

CHAPTER 6

LAW ENFORCEMENT

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CHAPTER 6

LAW ENFORCEMENT

Section 1. Public Officers.

The Ordinances of the Blackfeet Indian Tribe shall be enforced by any duly qualified enforcement officer.

Section 2. Police Commissioners.

The Tribal Business Council and Law and Order Committee may issue police commissions of the Tribe properly qualified for the performance of police duties, or to any other Law Enforcement Officer.

Section 3. Duties of Police.

Police Officers of the Blackfeet Tribe shall be officers of the Blackfeet Indian Court, and shall execute all orders of the Court and all Ordinances and Resolutions of the Tribal Business Council, regardless of their personal opinions as to the wisdom or constitutionality of such Resolution or Ordinances, or order of the Court.

Section 4. Law Enforcement.

All Resolutions and Ordinances of the Tribal Business Council shall be faithfully enforced by the officers of the Tribe, including the Judge, regardless of their personal opinions as to the wisdom or constitutionality of such Resolutions or Ordinances.

Section 5. Extradition.

The Chairman of the Tribal Business Council may order the return to any other jurisdiction of any person accused of crime therein, and may request the authorities of other jurisdiction to return to the Blackfeet Indian Reservation persons accused or convicted of crime who have fled from the jurisdiction of the Blackfeet Indian Court.

Section 6. Removal of Non-Members, Law-Breakers.

Any private person not a member of the Blackfeet Indian Tribe who, within the Blackfeet Indian Reservation, commits any act which is a crime under Federal or State Law, or which would be a misdemeanor under the Ordinances of the Blackfeet Indian Tribe if committed by a member thereof, may be forcibly ejected from the Blackfeet Indian Reservation by a member of the Indian Police, Police Officer, or the Tribe, or of the United States Indian Service, and may be turned over to the custody of any Federal or State police officer for prosecution under Federal or State Law.

Section 7. Method of Arrest.

A. An arrest is made by an actual restraint of the person to be arrested or by his submission to the custody of the person making the arrest.

B. All necessary and reasonable force may be used in making an arrest, but the person arrested shall not be subject to any greater restraint than is necessary to hold or detain him.

C. All necessary and reasonable force may be used to effect any entry into any building or property or part thereof to make an authorized arrest.

Section 8. Issuance and Service of Arrest Warrant upon Complaint.

A. A complaint, as the basis of an arrest warrant, shall be in writing and shall:

(1) State the name of the accused if known, and if not known, the accused may be designated by any name or description by which he can be identified with reasonable certainty;

(2) State facts showing probable cause to believe that the accused has committed an offense;

(3) State the time and place of the offense as definitely as can be done by the complainant; and

(4) Be subscribed and sworn by the complainant.

Section 9. Arrest with a Warrant.

A warrant has been issued for his arrest, except when he files or forcibly resists before the officer making the arrest has an opportunity so to inform him, or when the giving of such information will imperil the arrest. The Tribal Officer making the arrest need not have the warrant in his possession at the time of the arrest, but after the arrest, if the person arrested so requires the warrant shall be shown to him as soon as possible.

Section 10. Procedure when Warrant Defective.

No warrant of arrest shall be quashed or abated nor shall any person in custody for an offense be discharged from such custody because of technical irregularities not affecting the substantial right of the accused.

Section 11. Arrest Without a Warrant.

A Tribal Officer or person making an arrest without a warrant must inform the person to be arrested of his authority, of the intention to arrest him, and the cause of the arrest, except when the person to be arrested is actually engaged in the commission of, or in an attempt to commit an offense, or is pursued immediately after its commission, or after an escape, or when the giving of such information will imperil the arrest.

Section 12. Time of Making Arrest.

An arrest may be made on any day and at any time of the day or night except that a person cannot be arrested in his home or private dwelling place at night, for a misdemeanor committed at some other time and place unless upon the direction of a Judge, endorsed upon a warrant of arrest.

Section 13. Arrest by a Tribal Officer.

- (1) He has a warrant commanding that such person be arrested, or
- (2) He believes, on reasonable grounds, that a warrant for the person's arrest has been issued on the Blackfeet Reservation, or
- (3) He believes on reasonable grounds, that the person is committing or has committed an offense.

Section 14. Assisting a Tribal Officer.

