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TITLE 4

SOUTHERN UTE INDIAN TRIBAL CODE

CRIMINAL PROCEDURE CODE

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TITLE 4

SOUTHERN UTE INDIAN TRIBAL CODE

CRIMINAL PROCEDURE CODE

ARTICLE 1. GENERAL PROVISIONS

4-1-101. Legislative Declaration.

This Criminal Procedure Code is intended to provide for the just determination of criminal proceedings. Criminal proceedings shall ensure the rights guaranteed by this Criminal Procedure Code, the Constitution of the Southern Ute Indian Tribe, and the Indian Civil Rights Act, as each of those may be amended.

This Criminal Procedure Code shall be construed in a manner consistent with the philosophy that, although robust law enforcement is necessary to keep our Reservation safe, unnecessary arrests and pretrial detention are not always the path to a safer community.

4-1-102. Special jurisdictional statement.

The courts of the Southern Ute Indian Tribe shall have jurisdiction to issue subpoenas necessary to protect the rights of defendants and to provide for the efficient administration of criminal proceedings and juvenile delinquency proceedings, including subpoenas to compel the attendance of jury panels, trial jurors, and witnesses, and to compel the production of documents or other evidence. For the limited purpose of exercising the jurisdiction provided under this Criminal Procedure Code, such subpoenas may name the Southern Ute Indian Tribe, its officers, employees and agents acting within the scope of their authority; however, the courts' reach extends only to the extent necessary to comply with this Criminal Procedure Code and to protect a defendant's rights under the Indian Civil Rights Act, 25 U.S.C.A. § 1302.

4-1-103. Court rules.

The Chief Judge of the Southern Ute Indian Tribal Court may, from time to time, promulgate court rules. A rule shall not be inconsistent with this Criminal Procedure Code or with any directive of the Tribal Council regarding the conduct of formal judicial proceedings in criminal cases.

4-1-104. Definitions.

- (1) “Arraignment” means the court appearance at which a defendant is informed of his rights, the charge(s) against him, and any bail or bond requirements.
- (2) “Bail” means a security, which may include cash or a bond with or without conditions, required by the court for the release of a person in custody to provide reasonable assurance of public safety and guarantees the person’s court appearance.
- (3) “Bail bond” means a contract between a surety and the Court to the effect that the accused and the surety will appear in court when required.
- (4) “Bail bonding agent” means a person who is in the business of writing appearance bonds and who is subject to regulation by the Colorado division of insurance in the department of regulatory agencies.
- (5) “Bond” means an agreement entered into by a person in custody and the Court, by which the person in custody promises to comply with the conditions of the agreement and, if he fails to comply, to pay the amount of bail or other sum fixed in the bond, if any, and to otherwise be subject to the consequences of noncompliance.
- (6) “Children’s Court” means the Southern Ute Indian Tribal Court when exercising jurisdiction under Title 6 of the Southern Ute Indian Tribal Code or when exercising jurisdiction under Article 14 of this title.
- (7) “Complaint” means a sworn written statement charging the commission of a crime by an alleged offender filed in court.
- (8) “Contraband” means property that is illegal to possess.
- (9) “Cover Warrant” means a warrant issued by a Tribal Court judge that gives comity to a warrant originating in another tribal or state jurisdiction.
- (10) “Crime Victim” means a person directly harmed as a result of the commission of a criminal offense under the S.U.I.T.C.
- (11) “Dating Violence” means an act or attempted act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of relationship, and the frequency of the interaction between the persons involved in the relationship.
- (12) “Daylight hours” are those hours between one half hour before sunrise and one-half hour after sunset.
- (13) “Defense” means an attorney for the defendant or a pro se defendant.

- (14) “Detention Facility” means a facility whose primary purpose is confinement.
- (15) “Diversion Program” means a program intended to serve as an alternative to prosecution and which, generally, seeks to divert certain defendants from traditional criminal justice proceedings into a program of supervision and services.
- (16) “Domestic Violence” means an act or attempted act of violence committed by a current or former spouse or current or former intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, or by a person similarly situated to a spouse of the victim.
- (17) “Electronic Signature” means an electronic symbol or process attached to or logically associated with a document and executed or used by a person with the intent to sign the document.
- (18) “Fresh Pursuit” means the immediate and uninterrupted chase of a person who is reasonably believed to have committed a crime.
- (19) “Indian” means any person who is an Indian as defined in the General Provisions of the Tribal Code.
- (20) “Juvenile” means a person who is twelve years of age or older and under the age of eighteen.
- (21) “Juvenile Delinquent” means a juvenile who commits a juvenile offense prior to his or her eighteenth birthday and who is adjudicated delinquent.
- (22) “Peace officer” means any commissioned member of any law enforcement department or division of the Southern Ute Indian Tribe or any other jurisdiction; however, this definition does not alter any jurisdictional provisions or restrictions that exist as a matter of law, nor does it constitute or confer deputization or Southern Ute commission authority.
- (23) “Prosecutor” means any attorney who is authorized to appear for and on behalf of the Southern Ute Indian Tribe in a criminal case.
- (24) “Reservation” means the Southern Ute Indian Reservation.
- (25) “Search warrant” is a written order signed by a Tribal Court judge directing a Peace Officer to search for items, articles, or a person designated in the warrant. The warrant shall describe the property or place to be searched and shall describe the items to be seized with particularity.
- (26) “Summons” means a written order or notice directing a person to appear before the Tribal Court at a stated time and place to answer to a charge.
- (27) “Surety” means a bail bonding agent or bail insurance company.

- (28) “Tribal Code” means the Southern Ute Indian Tribal Code.
- (29) “Tribal Court” means the Southern Ute Indian Tribal Court.

4-1-105. Electronic Transmission of Documents Required for Warrants. A peace officer may electronically submit applications and supporting documents for arrest warrants or search warrants. Whenever a sworn or affirmed affidavit is required, the court may orally administer the oath or affirmation to the affiant. The documents requiring signed, sworn statements may bear the electronic signature of the person making the statements.

4-1-106. Electronic Warrants.

A warrant, signed affidavit, and accompanying documents may be transmitted by electronic facsimile transmission or by electronic transfer with electronic signatures to a Tribal Court judge, who may act upon the transmitted documents as if they were originals. A warrant affidavit may be sworn to or affirmed by administration of the oath over the telephone by the Tribal Court judge.

The affidavit with electronic signature received by the Tribal Court judge and the warrant approved by the Tribal Court judge, signed with electronic signature, shall be deemed originals.

The judge shall facilitate the filing of the original affidavit and original warrant with the clerk of the court and shall take reasonable steps to prevent tampering with the affidavit and warrant. The issuing judge shall also forward a copy of the warrant and affidavit, with electronic signatures, to the requesting agency.

This section does not authorize the Tribal Court to issue warrants without having in its possession an electronic copy of the affidavit and warrant with electronic signatures.

4-1-107. Notice of Orders. Upon entry of an order, the clerk shall deliver to each party affected a copy of the order and shall note the method of delivery in the docket.

4-1-108. Remote video proceedings, appearances. To improve access to the courts, reduce litigation costs, and to otherwise improve and aid in serving justice, the Tribal Court(s) may establish rules to permit parties and witnesses to appear by telephone or by video at appropriate conferences, hearings, and proceedings. Likewise, the Tribal Court may establish rules to permit court proceedings to be conducted by two-way remote video communication methods. Nothing in this section shall abrogate a Defendant’s right to confront witnesses.

4-1-109. Computation of time. In computing any period of time set forth in this title, the day that the period is to commence from shall not be counted. The last day of the period shall be counted; provided, however, that any time period under seven (7) days will not include Saturday, Sundays, or Tribal holidays and any period which

would otherwise end on a Saturday, Sunday or legal holiday will be deemed to end on the next business day.

4-1-110. Address changes. It is a defendant's obligation to provide the Tribal Court with changes of address or other changes in contact information.

4-1-111. Procedure Not Otherwise Specified. If no procedure is specifically prescribed by this Criminal Procedure Code, the court may proceed in any manner not inconsistent with this Criminal Procedure Code.

ARTICLE 2. COMPLAINT

4-2-101. Complaint.

- (1) All criminal prosecutions for violation of the Tribal Code shall be initiated by complaint.
- (2) The complaint shall contain:
 - (a) a sworn written statement by the peace officer or prosecutor of the Southern Ute Indian Tribe describing the nature of the offense committed, including the date, time, and location as nearly as may be ascertained;
 - (b) the name of the person alleged to have committed the offense;
 - (c) the Indian status of the person alleged to have committed the offense, as nearly as may be ascertained;
 - (c) the section of the Tribal Code allegedly violated; and
 - (d) the notarized signature of the peace officer or prosecutor of the Southern Ute Indian Tribe filing the complaint.
- (3) In cases where an arrest has been made, a complaint must be filed no later than the next business day after the arrest and prior to arraignment.
- (4) In cases where an arrest has not been made, a complaint must be filed no later than one business day prior to the date set for arraignment.
- (5) The court may permit a complaint to be amended as to form or substance at any time prior to trial; the court may permit it to be amended as to form at any time before the verdict or finding if no additional or different offense is charged and if substantial rights of the defendant are not prejudiced.

ARTICLE 3. COMPLAINT AND SUMMONS, ARREST

4-3-101. Preference for Summons over Arrest.

Consistent with the Legislative Declaration, except where applicable law or community safety requires arrest, the Southern Ute Indian Tribe hereby establishes a preference for using summonses over arrests, which preference may only be set aside with articulable reasons why the interests of justice would be better served by arrest.

