temporarily excluded from the Hualapai Reservation by written order of any Hualapai Tribal Judge authorizing any Peace Officer to remove the Non-Member or any of his/her property from the Reservation, either before or after the Non-Member has been ordered Permanently Excluded from the Reservation, as provided in Sections 9.16 and 9.17. The Peace Officer executing such Emergency Temporary Exclusion order shall use only so much force as deemed necessary by the Peace Officer to effect removal of the Non-Member from the Hualapai Reservation. If service of the Notice of Proposed Permanent Exclusion has not already been made as provided for in Section 9.8 above, the Court shall cause the Peace Officer to serve the notice upon the Non-Member at the time of removal, or to effect service in accordance with Hualapai Law and Order code Section 4.5 as soon after removal as reasonably possible to the extent that Section 4.5 does not conflict with this Chapter 9. Any Emergency Temporary Exclusion order may only be for a period of time necessary for arrangements to be made for a Permanent Exclusion hearing, which shall be no longer than fifteen days from the date of the Emergency Temporary Exclusion.

Sec. 9.15 – Initiation of Civil Emergency Temporary Exclusion Proceedings.

An Ex Parte Motion may be made requesting an Emergency Temporary Exclusion Order prior to filing a Petition for Permanent Exclusion. The Court will consider the Ex Parte Emergency Temporary Exclusion request immediate to its filing and issue any orders deemed necessary and appropriate.

Sec. 9.16 – Proceedings for Emergency Temporary Exclusion Order.

Any Emergency Temporary Exclusion order may be made only upon the filing of a sworn motion or petition showing specific facts which, taken as true for the purpose of an order, show grounds for exclusion under Section 9.3 of this Chapter and which clearly and convincingly shows that the presence of the Non-Member within the Hualapai Reservation causes a danger to public health or safety.

- A. The sworn motion, petition or affidavits of witnesses in support of a petition or motion must give specific facts showing grounds for exclusion and danger to public health or safety, and broad conclusory statements will not provide grounds for an Emergency Temporary Exclusion Order.
- B. Any Non-Member may be subject to an immediate Emergency Temporary Exclusion Order without the filing of a Petition for Permanent Exclusion under this Chapter, but such Petition for Permanent Exclusion must be filed and served upon the Non-Member no less than ten days prior to a scheduled exclusion hearing.
- C. Proceedings for a Temporary Exclusion Order may be Ex Parte in nature without prior notice to the Non-Member, but any application for an Emergency Temporary Exclusion Order which is Ex Parte must show good cause why no notice was given or can be given.

- D. A Non-Member who is excluded from the Hualapai Reservation under an Emergency Temporary Exclusion Order may move the court to withdraw or modify the order at any time by telephone motion or a motion made by attorney. Any such motion may be ex parte, and the judge considering any telephone motion shall prepare minutes of the telephone conversation and file them the same date as the motion is made.
- E. If any Ex Parte Emergency Temporary Exclusion Order is granted for the Tribe; the Court shall instruct the manner in which the Non-Member proposed to be excluded shall enter the Hualapai Reservation for the purpose of attending his/her Permanent Exclusion hearing.

Sec. 9.17 – Contents of Emergency Temporary Exclusion Order.

An Emergency Temporary Exclusion order must contain the following information:

- A. The name and title of the person petitioning for the Emergency Temporary Exclusion order;
- B. A citation to the statute which the Non-Member has allegedly violated;
- C. A summary of the facts upon which the Emergency Temporary Exclusion order is based;
- D. A brief statement of the facts which show the person is a danger to public health or safety;
- E. Whether or not a petition has been filed for Permanent Exclusion and any order for the filing and service of such petition;
- F. The date, time and place for the Permanent Exclusion hearing;
- G. A clear order to not re-enter the Hualapai Indian Reservation until the time and date of the Permanent Exclusion hearing; and
- H. The manner in which the Non-Member proposed to be excluded shall enter the Hualapai Reservation for the purpose of attending his/her Permanent Exclusion hearing.

Sec. 9.18 – Enforcement of Orders of Exclusion and Sanctions for Non-Compliance

Any Non-Member ordered excluded from the Hualapai Reservation who does not comply with his/her Permanent Order of Exclusion or Emergency Temporary Exclusion Order from the Hualapai Indian Reservation, shall be subject to the following process: the Hualapai Police or other law enforcement official vested with the authority to enforce the laws of the Hualapai Tribe shall enforce any exclusion order by one or both of the following processes:

- A. **CRIMINAL ENFORCMENT** - any law enforcement official vested with the authority to enforce the laws of the Hualapai Tribe shall immediately seize the Non-Member Indian who is not complying with their exclusion order from the Hualapai Indian Reservation and file criminal charges against him/her under either Section 6.242(C), Or Section 6.154(C) (this subsection 9.18(A) does not apply to Non-Indians); and/or
- B. **CIVIL CONTEMPT ENFORCEMENT** – any law enforcement official vested with the authority to enforce the laws of the Hualapai Tribe shall civilly detain the Non-Member Indian or Non-Member Non-Indian violating his/her exclusion order and hold him/her until the following processes are completed.
 - 1. Immediately submit a report and an affidavit to the Hualapai Prosecutor or Tribe’s Attorney who will immediately initiate civil contempt proceedings under Chapter 8 of the Hualapai Law and Order Code against the non-compliant excluded Non-Member to be filed with the Tribal Court for immediate review;
 - 2. The Tribal Court shall review the Tribe’s request immediately. Upon a filing with the court under this provision; the clerk of court shall deliver the request of the Tribe to the Tribal Court Judge notifying the Judge of the emergency nature of the filing and informing the Judge of the civil detainment; the Judge shall immediately convene an evidentiary hearing ordering law

enforcement officials civilly detaining the alleged offender to be brought before the court for the Court to determine whether the Non-Member violated the Court's Order of Exclusion.

- i. Should an emergency civil contempt hearing be demanded on a day when court is not open for regular business, the request of the Tribe may be received by the Court by electronic means (i.e. via email or facsimile) and the parties may convene the hearing by telephonic means as necessary to immediately review the merit of request of the Tribe and determine the disposition of the detained alleged non-compliant person.
- C. Upon a finding by the Tribal Court under 9.18 (b) above that the lawfully excluded Non-Member has violated his/her exclusion order; the Tribal Court shall impose the following sanction(s):
1. If the Tribe acted under the provision of 9.18 (a) above; the applicable criminal penalties at either Section 6.242(C), Or Section 6.154(C) shall apply; upon completion of any imprisonment term, the Hualapai Adult Detention Director must notify the Hualapai Law Enforcement Chief who shall arrange to escort the Non-Member off the Hualapai Reservation upon his/her release from Hualapai Adult Detention Center.
 2. If the Tribe acted under the Section of 9.18(b); the applicable civil penalties that may be imposed shall be as follows:
 - i. The original exclusion order may be modified to a Permanent Exclusion Order from the Hualapai Indian Reservation for failure to comply with his/her Emergency Temporary Exclusion Order; and
 - ii. The non-compliant offender shall pay any reasonable expenses incurred by the Tribe to remedy the non-compliance; and
 - iii. A fine up to \$500; and
 - iv. Imprisonment as deemed necessary and appropriate to gain compliance by the offender with any court order related to a non-compliance action including but not limited to collection of fines or costs imposed for non-compliance; and
 - v. The appropriate jurisdictional authority having criminal jurisdiction over such offender is notified that the offender criminally trespassed upon the Hualapai Reservation under Hualapai Law and Order Code Section 6.154(C).
 - vi. The non-compliant offender shall be escorted off the Hualapai Reservation by Hualapai Law Enforcement Officials or other law enforcement officials vested with the authority to enforce the laws of the Hualapai Tribe and may be transferred into the custody of the appropriate jurisdictional authority having criminal jurisdiction over such offender.

Sec. 9.19 – Priority on Court Dockets.

Actions for exclusion shall take priority over all normal matters on court dockets.

Sec. 9.20 – Appeals.

Appeals from orders excluding individuals from the Hualapai Reservation shall be filed within 10 days of the date of the final order or judgment and shall take precedence over all ordinary appellate cases and shall be set for hearing at the time of the filing of the appeal. The Court of Appeals may order a short briefing schedule in order to expedite the appeal.

Sec. 9.21 – Forms.

The Chief Judge may adopt court forms or model forms to implement these rules at any time.

Hualapai Law and Order Code CHAPTER 6, SEC. 6.242**Sec. 6.242 Failure to Obey an Order of the Court**

- A. It shall be unlawful for any person to fail to obey an order, subpoena, or warrant issued by the Tribal Court.
- B. It shall be unlawful for any person to violate domestic protection orders issued in accordance with the Hualapai Law and Order Code.
- C. It shall be unlawful for any person excluded from the Hualapai Indian Reservation, pursuant to provisions of Chapter 9, to disobey any term of his/her Exclusion Order or Temporary Exclusion Order from the Hualapai Indian Reservation.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

Special release conditions for an alleged violation of Sec. 6.242(C): the Tribal Court must set or conduct an immediate detention hearing if the offender has denied the charge and further proceedings are scheduled. The Court will consider the strength of the Tribe's case to determine if the offender must be remanded pending the further scheduled proceedings. The Court may take judicial notice of its exclusion order and the fact of the defendant's presence on the Hualapai Reservation as prima facie evidence to set bond to secure the defendant's future appearance. The bond shall be set in a reasonable amount that will assure the defendant's appearance and not exceed two times the amount of the fine that could be imposed; the Court may remand a defendant without bond if the evidence shows there is no reasonable assurance the defendant will appear for future proceedings. If the defendant posts bond; the Court shall provide for orders directing the Detention Center Director to immediately notify law enforcement officials so the defendant may be escorted off the Hualapai Reservation; the Tribal Court shall also inform the defendant the conditions upon which he is to return for any future court proceedings.

HUALAPAI LAW AND ORDER CODE 6.154

Sec. 6.154 Trespass

It shall be unlawful for any person to willfully:

- A. Refuse to depart from the property of another, except under a landlord-tenant relationship, after being notified in writing, or verbally by the owner, lawful occupant, or authorized agent of the owner of such property, to immediately depart; or
- B. Enter without permission of the owner's agent, upon the property of another; or
- C. Violate an Exclusion Order or Temporary Exclusion Order from the Hualapai Indian Reservation.

HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 90-2016
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION

(Amendment to Chapter 10, Section 10.10 A-E of the Hualapai Law and Order Code)

WHEREAS, the Hualapai Tribal Council is the governing body of the Hualapai Tribe and is empowered by the Hualapai Constitution to legislate in matters regarding the Hualapai Court of Appeals.

WHEREAS, The Tribal Council Enacted Chapter 10, Section 10.10 A-E, Duties of the Chief Justice in order to institutionalize the position and provide general direction.

WHEREAS, Chapter 10, Section 10, 10.10 C, of the Law and Order Code states, "*The Chief Justice's powers and duties shall include, (c) Filling any vacancy in a judicial panel by either selecting another Justice for the panel or by appointing a visiting judge or judges with qualifications corresponding to those of the absent members of the panel.*"

WHEREAS, Article VII, Section 7 of the Hualapai Constitution states in part, "The Hualapai Court of Appeals shall consist of one or more judges **selected in sequential order from a list of available Court of Appeals Judges compiled by the Tribal Council**".

WHEREAS, The Chief Justice cannot appoint a visiting judge to sit in the panel and the judge must be on the 'list' of available Court of Appeals judges.

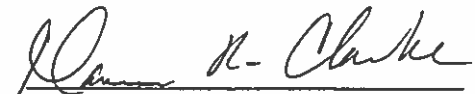
WHEREAS, Chapter 10, Section 10.10 (c) of the Law and Order Code must be revised in order to correspond with the Hualapai Constitution.

NOW THEREFORE, BE IT RESOLVED, that the Hualapai Tribal Councils hereby revises Chapter 10, Section 10.10 (c) of the Law and Order Code.

BE IT FURTHER RESOLVED, that the second clause of Section 10.10 (c) shall be revised to simply read "The Chief Justice's powers and duties shall include filling any vacancy in a judicial panel by selecting another judge for the panel from the list of available Court of Appeals judges".

C E R T I F I C A T I O N

I, the undersigned as Chairman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom (9) constituting a quorum were present at a **Special Council Meeting** thereof held on this **2nd Day of November, 2016;** and that the foregoing resolution was duly adopted by a vote of **9 approve, 0 opposed, 0 not voting, 0 excused;** pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.