- (1) A Tribal Officer making a lawful arrest may command the aid of male persons over the age of eighteen (18).
- (2) A person commanded to aid a Tribal Officer shall have the same authority to arrest as that officer.
- (3) A person commanded to aid a Tribal Officer in making an arrest shall not be civilly liable for any reasonable conduct in aid of the officer.

Section 15. Release by Officer of Person Arrested.

A Tribal Officer having custody of a person arrested without a warrant is authorized to release the person without requiring him to appear before a Court when the officer is satisfied that there are no grounds for criminal complaint against the person arrested.

Section 16. Arrest by a Private Person.

A private person may arrest another when:

(1) He believes, on reasonable grounds, that an offense is being committed or attempted in his presence.

Section 17. When Summons may be Issued.

When authorized to issue a warrant of arrest a Court may in lieu thereof issue a summons:

- (1) Be in writing in the name of the Tribe;
- (2) State the name of the person summoned and his address, if known;
- (3) Set forth the nature of the offense;
- (4) State the date when issued;
- (5) Be signed by the Judge of the Court with the title of his office;
- (6) Command the person to appear before the Court of a certain time and place.

The summons may be served in the same manner as the summons in a Civil Action.

Section 18. Effect of Not answering Summons.

Upon failure of the person summoned to appear, the Judge shall issue a warrant of arrest. If after issuing a summons, the Judge, becomes satisfied that the person summoned will not appear as commanded by the Summons, he may at once issue a warrant of arrest.

Section 19. Notice to Appear.

Whenever a Tribal Officer is authorized to arrest a person without a warrant he may instead issue to such person a notice to appear.

The notice shall:

- (1) Be in writing;
- (2) State the name of the person and his address, if known;

- (3) Set forth the nature of the offense;
- (4) Be signed by the officer issuing the notice; and
- (5) Direct the person to appear before a Court at a certain time and place;

Upon failure of the person to appear, a summons or warrant of arrest may issue.

Section 20. Judge May order Arrest.

A Judge may orally order a Tribal Officer or private person to arrest any one committing or attempting to commit a public offense in the presence of such Judge.

Section 21. Road Block.

(1) For the purpose of this act, a "Temporary Roadblock" means any structure, device, or means used by the duly elected or appointed law enforcement officers of this State or of the Blackfeet Tribe, and their deputies, for the purpose of controlling all traffic through a point on the highway whereby all vehicles may be slowed or stopped.

(2) The duly elected or appointed law enforcement officers of the Blackfeet Tribe, and their deputies, are hereby authorized to establish, in their respective jurisdictions, or in other jurisdictions within the Reservation, temporary roadblocks, and apprehending persons wanted for violations of the law of the United States, who are using the highways of this State or Reservation.

(3) Any Indian who shall proceed or travel through a roadblock, without subjecting himself to the traffic control so established shall be guilty of a misdemeanor, and shall be sentenced (1) to labor for a period not to exceed six (6) months, or (b) to pay a fine of not to exceed Five Hundred Dollars (\$500.00), or (c) to both the foregoing.

Section 22. Search and Seizure, when arrested.

A search of an Indian, object or place may be made and instruments, articles or things may be seized in accordance with the provisions of this chapter when the search is made;

- (1) As an incident to a lawful arrest;
- (2) With the consent of the accused or of any other person who is lawfully in possession of the object or place to be searched or who is believed upon reasonable cause to be in such lawful possession by the person making the search;
- (3) By the authority of a valid search warrant; or
- (4) Under the authority and within the scope of a right of lawful inspection granted by law;

A search warrant may in all cases be served by any of the officers mentioned in its direction, duty by no other person except in aid of the officer on his requiring it, he being present and acting in its execution. The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein to execute the warrant, if after notice of his authority and purpose he is refused admittance. The officer may break open any outer or inner door or window of a house when necessary for his own liberation, or for the purpose of liberating a person who, having entered to aid him in the execution of the warrant is detained therein. The Judge will insert a direction in the warrant that it be served in the daytime, unless the affidavits are positive that the property is on the person or in the place to be searched in which case the Judge may insert a direction that it be served at any time of the day or night.

A search warrant must be executed and returned to the Judge, who issued it within ten (10) days after its date, after the expiration of this time the warrant, unless executed, is void.