4-3-102. Complaint and Summons in Lieu of a Warrantless Arrest.

- (1) When authorized to arrest a suspect, a peace officer may issue a Complaint and Summons commanding the accused to appear before the Tribal Court at a stated time and place to answer the complaint.
- (2) The Complaint and Summons must be served by giving a copy to the defendant personally.
- (3) If a defendant fails to appear in response to a Complaint and Summons, a Tribal Court judge may issue a warrant for the defendant's arrest.

4-3-103. Authority to Issue Arrest Warrants.

Every Tribal Court judge has authority to issue arrest warrants, which may be issued only upon the showing of probable cause by sworn written statement by a peace officer that a crime has been committed and that the accused has committed the crime or upon the showing of probable cause by sworn written statement by a probation officer that a probationer has violated the terms of his probation. A Tribal Court judge may, at his or her discretion, deny a warrant in lieu of a summons and complaint or other order, as appropriate.

4-3-104. Arrest Warrant Form.

- (1) The arrest warrant must:
 - (a) contain the defendant's name, or if it is unknown, a name or description by which the defendant can be identified with reasonable certainty;
 - (b) contain the address, if known, of the person to be arrested;
 - (c) contain the date of issuance;
 - (d) contain the section of the Tribal Code alleged to have been violated or contain the condition of probation alleged to have been violated;
 - (e) command that the defendant be arrested and brought without delay before a Tribal Court judge; and

(f) be signed by a Tribal Court judge.

4-3-105. Arrest by a Peace Officer.

- (1) A peace officer has authority to arrest a person when:
 - (a) The peace officer has a warrant issued by the Tribal Court commanding that such person be arrested;
 - (b) The peace officer has probable cause to believe that a crime has been or is being committed by such person in the peace officer's presence;
 - (c) The peace officer has probable cause to believe that an offense was committed and has probable cause to believe that the offense was committed by the person to be arrested and circumstances exist requiring an immediate arrest; or
 - (d) The peace officer has probable cause to believe that a probationer's conditions of probation have been violated and circumstances exist requiring an immediate arrest of the probationer. When a probationer is arrested under this subsection (d), for continued detention of the probationer under the warrantless arrest, a motion to revoke probation must be filed no later than the next business day.
- (2) Where a peace officer determines that there is probable cause to believe that a crime involving domestic violence or dating violence has been committed, the peace officer shall, without undue delay, arrest the person suspected of the domestic violence or dating violence. Nothing in this section shall be construed to require a peace officer to arrest both parties involved in an alleged act of domestic violence or dating violence when both claim to have been victims of such an offense. Additionally, nothing in this section shall be construed to require a peace officer to arrest either party involved in an alleged act of domestic violence or dating violence when a peace officer determines there is no probable cause to believe that a crime of domestic violence or dating violence has been committed.
- (3) When a person is arrested without a warrant, the arresting officer should inform the defendant of the reason for the arrest.
- (4) When a person is arrested without a warrant, the officer must prepare a sworn statement in support of the warrantless arrest. Within 48 hours of the warrantless arrest, a Tribal Court judge must review the officer's sworn statement in support of the warrantless arrest to determine whether there is probable cause for the continued detention of the defendant. When a person is arrested without a warrant, the sworn statement in support of

the warrantless arrest must be filed with the court without unnecessary delay, but no later than the next business day.

4-3-106. Execution and Return of the Arrest Warrant.

- (1) **Execution.** A warrant is executed by arresting the defendant named in the warrant. Upon arrest, the peace officer must show the warrant to the defendant. If the peace officer does not possess the warrant at the time of the arrest, he must make it available to the defendant as soon as possible, but no later than twenty-four hours after arrest.
- (2) **Return of Warrant.** An executed arrest warrant must be returned to the Tribal Court without unnecessary delay.

4-3-107. Arrest and Extradition Pursuant to another Jurisdiction's Warrant.

- (1) **Arrest.** Any person over whom the Southern Ute Indian Tribe has criminal jurisdiction who is found within the exterior boundaries of the Southern Ute Indian Reservation, who is wanted by either a state court or another tribe's court and for whom a warrant for arrest has been issued by the other jurisdiction, may be taken into custody by tribal law enforcement when:
 - (a) there is an active cover warrant issued by the Tribal Court; or
 - (b) without undue delay, a Tribal peace officer applies to the Tribal Court for a cover warrant and a Tribal Court judge issues a cover warrant.
- (2) **Cover Warrant.** A cover warrant authorizing the arrest of a defendant may be issued by a Tribal Court judge if, after a Southern Ute peace officer provides a sworn written statement that includes the name of the requesting jurisdiction, the Tribal Court judge finds that the foreign jurisdiction arrest warrant is active and it appears that the foreign jurisdiction is willing to extradite the defendant. A person arrested under this section may not be transferred without a cover warrant signed by a Tribal Court judge.
- (3) **Right to counsel.** Under these extradition procedures, a person arrested has a right to an attorney at his own expense, unless he cannot afford an attorney, in which case, an attorney may be appointed.
- (4) **Initial appearance.** Unless a person has waived extradition by executing a written waiver of extradition, a person arrested under these extradition procedures must be brought without unnecessary delay to the Tribal Court for advisement of their rights.
- (5) **Extradition.**

- (a) Prior to transferring the person in custody to the other jurisdiction, the accused has the right to contest the extradition in Tribal Court by requesting an extradition hearing. If so requested by the person in custody, the Tribal Court shall hold an extradition hearing as soon as possible, but no more than seven days after the initial appearance, to determine only whether the other jurisdiction's warrant is active and whether the person in custody is the same person charged in the other jurisdiction's warrant.
- (b) At an extradition hearing under this section, the Southern Ute Indian Tribe has the initial burden of establishing a prima facie case of identity and that the warrant is active; once that burden is satisfied, the accused must establish by clear and convincing evidence that he is not the person described as the fugitive or that the warrant is not active.
- (c) If the Tribal Court judge determines that the fugitive is the same person named in the warrant or if the defendant waives extradition, the Tribal Court judge shall issue an extradition order authorizing the other jurisdiction to remove the fugitive from the Reservation.
- (d) Upon the issuance of an extradition order, the requesting jurisdiction shall be immediately notified that the subject is in custody and that the official must retrieve the person in custody within 72 hours or he will be released with respect to the foreign jurisdiction's warrant. The person may be detained for longer than 72 hours upon a showing of extenuating circumstances to the Tribal Court.
- (6) **Federal warrant exceptions.** This section does not apply to arrest warrants issued by the United States of America.

4-3-108. Notification of Rights.

- (1) Before any custodial interrogation of a person, the person must be advised of the following rights:
 - (a) He has a right to remain silent;
 - (b) Any statements he makes may be used against him in court;
 - (c) He has a right to an attorney at his own expense, unless he cannot afford an attorney, in which case, an attorney may be appointed to represent him;
 - (d) He has the right to consult with an attorney before questioning and to have an attorney present during questioning; and
 - (e) He may stop the questioning at any time.

ARTICLE 4. SEARCHES

4-4-101. Issuance of Search Warrants.

- (1) A Tribal Court judge is authorized to issue a warrant for the search and seizure of property located within the exterior boundaries of the Reservation.
- (2) No warrant for search and seizure shall be issued except upon probable cause that a search will discover:
 - (a) Property that is stolen or embezzled;
 - (b) Property that is illegal to possess;
 - (c) Property that has been or is being used to commit a criminal offense; or
 - (d) Property that constitutes evidence of the commission of a criminal offense.
 - (e) A person for whom an arrest warrant exists.

4-4-102. Search Warrant Form.

Search warrants shall issue only on affidavits sworn to or affirmed under penalty of perjury and presented to a Tribal Court judge relating facts sufficient to:

- (1) Identify or describe as nearly as may be possible, the premises, the person, place or thing to be searched;
- (2) Identify or describe the property to be searched or seized or inspected;
- (3) Establish the grounds for issuance of the warrant or probable cause to believe such grounds exist; and
- (4) Establish probable cause to believe that the property to be searched or seized or inspected is located at, in, or upon said premises, person or place or thing to be searched.
- (5) A copy of the affidavit and a copy of any documentation provided in support of the request for a search warrant shall be attached to the search warrant filed with the Tribal Court. A copy of the affidavit shall be attached to the warrant upon execution.

4-4-103. Execution and Return of Search Warrant.

- (1) Search and seizure warrants may only be executed by tribal peace officers and only during daylight hours unless the Tribal Court determines an emergency exists and orders the search after sunset and before sunrise. The officer shall return the warrant to the Tribal Court within the time limits shown on the face of the warrant, which shall be no later than ten

days from the date of issuance. Warrants not executed within such time limits are void.

- (2) Unless the Tribal Court specifically authorizes a “no knock warrant” as necessary to protect against destruction of evidence or for officer or public safety, no peace officer may execute a search warrant without first determining if there is any person in control of the building, vehicle, structure, or container to be searched. If the peace officer discovers such person, he must first inform them of the existence of a search warrant and the peace officer’s intent to search. If the person in control of the property refuses to allow the search or if no person is found at the location to be searched, the officer may break open the property or place and conduct the search.

4-4-104. Disposition of Seized Property.

- (1) The peace officer shall make an inventory of all property seized by warrant or otherwise, and a copy of such inventory shall be left with the person from whom the property was taken. The original of the inventory shall be filed with the Tribal Court along with the return of the warrant.
- (2) Upon request, the Tribal Court shall hold a hearing to determine the disposition of all seized property. Upon satisfactory proof of ownership, property shall be delivered to the owners unless said property is contraband or it is to be used as evidence in a pending case. Property used as evidence that is not contraband shall be returned to the owner after conclusion of the case. Property confiscated that is contraband shall become the property of the Southern Ute Indian Tribe.

