

**Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians**  
**Criminal Procedure Ordinance**

CHAPTER I  
CHARGING DOCUMENTS

- Section 1 All criminal prosecutions will be initiated by filing charging documents, either a Citation or a Complaint, with the Tribal Court.
- Section 2 Citations.
- a. Whenever a law enforcement officer, who is empowered to make an arrest without a warrant for a Level A Misdemeanor offense, has reasonable grounds to believe an immediate arrest is not necessary to preserve the public peace and safety, the officer may, in his or her discretion, issue the Defendant a citation instead of taking the Defendant into custody. Such citation, signed by the law enforcement officer, may be forwarded to the Tribal Prosecutor for consideration of filing a formal Complaint.
  - b. The citation must contain:
    1. court name and address;
    2. name of Defendant;
      - i. tribal affiliation; and
      - ii. description of Defendant and Defendant's date of birth;
    3. description of the offense charged, including the section of the Gun Lake Criminal Code allegedly violated;
    4. date and location of offense; and
    5. signature of the law enforcement officer that issued the citation.
  - c. One (1) copy of the citation must be given to the Defendant, one (1) copy to the Tribal Court, and one (1) copy to the Public Safety Department.
- Section 3 Complaint.
- a. A Complaint is a charging document issued by the Tribal Prosecutor alleging that a crime has been committed by a specific individual.
  - b. The Complaint must contain the:
    1. court name and address;
    2. name of Defendant;
      - i. tribal affiliation;
      - ii. description of Defendant and Defendant's date of birth;
    3. description of the offense charged, including the section of the Gun Lake Criminal Code allegedly violated;
    4. date and location of the offense; and
    5. signature of the Tribal Prosecutor.
  - c. Upon the preparation and signing of a Complaint, the Tribal Prosecutor will file the Complaint with the Tribal Court.
- Section 4 Time Limit for Commencing Criminal Prosecution.
- No offense will be prosecuted under this Ordinance unless the complaint is filed within the applicable time frame listed below.
- a. Misdemeanor Offenses.

1. Level A Misdemeanor.  
The complaint must be filed within one (1) year of the offense being reported.
  2. Level B Misdemeanor.  
The complaint must be filed within two (2) years of the offense being reported.
- b. Felony Offenses.  
The complaint must be filed within five (5) years of the offense being reported, except for the following:
1. the complaint must be filed within ten (10) years of the offense being reported, or on the victim's 21<sup>st</sup> birthday, whichever is later, when the offense is:
    - i. child sexually abusive activity or possession of child sexually abusive material;
    - ii. 1<sup>st</sup> degree criminal sexual conduct;
    - iii. 2<sup>nd</sup> degree criminal sexual conduct;
    - iv. 3<sup>rd</sup> degree criminal sexual conduct;
    - v. 4<sup>th</sup> degree criminal sexual conduct; or
    - vi. assault with intent to commit criminal sexual conduct.
  2. the complaint can be filed any time, with no deadline, when the offense is:
    - i. murder;
    - ii. kidnapping;
    - iii. solicitation to commit murder;
    - iv. conspiracy to commit murder; or
    - v. terrorism.

## CHAPTER II ARRESTS

### Section 1

#### Arrests.

- a. An arrest is the taking of a person into police custody.
- b. A Tribal Law Enforcement Officer, or other law enforcement officer deputized by the Tribe to enforce Tribal law, can arrest or apprehend any person for an alleged criminal offense under the following circumstances:
  1. for Felony offenses:
    - i. the offense is considered a felony under Tribal law and the officer has a valid warrant for the person's arrest;
    - ii. the offense is a felony under Tribal law and is committed in the officer's presence;
    - iii. the offense is a felony under Tribal Law and the officer has probable cause to believe the person committed the offense.
  2. for Misdemeanor offenses:
    - i. the offense is a misdemeanor under Tribal law and the officer has a valid arrest warrant for the person's arrest;
    - ii. the offense is a misdemeanor under Tribal law and is committed in the officer's presence;
    - iii. when Tribal law requires arrest (e.g. the offense is a domestic violence offense).
- c. When arresting a person without a warrant, the law enforcement officer making the arrest must inform the person arrested of the charge that is the basis of the arrest, except if the person flees, or forcibly resists arrest before the law enforcement officer has time to inform the subject of the law enforcement officer's authority.