Section 23. Scope of Search Warrant Without Warrant.

When a lawful arrest is effected a Tribal Officer may reasonably search the person arrested on the area within such person's presence for the purpose of :

- (1) Protecting the officer from attack, or
- (2) Preventing the person from escaping, or
- (3) Discovering the seizing the fruits or the crime, or
- (4) Discovering and seizing any persons, instruments, articles, or things which may have been used in the commission of, or which may constitute evidence of, the offense.

Section 24. Search Warrant Defined.

A search warrant is an order in writing, in the name of the Tribe, signed by a Judge, particularly describing he thing or place to be searched and the instruments, articles or things to be seized, directed to a Tribal Officer, commanding him to search for personal property and bring it before the Judge.

Section 25. Grounds for Search Warrant.

Any Judge, may issue a search warrant upon the written application of any person that an offense has been committed, made under oath or affirmation before him which:

- (1) State facts sufficient to show probable cause for issuance of the warrant;
- (2) Particularly describes the place or things to be searched.

(3) Particularly describe the things to be seized.

Section 26. Scope of Search with Warrant.

A search warrant may authorize the seizure of the following:

- (1) Contraband;
- (2) Any instrument, articles or things which are the fruits of, have been used in the commission of any offense;

Section 27. Filing of Application.

The application on which the search warrant is issued shall be retained by the Judge, but need not be filed with the Clerk of Court, nor with the Court, if there is no Clerk, until the warrant has been executed or has been returned "not executed".

Section 28. Service and Execution of Search Warrants.

A search warrant may in all cases be served by any of the officers mentioned in its direction, duty by no other person except in aid of the officer on his requiring it, he being present and acting in its execution.

Service of a search warrant is made by exhibiting the original warrant at the place to be searched. If the warrant is executed, a duplicate copy, and a receipt for all articles taken shall be left with any person from whom any instruments, articles or things are seized, or if not person is available, the copy and receipt shall be left at the place from which the instruments, articles or things were seized. Failure to give or leave such a receipt shall not render the evidence inadmissible in a trial.

All necessary and reasonable force may be used to execute a search warrant or to effect an entry into any building or property or part thereof to execute a search warrant.

Section 29. Detention and Search of Persons or Premises.

In the execution of the search warrant the person executing the same may reasonably detain and search any person in the place of search at the time;

- (1) to protect himself from attack; or
- (2) to prevent the disposal or concealment of any instruments, articles or things particularly described in the search warrant.

Section 30. When Warrant may be Executed.

The warrant may be executed at any time of any day or night prescribed in the warrant. The warrant shall be execute within ten (10) days from the time of issuance. Any warrant not executed within such time shall be void, and shall be returned to the Court or the Judge, issuing the same as "not executed".

Section 31. Return to Court of things Seized under Search Warrant.

The return of the warrant and all instruments, articles, and things seized shall be made promptly before the Judge who issued the warrant, or shall be accompanied by a written inventory of any property taken, verified by the person executing the warrant. The Judge, shall, upon request, deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant of the warrant. The Judge before whom the instruments, articles, or things are returned shall enter an order providing for their custody or appropriate disposition pending further proceedings.

Any Tribal Officer seizing any instruments, articles, or things must give a receipt to the person from whose possession they are taken,

but failure to give such a receipt shall not render the evidence seized inadmissible upon a trial.

If the arrest has been made all instruments, articles, or things shall be exhibited to the tribal judge before whom the person arrested is taken, and thereafter handled and disposed of in accordance with Tribal Law. If the person arrested is released without a charge being preferred against him, all instruments, articles, or things seized from him, other than contraband shall be returned to him upon release.

If no arrest has been made such instruments, articles, or things may be retained in the custody of the officer making the seizure for a time sufficient for investigation of the supposed crime, after which they must be delivered to the proper Judge, for disposition in accordance with Tribal Laws, retained to the person from whom they were taken.

Section 32. Return of Property Seized.

Any person claiming the right to possession of property seized as evidence may apply to the Judge to whom it has been delivered for its return. The Judge shall give such notice as he deems adequate to all persons who have or may have an interest in the property and shall hold a hearing to hear all claims to its true ownership.