ARTICLE 5. ARRAIGNMENT AND BAIL

4-5-101. Arraignment.

- (1) Arraignment shall be held in open court without unnecessary delay after the accused is taken into custody.
- (2) At the defendant’s first appearance in Tribal Court, and before the defendant is required to enter a plea to any criminal charge, the Tribal Court judge must read the complaint to the defendant and must inform the defendant of the following:
 - (a) The defendant is not required to make any statement;
 - (b) any statement the defendant makes can be used against him in court;
 - (c) the defendant has a right to request a jury trial; and

- (d) the defendant has a right to an attorney at his own expense, unless he cannot afford an attorney, in which case, an attorney may be appointed.

4-5-102. Plea at Arraignment.

- (1) A defendant may plead guilty, not guilty, or no contest.
- (2) If the accused refuses to plea, the Tribal Court judge shall enter a plea of not guilty on his behalf.
- (3) The Tribal Court shall not accept a plea of guilty or a plea of no contest without first determining that the defendant has been advised of all the rights set forth in § 4-5-101 and also determining that:
 - (a) the defendant understands the nature of the charge and the elements of the offense to which he is pleading and the effect of his plea;
 - (b) the plea is voluntary on defendant's part and is not the result of undue influence or coercion on the part of anyone;
 - (c) the defendant understands the right to trial by jury and is waiving the right to trial by jury on all issues;
 - (d) the defendant understands the possible penalty or penalties;
 - (e) the defendant understands the court will not be bound by any representations made to the defendant by anyone concerning the penalty to be imposed or the granting or the denial of probation, unless such representations are included in an agreement approved by the court; and
 - (f) there is a factual basis for the plea. If the plea is entered as a result of a plea agreement, the Tribal Court shall explain to the defendant, and satisfy itself that the defendant understands the basis for the plea agreement, and the defendant may then waive the establishment of a factual basis for the particular charge to which he pleads.
- (4) The Tribal Court judge may then impose sentence or continue sentencing for a reasonable time to obtain any information necessary for the imposition of the sentence.
- (5) Prior to sentencing, the defendant shall be afforded an opportunity to inform the court of facts in mitigation of the sentence.
- (6) The Tribal Court may allow a defendant to withdraw a plea of guilty or no contest whenever it appears that the interest of justice and fairness would be served by so doing.

4-5-103. Release Prior to Trial.

- (1) Every person charged with a criminal offense before the Tribal Court shall be entitled to release from custody pending trial under one or more of the following conditions necessary to reasonably ensure public safety and the appearance of the defendant:
 - a) Release on a personal recognizance bond upon a written promise by the accused to appear as required by the Court;
 - b) Release after the defendant signs a bond and deposits bail in an amount specified by the judge or bail schedule;
 - c) Release after a private surety enters a bail bond and bail in an amount specified by the Tribal Court judge or bail schedule. Release after the defendant signs a bail bond underwritten by a bail bonding agent;
 - d) Release under supervision by a pretrial services program;
 - e) Release to the custody of a designated person or organization agreeing to assure the accused's presence;
 - f) Release upon any other condition deemed reasonably necessary to ensure public safety and the appearance of the accused as required; or
 - g) Release with reasonable restrictions on the travel, association or place of residence of the accused during the period of release.
- (2) Upon review of an affidavit for warrantless arrest, if a judge finds no probable cause for the arrest, the judge must order the defendant's release. The judge may order conditions reasonably necessary to ensure public safety and the defendant's appearance.
- (3) Any detention officer may release a person pursuant to the bond schedule. The detention officer shall have available a bond schedule authorized by the Tribal Court which shall be used for setting a bond.
- (4) To reduce barriers to the pretrial release of persons in custody whose release on bond with appropriate conditions reasonably assures court appearance and public safety, the Tribal Court is authorized to use a pretrial services program.

4-5-104. Considerations in Determining Bail or Bond.

In determining bail or bond, the Tribal Court should consider the following:

- (1) public safety;
- (2) circumstances of the offense charged;

- (3) the defendant's family ties, employment, financial resources, character, and mental condition;
- (4) the defendant's ties to the community;
- (5) length of the defendant's residency in the community;
- (6) defendant's criminal history;
- (7) defendant's record of appearance or failure to appear at prior court proceedings;
- (8) any facts indicating that the defendant is likely to intimidate or harass possible witnesses; and
- (9) other considerations that bear upon public safety or the defendant's likelihood of appearing in court.

4-5-105. Modification of conditions of release.

- (1) Upon motion by the prosecutor, the defense, a surety, or the Tribal Court on its own motion, the Tribal Court may increase or decrease the amount of bail, require additional security for a bond, release security previously provided, or modify any condition of the bond.
- (2) If, within fourteen days after the posting of a bond by a defendant, the terms and conditions of the bond are changed or altered either by Tribal Court order or upon the motion of the prosecutor or the defendant, the Tribal Court, after a hearing, may order a bail bonding agent to refund a portion of the premium paid by the defendant, if necessary and supported by factual findings, to prevent unjust enrichment. If more than fourteen days have elapsed after posting of a bond by a defendant, the Tribal Court shall not order the refund of any premium.

4-5-106. Revocation of bond.

- (1) Upon motion by the prosecutor stating facts constituting a breach of any of the conditions of the bond, the Tribal Court may order the defendant to show cause and appear for a hearing on the matters set forth in the motion. The Tribal Court may issue a warrant for the arrest of a defendant charged with violating a condition of release and declare the bond to be revoked. Upon arrest, the defendant must be brought before the Tribal Court without unnecessary delay, and the Tribal Court shall conduct a hearing and redetermine bail or bond. On finding probable cause that the defendant has violated a Tribal, State, or Federal law, or on finding a violation of any other condition of release by clear and convincing evidence, the Tribal Court may:
 - (a) Reinstate the original release order on the same conditions and amount of bail; or

- (b) Revoke the original bail, increase the amount of the bail, or modify the conditions of release.
- (2) A defendant may be charged with the offense of violation of bond conditions. A defendant may not be charged with contempt or found in contempt for violation of a release order.

4-5-107. Bail Forfeiture – Non-surety.

- (1) When the defendant has been released upon deposit of cash, upon an unsecured personal recognizance bond with a monetary condition, or upon a bond secured by property, if the defendant fails to appear as required by the bond or otherwise violates a condition of the bond, the Tribal Court may declare the bail bond forfeited. Notice of the order of forfeiture shall be mailed by the Tribal Court within ten days of the order to the defendant at his last-known addresses. The notice shall inform the defendant of the forfeiture, that he must appear and surrender to the Tribal Court within 30 days and show cause why the Tribal Court should not issue a judgment for forfeiture of the bail or bond. If the defendant does not appear and surrender to the Tribal Court within 30 days from the date of the forfeiture or within that period satisfy the Tribal Court that appearance and surrender by the defendant is impossible and without fault by such defendant, the Tribal Court may enter judgment against the defendant for the entire or partial amount of the bond, upon terms that are just.
- (2) If within 30 days of a forfeiture order, the defendant appears in Tribal Court, either voluntarily or in custody after surrender or arrest, the Tribal Court may on its own motion direct that the bail forfeiture be vacated and the bond exonerated at the time the defendant first appears in Tribal Court. Or, if within that time, the defendant appears and presents evidence justifying the defendant's failure to appear, the Tribal Court may vacate or partially vacate its forfeiture order, upon terms that are just.

4-5-108. Bail Forfeiture – Surety.

- (1) By entering into a bail bond posted in Southern Ute Tribal Court, a surety submits to the jurisdiction of the Tribal Court and acknowledges the applicability of the forfeiture procedures of this section.
- (2) In the event a defendant does not appear before the Tribal Court and is in violation of the primary condition of an appearance bond, the Tribal Court may declare the bail bond forfeited.
- (3) If a bond is declared forfeited by the Tribal Court, notice of the bail forfeiture order shall be served on the private surety or the bonding agent by certified mail and on the bail insurance company by regular mail within ten days after the entry of the forfeiture. If the compensated surety on the

bond is a cash bonding agent, only the cash bonding agent shall be notified of the forfeiture. Service of notice of the bail forfeiture on the defendant is not required.

- (4) The notice shall include:
 - (a) A statement informing the surety of the entry of forfeiture;
 - (b) An advisement that the surety has the right to request a show cause hearing within fifteen days after receipt of the notice of forfeiture; and
 - (c) An advisement that if the surety does not request a show cause hearing, judgment shall be entered upon the expiration of thirty days following the entry of forfeiture.
- (5) If within 30 days of a forfeiture order, the defendant appears in Tribal Court, either voluntarily or in custody after surrender or arrest, the Tribal Court may on its own motion direct that the bail forfeiture be vacated and the bond exonerated at the time the defendant first appears in Tribal Court. Or, if within that time, the defendant, or the surety, appears and presents evidence justifying the defendant's failure to appear, the Tribal Court may vacate or partially vacate its forfeiture order, upon terms that are just.
- (6) A bail bond may not be forfeited for violation of release conditions, except for failing to appear for Tribal Court proceedings without a lawful excuse.

4-5-109. Exoneration from bond liability.