- d. Once the person is lodged, the officer will promptly notify the Tribal Court Administrator and the Tribal Prosecutor that the arrest has taken place. The Tribal Court Administrator will then notify the Tribal Court Judge.
- e. The arraignment will take place according to the procedures in Chapter IV of this Ordinance.

Section 2 Arrest Warrants.

- a. The Tribal Court has the authority to issue arrest warrants.
- b. The Tribal Court Judge will make a probable cause determination before signing an arrest warrant only after the following occur:
  - 1. the law enforcement officer requesting the arrest warrant was placed under oath by the Judge; and
  - 2. sworn testimony was given to establish probable cause that the Defendant committed an offense against Tribal law.
- c. The arrest warrant must contain the:
  - 1. court name and address;
  - 2. name of the person to be arrested (if name unknown, a physical description must be provided);
    - i. tribal affiliation;
    - ii. description of Defendant and date of birth of Defendant;
  - 3. address of the person to be arrested, if known;
  - 4. description of the offense charged, including the citation of the Tribal Code that has allegedly been violated; and
  - 5. signature of the Tribal Court Judge.

Section 3 Notifications at Time of Arrest.

Upon arrest, prior to being interviewed, the person must be immediately advised of the following:

- a. the right to remain silent;
- b. any statements made by the person may be used against the person in a court of law; and
- c. the right to obtain counsel at the person's own expense.

Section 4 Summons in Lieu of An Arrest Warrant.

- a. Upon the filing of the Complaint the Prosecutor must inform the Tribal Court whether an arrest warrant is sought.
- b. Tribal Court may, in lieu of an arrest warrant, issue a summons commanding the Defendant to appear before the Tribal Court for arraignment.
- c. The summons, together with a copy of the Complaint, will be served upon the Defendant by delivering a copy to the Defendant personally or by leaving a copy at his/her usual residence or place of business with a person of suitable age and discretion who also resides or works there. Service will be made by an authorized law enforcement officer, who will make a return of service which will be filed with the records of the case.
- d. The summons must state that if a Defendant fails to appear in response to the summons, a warrant for his/her arrest will be issued.

CHAPTER III  
SEARCHES

Section 1 Search Warrant.

- a. A search warrant is a written order, signed by a Tribal Court Judge, directing a Tribal Law Enforcement Officer to conduct a search of property or a person and seize property as specified in the warrant. A search warrant must describe the person, property, or place to be searched and must describe the property to be seized.
- b. A search warrant will be issued only by a Tribal Court Judge and only upon probable cause supported by sworn testimony that a search will discover one of the following:
  1. stolen, embezzled, contraband, or otherwise unlawfully possessed property;
  2. property which has been or is being used to commit a criminal offense;
  3. property which constitutes evidence of the commission of a criminal offense; or
  4. a person for whom an arrest warrant has been issued or will be issued contemporaneously with the issuance of the search warrant.
- c. If an affidavit for a search warrant is submitted via e-mail or fax, or a search warrant is issued via e-mail or fax, the transmitted copies of the affidavit or search warrant are duplicate originals of the affidavit or search warrant.
- d. An affidavit for a search warrant may be made in person, or by e-mail, fax, or telephone after the following occur:
  1. the law enforcement officer requesting the search warrant was placed under oath by the Tribal Court Judge; and
  2. sworn testimony to support the affidavit was given to establish probable cause that the Defendant committed an offense against Tribal law.

Section 2 Execution and Return of Search Warrants.

Search warrants must be executed only by authorized law enforcement officers. The executing law enforcement officer must return the search warrant, along with the completed written inventory of the items seized, to the Tribal Court within ten (10) days from the date of issuance. The Tribal Court will have the discretion to grant an extension of time for good cause.

Section 3 Search Without a Warrant.

No law enforcement officer will conduct any search without a warrant except:

- a. when the law enforcement officer is making a lawful arrest;
- b. with the voluntary consent of the person being searched or the person entitled to possession of property being searched;
- c. when the search is of a movable vehicle and the law enforcement officer has probable cause to believe that it contains contraband, stolen property, or property otherwise unlawfully possessed;
- d. when the search is of a person and the officer has probable cause to believe the person is armed;
- e. when the search involves evidence which is in plain view of a law enforcement officer from a location where the officer has a legal right to be at that specific time;
- f. when the search involves entry into a residence, or other location normally not open to the public, and when one or more of the following circumstances are present:

1. the law enforcement officer enters the premises while continuing the hot pursuit of a suspect and the officer has reason to believe the suspect has committed a felony or the suspect has escaped from the custody of law enforcement officers; or
2. the law enforcement officer enters the premises based upon a reasonable belief that entry is necessary to rescue a person in imminent threat of death or serious injury.