Damon Clarke, Chairman
Hualapai Tribal Council

ATTEST:



Shanna Salazar, Administrative Assistant
Hualapai Tribal Council

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 54-2013
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**

(Modification to Law & Order Code, Chapter 15, Animal Control, Section 15.9)

- WHEREAS,** authority is vested in the Hualapai Tribal Council by the Constitution approved March 31, 1991; and
- WHEREAS,** the Council adopted on June 2004, Chapter 15, Animal Control, Sections 15-1 through 15-9 for the regulation of animals on the Hualapai Reservation; and
- WHEREAS,** *Section 15.9 Fees, Policies and Procedures* currently states; “*The Hualapai Tribal Council will review annually, fees for licensing and will develop policies and procedures regarding animal control*”.
- WHEREAS,** this section shall establish daily fees separate from those who are liable for violations as order by the Tribal Court of the Animal Control Ordinance as follows:

“Section 15.9 Fees

A. the Hualapai Tribal Council will review Fees for Licensing and Boarding, and policies and procedures as recommended by Hualapai Animal Control.

B. All Fees for the Animal Control Program will be paid to the Hualapai Tribe.

Fees are based on the following:

1. License/Tag Registration: Annual Fee \$10.00 per canine

License will be renewed annually through the Hualapai Tribe. The fee may be waived if the owner of the animal can provide proof that the animal has been spayed/neutered. No animal will be licensed without proof of current vaccinations and immunizations of dogs and cats, four months of age and older must be vaccinated for rabies.

Reissued Tag Fee:

Any reissued tag (lost, stolen, replaced) during the annual period must pay replacement; regardless if the animal been spayed or neutered. Replacement fee will be \$5.00 per license tag.

Boarding Fee:

Any animal picked up and held at the animal control kennel, the responsible owner will be charged a boarding fee; Boarding Fee \$5.00 per day. Animals picked up will be released to the owner only after proof of licensing and payment of impoundment fees are provided.

No animal shall be held over seventy two hours, any animal held beyond the seventy two hour period (three days) shall be deemed abandoned and become property of the Hualapai Tribe; the animal will be accessed for adoption as recommend by the animal control officer.

2. Rabies Control Boarding Fee: Any canine (vaccinated or unvaccinated) that bites a person or animal must be confined for ten (10 days) rabies observation. Owner of the

animal quarantined for observations shall be charged a daily impoundment fee for the minimum of ten days. The owner will be responsible for the fee assessed during the quarantined period. Rabies control boarding fee: \$75.00

All boarding fees must be paid by the responsible owner at the conclusion of the observation quarantine period.

If any such animal is not redeemed by the owner within three days after the quarantine period ends, it shall be deemed abandoned and the animal may be euthanized by the animal control officer.

Animals involved in three or more offenses that involve bites against humans or attacks on other animals, ownership must be forfeited immediately and the animal become property of the Hualapai Tribe for the duration of the quarantine observation period. Following the ten day observation, the animal will be humanely euthanized.

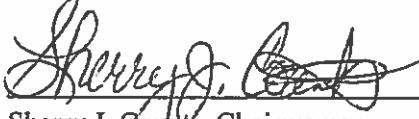
3. Surrender Fee: Any owner of a canine or feline may surrender their rights to an animal to circumstances beyond their control. Owner must sign a surrender waiver disclaimer provided by the animal control officer. Owner must pay a surrender fee in the amount of \$3.00 per animal excluding puppies and kittens under age of four months.

NOW, THEREFORE BE IT RESOLVED that the Hualapai Tribal Council approves the modification to Chapter 15, Animal Control Ordinance, Section 15.9 by establishing fees.

BE IT FURTHER RESOLVED, that Section 15.9 Fees, Policies and Procedures shall remain in effect for the life of the Hualapai Tribal Law and Order Code enacted June 1, 2004.

CERTIFICATION

I, the undersigned as Chairwoman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom (9) constituting a quorum were present at a Regular Council Meeting thereof held on this 5th day of August, 2013; and that the foregoing resolution was duly adopted by the affirmative vote of (5)- in favor, (1)- opposed, (2) not voting. (1) excused, pursuant to the authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.



Sherry J. Counts, Chairwoman
HUALAPAI TRIBAL COUNCIL

ATTEST:



Ronald TwoBulls, Secretary

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 53-2013
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**

(Modification to Law & Order Code, Chapter 15, Animal Control, Section 15.2A)

- WHEREAS,** authority is vested in the Hualapai Tribal Council by the Constitution approved March 31, 1991; and
- WHEREAS,** the Council adopted on June 2004, Chapter 15, Animal Control, Sections 15-1 through 15-9 for the regulation of animals on the Hualapai Reservation; and
- WHEREAS,** *Section 15.2(H) GENERAL ANIMAL CONTROL* currently states “*Following the adoption of this code, dogs will be limited to two per residence. Those currently owing more than two dogs will be excused from this requirement for the life of the current dog(s), but those animals must be licensed through the Hualapai Tribe. This does not apply to those living in Tribal housing, where a two pet limit is already in effect. Excessive animal may be confiscated and humanely destroyed by an animal control office.*”

This section shall be modified to read the following to ensure vaccinations are administered by an animal control officer or veterinarian.

“Dogs will be limited to two per residence, animals must be licensed through the Hualapai Tribe; however excessive animals may be confiscated and become property of the Hualapai Tribe; the animal(s) will be accessed for adoption as recommended by the animal control officer.”

- WHEREAS,** Section 15.2 (H) provides enforcement of the two pet ordinance.

NOW, THEREFORE BE IT RESOLVED that the Hualapai Tribal Council approves the modification to Chapter 15, Animal Control Ordinance, Section 15.2 (H) as follows:

“Dogs will be limited to two per residence, animals must be licensed through the Hualapai Tribe; however excessive animals may be confiscated and become property of the Hualapai Tribe; the animal(s) will be accessed for adoption as recommended by the animal control officer.”

BE IT FURTHER RESOLVED, that Section 15.2(H) General Animal Control shall remain in effect for the life of the Hualapai Tribal Law and Order Code enacted June 1, 2004.

CERTIFICATION

I, the undersigned as Chairwoman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom (9) constituting a quorum were present at a Regular Council Meeting thereof held on this 5th day of August, 2013; and that the foregoing resolution was duly adopted by the affirmative vote of (5)- in favor, (1)- opposed, (2) not voting, (1) excused, pursuant to the authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.

ATTEST:

Ronald TwoBulls
Ronald TwoBulls, Secretary

Sherry J. Counts
Sherry J. Counts, Chairwoman
HUALAPAI TRIBAL COUNCIL

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 52-2013
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**

(Modification to Law & Order Code, Chapter 15, Animal Control, Section 15.3A)

WHEREAS, authority is vested in the Hualapai Tribal Council by the Constitution approved March 31, 1991; and

WHEREAS, the Council adopted on June 2004, Chapter 15, Animal Control, Sections 15-1 through 15-9 for the regulation of animals on the Hualapai Reservation; and

WHEREAS, *Section 15.3(A) Rabies Control currently states "All domesticated animal four month of age and older of a species susceptible to rabies must have a rabies vaccination from a licensed veterinarian."*

This section shall be modified to read the following to ensure vaccinations are administered by an animal control officer or veterinarian.

"All domesticated animal four month of age and older of a species susceptible to rabies must have a rabies vaccination provided on the Hualapai Reservation and administered by a licensed veterinarian or an Animal Control Officer as recognized by the Hualapai Tribal Council".

WHEREAS, Section 15.3 (A) provides and ensures all canines will receive the rabies vaccination for the wellbeing of the animals and health and safety of the community members of the reservation.

NOW, THEREFORE BE IT RESOLVED that the Hualapai Tribal Council approves the modification to Chapter 15, Animal Control Ordinance, Section 15.3 (A) as follows:

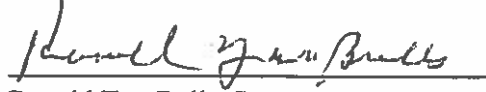
"All domesticated animal four month of age and older of a species susceptible to rabies must have a rabies vaccination provided on the Hualapai Reservation and administered by a licensed veterinarian or an Animal Control Officer as recognized by the Hualapai Tribal Council".

BE IT FURTHER RESOLVED, that Section 15.3(A) Rabies shall remain in effect for the life of the Hualapai Tribal Law and Order Code enacted June 1, 2004.

C E R T I F I C A T I O N

I, the undersigned as Chairwoman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom (9) constituting a quorum were present at a **Regular Council Meeting** thereof held on this 5th day of August, 2013; and that the foregoing resolution was duly adopted by the affirmative vote of (7) in favor, (1) not voting, (1) excused, pursuant to the authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.

ATTEST:


Ronald TwoBulls, Secretary


Sherry J. Counts, Chairwoman
HUALAPAI TRIBAL COUNCIL

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 38-2013
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**

WHEREAS, the Hualapai Tribe is presently operating its Domestic Violence Program under an outdated Domestic Violence Code; and

WHEREAS, considerable time and work has been expended by the Domestic Violence Task Force in working to develop and finalize a new Hualapai Domestic Violence Code based on the community's needs, as amended; and

WHEREAS, a 30 day comment period regarding the amendments was given and a public meeting was held on April 11, 2013.

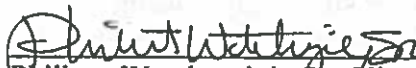
NOW, THEREFORE, BE IT RESOLVED, that the Hualapai Tribal Council assembled this 23rd day of May 2013, does hereby approve the attached revised Ordinance 7, Hualapai Domestic Violence Code, and hereby adopts said revised and updated Domestic Violence Code to be used to govern the administration of the justice for domestic violence crimes, to ensure civil protections for domestic violence victims, and to promote healing for those who are convicted of domestic violence crimes.

BE IT FURTHER RESOLVED, that this revised Ordinance 7, Hualapai Domestic Violence Code, supersedes and replaces any and all prior Hualapai Domestic Violence Codes.


BE IT FURTHER RESOLVED, that this revised Ordinance 7, will go into effect midnight, June 20, 2013.

CERTIFICATION

I, the undersigned as Vice-Chairman of the Hualapai Tribal Council hereby certify that a Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom 7 constituting a quorum were present at a **SPECIAL COUNCIL MEETING** thereof held on this **23rd day of May, 2013**; and that the foregoing resolution was duly adopted by a vote of 6 in favor, 0 opposed, 1 not voting, 2 vacant pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.


Philbert Watahomigie Sr., Vice Chairman
Hualapai Tribal Council

ATTEST:


Ronald TwoBulls, Secretary
Hualapai Tribal Council

Pertains to
Chapter 7

CHAPTER 7
DOMESTIC VIOLENCE

Amended May 2013

Sec. 7.1 Findings and Intent

The Hualapai Tribal Council finds that:

- domestic violence is a serious crime;
- domestic violence is NOT traditionally acceptable; and
- domestic violence is a danger to the mental, physical and cultural well-being of people on the Hualapai Reservation.

It is the intent of the Hualapai Tribe:

- to break the generational cycle of domestic violence;
- to protect families;
- to hold offenders accountable, with responsible, fair sentencing and treatment;
- to foster wellness and healthy relationships within families;
- to utilize both our criminal and our civil jurisdiction over domestic violence offenses;
- to protect Hualapai culture and tradition; and
- to work towards eliminating domestic violence.

Sec. 7.2 Definitions

- A. "Abuse means (1) intentionally, recklessly, or negligently causing or attempting to cause physical harm, emotional harm, or mental anguish to another person; (2) intentionally, willfully, or knowingly causing or attempting to cause financial harm to any person; or (3) threatening or placing another person in reasonable apprehension of imminent serious physical injury.
- B. "Counseling" means services provided by any authorized program that provides services for, but not limited to domestic violence, alcohol and drug rehabilitation, parenting, and mental health education.
- C. "Court" means the Hualapai Tribal Court or the Hualapai Court of Appeals.

- D. "Domestic Violence" means abuse, mental anguish, physical harm, bodily injury, assault, or the infliction of reasonable fear of bodily injury between family or household members, or sexual assault of one family or household member by another. "Domestic Violence" does not include acts of self-defense reasonably taken in response to acts of domestic violence or acts taken in defense of another reasonably taken in response to acts of domestic violence.
- E. "The Hualapai Domestic Violence Shelter" means is a location which provides emergency housing-and protection for victims of; domestic violence
- F. "Family or Household Member" means spouses, former spouses, intimate partners, former intimate partners, same sex partners, domestic partners, parents, grandparents, children siblings, half-siblings, cousins, aunts, uncles, and any persons presently residing together or who have resided together, or who have a child in common regardless of whether they have been married at any time.
- G. "Financial Exploitation" means the act or process of using any person, their resources, or their real or personal property for another person's profit, advantage, gain, or for monetary or personal benefit without legal entitlement to do so.
- H. "Mandatory arrest" means a peace officer shall arrest, with or without a warrant, if there is probable cause to believe the person to be arrested has committed an offense of domestic violence, as defined by this Chapter. The victim need not sign a complaint for an arrest to occur. An arrest must be made even if such arrest may be against the expressed wishes of the victim.
- I. "Probable Cause" means the reasonable belief, based on the officer's observations, statements made by the parties involved, and witnesses, if any, that the suspect committed an act of domestic violence.
- J. "Mental Anguish" means causing a person psychological or emotional damage by physical or verbal intimidation, making threats, verbal abuse, physical abuse, harassment, stalking, or any contact that is detrimental to the psychological and mental well-being of that person or any other family or household member, characterized by behavioral change or physical symptoms.
- K. "Order of Protection" means a Court order granted for the protection of victims of domestic violence.
- L. "Physical Harm" means any unlawful physical contact or the impairment of physical condition. Physical harm does not include harm inflicted in self-defense.