Bond liability shall be exonerated when:

- (1) All conditions of release have been satisfactorily performed and the defendant has been discharged from any obligations imposed by the Tribal Court, the Tribal Court shall return any security posted by the defendant or surety to satisfy bail requirements. In the discretion of the Tribal Court and with the consent of the surety, the same bond may be continued until the final disposition of the case;
- (2) The amount of the forfeiture has been paid;
- (3) The surety appears and provides satisfactory evidence to the Tribal Court that the defendant is unable to appear before the Tribal Court due to the defendant's death or the detention or incarceration of such defendant in a foreign jurisdiction;
- (4) Before judgment for forfeiture of the bond has been entered against the surety, a surety seizes and surrenders the defendant to the Southern Ute Detention Center, which must take the defendant into custody and acknowledge the surrender in writing to the Tribal Court; or

- (5) After three years have elapsed from the posting of the bond, unless a judgment has been entered against the surety or the principal for the forfeiture of the bond.

4-5-110. Bail bonding agents.

- (1) If a commercial bail bond is posted, it must be executed by a bail bonding agent licensed by the State of Colorado to transact bail bond business in Colorado. The bond must state the following: the name and address of the bail insurance company that issued the bond; the amount of the bond and the unqualified obligation of the bail insurance company to pay the Tribal Court should the defendant fail to appear as guaranteed; and a provision that the bail insurance company may not revoke the undertaking without good cause.
- (2) The Tribal Court may prohibit a bonding agent or a bail insurance company that has engaged in unconscionable conduct, including to failure to pay forfeiture judgments, from issuing bail bonds in Tribal Court. Unconscionable conduct by the bonding agent or bail insurance company may be reported to the Colorado Division of Insurance, Department of Regulatory Agencies.
- (3) Bail bonds shall be deemed valid notwithstanding the fact that a bond may have been written by a bail bonding agent who has been prohibited from issuing new bail bonds. The ineligibility of a bail bonding agent to write bonds because the agent has been prohibited from issuing new bail bonds shall not be a defense to liability on any bail bond accepted by the Tribal Court.

4-5-111. Return of bail.

If a defendant is released upon deposit of cash in any amount or upon deposit of another type of asset, and the defendant or surety is later discharged from all liability under the terms of the bond, the clerk of the court shall return the deposit to the person who posted the bail.

ARTICLE 6. MANDATORY PROTECTION ORDERS

4-6-101. Mandatory Protection Order.

- (1) There is hereby created a mandatory protection order against any person charged with a crime of dating violence or domestic violence, which order shall remain in effect until further order of the Tribal Court.
- (2) The Mandatory Protection Order issued under this Article shall restrain the defendant from any contact with the alleged victim(s) of the acts charged

and may include any other order against the defendant that the Tribal Court deems appropriate to protect the safety of the alleged victim(s), including, but not limited to:

- (a) An order prohibiting possession or control of firearms or other weapons;
- (b) An order restraining the defendant from harassing, stalking, threatening, molesting, intimidating, retaliating against, or tampering with any victim or family member of a victim; and
- (c) An order prohibiting possession or consumption of alcohol or controlled substances.

4-6-102. Protection Order Form, Copies to Protected Parties.

The protection order issued pursuant to this Article shall be on a standard form and a copy shall be provided to the protected parties.

4-6-103. Information to Defendant Regarding the Mandatory Protection Order.

Before a defendant is released, the Tribal Court shall inform the defendant of the protection order issued pursuant to this Article and shall inform the defendant that a violation of such order is a crime.

4-6-104. Acknowledgement of Protection Order as Release Condition.

The Tribal Court shall require that the defendant acknowledge the protection order as a condition of any bond for the release of the defendant and shall further ensure that the terms of the protection order are included on the bond form as well as any other conditions of any bond.

ARTICLE 7. DISCOVERY

4-7-101. Discovery.

- (1) As soon as reasonably practical, but not later than 21 days after the defendant's arraignment, the prosecutor shall:
 - (a) provide to the defense duplicates of any statement or confession by the defendant or any witness, that are within the possession or control of the prosecutor;
 - (b) permit the defense to inspect and photograph any physical evidence within the possession or control of the prosecutor or in the possession or control of a tribal peace officer;
 - (c) provide to the defense duplicates of any relevant records and reports, including but not limited to digital discovery, that is within the possession or control of the prosecutor.

- (2) If the prosecutor knows there is material or information that would be discoverable if in the possession or control of the prosecutor or tribal law enforcement, and that is in the possession or control of another jurisdiction's law enforcement agency, the tribal prosecutor shall use diligent good faith efforts to obtain the material or information and provide it to the defense.
- (3) The prosecutor shall disclose to the defense all material or information in the possession or control of the prosecutor that tends to mitigate or negate the defendant's guilt as to the offense charged or that would tend to reduce punishment.
- (4) The prosecutor shall disclose to the defense all records of prior conviction of the defendant, co-defendants, and witnesses whom the prosecutor expects to call at trial.
- (5) The prosecutor shall provide to the defense a list of all known witnesses and their contact information within 21 days of arraignment.
- (6) Both the defense and the prosecutor shall disclose by written notice to the opposing party at least thirty days before a trial, or seven days before a hearing in the matter, the names of all witnesses the party intends to call at trial or hearing, the nature of any affirmative defense the defendant intends to use at trial and the existence of any reports or tests the prosecution or the defense intends to use at trial or hearing. If a party intends to call any witnesses or introduce into evidence any reports or tests, the party shall, subject to limitations in applicable law, including the Indian Civil Rights Act, provide the opposing party with a copy of any statements of such witnesses and the reports or tests. This provision does not include expert witness testimony, which shall be governed by subparagraph (7) below.
- (7) If either party will use expert witness testimony, the proponent of the expert witness testimony shall disclose by written notice to the opposing party at least sixty days before trial, or fourteen days before a hearing in the matter, the name(s) of the expert witness(es) the party intends to call at trial or hearing and the nature of the expert testimony, and shall, subject to limitations in applicable law, including the Indian Civil Rights Act, make available to the opposing party any non-privileged reports or statements of experts made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments, or comparisons.

If a report has not been prepared by that expert to aid in compliance with other discovery obligations of this rule, the Tribal Court may order the party calling that expert to provide a written summary of the testimony describing the witness's opinions and the bases and reasons therefore,

including results of physical or mental examination and of scientific tests, experiments, or comparisons.

- (8) Either party may ask the Tribal Court to establish a special time schedule for discovery in a case, which may be ordered where justice requires or where the schedule is stipulated to by the parties.

4-7-102. Regulation of Discovery.

- (1) If, at any time after initially complying with discovery requirements, a party discovers additional material or information that is subject to mandatory disclosure, the party shall promptly notify the other party of the existence of such additional material or information, and if the additional material or information is discovered during trial, the Tribal Court shall also be notified.
- (2) Materials furnished in discovery may only be used and provided to others for trial preparation and trial of the case, and shall be subject to such other terms, conditions or restrictions as the Tribal Court may impose or as provided under applicable law.
- (3) Upon motion, the Tribal Court may restrict or otherwise protect discovery material or information, provided that all material and information to which a party is entitled must be disclosed in time to permit the recipient to make use of the material or information.

4-7-103. Enforcement of Discovery Provisions.

- (1) If it is brought to the attention of the Tribal Court that a party has failed to comply with discovery provisions or with an order issued pursuant to discovery provisions, the Tribal Court may order such party to permit the discovery or inspection of materials not previously disclosed; grant a continuance, subject to the defendant's right to a speedy trial; prohibit the party from introducing in evidence the material not disclosed; or enter any other order it deems just under the circumstances, including dismissal.
- (2) If any party refuses to comply, the Tribal Court may find that party in contempt of court, and in addition, if the prosecution refuses to comply, the Tribal Court may dismiss the case against the defendant with prejudice.

ARTICLE 8. PRETRIAL PROCEDURE

4-8-101. Service and Filing of Papers. Written motions and other documents filed with the Tribal Court shall be served upon all other parties.

- (1) **Service on represented parties.** Whenever under these Rules or by Tribal Court order service is required or permitted to be made upon a party who

is represented by an attorney, the service shall be made upon the attorney unless service upon the party himself is ordered by the Tribal Court.

- (2) **Methods of service.** Service of motions and other documents under this section may be made by:
 - (a) Handing it to the person to be served;
 - (b) Delivering it to the person's place of business or leaving it at the person's dwelling house or usual place of residence with someone 18 years of age or older residing there;
 - (c) Mailing a copy to the last known address of the person to be served. Service by mail is complete on mailing;
 - (d) If the person served has no known address, leaving a copy with the clerk of the court; or
 - (e) Delivering a copy by any other means, including by electronic means or by a designated overnight courier, consented to in writing by the person served. Designation of a facsimile phone number or an email address in any filing effects consent in writing for such electronic delivery. Service by other electronic means is complete on transmission; service by other consented means is complete when the person making service delivers the copy to the agency designated to make delivery. Service by other electronic means or overnight courier is not effective if the party making service learns that the attempted service did not reach the person to be served.
 - (f) The Tribal Court may order service in any manner reasonably likely to give notice to the person to be served.
- (3) **Process Servers.** Process may be served by any peace officer where service is made or by his deputy or by any other person over the age of 18 years not a party to the action.

4-8-102. Subpoenas.

- (1) At the request of a party, the Tribal Court may issue subpoenas for appearance of a witness or for any physical evidence that is relevant, necessary to the determination of the case, and not an undue burden on the person possessing the evidence.
- (2) A subpoena shall:
 - (a) be signed by a Tribal Court judge or clerk of court;
 - (b) state the name of the court;
 - (c) state the name and location of the person, or description and location of physical evidence to be subpoenaed; and

- (d) state the title of the proceeding and the time and place where the witness is to appear or the evidence to be produced.