Section 4 Disposition of Seized Property.

- a. The law enforcement officer serving and executing a warrant must take inventory of all property seized. A copy of the search warrant and inventory must be left with the person from whom or at the location from which property is seized.
- b. A hearing will be held by the Tribal Court to determine the disposition of all property seized by the police. Upon satisfactory proof of ownership, the property will be returned to the owner, unless the property is contraband or is to be used as evidence in a pending case. Property seized as evidence, that is not contraband, must be returned to the owner after the full judicial process is complete. Property confiscated as contraband must be destroyed or otherwise lawfully disposed of as ordered by the Tribal Court.

CHAPTER IV  
ARRAIGNMENT AND RELEASE

Section 1 Arraignment.

- a. Arraignment is the bringing of a Defendant before the Tribal Court to inform the Defendant of the charges, advise the Defendant of his or her rights, and take the Defendant's plea. At arraignment the Tribal Court will also set conditions of pre-trial release as appropriate in accordance with this Ordinance.
- b. Arraignment will be held in open Tribal Court without unnecessary delay after the Defendant is taken into custody and in no instance will arraignment be later than seventy-two (72) hours after arrest. If the Defendant is not in custody the arraignment must take place within fourteen (14) days.
- c. If the arrest was without a warrant, the Tribal Court Judge must determine during arraignment whether there is probable cause to believe that an offense against Tribal law has been committed by the Defendant.
- d. Before a Defendant is required to plead to any criminal charges, the Tribal Court Judge must:
  1. Read to the Defendant, and provide the Defendant with a copy of the complaint and determine that the Defendant understands the complaint and the section of the Tribe's Criminal Code he or she is charged with violating, including the maximum authorized penalty; and
  2. Advise the Defendant that he/she has the right to:
    - i. remain silent;
    - ii. have a speedy and public trial;
    - iii. have witnesses testify on his or her behalf and the right to cross-examine the prosecutor's witnesses;
    - iv. be tried by a jury if the prosecutor is seeking incarceration upon conviction; and

- v. be represented by counsel, at his/her own expense.
- e. At arraignment, the Tribal Court Judge will call upon the Defendant to plead to the charge and proceed as follows:
  1. If the Defendant pleads “not guilty” to the charge, the Tribal Court Judge will set a pre-trial conference date and consider conditions for release prior to trial as provided in Chapter IV, Section 2 of this Ordinance.
  2. If the Defendant pleads “guilty” or “no contest” to the charge, the Tribal Court Judge will accept the plea only if the Tribal Court Judge is satisfied that the plea is made voluntarily and the Defendant understands the consequences of the plea, including the rights he or she is waiving by the plea. In addition, for a plea of no contest, Tribal Court Judge must be satisfied upon a reading of the police report that there is an actual basis for accepting the plea. The Tribal Court Judge may then impose sentence or defer sentencing for a reasonable time not to exceed thirty (30) days in order to obtain any information the Tribal Court Judge deems necessary for the imposition of a just sentence. The Defendant must be afforded an opportunity to be heard by the Tribal Court prior to sentencing.
  3. If the Defendant refuses to offer a plea, the Tribal Court Judge must enter a plea of “not guilty” on his/her behalf.

Section 2 Release Before Final Judgment of Conviction.

- a. At arraignment, the Tribal Court Judge will decide whether to release the Defendant from custody pending sentencing or trial. As conditions of release, the Tribal Court Judge may, to assure the Defendant’s appearance at all times lawfully required, order any or all of the following:
  1. that the Defendant deposit cash or other sufficient collateral, in an amount specified by the Tribal Court Judge; or
  2. that the Defendant, and/or any other designated person or organization satisfactory to the Tribal Court Judge, execute a written promise to appear or to deliver the Defendant at all required times; or
  3. reasonable restrictions on the travel, association or place of residence of the Defendant; or
  4. any other condition reasonably necessary to assure the appearance of the Defendant as required.
- b. Any law enforcement officer authorized to do so by the Tribal Court may release an arrested person on bond pending trial pursuant to a bond schedule and conditions prepared and approved by the Tribal Court.
- c. The Tribal Court may deny or revoke release of any Defendant and order the Defendant committed at any time if it determines that the conditions of release will not reasonably assure the appearance of the Defendant or if any conditions of release have been violated or if the protection of the public requires the denial of bond.