If the right to possession is proved to the Judge's satisfaction, he shall order the property, other than contraband, returned if:

- (1) The property is not needed as evidence or if needed, satisfactory arrangements can be made for its return for subsequent use as evidence, or
- (2) All proceedings in which it might be required have been completed.

Section 33. Disposition of Unclaimed Property.

If the property seized as evidence is not claimed within six (6) months of the completion of the case for which it was seized, and if, after proper inquiry, the Judge cannot ascertain or locate any person entitled to its possession, he must order the property to be sold by the Tribe. The proceeds from such sale, after deduction of the costs of storage and reservation of the property, must be paid into the Tribal Treasury.

Section 34. When Search and Seizure not Illegal.

No search and seizure, whether with or without warrant, shall be held to be illegal as to a defendant if:

(1) The defendant has disclaimed any right to or interest in the place or object searched and the instruments, articles or things seized; or

(2) No right of the defendant has been infringed by the search and seizure; or

(3) Any irregularities in the proceedings do not affect the substantial rights of the accused.

Section 35. Admissibility in Other Proceedings.

Instruments, articles or things lawfully seized are admissible as evidence upon any prosecution or proceedings whether or not the prosecution of proceedings is for the offense in connection with which the search was originally made.

Section 36. Duty of Person Who has Made an Arrest.

Any person making an arrest under a warrant shall take the arrested person without unnecessary delay before the Judge issuing the

warrant or if he is absent or unable to act, before the nearest or most accessible judge of the Tribe.

Section 37. Duty of the Court.

The Judge shall inform the defendant:

- (1) Of the charge against him;
- (2) Of his right to layman counsel; and
- (3) That he is not required to make a statement and that any statements made by him may be offered in evidence at his trial.

Section 38. Purpose of Bail.

Bail is the security given for the purpose of insuring the presence of the defendant in a pending criminal proceeding.

Section 39. Who May Admit to Bail.

Any Judge having authority, as specified in Tribal Code, may admit any defendant properly appearing before him in such proceeding to bail. When bound over to any Court or Judge having jurisdiction of the offense, charged bail shall be continued provided the Court or Judge, having jurisdiction, may increase, reduce or substitute bail.

Upon the allowance of bail and execution of the undertaking if any be required, then Judge must, if the defendant is in custody, make and sign an order for his discharge. Upon the delivery of such order to the proper officer, the defendant may be discharged.

Section 40. Setting and Accepting Bail in Minor Offense.

A Judge may, in his discretion, establish and post a schedule of bail for offenses not amounting to a felony. A Chief Officer may accept bail, he shall give a signed receipt to the offender setting forth the bail received. The Chief Officer shall then deliver the bail to the Judge.

Section 41. Setting and Accepting Bail under a Warrant of Arrest.

The Chief Officer may accept bail on behalf of the Judge as set under the schedule authorized above in Section 40. In the event the Chief Officer accepts bail, he shall give a signed receipt to the offender setting forth the bail received. The Chief Officer shall then deliver the bail to the Judge before whom the offender is to appear, and the Judge shall give a receipt to the Police Officer for the bail delivered.

Section 42. Giving Bail Before Another Court or Judge.

The defendant when arrested for aailable offense must be taken without unnecessary delay before the nearest or most accessible judge in order that bail may be fixed. If the defendant is brought before a judge other than the Court in which the charge is pending, the judge must establish and accept bail and set the time for the appearance of the defendant in the Court in which the charge is pending. Upon acceptance of bail, the judge must deliver the bail without delay to the court in which the charge is pending.

Section 43. Release on Own Recognizance.

Any person in custody, if otherwise eligible for bail, may be released on his personal recognizance subject to such conditions as the Court may reasonably prescribe to assure his appearance when required. Any person released as herein provided shall be fully apprised by the Court of the penalty provided for failure to comply with the terms of his recognizance.

Section 44. Issuance of Warrant.

Upon failure to comply with any condition of a bail bond or recognizance, the Court having jurisdiction at the time of such failure

Section 48. Reduction Increase, Revocation or Substitution of Bail.

A. Upon application by the Tribe or the defendant, the Court before which the proceeding is pending, may increase or reduce the amount of bail, substitute one bail for another, or alter the condition of the bail, or revoke bail.

B. Reasonable notice of such application, except as provided in Substitution C and except after verdict of guilty and before judgment.