4-8-103. Service of Subpoenas.

- (1) A subpoena may be served at any place and by any peace officer or any other person authorized by the court for such purpose. Service of a subpoena shall be made by delivering a copy of it to the person named or by leaving a copy at his place of residence with any competent person eighteen (18) years of age or older who also resides there. Service is also valid if the person named has signed a written admission or waiver of personal service, including an admission or waiver signed using a scanned or electronic signature.
- (2) Proof of service of the subpoena shall be filed with the clerk of the court by noting on the copy of the subpoena the date, time, and name of the person to whom it was delivered. Proof of service shall be signed by the person who served the subpoena.

4-8-104. Joinder.

- (1) **Joinder of Offenses.** Two or more violations may be charged in the same complaint in a separate count for each offense if the offenses charged are based on the same act or transaction or series of acts or transactions.
- (2) **Joinder of Defendants.** Two or more defendants may be charged in the same complaint if they are alleged to have participated in the same act, transaction, or in the same series of acts or transactions constituting an offense or offenses. Such defendants may be charged on one or more counts together or separately, and all the defendants need not be charged on every count.
- (3) **Trial Together of Complaint.** The Tribal Court may order two or more complaints tried together if the offenses and the defendants could have been joined in a single complaint.
- (4) **Relief from Prejudicial Joinder.** When two or more defendants are jointly charged in a single complaint and there is material evidence not related to reputation, which is admissible against one defendant but not against all of them if tried separately, and which is prejudicial to those against whom it is not admissible, upon motion, the Tribal Court shall order a severance of defendants or provide whatever other relief justice requires.

4-8-105. Depositions.

- (1) **Requests.** The prosecutor or the defense may file a motion supported by an affidavit requesting that the deposition of a prospective witness be taken before the Tribal Court. The Tribal Court may allow a deposition be

taken before the court if a prospective witness may be unable to attend a trial or hearing and it is necessary to take that person's deposition to prevent injustice. The Tribal Court shall identify the witness and fix the date and time for the deposition in the order and shall give every party reasonable notice of the time and place for taking the deposition. For good cause shown, the Tribal Court may reschedule the date and time for the deposition.

- (2) **Deposition by Stipulation Permitted.** The prosecution and defense may take a deposition before a judge by stipulation.
- (3) **Subpoena of Witness.** Upon entering an order for the taking of a deposition, the Tribal Court shall direct that a subpoena issue for each person named in the order and may require that any designated books, papers, documents, photographs, or other tangible objects, not privileged, be produced at the deposition.
- (4) **Presence of Defendant.** The defendant shall be present at the deposition unless the defendant voluntarily fails to appear after receiving notice of the date, time, and place of the deposition.
- (5) **Taking and Preserving Depositions.** Depositions shall be taken as directed by the Tribal Court. All depositions shall be preserved by video recording at the expense of the requesting party. A copy of the video recording shall be filed with the clerk of the court and provided to the opposing party.
- (6) **Use.** At the trial, or at any hearing, a part or all of a deposition may be used, so far as otherwise allowed by law or by stipulation.
- (7) **Transcripts of Depositions.** The requesting party shall file a transcript of the deposition with the clerk of the court and provide a copy to the opposing party without cost.

ARTICLE 9. JURY SELECTION

4-9-101. Requesting a Jury Trial. Upon filing a written request or making an oral request in open court within 30 days of a defendant entering his plea, in all cases where the offense charged is punishable by incarceration, the defendant shall be entitled to have the case decided by a six-person jury.

4-9-102. Qualification of Jurors. The basic qualifications of a juror shall be any person:

- (1) who is an enrolled member of the Southern Ute Tribe;

- (2) who has reached his eighteenth birthday;
- (3) who has been a resident of the Southern Ute Indian Reservation for 90 days before the trial date;
- (4) who has not been adjudicated as incompetent or been appointed a guardian by a court of competent jurisdiction; and
- (5) who has not been convicted of a felony in any jurisdiction.
- (6) Notwithstanding the foregoing, no elected member serving on the Tribal Council shall be required to serve on a jury of the Tribal Court.

4-9-103. Jury Panel.

- (1) The clerk shall prepare a list of the names of eligible jurors, through a random and impartial selection process. These names shall then become the jury list until a new list is prepared. The jury list shall be updated annually for every term of Tribal Court. If such list proves to be inadequate, additional names may be added to the list in the same manner as set forth by order of the Tribal Court judge. If a person serves as a juror on a case which goes to trial, he shall not be called again to serve on jury duty within any one calendar year without his express written permission.
- (2) Within two days after receipt of an order of the Tribal Court judge, the clerk shall notify by mail, or by service of notice in person by the police department, all prospective jurors, of the date, time, and place that the jury trial will be held. The clerk shall serve upon the parties a list of the jurors summoned.
- (3) When an insufficient number of jurors respond when summoned, or where the number of jurors is reduced below the number required for that case by challenge or otherwise, the judge may command a peace officer or a court bailiff to summon and return with enough eligible jurors to complete the panel.

4-9-104. Examination of potential jurors.

- (1) The judge may examine potential jurors as to their qualifications, and excuse jurors who are not qualified to serve.
- (2) The parties or their counsel shall be permitted to ask the prospective jurors questions relevant to jury service. To minimize delay, the judge may reasonably limit the time available to the parties or their counsel for juror examination. The Tribal Court may limit or terminate repetitious, irrelevant, unreasonably lengthy, abusive or otherwise improper examination.

4-9-105. Challenges.

- (1) **Challenges generally.** A challenge is an objection made to the trial jurors

and is of two kinds: (i) to the entire jury panel; or (ii) to an individual juror.

- (2) **Challenge to the panel.** A challenge to the panel is an objection in writing made to all the jurors returned and may be made by either party. The panel may be challenged when:
 - (a) there is an error in the procedure used in summoning the jurors,
 - (b) bias can be shown, or
 - (c) there is an omission to summon one or more of the jurors drawn.
- (3) **A Challenge for Cause.** A challenge for cause may be made by the prosecution or by the defense and must specify the facts constituting the grounds for the challenge. It may be made for any of the following reasons:
 - (a) The potential juror has served as a juror in a civil action brought against the defendant for the act charged as an offense;
 - (b) The potential juror has been a party adverse to the defendant in a civil action, or has complained against or been accused by the defendant in a criminal action;
 - (c) The potential juror is a witness or a victim in the pending criminal action;
 - (d) The potential juror has formed or expressed an opinion as to the guilt or innocence of the defendant as would prevent the juror from rendering a fair verdict upon the evidence submitted on the trial;
 - (e) The potential juror has a relationship with the defendant that in the opinion of the judge would cause a juror to be unable to render an impartial decision.
- (4) **Waiver.** Failure to challenge the qualifications and competency of the prospective jurors shall constitute a waiver of the basis for challenge, except that the Tribal Court for good cause shown or upon a motion for mistrial or other relief, may hear such evidence during the trial outside the presence of the jury and enter such orders as are appropriate.
- (5) **Peremptory Challenges.** A peremptory challenge is an objection to a juror for which no reason need be given and can be made by either party. The defendant is entitled to two and the prosecution two peremptory challenges, which shall be exercised alternately, the first by the prosecution. If two or more defendants are jointly tried for an offense, the defendants shall exercise their two peremptory challenges jointly.

- (6) After each challenge sustained for cause, another juror shall be called, who may be challenged for cause and who shall be subject to peremptory challenge.

4-9-106. Jury Fees. Every person chosen and summoned to serve on the jury shall be entitled to a per diem fee paid by the Southern Ute Indian Tribe and established by the Tribal Court and approved by Tribal Council.

ARTICLE 10. TRIAL PROCEEDINGS.

4-10-101. Order of Proceedings. Unless otherwise agreed by the parties, a trial in all criminal matters shall be conducted as follows:

- (1) A jury, if any, shall be selected in accordance with Article 9.
- (2) When a jury has been selected, the judge shall administer to the jurors the following oath:
You and each of you do solemnly swear and or affirm that you will try the issues relative to the cause now on trial according to law and the evidence presented in this case, and shall at all times obey the instructions and orders of the court in this matter.
- (3) The prosecution may make an opening statement or waive its right to do so.
- (4) The defense may make an opening statement or reserve its opening statement until the prosecution's rests and before the defense presents any evidence.
- (5) The prosecution shall then proceed with its case in chief, allowing the defendant to cross-examine each witness immediately after the prosecution has examined said witness.
- (6) After the prosecution has presented its case in chief, the defendant may move for a judgment of acquittal on one or more of the offenses charged.
- (7) The defendant shall then give his opening statement if he has reserved it.
- (8) The defendant shall then proceed to present its evidence, allowing the prosecution to cross-examine any witnesses presented.
- (9) The prosecution shall then be allowed to call rebuttal witnesses and present any rebuttal evidence so long as said evidence responds directly to any evidence presented by the defendant or the cross-examination of any prosecution witnesses.
- (10) The prosecution shall then be entitled to make a closing argument.
- (11) The defense shall then be entitled to make and closing argument.
- (12) The prosecution shall then be entitled to make a rebuttal argument.