Section 3 Withdrawal of Guilty Plea.

The Tribal Court may, in its discretion, allow a Defendant to withdraw a plea of guilty or a plea of no contest if it appears that justice and fairness would be served by doing so.

CHAPTER V  
PRE-TRIAL PROCEEDINGS

- Section 1      Mandatory Pre-Trial Conference with Prosecutor.  
If the Defendant pleads “Not Guilty” at arraignment, the Court will schedule a Pre-Trial Conference between the parties. At the Pre-Trial Conference the parties will discuss any possible resolutions of the case. If a resolution is reached, the resolution can be placed on the record. If no resolution is reached, the parties will inform the Court and the case will be scheduled for trial.
- Section 2      The Tribal Court may schedule an additional conference prior to a scheduled trial in order to prepare for trial. The Court may use this conference to determine the length of time needed for trial, determine if there are any stipulations, and make any other pre-trial decisions that set the parameters of the trial.
- Section 3      All records relating to statements or confessions of the Defendant or reports of physical, mental, or other scientific tests or examinations relating to or performed on the Defendant, when in the possession or control of the Tribe, will be open to inspection and copying by the Defendant.
- Section 4      Deferred Prosecution.  
In the interest of justice, the Prosecutor may request that the criminal proceedings be delayed in order to allow the Defendant an opportunity to fulfill certain agreed upon conditions in exchange for a dismissal of the criminal charge(s). Such agreements, including the anticipated dismissal date, must be put on the record with the Tribal Court Judge. The conditions must be acknowledged by all parties. Failure to complete the conditions by the scheduled time, without permission of the Prosecutor and the Court, may result in the reinstatement of the original prosecution.

CHAPTER VI  
TRIAL PROCEEDINGS

- Section 1      Rights of Defendant In Criminal Cases.  
The Defendant is presumed innocent. No person will be put in jeopardy twice for the same offense under this Ordinance, nor will he/she be compelled in any criminal case to be a witness against himself. The Defendant will have the right to a speedy and public trial, the right to cross-examine the witnesses against him/her, the right to assistance of counsel at his or her own expense, and the right to demand a trial by an impartial jury if the offense, or combination of offenses charged, is punishable by incarceration. However, in the event that the Tribal Prosecutor informs the Tribal Court before the case comes to trial that a period of incarceration will not be sought, a Defendant will have no right to a jury trial. If the Defendant is subsequently convicted of the offense following a bench trial or plea, the Tribal Court may not impose a period of incarceration for the convicted offense.
- Section 2      Duties of Prosecutor.  
a. The Tribe will carry the burden of proof and must prove Defendant’s guilt beyond a reasonable doubt.

- b. The Prosecutor must turn over all exculpatory information to the opposing side.
- c. The Prosecutor may only file cases in good faith and not with frivolous or malicious intent.

Section 3 Issuance of Subpoenas.

- a. Upon request of the Defendant or Tribal Prosecutor, or upon the Tribal Court's own initiative, the Tribal Court may issue subpoenas to compel the testimony of witnesses or the production of books, records, documents, or other physical evidence relevant to the determination of the case.
- b. A subpoena must bear the signature of the Chief Judge of the Tribal Court and must state the name of the Tribal Court issuing the subpoena, the name of the person or description of the physical evidence to be subpoenaed, the title of the proceeding, and the date, time, and place where the witness is to appear or the evidence is to be presented.

Section 4 Service of Subpoenas.

- a. A subpoena may be served on or off the Tribe's trust land.
- b. A subpoena may be served by a tribal law enforcement officer or other law enforcement officer deputized by the Tribe to enforce tribal law. Service of a subpoena must be made by delivering a copy to the person named or by leaving a copy of the subpoena at his or her usual place of residence or business with any person of suitable age and discretion who also resides or works there.
- c. Proof of service of the subpoena must be filed with the Tribal Court by noting on the back of a copy of the subpoena the date, time, and place that it was served and noting the name of the person to whom the subpoena was delivered. Proof of service must be signed by the person who actually served the subpoena.

Section 5 Failure to Obey Subpoena.

A person who fails to obey a subpoena may be held in contempt of Tribal Court.

Section 6 Witness Expenses.