- M. "Perpetrator" means a person who is alleged to have committed or has been convicted of committing an act of abuse or domestic violence on his or her family or household member.
- N. "Police Officer" or "Peace Officer" means a law enforcement officer of the Hualapai Tribal Police Department or other law enforcement officer having legal jurisdiction.
- O. "Primary, Physical Aggressor" means the person(s) who has caused or has threatened to cause significant physical or emotional harm to another in his or her family or household, as compared to other party(ies) involved. This is regardless of which party was the first aggressor. In determining whether one person is a primary physical aggressor, consideration shall include but is not limited to:
1. Prior history of domestic violence;
 2. The relative severity of the injuries inflicted on each person;
 3. The likelihood of future injury to each person;
 4. Whether one of the person acted in self-defense; and
 5. Relative ability to inflict harm between the parties involved.
- P. "Self-defense" means the protection of one's person against some injury attempted by another.
- Q. "Victim" means who has been subjected to domestic violence.

Sec. 7.3 Crime Involving Domestic Violence—Defined

- A. The purpose of this section ordinance is to clarify that domestic violence is a separate crime punishable separate and apart from the underlying crime, and to acknowledge that when the following crimes against a family or household member, a finding of such shall trigger the application of this section ordinance. The crime of domestic violence occurs when a family or household member commits one or more of the following offenses against another family or household member.
1. Arson;
 2. Assault Offenses (Battery, Aggravated Assault, Simple Assault, and Intimidation);
 3. Burglary, Breaking and Entering;
 4. Destruction of Property, Damage, Vandalism of Property;

5. Homicide Offenses (Murder and Non-negligent Manslaughter, Negligent Manslaughter, and Justifiable Homicide);
6. Kidnapping, Abduction;
7. Sex Offenses, Forcible (Forcible Rape, Forcible Sodomy, Sexual Assault with an Object, and Forcible Fondling);
8. Stolen Property Offenses;
9. Financial Exploitation ~~Abuse Fraud or Misconduct~~;
10. Weapon Law Violations;
11. Disorderly Conduct;
12. Family Offenses, Non-Violent;
13. Stalking;
14. Trespass of Real Property;
15. Intoxication;
16. Harassment;
17. Home Invasion;
18. Violation of an Order of Protection.

B. Committing the above stated offenses should not diminish the seriousness of domestic violence or take precedence over the crime of domestic violence since the intent of this Code is to prevent further acts of domestic violence. The commission of one of the above-referenced crimes against a family or household member shall trigger the application of this Code, even if the criminal complaint is also charged as one of these offenses. The purpose of this Code is to address crimes committed against persons involved in an intimate relationship, as defined in Section 7.2(F).

C. The use of alcohol in the committing of domestic violence or any crime related to domestic violence shall not diminish the seriousness of domestic violence or take precedence over the crime of domestic violence. The fact that the perpetrator was under the influence at the time of the offense shall not be utilized by law enforcement prosecution or the Court to mitigate the severity of the violence. Notwithstanding the definition in Section 7.2(A), voluntary intoxication, shall not be available as a defense to a perpetrator, nor shall it be utilized to lessen the consequences to the perpetrator.

Sec. 7.4 Penalties

A. Criminal Penalties should be guided by the seriousness of the offense.

1. First Offense:

- a. Any person who commits an act of domestic violence defined by this Chapter shall be deemed guilty of the offense of domestic violence. A person convicted of a first offense of domestic violence may be imprisoned for a term not to exceed six months, and may be fined an amount not less than \$200 or more than \$1,000, or both such imprisonment and fine with costs and restitution to the victim. Mandatory counseling shall be part of sentencing as provided in Section 7.5 of this Chapter, as well as restitution when appropriate.
 - b. The Court may suspend the imposition of fines and imprisonment for the first offense and place the defendant on probation for not less than three months or more than one year. When a sentence is suspended, there must be complete and total compliance with the orders of the Court requiring completion of the domestic violence program and counseling. ~~as ordered.~~
2. Second Offense: A person convicted of a second offense of domestic violence within five years may be imprisoned for a term not to exceed one year and fined an amount not less than \$500 or more than \$3,000, or both such imprisonment and fine. Mandatory counseling shall be part of sentencing as provided in Section 7.5 of this Chapter, as well as restitution when appropriate.
3. Third and Subsequent Offenses: A person convicted of a third or subsequent offense of domestic violence within five years of the last conviction may be imprisoned for a term of not less than one year and fined an amount not less than \$1,000 or more than \$5,000, or both such imprisonment and fine. Mandatory counseling shall be part of sentencing as provided in Section 7.5 of this Chapter, as well as restitution when appropriate. A convicted person under this section shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.
4. For second and subsequent convictions, upon complete and total compliance with the orders of the Court requiring completion of the domestic violence program and/or counseling as ordered, the Court may suspend up to half of the imposition of fines and imprisonment for domestic violence offense(s). Provided: the perpetrator is placed on probation for not less than one year. Failure to comply with terms of probation shall result in the completion of the original sentence.
5. For third and subsequent convictions within five years, the Court may exclude a non-member defendant if the Court finds by clear and convincing evidence that the domestic violence is likely to continue unless either the defendant or victim leaves the Hualapai Reservation. The exclusion may last as long as the judge determines necessary.
6. Failure to attend counseling, violation of an order for protection, commission of any crime during the order for protection period, or violation of any condition of sentencing will result in a violation of probation and upon a finding of such shall

result in the imposition of a sentence no greater than the original sentence and require the perpetrator to complete the entire domestic violence program again.

7. Prosecution for the offense of domestic violence shall not preclude prosecution for any other offense arising from the same circumstances.
 8. A person convicted of domestic violence shall not be released from custody for community service or to attend funeral or wake services unless said services are for a member of the person's immediate family. Immediate family shall mean husband, wife, son, daughter, brother, sister, father, mother, or grandparent.
 9. In cases of failure to comply with the Court's orders of counseling under this section, the Court shall find the person in contempt, shall impose a sentence no greater than the original sentence for the offense, and again require the perpetrator to complete the entire counseling program upon release from jail.
- B. Civil Penalties. A person who is found guilty of domestic violence may be liable for a civil penalty not to exceed \$5,000, to be determined by the Court after a thorough review of the evidence and circumstances. In addition, restitution shall be required when appropriate
- C. Other Offenses; Entering Tribal Jurisdiction and Committing Domestic Violence.
1. A person who enters the tribal jurisdiction and commits an act of domestic violence and thereby causes injury to a family or household member, shall be considered to be in violation of Section 7.3 of this Chapter.
 2. A person who causes a family or household member to enter tribal jurisdiction as a result of domestic violence commits an act of domestic violence and shall be considered to be in violation of Section 7.3 of this Chapter.
- D. Other Conditions in Addition to Penalties.
1. In addition to the penalties above, the Court shall impose any condition it deems necessary to prevent further domestic violence, including but not limited to: restricting the defendant's ability to have contact with the victim and other family or household members and the requirement that defendant make periodic reports to the Court for the duration of the sentence and probation.
 2. A Peace Officer may remove any weapons or firearms that are in plain view or otherwise discovered during the domestic violence related investigation or are in the possession and control of the perpetrator. Such weapons may be subject of the forfeiture proceedings.

- E. Pre-sentencing evaluation. Prior to sentencing a person convicted under this Chapter for a domestic violence offense, the Court shall order a domestic violence evaluation or other personal evaluation deemed necessary upon motion of either party.

Sec. 7.5 Court Ordered Treatment and Counseling

- A. Alcohol and substance abuse. If alcohol, drugs, or other substance abuse, by perpetrator or victim, is a primary factor in the domestic violence arrest, a mandatory chemical dependency evaluation shall be conducted and complete cooperation with recommendations for treatment shall be considered by the Court.
- B. Mandatory Counseling.
 - 1. A person convicted of domestic violence shall be ordered to participate in appropriate counseling, which may include domestic abuse, substance abuse, or family counseling.
 - 2. The Court shall provide that qualified personnel will talk with the victim and discuss the availability of domestic violence services and groups.
- C. Substance Abuse by Victim: Referral to Social Services.
 - 1. If a peace officer has reason to believe that the victim of domestic violence has abused alcohol, drugs, or other substances, and such abuse contributed in part to a domestic violence incident which has occurred in the presence of a child(ren) under the care and control of such victim, the peace officer shall report the circumstances of the incident to Hualapai Human Services within 24 hours.
 - 2. Once Hualapai Human Services receives a report as provided in Subsection (C)(1), Hualapai Human Services shall commence an investigation of the home environment of the victim and the child(ren) within 48 hours and shall take appropriate action as provided in the Juvenile Code.
- D. Religious Consideration. Persons who practice a traditional Indian religion or any other religion may participate in additional counseling or ceremonies at their own expense, as appropriate to their sentence.
- E. Cost for Counseling or Other Treatment. The Court may order the person convicted of domestic violence to pay any cost for counseling or other treatment ordered pursuant to this Section.
- F. Follow-up Assessment
 - 1. A follow-up assessment shall be done at the completion of the mandated counseling.

2. A treatment provider shall do the assessment and shall forward a written copy of the findings and recommendations to the Court.
3. All treatment records will be sealed by the Court and may be reviewed only with written permission of the Judge.

Sec. 7.6 Procedure for Arrest and Disposition

A. Police Department

1. If probable cause exists as described in this Chapter, the officer shall arrest the perpetrator of domestic violence whether or not the victim signs a complaint and whether or not the arrest is against the expressed wishes of the victim.
2. Whenever a police officer investigates an allegation of domestic violence, whether or not an arrest is made, the officer shall make a written incident report of the alleged abuse and submit that report to the Office of the Tribal Prosecutor within 24 hours.
3. If a peace officer receives complaints of domestic violence from two or more persons, circumstances shall be evaluated to determine if there was a primary physical aggressor. If the officer finds that probable cause exists to show that one person was the primary physical aggressor, the officer shall arrest the primary physical aggressor.

B. Office of the Tribal Prosecutor

1. The Office of the Tribal Prosecutor shall evaluate the complaint based upon all available facts. A case shall not be dismissed solely on the grounds that the victim may be an uncooperative witness.
2. The Office of the Tribal Prosecutor shall make reasonable efforts to notify a victim of an alleged crime involving, domestic violence when the prosecutor has decided to decline prosecution of the crime or dismiss the criminal charges filed against the defendant.

C. Court

1. When a defendant is arrested, automatic orders of protection may be issued as provided in Section 7.9 of this Chapter.
2. Anyone immediately arrested under this Chapter shall be held in the custody of the Hualapai Tribal Detention Centers for a period not less than 24 hours as a mandatory "cooling off" period, regardless of when arraignment occurs.

3. Prior to the release of the defendant, the Court shall inform the Police Department, Designated Human Services Advocates, the Office of the Prosecutor, and the Health Department of the defendant's scheduled release date. If the defendant is released prior to conviction or trial, the Court shall immediately notify the above-mentioned agencies of his/her release.
4. Prior to release of the defendant, the Court shall provide for information to the victim regarding the availability of domestic violence services and groups, or refer the victim to appropriate service providers.
5. Because of the serious nature of domestic violence:
 - a. Disposition of cases shall not be delayed or dismissed because of concurrent dissolution of marriage proceedings or other civil actions;
 - b. Any requirement that the victim's location be disclosed shall be waived and communication to victim regarding the domestic violence case shall be conducted through the victim's advocate or the Court;
 - c. Docket sheets of criminal actions arising from acts of domestic violence shall be identified by any reasonable means.