- (13) If the trial is to the Tribal Court, the judge shall render his decision from the bench or take the matter under advisement.
- (14) If the trial is to a jury:
 - (a) Before the jury retires, the Tribal Court shall submit to it written forms of verdict for its consideration.
 - (b) The judge shall then instruct the jury of the law they are to apply.
 - (c) The jury shall then deliberate privately and without any outside contact. The jury may, if it has a question, direct the question in writing to the judge, who will inform the prosecution and the defense of the question. The Tribal Court shall inform the jury of its answer to the question.
 - (d) If the jury is unable to reach a verdict, the Tribal Court shall declare a mistrial and dismiss the jury.
 - (e) When a verdict is returned, and before it is recorded, the jury shall be polled at the request of any party. If when polled, there is not unanimous concurrence, the jury may be directed to continue deliberation or may be discharged.
 - (f) All jury verdicts must be unanimous. If there are two or more defendants, the jury at any time during its deliberation, may return a verdict or verdicts with respect to a defendant or defendants as to whom it has agreed. If the jury cannot agree with respect to a defendant or defendants, the defendant or defendants as to whom it does not agree may be tried again.

4-10-102. Juror questions for witnesses. Jurors may be allowed to submit written questions to the court for the court to ask of witnesses during trial, in compliance with any procedures established by the court. The Tribal Court shall have the discretion to limit or prohibit any questions for good cause.

4-10-103. Recess, Continuance. If the jurors are permitted to separate during any continuance of the trial or recess of the court, the Tribal Court shall order them to return at a day and hour appointed by the Tribal Court for the purpose of continuing the trial, or for resuming their deliberations. If a juror fails to return as ordered by the Tribal Court, the juror may be held in contempt.

4-10-104. Motions for Judgment of Acquittal. The Tribal Court on motion of a defendant or at its discretion, shall order the entry of a judgment of acquittal of one or more offenses charged:

- (1) after the evidence on either side is closed, if the evidence is insufficient to sustain a conviction. If a defendant's motion for judgment of acquittal at the close of the evidence offered by the prosecution is not granted, the defendant may offer evidence without having reserved the right.

- (2) If the jury returns a verdict of guilty or is discharged without having returned a verdict, a motion for judgment of acquittal may be made or renewed within 14 days after the jury is discharged.
- (3) If a verdict of guilty is returned, the Tribal Court may set aside the verdict and enter judgment of acquittal.
- (4) If no verdict is returned, the Tribal Court may enter judgment of acquittal. It shall not be necessary to the making of such a motion that such a similar motion has been made prior to the submission of the case to the jury.

4-10-105. Motion for New Trial. The Tribal Court, on motion of the defendant, may grant him a new trial if required in the interest of justice. If the trial is to the court without a jury, the Tribal Court, on motion of defendant for new trial, may vacate the judgment if entered, take additional testimony and direct the entry of a new judgment.

4-10-106. Time. A motion for new trial other than one based on the ground of newly discovered evidence shall be made within fourteen (14) days after a verdict or finding of guilty or within such further time as the Tribal Court may fix.

4-10-107. Newly Discovered Evidence. A motion for new trial based on newly discovered evidence may be filed at any time. Newly discovered evidence is that evidence which was not reasonably discoverable at the time of trial.

4-10-108. Speedy trial.

- (1) **Speedy trial.** Except as otherwise provided in this section, if a defendant is not brought to trial within 180 days after entry of a not guilty plea, the Tribal Court shall dismiss the case and the defendant shall not thereafter be tried for the same offense, or for another offense based upon the same act or series of acts arising out of the same criminal episode.
- (2) **Computation of Speedy trial time.** In computing the time within which a defendant must be brought to trial, the following periods shall be excluded:
 - (a) Delays occasioned by the action or request of the defendant or otherwise attributable to the defendant.
 - (b) Proceedings relating to the competency of a defendant to stand trial, terminating when the Tribal Court enters a written order finding the defendant to be competent;
 - (c) The time during which a defendant is detained in jail or prison by a foreign jurisdiction and the time that the defendant is subject to conditions of release imposed by a foreign jurisdiction preventing the defendant from leaving that foreign jurisdiction, provided the

prosecution has made a diligent, good faith effort to bring the defendant before the Tribal Court; and

(d) A period of delay for any continuance due to an emergency preventing the safe conduct of trials.

(3) **Failure to Appear at trial.** If a trial date has been fixed by the Tribal Court and the defendant fails to make an appearance in person on the trial date, the period within which the trial shall be had is extended for an additional 180-day period from the date of the defendant's next appearance.

(4) **Waiver.** A defendant may waive the right to a speedy trial. Such waiver shall be in writing and shall be signed by the defendant.

ARTICLE 11. JUDGMENT & SENTENCE

4-11-101. Sentencing in General.

(1) **General Principles.** Sentences should impose the minimum amount of custody or confinement consistent with the protection of the public, the gravity of the offense, and the rehabilitative needs of the defendant.

(2) **Penalties not Otherwise Specified.** Any person convicted of criminal offense for which there is no specific criminal penalty stated shall be sentenced to a term of imprisonment not to exceed one year or a fine not to exceed five thousand dollars (\$5,000.00), or both the term of imprisonment and the fine, unless Tribal jurisdiction is expanded under federal law.

(3) **Pre-sentence report.** Before sentencing, the Tribal Court may request that a pre-sentence report from the probation officer shall be prepared and provided to the Tribal Court.

4-11-102. Sentences. The Tribal Court may sentence a person judged guilty of an offense to any of the following:

(1) Imprisonment or confinement;

(2) Probation or suspension of sentence, or both, on such terms and conditions as the Tribal Court may direct;

(3) Pay a fine;

(4) Pay court costs;

(5) Pay restitution or perform any other act for the benefit of any person or party injured, personally or in his property, by the defendant provided that such injuries are fairly attributable to the defendant; or

(6) Surrender property.

- 4-11-103. Sentencing Hearing.** As soon as practicable after determination of guilt and the examination of any pre-sentence reports, evaluations, or recommendations, the Tribal Court shall hold a hearing at which the defendant must appear unless the Tribal Court excuses his attendance. At the hearing, the Tribal Court shall:
- (1) Hear arguments by the prosecutor and the defendant or his counsel;
 - (2) Offer the defendant an opportunity to make a statement to the court;
 - (3) Make specific findings on all controverted issues of fact which are deemed relevant to the sentencing decisions;
 - (4) Determine the amount of pre-sentence confinement; and
 - (5) State for the record the terms of the sentence imposed and issue a written order to all parties.
- 4-11-104. Removal.** The Tribal Court shall also have the authority to exclude and remove any person from the Reservation if it finds that such person is a serious danger to the Southern Ute Indian Tribe or its members. A person may be considered a serious danger to the Southern Ute Indian Tribe or its members if that person has been convicted of the following offenses:
- (1) Homicide;
 - (2) Three or more offenses of assault, assault and battery, or any combination thereof;
 - (3) A sexual offense, except indecent exposure;
 - (4) Five or more offenses against property;
 - (5) Two or more child abuse offenses; or
 - (6) Any act or acts which places the health, safety, welfare, or peace of the Southern Ute Indian Tribe in jeopardy.
- 4-11-105. Payment of Fines, Fees, Costs, and Restitution.**
- (1) The Tribal Court may allow, upon request of a defendant, that any fines or other required payments be paid in installments or on conditions suitable to the means of the defendant.
 - (2) Methods available for collecting a civil judgment shall be available to collect any unpaid money upon order of the court following a failure to make any required payment and a hearing to show cause.
 - (3) When justice requires, the Tribal Court may modify the terms and conditions of payment, including substituting community service in lieu of payment for fees and costs.
- 4-11-106. Decision to Impose a Fine.** In determining whether to impose a fine and its amount, the Tribal Court shall consider:

- (1) The financial resources of the defendant and the burden that payment of a fine will impose regarding his other obligations;
- (2) The ability of a defendant to pay a fine on an installment basis or on other conditions;
- (3) The extent to which payment of a fine will interfere with the ability of the defendant to make any ordered restitution to the victim of the crime; and
- (4) Whether there are particular reasons that make a fine appropriate as a deterrent to the offense involved or appropriate as a corrective measure for the defendant.

4-11-107. Concurrent and Consecutive Sentences. Unless the Tribal Court shall direct otherwise, all sentences shall run concurrently and not consecutively. The Tribal Court shall consider the gravity and circumstances of the offense and the history, character and rehabilitative needs of the defendant, as well as the need to protect the public in determining whether to impose consecutive sentences.

4-11-108. Credit for Pretrial Detention. The Tribal Court shall give credit against a term of confinement imposed for time spent in custody as a result of the criminal charge for which the sentence is imposed.

4-11-109. Reduction of Sentences. The Tribal Court, on its own or upon motion of any party, may reduce or modify the sentence if new factors bearing on the sentence become known. Such a reduction or modification shall be done in open court.

4-11-110. Deferred Sentences. Upon concurrence of the prosecutor and the defendant, in any case in which the defendant has entered a guilty or no contest plea, the Tribal Court may continue the case for purpose of entering judgment and sentence upon the plea for a period not to exceed two years.

4-11-111. Pretrial Diversion. The prosecutor may refer a defendant to a diversion program on condition that the criminal charges against the defendant will be dismissed after a specified period of time, or the case will not be charged, if the offender successfully completes the program.

4-11-112. Probation. The Tribal Court may sentence a defendant to probation, or it may place a defendant on probation as part of a suspended or deferred sentence, for such period and upon such terms and conditions as it deems best. The length of probation shall be subject to the discretion of the Tribal Court and may exceed the maximum period of incarceration authorized for the classification of the offense of which the defendant is convicted but shall not exceed two years. The conditions of probation shall be such as the Tribal Court in its discretion deems reasonably necessary to ensure that the defendant will lead a law-abiding life and to assist the defendant in doing so. Conditions of probation may include, but are not limited to:

- (1) Abiding by applicable law.