- a. Each witness answering a subpoena will be entitled to witness compensation and expense reimbursement as established by the Tribal Court.
- b. The expenses provided for in this section will be paid by the Tribal Court upon completion of the witness' service, but such expenses associated with witnesses called by the Defendant may be taxed as costs against the Defendant if he or she is found guilty and in such case a judgment for the costs of witnesses will be entered against the Defendant, provided that no Defendant will ever be incarcerated solely based on his or her inability to pay such costs.

Section 7 Trial Proceedings.

- a. The prosecution must present its case first, followed by the Defendant. If rebuttal is required, the prosecution will proceed first, followed by the Defendant. The Tribe will prosecute the charge by presenting the testimony of witnesses who have information that support the charge.
- b. All witness testimony will be given orally, under oath, and subject to the right of cross-examination. The Tribal Court may allow telephone testimony, based on



necessity. Documentary and tangible evidence will also be received in open Tribal Court and available to the Defendant.

- c. The Defendant may be found guilty of a lesser offense not necessarily included in the offense charged, without the necessity of having been formally charged with the lesser offense.
- d. Except upon the discretion of a Tribal Court Judge when required to maintain decorum in Tribal Court proceedings, the Defendant must be present in the Tribal Court at every stage of the trial, including selection of the jury, return of the verdict, and imposition of the sentence.
- e. At the conclusion of the evidence, the Prosecution may give a closing argument followed by the Defense, with the Prosecution having the right to give a rebuttal to the Defense's closing argument.

## Section 8

### Jury Trials.

- a. Subject to the requirements contained in Chapter V, Section 1 of this Ordinance, any person accused of a crime when incarceration is sought by the Prosecutor will be granted a jury trial, upon his/her request made at the time of arraignment or by a written request filed with the Tribal Court Administrator at least 35 days before the date set for trial.
- b. A jury must consist of at least six (6) Tribal Citizens selected at random from a list of eligible jurors prepared by the Tribal Court.
- c. The process of identifying potential jurors will begin with a listing of all Tribal Citizens who are 18 years of age or older and who reside in the Tribe's five (5) county service area (Allegan County, Barry County, Kalamazoo County, Kent County, Ottawa County).
- d. The following individuals will be excluded from jury duty: those who have been convicted of a felony within the preceding ten (10) years, unless the felony was incurred protecting the sovereign rights of Indian tribes; those serving on Tribal Council; those who are serving as a judge, officer, or employee in the Tribal Court; and those who are employees of the Gun Lake Public Safety Department.
- e. The Tribal Court Judge will determine the number of names drawn at random who will be sent juror questionnaires for completion and return to the Tribal Court.
- f. Upon a showing of sufficient hardship, persons burdened by such other circumstances that jury duty would cause extraordinary hardship for them, may be excused from jury duty. Such hardship must be substantially greater than would be ordinarily experienced by other persons serving as jurors.
- g. The "jury roster" will consist of those who are on the potential juror list mentioned in subsection (b) above who are not excluded or excused.
- h. Under the direction and supervision of the Tribal Court Judge, the number of individual names drawn at random to be summoned for any particular trial from the jury roster will be determined and the listing of such names will comprise the "jury pool."
- i. A person summoned to serve as a juror who has not been excused pursuant to any provisions of this Ordinance, or by order of the Tribal Court, who fails to appear in accordance to the terms of the summons, who fails to complete and return the jury questionnaire, or who having appeared absents himself or herself without the permission of the Tribal Court, or who renders himself or herself unfit to commence or continue the duties of a juror, may be held in contempt of Tribal Court. In

addition to the penalties for contempt of Tribal Court prescribed by this Ordinance, he/she may be charged by the Tribal Court with any costs incurred by the Tribal Court or by any other persons which resulted from such failure to be present or from such misconduct.