Sec. 7.7 Duties of Peace Officers

- A. Primary duty of officers. The primary duty of officers when responding to a domestic violence situation is to enforce the laws and ensure victim safety.
- B. Notification to victim. If the victim is present when the officer arrests a person for domestic violence, the officer shall advise the victim of reasonable means to prevent further abuse, the availability of a shelter and other services in the tribe, and give the victim immediate notice of any legal rights and remedies available in accordance with policies and protocols adopted in accordance with Section 7.9 of this Chapter.
 1. The victim shall be furnished with a copy of the following statement: "If you are a victim of domestic violence, the Office of the Tribal Prosecutor will be notified of the incident and they shall determine whether to file charges against your abuser. An emergency order of protection will be issued against your abuser at the time of the arrest or at your request. You also have the right to go to Court or the Domestic Violence Program and file a petition requesting any or all of the following temporary orders for relief:
 - b. Any order restraining your abuser from abusing, harassing, stalking, threatening, annoying, telephoning or otherwise contacting you and committing other acts of domestic violence.

- c. Any order directing your abuser to leave your household and to stay away with no contact.
 - d. Any order preventing your abuser from removing any property from your household except for clothing and other such personal effects which may only be removed when the abuser is accompanied by a peace officer.
 - e. Any order awarding you custody or visitation of a minor child or children.
 - f. Any order specifying arrangements for visitation by your abuser, including required supervised visitation.
 - g. Any order restraining your abuser from harassing or interfering with minor children in your custody.
 - h. Any order directing the party not granted custody to pay support of minor children or to pay support of the other party if there is already a legal obligation to do so, and
 - i. Any order protecting other family and household members.”
- C. Protection of the Victim. A peace officer responding to an allegation of domestic violence shall use all reasonable means to protect the victim and prevent further violence, including but not limited to:
- 1. Taking action necessary to provide for the safety of the victim and any family or household member.
 - 2. Transporting or obtaining transportation for the victim or any minor child (or children) to a temporary shelter.
 - 3. Assisting the victim and any minor child (children) in obtaining immediate medical treatment, including obtaining transportation to a medical facility.
 - 4. Issuing an emergency order of protection pursuant to 7.9(E)(2).
- D. Notification of Release of a Perpetrator. When a perpetrator is scheduled to be released from custody, the Police Department and/or Tribal Prosecutor shall make reasonable efforts to notify the victim prior to, or upon release of, the perpetrator from custody.

Sec. 7.8 Special Court Rules

In addition to the Rules of Court generally applicable to such proceedings, the Court is authorized to take the following actions in a proceeding, involving alleged domestic violence offenses.

- A. **Conditions of Release.** The Court shall, at the earliest stage of the proceedings, impose release conditions restraining the accused from committing further acts of violence against the alleged victim or any other person, regardless of whether the Court orders bond release, recognizance release, or denies bond.
- B. **Arraignment.** At the arraignment, any domestic violence victim advocate may accompany the alleged victim to the hearing and may accompany the victim to all other subsequent hearings.
- C. **Admissibility of Victim's Allegations.** Any written statement made by the alleged victim under oath and signed by the victim describing the alleged acts of domestic violence shall not be considered inadmissible solely because of an hearsay objection, but shall be subject to ordinary judicial analysis for admissibility of evidence in the Tribal Court.
- D. **Victim Impact Statement.** When offered to the Court, input from the victim shall be considered when determining the sentence to be imposed.
- E. **Conviction.** Upon conviction, the perpetrator shall be ordered to participate in an appropriate counseling program.
- F. **Failure to Comply with Court Order.** Failure to comply with a court order requiring a perpetrator to attend and cooperate in evaluation and/or undergo treatment, as described in a treatment plan, shall constitute contempt of court punishable as such. The Court may also order the imposition of any sentence that has been suspended.
- G. **Documents.** The Court shall provide all civil court documents requested by victims' advocates entered on the case.

Sec. 7.9 Civil Orders of Protection

Any person may seek relief under this section by filing a petition, as a civil action, with the Court, alleging that the person has been a victim of domestic violence committed by the Respondent. The person may petition for relief on behalf of himself or herself and on behalf of minors within the family or household members.

- A. **Availability of Civil Petition for Orders of Protection in General.**
 - 1. A civil petition to obtain an Order of Protection under this section may be filed by:
 - a. Any person claiming to be the victim of domestic violence;
 - b. Any family member or household member of a person claimed to be the victim of domestic violence on behalf of the alleged victim;
 - c. A police officer/peace officer;

- d. A Victim Advocate; or
 - e. The Tribal Prosecutor.
2. A Petition shall briefly describe the incident(s) of domestic violence and shall be a verified petition or supported by an affidavit made under oath stating the specific facts and circumstances justifying the requested order.
- a. No filing fees shall be required for filing a petition nor shall a bond be required to obtain relief under this section.
 - b. The Petitioner, or the victim on whose behalf a petition has been filed, is not required to file for annulment, separation, or divorce as a prerequisite to obtaining an order of protection.
 - c. Standard petition forms with instructions for completion shall be available upon request from the Court Administrator.
 - d. Mutual restraining orders of protection are permitted as determined by the Court.
 - e. An order for protection does not preclude the rights of any party or child which are to be adjudicated at subsequent hearings in the proceeding.
 - f. An order for protection may be revoked, modified, or extended.
 - g. An order for protection may be presented in a proceeding for the modification of an existing order, judgment, or decree.

B. Procedure for Issuance of an Order of Protection in General

- 1. The order shall include the immediate granting of an ex parte order of protection based on the specific facts stated under oath, and if the Court has reasonable cause to believe that the Petitioner, or the person on whose behalf the petition is filed, is the victim of an act of domestic violence committed by the Respondent.
- 2. Within five days of the issuance of an ex parte order, excluding holidays and weekends, a hearing shall be held to determine whether the order should be vacated, extended for an additional period of time, made permanent, or modified in any respect, with reasonable notice to the Respondent.
- 3. If the Court does not find sufficient reasonable cause to grant an ex parte order, the Court shall serve notice to appear upon both parties and hold a hearing on the

Petition for an Order of Protection within five days after the filing of the Petition, excluding holidays and weekends.

4. An Order of Protection granted pursuant to this section shall be forwarded by the Court to the Police Department within 24 hours of issuance. In the case of an emergency Order for Protection, it shall be filed immediately upon issuance. The Police Department shall make available to each officer information as to the existence and status of every Order for Protection issued under this section.

C. Content of an Order of Protection in General

1. An Order of Protection shall include provisions:
 - a. Restraining the Respondent from committing any acts of domestic violence.
 - b. Restraining the Respondent from harassing, stalking, threatening, telephoning, any form of electronic contact or otherwise contacting, the Petitioner, directly or indirectly, or engaging in any other conduct that would place any named family or household members in reasonable fear of bodily injury.
 - c. Prohibiting the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily injury.
 - d. Restraining Respondent from receiving, possessing, or transporting a firearm or ammunition.
 - e. Restraining one or both parties from transferring, removing, encumbering, mortgaging, concealing, disposing, altering of property except as authorized by the Court for all authorized transfers, encumbrances, disposition, and expenditures.
 - f. Notifying the parties involved that the knowing violation of any provision of the order may constitute contempt of court punishable by fines, imprisonment, or both.
2. An Order of Protection may include any other relief the Court deems appropriate, including but not limited to:
 - a. Excluding the Respondent from the residence of the victim (whether or not the Respondent and the victim share the residence), school, place of employment, or a specified place frequented by the Petitioner and any named family or household member.

- b. Awarding temporary child custody, temporary child support, or establishing temporary visitation rights of the minor children of the parties, with the primary consideration of the least disruption of the children, including, but not limited to, health, safety, education, and normal routines of the children.
- c. If visitation is granted, there shall be set rules for exchange of children for visitation, including but not limited to times, places, persons, and the non-custodial parent may be required to post a bond as determined by the Court.
- d. Ordering temporary possession and use of the parties' property.
- e. Ordering the Respondent to make timely payments on existing debts of the Respondent, including mortgage or rental payments and necessary utilities in order to maintain the petitioner in their residence.
- f. Ordering other lawful relief as the Court deems necessary for the protection of the victim of domestic violence, including orders or directives to the Police Department or other appropriate departments and programs.

D. Duration and Amendments to Orders of Protection in General

- 1. An Order of Protection shall be enforced until further order of the Court, but not to exceed 180 days and may be subject to amendment for extension at the discretion of the Court or at the request of one of the parties.
- 2. The Court may, in its discretion, conduct a review of the Order of Protection at the request of the parties.

E. Emergency Orders of Protection

- 1. During the hours that the Court is closed, the Court shall provide for the availability of a judge or other authorized personnel who shall authorize the issuance of emergency and temporary orders for protection by any appropriate and effective method.
- 2. If a judge is unavailable to issue an emergency order of protection after Court hours and probable cause exists, any police officer has the authority to issue emergency orders of protection.

- a. The Court shall have an internal procedure in place that ensures that such emergency orders of protection are assigned a docket number once the Court has reopened.
3. If an officer, for any reason, cannot make an arrest under Section 7.6 of this Chapter, but states there is probable cause to believe a person is in immediate and present danger of domestic violence, the judge or other person authorized to issue emergency Orders for Protection may issue an ex parte Order of Protection if such authorized person finds that the officer's grounds are reasonable.

F. Violation of Order of Protection

1. A violation of an Order of Protection is a crime under Chapter 7.
2. In addition to any other penalties available under law or equity, a person, who knowingly violates, or a person who aides and abets another person to knowingly violate an Order of Protection is guilty of an offense and shall be sentenced to a maximum of six months imprisonment or fined an amount not to exceed \$4,000, or both.
3. A person who enters tribal jurisdiction with the intent to engage in conduct that violates the portion of a protection order shall be punished as provided in Subsection (F)(2) above.
4. A person in violation of a valid protection order issued by any court who causes a family or household member to enter tribal jurisdiction shall be punished as provided in Subsection (F)(2).

Sec. 7.10 Reporting of Domestic Violence

- A. **Reporting Requirements.** Any physician, physician's assistant, nurse, community health representative, social worker, dentist, school teacher, adult services worker, peace officer, substance abuse counselor, or domestic violence program worker who has reasonable basis to believe that a person has been a victim of domestic violence shall report in accordance with Subsection B of this section.
- B. **Report to Law Enforcement.** The report required by Subsection A. of this section shall be made orally and immediately by telephone or otherwise to a peace officer.
- C. **Immunity for Reporting.** Except for malicious acts as described under Subsection D of this section, a person making a report pursuant to this section in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed and shall have the same immunity with respect to participation in any Court proceeding resulting from such a report.

D. Penalties for Failure to Report or False Reports:

1. Any person who knowingly fails to make a report required under this section is guilty of an offense and shall be imprisoned for a term of not more than 30 days and shall be fined an amount not less than \$100 nor more than \$300, or both.
2. A person who knowingly and intentionally makes a false report or who coerces another person to make a false report of domestic violence is guilty of an offense and shall be sentenced to jail not to exceed 30 days or fined an amount not to exceed \$500, or both.
3. A person not subject to the criminal jurisdiction of the Hualapai Tribal Court, but who violates either Subsections A or B above, is liable for a civil offense and shall be fined not more than \$1,000.

Sec. 7.11 Disclosure of Domestic Violence Shelters

Any person who knowingly publishes, disseminates or otherwise discloses the location of any domestic violence shelter or any place designated as a domestic violence shelter, as defined in Section 7.2, without proper authorization is guilty of a crime and shall be sentenced to jail not less than five days or more than 30 days, or fined an amount not less than \$100 or to exceed \$500, or both.

Sec. 7.12 Jurisdiction

- A. The Hualapai Tribe shall exercise original jurisdiction over, and the provisions of this Chapter shall extend to, all area and persons. The Hualapai Tribe shall exercise jurisdiction over all persons within the territorial jurisdiction of the Hualapai Reservation. Nothing in Chapter shall be construed or read to diminish the jurisdiction of the Hualapai Tribe.
- B. (EFFECTIVE MARCH 7, 2015 AND ONLY IF THE TRIBE HAS ADOPTED THE TRIBAL LAW AND ORDER ACT)

Special Domestic Violence Jurisdiction. The Hualapai Tribe shall exercise special domestic violence jurisdiction over an alleged non-Indian offender who (1) is alleged to have committed a domestic violence offense under this Code against a member of the Hualapai Tribe or an Indian who resides on the Hualapai Reservation; or (2) who violates an Order of Protection under this Code.

1. Alleged Offender. The Hualapai Tribe has special domestic violence jurisdiction over non-Indians who commits an act of domestic violence who:
 - a. reside on the Hualapai reservation;

- b. is employed on the Hualapai Reservation; or
 - c. is a spouse, intimate partner, or dating partner of a member of the Hualapai Tribe or an Indian who resides on the Hualapai Reservation.
- C. All individuals involved as the perpetrator of domestic violence, are subject to the mandatory arrest provisions of Section 7.6. If it is later determined by an official means a non-Indian person has been arrested, the non-Indian person may be released to the proper jurisdiction.
- D. Upon conviction, proceedings for removal and exclusion of the perpetrator shall be initiated by the Tribe with a finding that exclusion is a proper remedy to ensure the safety of the victim(s).
- E. Civil Penalties. A non-Indian person not subject to the criminal jurisdiction of the Criminal Court but who is found responsible of domestic violence is liable for a civil penalty not to exceed \$5,000.00, to be determined by the Court after a thorough review of the evidence and circumstances. In addition, restitution shall be required when appropriate.