- (2) Maintaining employment or a course or study or training.
- (3) Undergoing available medical or psychiatric or other rehabilitative treatment, and to enter and remain in a specified institution.
- (4) Completing community service.
- (5) Refraining from the use or excessive use of alcohol.
- (6) Refraining from the use of narcotics or drugs, the sale of which is regulated by the Southern Ute Indian Tribe, state, or federal government except for those taken or used under a doctor's orders and obtained by a doctor's prescription or Peyote taken in conjunction with religious ceremonies or when used as medication if this is an accepted practice of the person sentenced.
- (7) Refraining from entering a bar or establishment whose primary business is the sale of alcohol or marijuana.
- (8) Refraining from remaining in the company of persons who are intoxicated.
- (9) Notifying the Probation Department within seventy-two (72) hours of any police contact.
- (10) Obtaining any evaluation(s) required by the Tribal Court and following the recommendation of the evaluation(s).
- (11) Refraining from remaining in the company of persons who are using or are in possession of illegal drugs.
- (12) Prohibiting the possession of firearms or other dangerous weapon, as specified by the Tribal Court.
- (13) Making restitution to the victim of his crime.
- (14) Remaining within the jurisdiction of the Tribal Court and notifying the court of any change in employment or address.
- (15) Reporting to the court or probation officer on a periodic basis.

4-11-113. Parole.

- (1) Any person sentenced by the court to detention shall be eligible for parole at such time and under such reasonable conditions as determined by the court.
- (2) Any person who violates the conditions of his parole may be required by the court to serve the whole of the original sentence provided that such revocation of parole shall not be ordered without a hearing before the court at which time the offender shall have the opportunity to explain his actions. Prior to the time of said hearings, the parole violator will know the nature of the alleged parole violation.

- (3) Parole may include any conditions set forth under the probation section herein and must include a copy of parole requirements to be given to the defendant and to be used as a guide during the period of parole.

4-11-114. Probation Revocation.

- (1) Upon the filing of a motion to revoke probation, the Tribal Court shall set the matter for hearing and require the defendant to appear before the court to answer the charges of violation of the conditions of probation.
- (2) At the probationer's first appearance in Tribal Court, which must be at the next regularly scheduled court session if the probationer is arrested, the Tribal Court shall advise the probationer of the allegations against him and the possible penalty, his rights, and shall require him to admit or deny the allegations.
- (3) If a probationer is arrested, the Court may impose a bond and may consider conditions, or factors, outlined in Section 4-5-104 of this Code.
- (4) At the revocation hearing, the prosecution shall have the burden of establishing by a preponderance of the evidence the violation of a condition or conditions of probation, except that the commission of a criminal offense must be established beyond a reasonable doubt. The Tribal Court may, when it appears that the alleged violation of conditions of probation consists of an offense with which the probationer is charged in a criminal proceeding then pending, continue the revocation hearing until the termination of such criminal proceeding. Any evidence having probative value shall be received regardless of its admissibility under any exclusionary rules of evidence if the defendant is accorded a fair opportunity to rebut the evidence.
- (5) If the Tribal Court determines that a violation of a condition or conditions of probation has been committed, it shall either revoke or continue the probation. If probation is revoked, the Tribal Court may then impose any suspended sentence, or it may reinstate probation.

ARTICLE 12. [RESERVED]

ARTICLE 13. [RESERVED]

ARTICLE 14. JUVENILE DELINQUENCY PROCEEDINGS

4-14-101. Legislative Declaration.

By providing separate procedures to be used in cases relating to juvenile delinquents, it is the intention of the Southern Ute Indian Tribal Council to separate children committing juvenile offenses from the legal consequences of criminal behavior whenever possible; to substitute therefor a program of supervision, care, and rehabilitation consistent with the protection of the community; to provide a forum in which any juvenile charged as delinquent or as a status offender in another jurisdiction may be referred to the Southern Ute Indian Children's Court for adjudication, disposition, and/or supervision; and to recognize that substance abuse is a disease which may be prevented and treated.

4-14-102. Jurisdiction.

- (1) The jurisdiction of the Children's Court with respect to juvenile delinquency shall extend to all proceedings involving a person who is accused of committing a juvenile offense within the exterior boundaries of the Southern Ute Indian Reservation or whose case has been transferred to the Tribal Court for disposition or supervision from another jurisdiction.
- (2) The Children's Court's jurisdiction includes a person who is alleged to have committed an act of juvenile delinquency before they have reached the age of eighteen, but who is an adult when the petition is filed or by the time the court reaches final disposition.
- (3) The Children's Court's jurisdiction shall extend to the juvenile and the juvenile's parent(s), guardian(s) or custodian(s).
- (4) The term for which probation may be ordered for a juvenile delinquent may not extend beyond the lesser of:
 - (a) date when the juvenile becomes twenty one years old, or
 - (b) the maximum term that would be authorized by Article 11 of this title if the juvenile had been tried and convicted as an adult.

4-14-103. Applicability of Other Provisions of the Criminal Procedure Code.

- (1) The procedures set forth in the Criminal Procedure Code shall apply to juveniles and juvenile offenses, except as otherwise specifically provided in these procedures relating to juveniles or as determined by the court in the interest of justice. In applying provisions of the Criminal Procedure Code to juveniles and juvenile offenses, the term complaint shall refer to the petition and the term defendant shall refer to the juvenile who is accused of a juvenile offense. All provisions of this Title shall be interpreted together to provide the procedures applicable to the

investigation, arrest, prosecution and sentencing of juveniles, consistent with the legislative declaration.

- (2) A finding that a juvenile is a juvenile delinquent shall not be deemed a criminal conviction.
- (3) Persons not directly involved with the proceedings shall be excluded from all juvenile delinquency proceedings unless the court orders otherwise.

4-14-104. Powers of the Court.

- (1) The Tribal Court shall have the authority to issue and enforce all orders relating to juvenile delinquency proceedings. The Children's Court shall have the power to issue and enforce all appropriate orders necessary to its jurisdiction, including the power to sanction for contempt.
- (2) If necessary to protect the best interests of the juvenile, the Children's Court may appoint a guardian ad litem. Such an appointment may be made in addition to the appointment of counsel for the juvenile.

4-14-105. Juvenile Offenses.

- (1) A juvenile commits a juvenile offense if he or she is 12 years of age or older and under the age of eighteen and commits a violation of the Tribal Code.
- (2) Juveniles between the ages of 10 and 12 may be charged pursuant to Article 14 if they commit any of the following offenses as defined in the Title 5 Criminal Code: homicide, aggravated assault and battery, or sexual assault of a child.

4-14-106. Petitions.

- (1) Formal proceedings against a juvenile alleged to be a juvenile delinquent shall be initiated by a petition filed by the Tribal Prosecutor or by a Southern Ute peace officer on behalf of the Southern Ute Indian Tribe. The juvenile's parent(s), guardian(s) or custodian(s) shall be served with a copy of the petition and notice of the proceedings against the juvenile. If no parent, guardian or custodian can be located and served with a copy of the petition and notice of the proceeding, the Children's Court shall appoint a guardian ad litem for the juvenile, who shall be served instead.
- (2) The petition shall contain:
 - (a) the name and/or general description of the juvenile;
 - (b) the juvenile's date of birth;
 - (c) the tribal affiliation, if any, of the juvenile and parents;

- (d) the names and addresses of the parent(s), guardian(s) or custodian(s);
- (e) a statement describing the conduct constituting the offense charged, including the date and time of the alleged offense; and
- (f) the section of the Tribal Code allegedly violated.

4-14-107. Arrest.

- (1) A judge may issue a warrant for the arrest of a juvenile when the judge finds, on the basis of an affidavit or sworn testimony, that there is probable cause to believe that the juvenile has committed a juvenile offense.
- (2) A juvenile may be taken into custody and detained in accordance with the provisions of the Criminal Procedure Code if the officer has probable cause to believe that the juvenile has committed a juvenile offense.

4-14-108. Notification of Rights.

- (1) Upon his or her first appearance in court, a juvenile shall be advised of the rights as set forth in the Criminal Procedure Code, except that the juvenile shall not have the right to a jury trial.
- (2) Whenever a juvenile is informed of his or her rights as required, such juvenile shall also be informed of the following additional rights:
 - (a) The right to have a parent, guardian, custodian or counsel present during any questioning or interrogation or when making any statement of any kind;
 - (b) The right to apply for the services of court-appointed counsel in accordance with applicable resolutions of the Southern Ute Indian Tribal Council providing for the appointment of counsel or the Tribal Public Defender for those accused of juvenile offenses; and
 - (c) The right to have the proceedings remain confidential.

4-14-109. Transfers from Other Courts. The Children's Court may accept or decline the transfer of cases from state, federal, or other tribal courts involving children who are alleged to be delinquent or who are alleged to be status offenders for the purposes of adjudication, disposition, or supervision.

4-14-110. Informal Conference.

- (1) When a petition has been filed alleging that a juvenile has committed a juvenile offense, the Tribal Prosecutor may confer with the juvenile and the juvenile's parent(s), guardian(s), or custodian(s) for the purpose of resolving the matter without a formal adjudication.

- (2) Statements made by the juvenile at the informal conference shall not be used against the juvenile in determining the truth of the allegations in the petition.
- (3) The juvenile may be represented by counsel at the informal conference.

4-14-111. Deferred Adjudications.