- j. The jury selection process will begin by selecting six (6) names at random. As potential jurors are excused an alternative will be called as a replacement.
- k. The Court and each party may question members of the panel of prospective jurors for the purpose of selecting a jury. In addition to disqualifying jurors for cause as determined by the Tribal Court Judge, each side will be entitled to three peremptory challenges without assigning any cause.
- l. Each member of the jury pool called to service and each juror who serves upon a jury will be entitled to compensation at a rate established by the Tribal Court.
- m. The Tribal Court Judge will instruct the jury with regard to the applicable law. The jury will decide all questions of fact on the basis of that law. At the close of evidence or at such earlier time during the trial as the Tribal Court Judge directs, any party may file with the Tribal Court Judge written instructions on the law which the party requests the Tribal Court Judge to deliver orally to the jury. At the same time, copies of such requests will be furnished to the opposing party. The Tribal Court Judge will inform each party of his/her proposed action upon each request prior to the arguments to the jury, but the Tribal Court Judge will deliver his/her instructions to the jury only after arguments are completed. No party may assign as error any portion of the Tribal Court Judge's charge or any omission unless the party makes his/her objection and reason for it before the jury retires to consider its verdict. Opportunity must be given to make the objection out of the hearing of the jury.
- n. After private deliberation, the jury will return to the Tribal Court Judge in open court a verdict of "guilty" or "not guilty" with respect to each Defendant and each charge. A verdict of conviction in criminal cases will require a unanimous vote of the jury.

## CHAPTER VII SENTENCING

### Section 1 Sentences.

Any person who has been convicted of an offense enumerated in the Tribe's Criminal Code may be sentenced by the Tribal Court to one or a combination of the following penalties:

- a. Incarceration for a period not to exceed the maximum permitted by the Tribe's Criminal Code provision defining the offense. Incarceration may be continuous or intermittent. On any sentence of incarceration, credit must be given for all time spent in custody as a result of the charge for which the sentence was imposed. Incarceration may include commitment to an appropriate institution or program, either on or off the Tribe's trust land, for care, treatment, evaluation, or rehabilitation of the offender.
- b. A monetary fine in an amount not to exceed the maximum permitted by the Tribe's Criminal Code provision defining the offense, exclusive of Tribal Court costs or the restitution. If the Tribal Court determines that a convicted offender is unable to pay a monetary assessment in full, the Tribal Court will allow the offender a reasonable period of time to pay the entire sum or allow the offender to make installment payments to the Tribal Court. If the offender defaults on such payments, the Tribal

Court may find the offender in contempt of Tribal Court and punish the offender accordingly, but no person will be held in contempt of Tribal Court where nonpayment is because of indigency.

- c. In addition to or in lieu of the penalties provided above, the Tribal Court may require a convicted offender who has inflicted injury upon the person or property of another to make restitution or compensation to the injured person by means of the surrender of property, payment of money damages, or the performances of any other action including appropriate work detail, for the benefit of the injured party.
- d. In its discretion, the Tribal Court may commute or suspend some or all of the sentence imposing a fine or incarceration, order a convicted person to participate in a rehabilitation program, or grant probation, on condition that the convicted person does work for the benefit of the Tribe. A person unable or unwilling to work may be confined in jail or fined as provided above.
- e. In determining the character and duration of the sentence to be imposed, the Tribal Court must take into consideration the previous conduct, background and characteristics of the Defendant, the circumstances under which the offense was committed, whether the offense was malicious or willful, whether the Defendant has attempted to make amends, the Defendant's financial resources, and the needs of the offender's dependents. Prior to imposing sentence, the Tribal Court must afford a reasonable opportunity to the convicted offender to present information to it. The Tribal Court may also request and receive pertinent reports, advice, and recommendations from any other person or agency which may assist the Tribal Court in imposing an appropriate sentence, provided, however, that prior to sentencing the convicted person will be advised of the content, identity, and source of any such report, advice or recommendation and must be afforded a reasonable opportunity to comment upon it or rebut it. The Tribal Court may require, as a condition of its sentence, that the convicted offender undergo available medical, psychiatric or substance abuse treatment, not operate a motor vehicle, or remain within geographic areas designated by the Tribal Court or refrain from contact with specified people.

Section 2 Probation.

- a. After conviction of an offense, the offender may be placed on probation under such terms and conditions as the Tribal Court deems just.
- b. If any convicted offender violates the terms and conditions of probation, the Tribal Court may, after giving such person notice and the opportunity for hearing in open Tribal Court, revoke or alter the terms of probation, and may, as a penalty for violation of the probation, impose an additional fine, court costs, or incarceration.

Section 3 Forfeiture of Weapons.

Any convicted offender owning and using a firearm, or any sharp or dangerous weapon, in the commission of an offense must forfeit such weapon to the Tribe as part of the sentence. Upon order of the Tribal Court, such weapon may be destroyed, retained by the Tribal Public Safety Department, or sold at a public sale after appropriate public notice, pursuant to the direction of the Tribal Court.