Sec. 7.13 Judicial Enforcement of Foreign Protection Orders

- A. Full faith and credit. Pursuant to 18 U.S.C. § 2265, any protection order issued that is valid according to the standards contained in subsection B of this section by the court of a state or another Indian tribe shall be accorded full faith and credit by the District Court and the District Court shall enforce a valid foreign protection order as if it were issued by the District Court.
- B. Requirements for valid orders. A protection order issued by a State of another tribal court shall be valid if:
 - a. The issuing Court had jurisdiction over the parties and matter under the law of such State or Indian tribe; and
 - b. Reasonable notice and opportunity to be heard was given to the person against whom the order was sought sufficient to protect that person's right to due process. In the case of an ex parte order, notice and opportunity to be heard must have been provided within the time required by the State or tribal law, and in any event within a reasonable time after the order was issued, sufficient to protect the respondent's due process rights.

- C. Registration not required. Registration or filing of a foreign protection order shall not be a prerequisite for District Court enforcement of out-of-state or tribal orders of protection.

Sec. 7.14 Severability

If any part or parts, or the application of any part of this Chapter is held invalid, such holding shall not affect the validity of the remaining parts of the Chapter.

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 20-2012
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**

- WHEREAS,** the Hualapai Tribe of Arizona, is organized pursuant to the Indian Reorganization Act of 1934; and
- WHEREAS,** the Hualapai Tribal Council is the legal governing body of the Hualapai Indian Tribe, organized according to the Constitution and Bylaws of the Hualapai Indian Tribe; and
- WHEREAS,** on July 19, 2007 the Hualapai Tribe passed Resolution 23-2007 and elected by majority vote of the council to become a Sex Offender Registration and Notification Act (SORNA) compliant Registration Jurisdiction; and
- WHEREAS,** on July 9, 2011 the Hualapai Tribal Council passed Resolution No. 40-2011 that enacted the Hualapai Sex Offender Registration Code, codified at Sections 6.126 through 6.139 of the Hualapai Law and Order Code; and
- WHEREAS,** after a review of the Tribe's SORNA compliance package it was found that the Hualapai Sex Offender Registration Code adopted on July 9, 2011 needed further changes in order to comply with federal law.


NOW, THEREFORE, BE IT RESOLVED that the Hualapai Tribal Council hereby replaces the Hualapai Sex Offender Registration Code passed on July 9, 2011 via Resolution No. 40-2011 with the revised Code attached hereto as Exhibit A dated February 16, 2012.

BE IT FURTHER RESOLVED, that the Chairperson and/or Vice-Chairperson of the Tribal Council is authorized to take all steps necessary to implement this resolution.

CERTIFICATION

I, the undersigned as Chairwoman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom (7) constituting a quorum were present at a **Special Council meeting** thereof held on this **16th day of February, 2012**; and that the foregoing resolution was duly adopted by a vote of **(7) in favor, (0) opposed, (2) 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:

Adeline Crozier, Assistant Secretary
Hualapai Tribal Council

**HUALAPAI TRIBE SEX OFFENDER REGISTRATION CODE
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SEX OFFENDER REGISTRATION

Sec. 6.126 Purpose

The intent of this code is to implement the federal Sex Offender Registration and Notification Act (SORNA) (Title I of Public Law 109-248) (42 USC 16901 et seq). and shall be interpreted liberally to comply with the terms and conditions of SORNA as presently written or hereafter amended. This Chapter supersedes and replaces Sec. 6.126 to 6.140 of the Hualapai Law and Order Code adopted on July 1, 2004.

Sec. 6.127 Creation of Registries

- A. Sex Offender Registry. There is hereby established a sex offender registry program, which the Hualapai Tribal Police Department shall maintain and operate pursuant to the provisions of this code, as amended.
- B. Public Sex Offender Registry Website. There is hereby established a public sex offender registry website, which the Hualapai Tribal Police Department shall maintain and operate pursuant to the provisions of this code, as amended.

Sec. 6.128 Definitions

The definitions below apply to Sections 6.126 through 6.139 of the Revised Law and Order Code:

- A. Convicted. An adult sex offender is "convicted" for the purposes of this code if the sex offender has been subjected to penal consequences based on the conviction, however the conviction may be styled.

A juvenile offender is "convicted" for purposes of this code if the juvenile offender is either:

1. Prosecuted and found guilty as an adult for a sex offense; or
 2. Is adjudicated delinquent as a juvenile for a sex offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in either (a) or (b) of section 2241 of title 18, United States Code), or was an attempt or conspiracy to commit such an offense.
- B. Dru Sjodin National Sex Offender Public Website (NSOPW). The public website maintained by the Attorney General of the United States pursuant to 42 U.S.C. §16920.
 - C. Foreign Convictions. A foreign conviction is one obtained outside of the United States.

- D. **Employee.** The term "employee" as used in this code includes, but is not limited to, an individual who is self-employed or works for any other entity, regardless of compensation. Volunteers of a tribal agency or organization are included within the definition of employee for registration purposes.
- E. **Immediate.** "Immediate" and "immediately" mean within 3 business days.
- F. **Imprisonment.** The term "imprisonment" refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, for example, confinement in a state "prison" as well as in a federal, military, foreign, BIA, private or contract facility, or a local or tribal "jail". Persons under "house arrest" following conviction of a covered sex offense are required to register pursuant to the provisions of this code during their period of "house arrest".
- G. **Jurisdiction.** The term "jurisdiction" as used in this code refers to the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands, and any Indian Tribe that has asserted jurisdiction pursuant to Public Law 109-248 Section 127 of the SORNA (42 USC § 16927).
- H. **Minor.** The term "minor" means an individual who has not attained the age of 18 years.
- I. **National Sex Offender Registry (NSOR).** The national database maintained by the Federal Bureau of Investigation pursuant to 42 U.S.C. § 16919.
- J. **Resides.** The term "reside" or "resides" means, with respect to an individual, the location of the individual's home or other place where the individual habitually lives or sleeps.
- K. **Sex Offense.** The term "sex offense" as used in this code includes those offenses contained in 42 U.S.C. § 16911(5) (as amended) and those offenses commented in section 6.129 of this code or any other register able offense under Hualapai Tribal law.

An offense involving consensual sexual conduct is not a sex offense for the purposes of this code if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years old and the offender was not more than 4 years older than the victim.

- L. **Sex Offender.** A person convicted of a sex offense is a "sex offender".
- M. **Sexual Act.** The term "sexual act" means:
1. contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight;
 2. contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
 3. the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or

4. the intentional touching, not through the clothing, of the genitalia of another person that has not attained the age of 18 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- N. Sexual Contact. The intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desires of any person.
- O. SORNA. The "SORNA" refers to the Sex Offender Registration and Notification Act as provided in Title I of the Adam Walsh Child Protection and Safety Act of 2006. P.L. 109-248 (as codified at 42 U.S.C. § 16901 *et. seq.*).
- P. Student. A "student" is a person who enrolls in or attends either a private or public education institution, including a secondary school, trade or professional school, or an institution of higher education.
- Q. Sex Offender Registry. The term "sex offender registry" means the registry of sex offenders, and a notification program, maintained by Hualapai Tribal Police Department.
- R. SMART Office. The Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, which was established within the United States Department of Justice under the general authority of the Attorney General of the United States pursuant to 42 U.S.C. §16945.
- S. "Tier I Sex Offender". A "tier I sex offender", or a "sex offender" designated as "tier I", is one that has been convicted of a "tier I" sex offense as defined in section 6.130 (A).
- T. "Tier II Sex Offender". A "tier II sex offender", or a "sex offender" designated as "tier II", is one that has been either convicted of a "tier II" sex offense as defined in section 6.130 (B), or who is subject to the recidivist provisions of 6.130(B 1).
- U. "Tier III Sex Offender". A "tier III sex offender", or a "sex offender" designated as "tier III", is one that has been either convicted of a "tier III" sex offense as defined in section 6.130 (C), or who is subject to the recidivist provisions of 6.130(C 1).

Sec. 6.129 Covered Offenses

Offenders who reside within the exterior boundaries of the reservation or otherwise reside on property owned by the Hualapai Tribe in fee or trust regardless of location, are employed within the exterior boundaries of the reservation or on property owned by the Hualapai Tribe in fee or trust regardless of location, or who attend school within the exterior boundaries of the reservation or on property owned by the Hualapai Tribe in fee or trust regardless of location, that have been convicted of the following offenses are subject to the requirements of this code:

- A. Tribal Offenses. A violation of the Law and Order Code of the Hualapai Tribe "Sexual Offenses," or any conviction for attempt, conspiracy, or aiding and abetting of the following offenses:

1. Sec. 6.112 Sexual Assault
2. Sec. 6.113 Forcible Sexual Penetration with a Foreign Object
3. Sec. 6.114 Unlawful Sexual Acts
4. Sec. 6.115 Unlawful Sexual Conduct
5. Sec. 6.116 Reserved
6. Sec. 6.117 Indecent Exposure
7. Sec. 6.118 Enticement of a Child for the Purposes of Prostitution or Illicit Intercourse
8. Sec. 6.119 Reserved
9. Sec. 6.120 Child Pornography
10. Sec. 6.121 Transporting a Child for Sexual Purpose
11. Sec. 6.122-6.125 Reserved

B. Federal Offenses. A conviction, for or a conviction for an attempt or conspiracy to commit any of the following, and any other offense hereafter included in the definition of "sex offense" at 42 U.S.C. § 16911(5): Including any offenses prosecuted under the Assimilative Crimes Act (18 USC § 1152 or § 1153).

1. 18 U.S.C. §1591 (sex trafficking of children),
2. 18 U.S.C. §1801 (video voyeurism of a minor),
3. 18 U.S.C. §2241 (aggravated sexual abuse),
4. 18 U.S.C. §2242 (sexual abuse),
5. 18 U.S.C. §2243 (sexual abuse of a minor or ward),
6. 18 U.S.C. §2244 (abusive sexual contact),
7. 18 U.S.C. §2245 (offenses resulting in death),
8. 18 U.S.C. §2251 (sexual exploitation of children),
9. 18 U.S.C. §2251A (selling or buying of children),
10. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor).
11. 18 U.S.C. §2252A (material containing child pornography),
12. 18 U.S.C. §2252B (misleading domain names on the internet),
13. 18 U.S.C. §2252C (misleading words or digital images on the internet).
14. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States),
15. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),

16. 18 U.S.C. §2423 (), (Transportation of Minors for Illegal Sexual Activity, Travel With the Intent to Engage in Illicit Sexual Conduct with a minor, Engaging in Illicit Sexual Conduct in Foreign Places)
 17. 18 U.S.C. §2424 (failure to file factual statement about an alien individual), and
 18. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).
- C. Foreign Offenses. Any conviction for a sex offense involving any conduct listed in Section 6.129(D) which was obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, and any foreign country where the United States State Department, in its Country Reports on Human Rights Practices, has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.
- D. Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a) (8) (C) (i) of P.L. 105-119 (codified at 10 U.S.C. § 951).
- E. Juvenile Offenses or Adjudications. Any sex offense, or attempt or conspiracy to commit a sex offense, that is comparable to or more severe than the federal crime of aggravated sexual abuse (as codified in 18 U.S.C. § 2241) and committed by a minor who is 14 years of age or older. This includes engaging in a sexual act with another by force or the threat of serious violence; or engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim.
- F. Jurisdiction Offenses. Any sex offense committed in any jurisdiction, including this Hualapai Tribe that involves:
1. Any type of degree of genital, oral, or anal penetration,
 2. Any sexual touching of or contact with a person's body, either directly or through the clothing,
 3. Kidnapping of a minor,
 4. False imprisonment of a minor,
 5. Solicitation to engage a minor in sexual conduct understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct,
 6. Use of a minor in a sexual performance,
 7. Solicitation of a minor to practice prostitution,
 8. Video voyeurism of a minor as described in 18 U.S.C. § 1801,
 9. Possession, production, or distribution of child pornography,
 10. Criminal sexual conduct that involves physical contact with a minor or the use of the Internet to facilitate or attempt such conduct. This includes offenses whose elements involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases where the victim was a minor at the time of the offense,
 11. Any conduct that by its nature is a sex offense against a minor, and