- (1) At or after the informal conference, upon the basis of the information obtained during the preliminary investigation, the Tribal Prosecutor may enter into a written agreement with the juvenile and the juvenile's parent(s), guardian(s), or custodian(s), guardian ad litem or attorney, specifying particular conditions to be observed during a deferred adjudication period.
- (2) If the juvenile and the juvenile's parent(s), guardian(s), or custodian(s), guardian ad litem or attorney enter into an informal adjustment agreement with the Tribal Prosecutor, it shall be reduced to writing and presented to the Children's Court for approval.
- (3) In determining whether a deferred adjudication is appropriate, the Children's Court shall consider all relevant factors, including the following:
 - (a) The nature and seriousness of the offense;
 - (b) The previous number of contacts with the police, juvenile probation officers, or the court;
 - (c) The age and maturity of the juvenile;
 - (d) The juvenile's acceptance of responsibility for the offense;
 - (e) The willingness of the juvenile to perform the conditions of the deferred adjudication;
 - (f) The treatment of other juveniles in similar cases; and
 - (g) The participation of and input from the juvenile's parent(s), legal guardian(s) or legal custodian(s).
- (4) No deferred adjudication shall be approved by the Children's Court unless the juvenile admits the allegations in the petition.
- (5) If the juvenile successfully completes the requirements of the deferred adjudication agreement, the case shall be dismissed and no further action taken in the case.

4-14-112. Revocation of Deferred Adjudication. If the juvenile fails to successfully complete the requirements of the deferred adjudication agreement, the Tribal Prosecutor may file a motion to revoke the deferred adjudication and adjudicate the juvenile delinquent. The revocation matter shall be heard by the Children's

Court, and the standard of proof shall be by a preponderance of the evidence. If the juvenile is found to have violated the terms and conditions of the deferred adjudication, then the juvenile shall be adjudicated a juvenile delinquent on the basis of the juvenile's prior admission and sentenced by the court.

4-14-113. Medical, Psychological, and Substance Abuse Assessment. The Children's Court may order a medical, psychological or substance abuse assessment to determine the mental or physical state of the juvenile, so that appropriate steps can be taken to protect the juvenile's health and well-being. Such an examination shall be conducted on an outpatient basis unless the court finds that an inpatient assessment is necessary.

4-14-114. Pre-Adjudication Examination of Disabled Juvenile. Where there are indications that the juvenile may be mentally or emotionally disturbed or developmentally disabled, the Children's Court, on the motion of any party or on its own motion, may order the juvenile to be tested by a qualified psychiatrist, psychologist, or other qualified mental health professional prior to a hearing on the merits of the petition. Such an examination shall be conducted on an outpatient basis unless the court finds that an inpatient assessment is necessary.

4-14-115. Adjudications.

- (1) When a juvenile is found to come within the jurisdiction of the Children's Court as a juvenile delinquent, the Children's Court shall make findings of the facts upon which it bases its jurisdiction over the juvenile and the facts that constitute delinquency. The delinquency petition must be proven beyond a reasonable doubt.
- (2) Upon an adjudication, the Children's Court may enter orders in the best interests of the juvenile delinquent and for the protection of the public, including the following:
 - (a) Place the juvenile delinquent on probation in his own home subject to conditions determined by the court;
 - (b) Place the juvenile delinquent in the legal custody of a relative or other suitable person with or without probation;
 - (c) Place the juvenile delinquent in a detention facility, including but not limited to alcohol or substance abuse treatment center, emergency shelter or halfway house; foster home, group home; shelter home or secure juvenile detention facility; or an approved boarding school, a ranch, a forestry camp or other camp or similar program for care and for work; provided that the person, agency or association operating the facility has been approved by the Southern Ute Indian Tribal Council, either directly or through a delegation of authority;

- (d) Order the juvenile delinquent to be examined or treated by a physician, surgeon, psychiatrist, or psychologist, or order that he receive other special care, and for such purposes place the juvenile delinquent in a hospital or other suitable facility;
 - (e) Order the juvenile delinquent to be evaluated and treated for substance abuse, domestic violence or other behavioral problems;
 - (f) Order the juvenile delinquent to make restitution for damage or loss caused by his wrongful acts and/or impose fines;
 - (g) Order the juvenile delinquent to be employed;
 - (h) Order the juvenile delinquent's paycheck or other resources be used to fulfill obligations for restitution or for other obligations imposed by the court; or
 - (i) Order other requirements or conditions related to the rehabilitation of the juvenile, protection of the community or payment of restitution.
- (3) The Children's Court may also impose such conditions as it sees fit, including, but not limited to:
- (a) Restrictions on visitations by parents;
 - (b) Restrictions on the juvenile delinquent's associates, occupation and/or other activities; or
 - (c) Requirements to be observed by the parent(s), guardian(s) and custodian(s).
- (4) An order under this title for out-of-home placement of a juvenile delinquent shall include a date for review of the case by the court with a new date to be set upon each review.
- (5) The term for which probation or supervision may be ordered shall not extend beyond the lesser of:
- (a) the date when the juvenile becomes twenty one years old; or
 - (b) the maximum term that would be authorized by Article 11 of this title if the juvenile had been tried and convicted as an adult.

4-14-116. Information from Law Enforcement and Court Records.

- (1) The pleadings, adjudication, disposition, probation records, and/or evidence presented before the Children's Court in proceedings relating to juvenile delinquents shall be inadmissible as evidence against the juvenile in any other proceeding, except as impeachment following a judicial determination that the use of such evidence is both relevant and fair.

- (2) Tribal law enforcement records and court files concerning a juvenile shall be confidential and shall not be open for inspection to any but the following: the juvenile; the juvenile's parent(s), guardian(s), custodian(s) or guardian ad litem; the juvenile's counsel; law enforcement personnel directly involved in the handling of the case; court personnel directly involved in the handling of the case; and any other person, by order of the court, found to have a legitimate interest in the particular case or the work of the court.

ARTICLE 15. CRIME VICTIM'S RIGHTS

4-15-101. Victim's rights.

- (1) A crime victim has the following rights:
 - (a) The right to be reasonably protected from the accused.
 - (b) The right to reasonable, accurate, and timely notice of any public court proceeding, or any probation proceeding, involving the crime or of any release or escape of the accused.
 - (c) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.
 - (d) The right to be reasonably heard at any public proceeding in the tribal court involving release, plea, sentencing, or any probation proceeding.
 - (e) The reasonable right to confer with the prosecution in the case.
 - (f) The right to full and timely restitution as may be provided under applicable law.
 - (g) The right to proceedings free from unreasonable delay.
 - (h) The right to be treated with fairness and with respect for the victim's dignity and privacy.
 - (i) The right to be informed in a timely manner of any plea agreement or deferred prosecution agreement.
 - (j) The right, at the discretion of the prosecutor, to view all or a portion of the pre-sentence report of the probation department.
 - (k) The right to be heard at any court proceeding:
 - (i) involving the accused's bond;

- (ii) at which the court accepts a negotiated plea agreement or deferred prosecution agreement;
 - (iii) at which the accused is sentenced or at which the original sentence is modified;
 - (iv) at which the court is considering a modification to any order protecting the crime victim, including any mandatory protection order required under this Criminal Procedure Code;
 - (v) involving a petition for expungement of the accused's record, which record involves the crime underlying the crime victim's rights;
- (1) The right to prevent any party at any court proceeding from compelling testimony regarding the current address, telephone number, place of employment, or other locating information of the victim unless the victim consents or the court orders disclosure upon a finding that a reasonable and articulable need for the information exists. Any proceeding conducted by the court concerning whether to order disclosure shall be in camera.
- (2) The crime victim may assert his rights himself or through a representative.

4-15-102. No cause of action.

Nothing in this article shall be construed to authorize a cause of action for damages or to create, to enlarge, or to imply any duty or obligation to any victim or other person for the breach of which the Southern Ute Indian Tribe or any of its officers or employees could be held liable in damages. Nothing in this article shall be construed to impair the prosecutorial discretion of the Tribal Prosecutor. A failure to afford a crime victim a right described in this article is not grounds for a new trial.

4-15-103. Not exclusive.

Nothing in this article is meant to prevent the court from affording a crime victim additional opportunities to be involved in the proceedings.

TITLE 4
CRIMINAL PROCEDURE CODE
History and Amendments¹

Title 4 adopted by Tribal Council Resolution No. 80-120, approved by the Bureau of Indian Affairs and effective on 2/25/1981.

Title 4, § 4 revised and amended by Tribal Council Resolution No. 87-33, approved by the Bureau of Indian Affairs and effective on 12/12/1988.

Title 4 section and page numbering scheme revised and amended by Tribal Council Resolution No. 89-34, effective on 3/21/1989.

Section 4-1-124 (11) amended by Tribal Council Resolution No. 94-1, approved by the Bureau of Indian Affairs and effective on 4/18/1994.

Section 4-1-101 amended by Tribal Council Resolution No. 98-115, approved by the Bureau of Indian Affairs and effective on 11/18/1998.

Title 4, Article II, Special Procedures Relating to Juvenile Delinquents, adopted by Tribal Council Resolution No. 00-172, approved by the Bureau of Indian Affairs.

Sections 4-1-121 (1), (2) and (7) amended by Tribal Council Resolution No. 2007-66, approved by the Bureau of Indian Affairs.

Section 4-1-121 amended by Tribal Resolution No. 2010-52, approved by the Bureau of Indian Affairs and effective on 12/10/2010.

Section 4-1-115(5) amended by Tribal Resolution No. 2010-84.

Title 4 – Criminal Procedure Code repealed and replaced by Tribal Resolution No. 2023-212, approved by the B.I.A. on November 28, 2023, and effective on March 1, 2024.

¹ This page does not constitute an official part of any code. Information contained on this page is solely for informational and historical purposes and is from sources deemed reliable