C. Upon verified application by the Tribe stating facts or circumstances constituting a breach or a threatened breach of any of the conditions of the bail, the Court may issue a warrant commanding any Tribal Officer to bring the defendant without necessary delay before the Court for a hearing on matters set forth in the application. At the conclusion of the hearing the Court may enter an order in accordance with subsection A.

Section 49. How Bail is to be Furnished.

Any person for whom bail has been set may execute the bail bond with or without sureties which bond may be secured:

(1) By a deposit with the Clerk of Court, of an amount equal to the required bail of cash, stocks or bonds, or any combination thereof approved by the Judge;

(2) By a written undertaking executed by the defendant and by two sufficient sureties;

(3) By a commercial surety bond executed by the defendant and by a qualified agent for and on behalf of such surety company.

The sureties must, in all cases, justify by sworn affidavit that they each possess the qualifications provided in the proceeding section. The Court may further examine the sufficiency of the bail, upon oath, in such manner as it may deem proper.

(NOTE: Any references to bail bonds or other forms of surety or commercial bail bonds has been repealed by Resolution 92-70 adopted February 5, 1975 and is of no force).

Section 50. Surrender of Defendant.

At any time before the forfeiture of bail, the defendant may surrender himself to the officer to whom custody he was committed at the time of giving bail. At any time before the forfeiture the bail, the sureties or surety company may surrender the defendant to the officer to whose custody he was committed and for this purpose may, themselves, arrest the defendant or by written authority endorsed on a certified copy of the undertaking may empower any person of suitable age and discretion to do so.

The officer must detail the defendant in his custody as upon commitment and shall file a certificate in the Court having jurisdiction of the defendant, acknowledging the surrender. Such Court may then order the bail exonerated. (NOTE: Any reference to sureties on bail is repealed by Ordinance 92-70, February 5, 1971 and of no effect).

Section 51. Conditions of Bail Bond, When Performed-When Not Performed.

When the conditions of the bail bond have been performed and the accused has been discharged from his obligations in the cause, the Clerk of the Court shall return to him or his sureties the deposit of

any cash, stock or bonds. If the accused does not comply with the conditions of the bail bond, the Court having jurisdiction shall enter an order declaring the bail to be forfeited. If such forfeiture shall be mailed forthwith by the Clerk of the accused and his sureties at their last known address. If the accused does not appear and surrender to the Court having jurisdiction within thirty (30) days from the date of the forfeiture and satisfy the Court that appearance and surrender by the accused was impossible and without his fault, the Court shall enter judgment for the Tribe against the accused and his sureties for the amount of the bail and costs of the proceedings. If, without sufficient excuse, the defendant neglects to appear for arraignment or for trial or judgment, or upon any other occasion when his presence in Court may be lawfully required, or to surrender himself in execution of the judgment, the Court must direct the fact to be entered upon its minutes, and the undertaking of bail, or the money deposited instead of bail, as the case may be, is thereupon forfeited. But if at any time before the final adjournment of the Court, the defendant or his bail appear and satisfactorily excuse his neglect, the Court may direct the forfeiture of the undertaking or the deposit, be discharged upon such terms as may be just. (NOTE: Any reference to sureties or surety bonds is repealed by Resolution 92-70, February 5, 1971).

Section 52. Conditions of Bail.

A. If a person is admitted to bail before conviction, the conditions of bail bond shall be that he will appear to answer in the Court having jurisdiction on a day certain and thereafter as ordered by the Court until discharged on final order of the Court and not depart the Blackfeet Reservation without leave, and that he will obey any

other conditions which the Court may reasonably prescribe to assure his appearance when required.

B. If the defendant is admitted to bail after conviction, the conditions of bail bond shall be that:

- (1) He will duly prosecute his appeal;
- (2) He will appear at such time and place as the Court may direct;
- (3) He will not depart the Blackfeet Reservation without leave of the Court; and
- (4) If the judgment is affirmed or the cause reversed and remanded for a new trial, that he will forthwith surrender to the officer from whose custody he was bailed.

If the judgment of conviction is reversed and the cause remanded for a new trial, the trial court may order that the bail stand pending such trial, or may substitute, reduce, or increase the bail.

(NOTE: Any conflict between this Chapter and Chapter 9 of this Code on Rules of Procedure shall be resolved in favor of the provisions of Chapter 9).