12. Any offense similar to those outlined in:

- a. 18 U.S.C. § 1591 (sex trafficking by force, fraud, or coercion),
- b. 18 U.S.C. § 1801 (video voyeurism of a minor),
- c. 18 U.S.C. § 2241 (aggravated sexual abuse),
- d. 18 U.S.C. § 2242 (sexual abuse),
- e. 18 U.S.C. § 2244 (abusive sexual contact),
- f. 18 U.S.C. § 2422(b) (coercing a minor to engage in prostitution),
- g. 18 U.S.C. § 2423(a) (transporting a minor to engage in illicit conduct),

Sec. 6.130 Tiered Offenses

A. Tier I Offenses

1. **Sex Offenses.** A "Tier I" offense includes any sex offense, for which a person has been convicted, or an attempt or conspiracy to commit such an offense that is not a "Tier II" or "Tier III" offense.
2. **Offenses Involving Minors.** A "Tier I" offense also includes any offense for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to Section 6.129(C) that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography.
3. **Tribal Offenses.** Any sex offense covered by this act where punishment was limited to one year in jail shall be considered a "Tier I" sex offense.
4. **Certain Federal Offenses.** Conviction for any of the following federal offenses or an attempt to commit such offense shall be considered a conviction for a "Tier I" offense:
 - a. 18 U.S.C. § 1801 (video voyeurism of a minor),
 - b. 18 U.S.C. § 2252B (misleading domain names on the internet),
 - c. 18 U.S.C. § 2252C (misleading words or digital images on the internet),
 - d. 18 U.S.C. § 2422(a) (coercion to engage in prostitution),
 - e. 18 U.S.C. § 2423(b) (travel with the intent to engage in illicit conduct),
 - f. 18 U.S.C. § 2423(c) (engaging in illicit conduct in foreign places),
 - g. 18 U.S.C. § 2424 (failure to file factual statement about an alien individual), and

- k. 18 U.S.C. § 2423(a) (transporting a minor to engage in illicit conduct).
- 4. Certain Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. § 951) that is similar to those offenses outlined in Section 6.130(B)(1), (2), or (3) shall be considered "Tier II" offenses.

C. Tier III Offenses

- 1. Recidivism and Felonies. Any sex offense that is punishable by more than one year in jail where the offender has at least one prior conviction or an attempt or conspiracy to commit such an offense for a Tier II sex offense, or has previously become a Tier II sex offender, is a "Tier III" offense.
- 2. General Offenses. A "Tier III" offense includes any sex offense for which a person has been convicted, or an attempt or conspiracy to commit such an offense that involves:
 - a. Non-parental kidnapping of a minor,
 - b. A sexual act with another by force or threat,
 - c. A sexual act with another who has been rendered unconscious or involuntarily drugged, or who is otherwise incapable of appraising the nature of the conduct or declining to participate, or
 - d. Sexual contact with a minor 12 years of age or younger, including offenses that cover sexual touching of or contact with the intimate parts of the body, either directly or through the clothing.
- 3. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered conviction for a "Tier III" offense:
 - a. 18 U.S.C. § 2241 (aggravated sexual abuse),
 - b. 18 U.S.C. § 2242 (sexual abuse), or
 - c. 18 U.S.C. § 2243 (sexual abuse of a minor or ward),
 - d. Where the victim is 12 years of age or younger, 18 U.S.C. § 2244 (abusive sexual contact).
- 4. Certain Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. § 951) that is similar to those offenses outlined in Section 6.130(C)(1), (2), or (3) shall be considered "Tier III" offenses.

Sec. 6.131 Required Information

A. General Requirements

- 1. Duties. A sex offender covered by this code who is required to register with the Hualapai Tribe pursuant to Chapter 6 shall provide all of the information detailed in this chapter to the Hualapai Tribal Police Department, and the Hualapai Tribal Police Department shall obtain all of the information detailed in this chapter from covered sex offenders who are required to register with

- the Hualapai Tribe in accordance with this code and implementing policies and procedures.
2. Digitization. All information obtained under this code shall be, at a minimum, maintained by the Hualapai Tribal Police Department in digitized format.
 3. Electronic Database. A sex offender registry shall be maintained in an electronic database by the Hualapai Tribal Police Department and shall be in a form capable of electronic transmission.
- B. Criminal History. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's sex offense criminal history:
1. The date of all arrests,
 2. The date of all convictions,
 3. The sex offender's status of parole, probation, or supervised release,
 4. The sex offender's registration status, and
 5. Any outstanding arrest warrants.
- C. Date of Birth. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's date of birth:
1. The sex offender's actual date of birth, and
 2. Any other date of birth used by the sex offender.
- D. DNA Sample.
1. DNA. If the sex offender's DNA is not already contained in the Combined DNA Index System ("CODIS"), the sex offender shall provide the Hualapai Tribal Police Department a sample of his DNA.
 2. CODIS. Any DNA sample obtained from a sex offender shall be submitted to an appropriate lab for analysis and entry of the resulting DNA profile in to CODIS.
- E. Driver's License, Identification Cards, Passports, and Immigration Documents.
1. Driver's License. A covered sex offender shall provide all of the sex offender's valid driver's licenses issued by any jurisdiction and the Hualapai Tribal Police Department shall make a photocopy of any such licenses.
 2. Identification Cards. A covered sex offender shall provide to the Hualapai Tribal Police Department any identification card issued by any jurisdiction, including the sex offender's tribal enrollment, and the Hualapai Tribal Police Department shall make a photocopy of all such identification cards.
 3. Passports. A covered sex offender shall provide to the Hualapai Tribal Police Department any passport issued by any jurisdiction, and the Hualapai Tribal Police Department shall make a photocopy of all such passports.
 4. Immigration Documents. A covered sex offender shall provide to the Hualapai Tribal Police Department any immigration documents issued by any jurisdiction, and the Hualapai Tribal Police Department shall make a photocopy of all such immigration documents.

- F. Employment Information. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's employment, to include any and all places where the sex offender is employed in any means including volunteer and unpaid positions:
1. The name of the sex offender's employer,
 2. The address of the sex offender's employer, and
 3. Similar information related to any transient or day labor employment.
- G. Finger and Palm Prints. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, both finger prints and palm prints which must be submitted to the FBI Next Generation Identification Program.
- H. Internet Names. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's internet related activity:
1. Any and all e-mail addresses used by the sex offender,
 2. Any and all Instant Message addresses and identifiers,
 3. Any and all other designations or monikers used for self-identification in Internet communications or postings, and
 4. Any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings, including but not limited to social network identifications, twitter accounts, video posting site identifications such as You Tube etc...
- I. Name. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's name:
1. The sex offender's full primary given name,
 2. Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used, and
 3. Any and all ethnic or tribal names by which the sex offender is commonly known. This does not include any religious or sacred names not otherwise commonly known.
- J. Phone Numbers. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, any and all telephone numbers and any other designations used by sex offenders for the purposes of routing or self-identification in telephonic communications including but not limited to:
1. Any and all cellular telephone numbers.
 2. Any and all land line telephone numbers.
 3. Any and all Voice over IP (VOIP) telephone numbers.
- K. Picture.
1. Photograph. A covered sex offender shall permit his photograph to be taken by the Hualapai Tribal Police Department:

- a. Every 90 days for Tier III sex offenders,
 - b. Every 180 days for Tier II sex offenders, and
 - c. Every year for Tier I sex offenders.
 2. Update Requirements. Unless the appearance of a sex offender has not changed significantly a digitized photograph shall be collected at each appearance indicated in Section 6.131 K (1).
- L. Physical Description. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, an accurate description of the sex offender as follows:
1. A physical description,
 2. A general description of the sex offender's physical appearance or characteristics, and
 3. Any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.
- M. Professional Licensing Information. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.
- N. Residence Address. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's residence:
1. The address of each residence at which the sex offender resides or will reside, and
 2. Any location or description that identifies where the sex offender habitually resides regardless of whether it pertains to a permanent residence or location otherwise identifiable by a street or address.
- O. School. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's school:
1. The address of each school where the sex offender is or will be a student, intern, or volunteer, and
 2. The name of each school the sex offender is or will be a student, intern, or volunteer.
- P. Social Security Number. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information:
1. A valid social security number for the sex offender, and
 2. Any social security number the sex offender has used in the past, valid or otherwise.
- Q. Temporary Lodging. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information when the sex offender will be absent from his residence for 7 days or more:

1. Identifying information of the temporary lodging locations including addresses and names, and
2. The dates the sex offender will be staying at each temporary lodging location.
3. The registered sex offender shall provide the information in Section 6.131 Q (1) and (2) no later than 3 days before his scheduled travel. The information shall be provided in person.

R. INTERNATIONAL TRAVEL

1. Travel Abroad. Sex offenders must inform their residence jurisdictions 21 days in advance if they intend to travel outside of the United States. Jurisdictions must notify the U.S. Marshals Service and immediately notify any other jurisdiction where the sex offender is either registered, or is required to register, of that updated information. Update also must be made to NCIC/NSOR.

S. Offense Information

1. Offense Information. The Hualapai Tribal Police Department shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.
2. SORNA Database. The text of each provision of law mentioned in Section 6.131(S) (1) shall be cross linked to the SORNA Database containing the text of relevant sex related laws for all jurisdictions.

T. Vehicle Information. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to all vehicles owned or operated by the sex offender for work or personal use including land vehicles, aircraft, and watercraft:

1. License plate numbers,
2. Registration numbers or identifiers,
3. General description of the vehicle to include color, make, model, and year. and
4. Any permanent or frequent location where any covered vehicle is kept.

Sec. 6.132 Registration

A. Where Required

1. Jurisdiction of Conviction. A sex offender must initially register with the Hualapai Tribal Police Department if the sex offender was convicted by the Tribal Court of a covered sex offense regardless of the sex offender's actual or intended residency.
2. Jurisdiction of Incarceration. A sex offender must register with the Hualapai Tribal Police Department if the sex offender is incarcerated by the tribe while completing any sentence for a covered sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.
3. Jurisdiction of Residence. A sex offender must register with the Hualapai Tribal Police Department if the sex offender resides within the exterior

boundaries of the reservation or otherwise resides on property owned by the tribal jurisdiction in fee or trust, regardless of location.

4. **Jurisdiction of Employment.** A sex offender must register with the Hualapai Tribal Police Department if he or she is employed by the Hualapai Tribe in any capacity or otherwise is employed within the exterior boundaries of the Hualapai reservation or on property owned by the Hualapai Tribe in fee or trust, regardless of location.
5. **Jurisdiction of School Attendance.** A sex offender must register with the Hualapai Tribal Police Department if the sex offender is a student in any capacity within lands subject to the jurisdiction of the Hualapai Tribe.

B. Initial Registration

1. **Timing.** A sex offender required to register with the Hualapai Tribe under this code shall do so in the following time frame:
 - a. If convicted by the Hualapai Tribe for a covered sex offense and incarcerated, the sex offender must register before being released from incarceration;
 - b. If convicted by the Hualapai tribe but not incarcerated, within 3 business days of sentencing for the registration offense, and
 - c. Within 3 business days of establishing a residence, commencing employment, or becoming a student on lands subject to the jurisdiction of the Hualapai Tribe, a sex offender must appear in person to register with the Hualapai Tribal Police Department.
2. **Duties of Hualapai Tribal Police Department.** The Hualapai Tribal Police Department shall have policies and procedures in place to ensure the following:
 - a. That any sex offender incarcerated or sentenced by the Hualapai Tribe for a covered sex offense completes their initial registration with the Hualapai Tribe,
 - b. That the sex offender reads, or has read to them, and signs a form stating the duty to register has been explained to them and that the sex offender understands the registration requirement, [See the requirement and guidance in Section 6.132]
 - c. That the sex offender is registered, and added to the public website if applicable and
 - d. That upon entry of the sex offender's information in to the registry, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status.
 - e. That all information is entered and updated in the NCIC/NSOR.

C. Retroactive Registration.

1. **Retroactive Registration.** The Hualapai Tribal Police Department shall have in place policies and procedures to ensure the following three categories of sex offenders are subject to the registration and updating requirements of this code:

- a. Sex offenders incarcerated or under supervision of the Hualapai Tribe, whether for a covered sex offense or other crime,
 - b. Sex offenders already registered or subject to a pre-existing sex offender registration requirement, and
 - c. Sex offenders reentering the justice system due to conviction for any crime.
2. Timing of Recapture. The Hualapai Tribal Police Department shall ensure recapture of the sex offenders mentioned in Section 6.132(C)(1) within the following timeframe to be calculated from the date of passage of this code:
 - a. For Tier I sex offenders, 1 year,
 - b. For Tier II sex offenders, 180 days, and
 - c. For Tier III sex offenders, 90 days.
- D. Keeping Registration Current
1. Jurisdiction of Residency. All sex offenders who reside in lands subject to the jurisdiction of the Hualapai Tribe who are required to register in this jurisdiction shall immediately appear in person at the Hualapai Tribal Police Department to update any changes to their name, residence (including termination of residency), employment, or school attendance. All sex offenders required to register in this jurisdiction shall immediately inform the Hualapai Tribal Police Department in person of any changes to their temporary lodging information, and in writing of any changes to their vehicle information, internet identifiers, or telephone numbers. In the event of a change in temporary lodging, of 7 days the sex offender shall immediately notify the registering official of the residence jurisdiction and the Hualapai Tribal Police Department shall notify the jurisdiction in which the sex offender will be temporarily staying.
 2. Duties of Hualapai Tribal Police Department. The Hualapai Tribal Police Department shall have policies and procedures in place to ensure the following: With regard to changes in a sex offender's registration information, the Hualapai Tribal Police Department or designee shall immediately notify:
 - a. All jurisdictions where a sex offender intends to reside, work, or attend school,
 - b. Any jurisdiction where the sex offender is either registered or required to register, and
 - c. Specifically with respect to information relating to a sex offender's intent to commence residence, school, or employment outside of the United States, any jurisdiction where the sex offender is either registered or required to register, and the U.S. Marshals Service. The Hualapai Tribal Police Department shall also ensure this information is immediately updated on NSOR.
 3. Jurisdiction of Employment. Any sex offender, who is employed by the Hualapai Tribe in any capacity or otherwise are employed within lands subject to the jurisdiction of the Hualapai Tribe regardless of location that change their employment, or otherwise terminate their employment, shall immediately appear in person at the Hualapai Tribal Police Department to

update that information. The Hualapai Tribal Police Department shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to updated information being given, are immediately notified of the charge.

4. Jurisdiction of School Attendance. Any sex offender who is a student in any capacity within lands subject to the jurisdiction of the Hualapai Tribe regardless of the location that change their school, or otherwise terminate their schooling, shall immediately of the school the exterior boundaries of the reservation or on property owned by the Hualapai Tribe in fee or trust regardless of location change their school, or otherwise terminate their schooling, shall immediately appear in person at the Hualapai Tribal Police Department to update that information. The Hualapai Tribal Police Department shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change.

E. Failure to Appear for Registration and Absconding

1. Failure to Appear. In the event a sex offender fails to register with the Hualapai Tribe as required by this code, the Hualapai Tribal Police Department shall immediately inform the jurisdiction that provided notification that the sex offender was to commence residency, employment, or school attendance with the Hualapai Tribe that the sex offender failed to appear for registration.
2. Absconded Sex Offenders. If the Hualapai Tribal Police Department receives information that a sex offender has absconded the Hualapai Tribal Police Department shall make an effort to determine if the sex offender has actually absconded.
 - a. In the event no determination can be made, the Hualapai Tribal Police Department shall ensure the tribal police and any other appropriate law enforcement agency is notified.
 - b. If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, they shall be informed that the sex offender has failed to appear and register.
 - c. If an absconded sex offender cannot be located then the Hualapai Tribal Police Department shall take the following steps:
 - i. Update the registry/public website to reflect the sex offender has absconded or is otherwise not capable of being located.
 - ii. Notify the U.S. Marshalls Service,
 - iii. Seek a warrant for the sex offender's arrest. The U.S. Marshalls Service or FBI may be contacted in an attempt to obtain a federal warrant for the sex offender's arrest.
 - iv. Update the NCIC/NSOR to reflect the sex offender's status as an absconder, or is otherwise not capable of being located, and
 - v. Enter the sex offender into the National Crime Information Center Wanted Person File.

3. Failure to Register. In the event a sex offender who is required to register due to their employment or school attendance status fails to do so or otherwise violates a registration requirement of this code, the Hualapai Tribal Police Department shall take all appropriate follow-up measures including those outlined in Section 6.132(E)(2). The Hualapai Tribal Police Department shall first make an effort to determine if the sex offender is actually resides, is employed or attending school in lands subject to the Hualapai Tribe's jurisdiction.

Sec. 6.133 Verification and Appearance Requirements

A. Frequency

1. Frequency. A sex offender who is required to register shall, at a minimum, appear in person at the Hualapai Tribal Police Department for purposes of verification and keeping their registration current in accordance with the following time frames:
 - a. For "Tier I" offenders, once every year for 15 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
 - b. For "Tier II" offenders, once every 180 days for 25 years from time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
 - c. For "Tier III" offenders, once every 90 days for the rest of their lives.
2. Reduction of Registration Periods. A sex offender may have their period of registration reduced as follows:
 - a. A Tier I offender may have his or her period of registration and verification reduced to 10 years if he or she has maintained a clean record for 10 consecutive years,
 - b. A Tier III offender may have their period of registration and verification reduced to 25 years if they were adjudicated delinquent of an offense as a juvenile which required Tier III registration and they have maintained a clean record for 25 consecutive years.
3. Clean Record. For purposes of Section 6.131(A)(2), a person has a clean record if:
 - a. He or she has not been convicted of any offense for which imprisonment for more than 1 year may be imposed;
 - b. He or she has not been convicted of any sex offense;
 - c. He or she has successfully completed, without revocation, any period of supervised release, probation, or parole; and
 - d. He or she has successfully completed an appropriate sex offender treatment program certified by the tribe, another jurisdiction, or by the Attorney General of the United States.

B. Requirements for In Person Appearances

1. Photographs. At each in person verification, the sex offender shall permit the Hualapai Tribal Police Department to take a photograph of the sex offender.
2. Review of Information. At each in person verification the sex offender shall review existing information for accuracy.
3. Notification. If any new information or change in information is obtained at an in person verification, the Hualapai Tribal Police Department shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change of in information.
4. If any new information or change in information is obtained at an in person verification, the Hualapai Tribal Police Department shall immediately update the public website, if applicable, and update information in NCIC/NSOR.

C. Sex Offender Acknowledgement Form

1. The sex offender shall read, or have read to them, and sign a form stating that the duty to register has been explained to them by Hualapai Tribal Police Department or designee's and that the sex offender understands the registration requirement.
2. The form shall be signed and dated by the Hualapai Tribal Police Department personnel registering the sex offender.
3. The Hualapai Tribal Police Department shall immediately upload the acknowledgement form into the Hualapai Tribal Police Department or sex offender registry.

Sec. 6.134 Public Sex Offender Registry Website

A. Website.

1. Website. The Hualapai Tribal Police Department shall use and maintain a public sex offender registry website.
2. Links. The Hualapai Tribal Sex Offender Registry website shall include links to sex offender safety and education resources.
3. Instructions. The Hualapai Tribal Sex Offender Registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.
4. Warnings. The Hualapai Tribal Sex Offender Registry website shall include a warning that the information contained on the website should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported addresses and that any such action could result in civil or criminal penalties.
5. Search Capabilities. The Hualapai Tribal Sex Offender Registry website shall have the capability of conducting searches by (1) name; (2) county, city, and/or town; and, (3) zip code or geographic radius.
6. Dru Sjodin National Sex Offender Public Website. The Hualapai Tribe shall include in the design of its registry website all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website and shall participate in that website as provided by the Attorney General of the United States.

B. Required and Prohibited Information

1. Required Information. The following information shall be made available to the public on the sex offender registry website:
 - a. Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded,
 - b. All sex offenses for which the sex offender has been convicted,
 - c. The sex offense(s) for which the offender is currently registered,
 - d. The address of the sex offender's employer(s),
 - e. The name of the sex offender including all aliases,
 - f. A current photograph of the sex offender,
 - g. A physical description of the sex offender,
 - h. The residential address and, if relevant, a description of a habitual residence of the sex offender,
 - i. All addresses of schools attended by the sex offender, and
 - j. The sex offender's vehicle license plate number along with a description of the vehicle.
2. Prohibited Information. The following information shall not be available to the public on the sex offender registry website:
 - a. Any arrest that did not result in conviction,
 - b. The sex offender's social security number,
 - c. Any travel and immigration documents, and
 - d. The identity of the victim.
 - e. Internet identifiers (as defined in 42 U.S.C. §16911).
3. Witness Protection. For sex offenders who are under a witness protection program, the Hualapai Tribal Police Department may honor the request of the United States Marshal Service or other agency responsible for witness protection by not including the original identity of the offender on the publicly accessible sex offender registry website.

Sec. 6.135 Community Notification

- A. Law Enforcement Notification. Whenever a sex offender registers or updates his or her information with the Hualapai Tribe, the Hualapai Tribal Police Department shall:
 1. Monitor and utilize the SORNA Exchange Portal for inter-jurisdictional change of residence, employment or student status.
 2. Immediately update NCIC/NSOR,
 3. Immediately notify any agency, department, or program within the Hualapai Tribe that is responsible for criminal investigation, prosecution, child welfare or sex offender supervision functions, or sex offender supervision functions, including but not limited to, police, whether BIA, tribal, or FBI, tribal prosecutors, and tribal probation.
 4. Immediately notify any and all other registration jurisdictions where the sex offender is registered due to the sex offender's residency, school attendance, or employment; and

5. Immediately notify National Child Protection Act agencies, which includes any agency responsible for conducting employment-related background checks under Section 3 of the National Child Protection Act of 1993 (42 U.S.C. § 5119a) when a sex offender registers or updates registration.
6. Enter or update information posted on public website.

- B. Community Notification. The Hualapai Tribal Police Department shall ensure there is an automated community notification process in place that ensures the following:
1. Upon a sex offender's registration or update of information with the Hualapai Tribe, the Hualapai Tribal Sex Offender Registry website is immediately updated.
 2. The Hualapai Tribal Sex Offender Registry has a function that enables the general public to request e-mail notice that will notify them when a sex offender commences residence, employment, or school attendance with the Hualapai Tribe, within a specified zip code, or within a certain geographic radius. This e-mail notice shall include the sex offender's identity so that the public can access the public registry for new information.

Sec. 6.136 Crimes and Civil Sanctions

- A. Indians. Any violation of a provision of this code by a sex offender who is an Indian shall be considered a crime and subject to imprisonment for a period not to exceed one year or a fine not to exceed \$5,000.00, or both.
- B. Non-Indians. Any violation of a provision of this code by a sex offender who is not an Indian shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of fines, forfeitures, civil contempt, and exclusion from all lands within the jurisdiction of the Hualapai Tribe

Sec. 6.137 Unlawful Use of Registry Information

- A. A person is guilty of an offense if they knowingly use, or cause to be used, registry information to commit a criminal act against another person, including but not limited to use for the purpose of harassing or intimidating another person.
- B. Any violation of Section 6.137(A) by a person who is an Indian shall be considered a crime and subject to imprisonment for a period not to exceed 1 year, or a fine not to exceed \$5,000.00, or both.
- C. Any violation of Section 6.137(A) by a person who is not an Indian shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of fines, forfeitures, civil contempt, and exclusion from all lands within the jurisdiction of the Hualapai Tribe.

Sec. 6.138 Hindrance of Sex Offender Registration

- A. A person is guilty of an offense if they:
 - 1. Knowingly harbor or knowingly attempt to harbor, or knowingly assist another person in harboring or attempting to harbor a sex offender who is in violation of Sections 6.126 through 6.137;
 - 2. Knowingly assist a sex offender in eluding a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of Section 6.126 through 6.137; or
 - 3. Provide information to law enforcement agencies regarding a sex offender which the person knows to be false.
- B. Any violation of Section 6.138(A) by a person who is an Indian shall be considered a crime and subject to imprisonment for a period not to exceed 1 year, or a fine not to exceed \$5,000.00, or both.
- C. Any violation of Section 6.138(A) by a person who is not an Indian shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of fines, forfeitures, civil contempt, and exclusion from all lands within the jurisdiction of the Hualapai Tribe.

Sec. 6.139 Immunity

No waiver of immunity. Nothing under this chapter shall be construed as a waiver of sovereign immunity for the Hualapai Tribe, its departments, agencies, employees, or Agents.

Good faith. Any person acting under good faith shall be immune from any civil liability arising out of such action.

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 85-2011
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION
PEACH SPRINGS, ARIZONA**

WHEREAS, the Hualapai Tribal Council is the legislative body of the Hualapai Tribe and is empowered by the Hualapai Constitution to enact legislation regarding the health, welfare and safety of the Hualapai Tribe;

WHEREAS, the Hualapai Tribal Council adopted a Revised Law and Order Code on June 2, 2004, pursuant to the Constitution of the Hualapai Indian Tribe;

WHEREAS, at the advice of Hualapai Tribal Officials, the Hualapai Tribal Council finds that Chapter 5: Criminal Procedure, is in need of some updates and revisions;

WHEREAS, the Hualapai Tribal Council has requested that DNA People's Legal Services, Inc. assist the Hualapai Tribe in making these needed updates and revisions to the Revised Law and Order Code;

WHEREAS, DNA People's Legal Services, Inc. has convened a series of meetings with a "working group," of several Hualapai Tribal Officials, including officials from the Hualapai Tribal Prosecutor's Office, the Hualapai Police Department, the Hualapai Public Defender's Office, and the Hualapai Courts, and this working group has reviewed Chapter 5: Criminal Procedure section by section;

WHEREAS, this "working group" completed its work on Chapter 5: Criminal Procedure, and submitted a revised and updated Chapter 5: Criminal Procedure, to the Hualapai Tribal Council at the Tribal Council meeting on August 24, 2011;

WHEREAS, at the August 24, 2011 Tribal Council meeting, members of the working group reviewed each of the proposed amendments with the Hualapai Tribal Council, with direct input from the Hualapai Tribal Prosecutor's Office, the Hualapai Tribal Public Defender's Office, and the Hualapai Police Department;

WHEREAS, the Hualapai Tribal Council submitted the proposed amendments to Chapter 5: Criminal Procedure, to the public on September 14, 2011, as a special issue of the GAMYU newsletter, for a public comment period of 30 days;

WHEREAS, the public comment period ended on October 14, 2011;

***COPY OF CHAPTER 5: CRIMINAL PROCEDURE, WITH THE FOREGOING
AMENDMENTS FULLY INCORPORATED***

**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 acts(s), and the provision(s) of Tribal law alleged to have been violated.
- C. Defects, errors, omissions or imperfections in the criminal complaint, which do not prejudice the substantive rights of the defendant 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. The tribal prosecutor shall have the discretion to amend the complaint at any time prior to the entry of the verdict to

correct any such defects, errors, omissions or imperfections, provided that no additional offenses are alleged, and substantial rights of the defendant are not prejudiced.

- D. The Tribal Prosecutor may amend the criminal complaint to allege an additional offense prior to the arraignment. If the Tribal Prosecutor wishes to add an offense to the complaint following the arraignment, the Tribal Prosecutor shall request the dismissal of the original complaint without prejudice and file a new complaint containing the additional alleged offense. The Tribal Court shall have the discretion to maintain the conditions of release of the defendant, to modify the conditions of release, or to remand the defendant into custody following the filing of the new complaint.

Sec. 5.4 Criminal Complaint; Time for Filing

- A. Except for the crimes of Aggravated Assault, Aggravated Battery, Murder, Manslaughter, Kidnapping, all crimes listed as Sexual Offenses, Aggravated Arson, Burglary, Robbery, and Forgery, no criminal proceeding shall be instituted unless the offense, violation or other event forming the basis of the criminal proceeding occurred within a one year period prior to the date of the initiation of the criminal proceeding. Criminal proceedings for the crimes of Aggravated Assault, Aggravated Battery, Aggravated Arson, Burglary, Robbery, and Forgery must be filed within three years of the commission of the crime. Criminal proceedings for the crimes of Murder, Manslaughter, Kidnapping, and all crimes listed as Sexual Offenses may be brought at any time following the commission of the crime, without limitation.
- 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 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 commissioned Peace Officer; or
 2. Issue a summons and attached criminal complaint, which shall be personally served, by any commissioned Peace Officer, process server, or other individual designated by the Court, on the defendant commanding the defendant's presence for arraignment at a specified date and time.
 - a. Personal service of process shall be made in a manner reasonably calculated, under all the circumstances, to inform the defendant of: 1) the existence and pendency of the criminal proceeding, 2) the necessity to appear before the Court, and 3) his or her reasonable opportunity to defend against the allegations. Service shall be deemed complete at the time personal service is made.
 - b. If personal service of process of the criminal complaint and summons 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.
 - c. Service of process 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.
- 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 commissioned Peace Officer.

Sec 5.8 Arrests

- A. Any commissioned 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 probable 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.1 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 commissioned Peace Officer may forcefully enter the premises when the commissioned 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 probable cause 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 commissioned 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 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 commissioned Peace 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. Except as provided by Section 5.12.B, every criminal defendant shall appear before a Tribal Court Judge for arraignment within 24 hours of being taken into custody, excluding weekends and holidays observed by the Hualapai Tribe.
- 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. Prior to acceptance of a plea of guilty or no contest, the Tribal Court Judge shall address the defendant in open court and inform the defendant of the following:
 - a. the mandatory minimum penalty provided by law, if any, and the maximum possible penalty provided by law; and
 - b. the additional consequences and enhanced consequences of any guilty or no contest plea upon the defendant if the offense falls under the domestic violence provisions of Chapter 7 or requires registration as a sex offender; and
 - c. that if the defendant pleads guilty or no contest, there will be no further trial of any kind and the defendant will be waiving the right to trial.
 - 2. The Tribal Court Judge shall inquire of the defendant whether the plea of guilty or no contest is entered voluntarily and not the result of force or threats or of promises apart from a plea bargain.
 - 3. If the defendant pleads guilty or no contest to the charges in the complaint, the Tribal Court 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 reasons why sentence should not be passed at that time, the Tribal Court Judge shall give due consideration to such reasons and act thereon within his or her

discretion considering his or her 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.

4. 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 Tribal Court 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.
5. 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.4 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 considered for release on bail or bond pending further proceedings in the case, upon conditions set by the Tribal Court Judge to ensure the appearance of the defendant at all future court ordered appearances, and conditions determined necessary to protect persons, property and the public peace. 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 or money order or certified cashier's 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. The Tribal Court Judge shall in setting bail consider the following information:
 1. the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves drugs or alcohol; and

2. the weight of the evidence against the defendant; and
 3. the history and characteristics of the defendant, including the defendant's character and mental condition, family ties, employment status, employment history, financial resources, past and present residences, length of residence in the community, ties to the community, past conduct, history relating to drug or alcohol abuse, criminal history and record of appearance at court proceedings, probation or parole status; and
 4. the nature and seriousness of the danger to any person or to the community that would be posed by the defendant's release.
- B. If a defendant released on bail or bond fails to appear before the Tribal Court as required, or fails to comply with any conditions of release set by the Tribal Court Judge in the release order, the Tribal Court Judge may order any posted cash or bond to be forfeited and may 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 after being taken into custody, excluding weekends and holidays observed by the Hualapai Tribe, 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, Pre-Trial Motions

- A. 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 the 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.

B. **Motions to Be Made Seven Days Prior to Trial;** The following motions must be made at least seven days prior to the commencement of trial or will be deemed waived, unless good cause is shown for extension of the time period:

1. Motions relating to conditions of pretrial release;
2. Motions to Dismiss for defects in the complaint;
3. All discovery motions and requests;
4. Motions for Severance;
5. Motions to Disqualify the Judge;
6. Motions to Name Additional Witnesses;
7. Motions to Dismiss based on denial of a speedy trial;
8. All pretrial evidentiary motions, including Motions to Suppress and Motions in Limine;
9. Motions alleging lack of mental capacity.

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 commence within 90 days after the arraignment, unless the defendant or circumstances beyond the control of the parties cause a delay in the proceedings.
1. As used in Subsection A above, the phrase “disposition of a criminal case” shall mean either:
 - (a) a plea bargain has been entered and approved by the Tribal Court;
 - or

- (b) the defendant has pled guilty or no contest and final sentence has been imposed by the Tribal Court; or
 - (c) the defendant has been referred to the Wellness Court Division, and has satisfied all obligations imposed in connection with that referral.
2. The Tribal Court shall retain jurisdiction over matters referred under Subsection A.1.c 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 the evidence, and after the Tribal Court Judge makes determinations on any motions made by the parties following the close of evidence, the jury shall receive instruction and deliberate as provided in Sections 3.12 and 3.13 of this Code.

Sec 5.17 Jury Verdict; Lesser Included Offenses

- A. The Tribal Court Judge shall provide the jury with instructions and send the jury into the jury room for deliberation. In every criminal case tried to a jury, the jury must reach a unanimous verdict of guilty or not guilty. If the judge determines that a jury in a criminal case is unable to reach a unanimous verdict, the Tribal Court Judge shall declare a mistrial and the Tribal Court Judge shall set a new

trial date to commence within 90 days of the Tribal Court's declaration of mistrial. If the Tribal Prosecutor decides not to proceed with retrial of the case, the Tribal Prosecutor shall file a motion to dismiss prior to the commencement of the retrial.

- B. Lesser Included Offenses and Attempts. If so instructed, the jury may find the defendant guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included in the charge. If the jury has been instructed on one or more lesser included offenses, and the jury cannot unanimously agree upon any of the offenses submitted, the court shall poll the jury by inquiring as to each lesser included offense. If upon a poll of the jury the Tribal Court Judge determines that the jury has unanimously voted not guilty as to any lesser included offense, a verdict of not guilty shall be entered for the lesser offenses and the greater offense.
1. As used in 5.17.B above, "lesser included offense" is defined as a lesser crime, all the elements of which are encompassed by a greater crime. If a greater crime is charged which includes the elements of a lesser crime, if so instructed, a jury may convict the defendant of that lesser crime.

Sec 5.18 Judgment

After the return of the jury verdict, or after evidence has been submitted in a trial conducted before a Tribal Court Judge without a jury, the Tribal Court 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 Court 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 provision of a pre-sentencing report, during which time the judge may incarcerate the defendant or release the defendant pending sentencing, upon such conditions as the judge determines appropriate and within the discretion of the Tribal Court; or (b) impose sentence.

Sec 5.19 General Principles

In imposing a sentence for violation of this Code, 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.

- A. Pre-sentencing reports shall include, at a minimum, the following information regarding the defendant: identification data, family history, marital history, education history, employment history, economic data, military record, health history, drug and alcohol use history, mental health history, arrest and criminal records from any jurisdiction, including any prior or pending cases, and any additional information deemed relevant by the probation officer or the defendant.

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; 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; or
- C. A term of Community Service; or
- D. Forfeiture of property; or
- E. To pay restitution, or perform any other act, for the benefit of any person or party who was injured personally or whose property was damaged. Provided, any such personal injuries or property damage, or both, are fairly attributable to the act or failure to act constituting the criminal offense committed by the person; or
- F. To treatment, counseling or rehabilitation; or
- G. To probation or suspension of sentence on such terms and conditions as the Tribal Court may direct, including payment of probation program costs; 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 a detention facility. Juveniles and adults shall be held in custody in separate detention facilities, in accord with the requirements of Section 13.37.

Sec. 5.23 Fines

Assessed fines shall be paid by money order or cashier's 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 or disobedience of a lawful Tribal Court order, or both.

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 the 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, within the budget approved by the Tribal Council, may hire probation officers and other persons as may be required to carry out the probationary functions of the Tribal Court.

- B. Duties of probation officers include, but are not limited to, the following:
 - 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 or parole 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 or parole.

- 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 Funds

Except where Tribal law expressly requires another disposition of fines collected, all money fines imposed upon conviction of a criminal offense shall be deposited into the general fund of the Hualapai Tribe.

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 may 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 true and correct copy of the warrant of arrest of the issuing off-reservation court shall 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 an extradition hearing within seventy-two hours after being arrested.

- A. **Issues at Extradition 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 Hualapai Tribal Police Department 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.

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 contraband property confiscated pursuant to a conviction of:
 - 1. Carrying a concealed weapon; or
 - 2. An offense involving the use of any dangerous object or dangerous weapon in the commission of such offense.
- D. Any property not claimed by the owner when delivered to the owner, 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 the Hualapai Tribe if it is not claimed within 30 days after the hearing.
- F. Any property declared to be 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.

BE IT FURTHER RESOLVED, the Hualapai Tribal Council hereby adopts the foregoing amendments to the Law and Order Code to be used to govern the administration of justice by the Hualapai Tribe's criminal justice system and juvenile justice system when applicable.

BE IT FURTHER RESOLVED, that the above amended Chapter 5: Criminal Procedure of the Hualapai Law and Order Code, shall go into effect immediately upon passage by the Hualapai Tribal Council and that this Resolution and the amendments described herein shall supersede and replace all earlier versions of Chapter 5: Criminal Procedure passed prior to this date.

CERTIFICATION

I, the undersigned as Chairperson of the Hualapai Tribal council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom 7 constituting a quorum were present at **Special Council meeting** thereof held on this **12th day of December, 2011**; and that the foregoing resolution was duly adopted by a vote of **7 in favor, 0 oppose, 2 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:


Adeline Crozier, Secretary
HUALAPAI TRIBAL COUNCIL