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CRIMINAL PROCEDURE CODE
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TITLE 7
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INTRODUCTION

Section 1. Scope, Purpose and Construction.

(a) This Title governs the procedure in all criminal proceedings in the District Court and all preliminary or Supplementary procedures as specified herein.

(b) Every proceeding in which a person is charged with a criminal offense of any degree and brought to trial and punished is a criminal proceeding.

(c) This Title is intended to provide for the just determination of every criminal proceeding. It shall be construed to secure simplicity in procedure, fairness in administration of justice and the elimination of unjustifiable expense and delay.

(d) In any case wherein no particular procedure is provided herein, resort shall be had to the Civil Procedure Code or other applicable trial law subject always to the rights of the Defendant. If no procedure is provided in this Title, the Civil Procedure Code, or other applicable law, the District Court may proceed in any lawful fashion while protecting the rights of the Defendant.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

CHAPTER ONE
PRELIMINARY PROVISIONS

Section 101. Prosecution of Offenses.

(a) No person shall be punished for an offense except upon a legal conviction, including a plea or admission of guilt or nolo contendere in open District Court, by a District Court of competent jurisdiction. Provided, however, that no incarceration or other disposition of one accused of an offense prior to trial in accordance with this Title shall be deemed punishment.

(b) All criminal proceedings shall be prosecuted in the name of the Nation as the Plaintiff, against the person charged with an offense, referred to as the Defendant.

(c) The case number prefix assigned to criminal actions shall be unique from the prefix assigned to other types of cases in order to clearly distinguish them.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 102. Rights of Defendant.

In any criminal proceeding, every Defendant shall have the following rights:

(a) To those rights enumerated in the Indian Civil Rights Act, 25 U.S.C. § 1302.

(b) To effective assistance of counsel at least equal to that guaranteed by the United States Constitution.

(c) To a presiding judge who shall:

(1) have sufficient legal training to preside over criminal proceedings; and

(2) be licensed to practice law by any jurisdiction in the United States, including the tribes.

(d) To an impartial jury drawn from sources that reflect a fair cross section of the community and do not systematically exclude any distinctive group in the community, including non-Indians.

(e) To appear and defend in person or by counsel except:

(1) Trial of traffic or hunting and fishing offenses not resulting in injury to any person, nor committed while using alcohol or non-prescription drugs may be prosecuted without the presence of the Defendant upon a showing that the Defendant received actual notice of five (5) days prior to the proceeding, if no imprisonment is ordered, and any fine imposed does not exceed fifty dollars ($50.00).

(2) The Defendant may represent himself, or be represented by an adult enrolled member of the nation with leave of the District Court if such representation is without charge to the Defendant, or by any attorney or advocate admitted to practice before the District Court.

(3) The Seminole Nation shall provide any indigent defendant the assistance of a defense attorney licensed to practice law by any jurisdiction in the United States, including tribes, provided that jurisdiction applies appropriate licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys.

(f) To be informed of the nature of the charges against him and to have a written copy thereof;

(g) To testify in his own behalf, or to refuse to testify regarding the charge against him, provided, however, that once a Defendant takes the stand to testify on any matter relevant to the immediate proceeding against him, he shall be deemed to have waived all right to testify in that immediate criminal proceeding. He shall not, however, be deemed to have waived his right to remain silent in other distinct phases of the criminal trial process.

(h) To confront and cross examine all witnesses against him, subject to the Evidence Code.

(i) To compel by subpoena the attendance of witnesses in his own behalf;

(j) To have a speedy public trial by an impartial judge or jury as provided in this Title;

(k) To appeal in all cases;

(l) To prevent his present or former spouse from testifying against him concerning any matter which occurred during such marriage, except;

(1) In any case in which the offense charged is alleged to have been committed against the spouse or the immediate family, or the children of either the spouse or the Defendant, or against the marital relationship;

(2) Any testimony by the spouse in the Defendant's behalf will be deemed a waiver of this privilege.

(m) Not to be twice put in jeopardy by the Nation for the same offense;

(n) To a record of the criminal proceeding, including audio or other recording of the trial proceeding;

(o) To file a petition for writ of habeas corpus in the United States' federal court pursuant to 25 U.S.C. § 1303 and a petition to stay further detention pursuant to 25 U.S.C. § 1304(e).

(1) Every defendant who has been detained in jail by the Seminole Nation shall be notified of this right and any additional rights and privileges they are entitled to under 25 U.S.C. § 1304(e).

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012;
Amended by TO-2015-02, June 6, 2015; Effective July 6, 2015]

Section 103. Limitation of Prosecution.

(a) Every criminal proceeding except an offense for which banishment is a possible punishment shall be commenced within three (3) years of the date of commission and diligent discovery of the offense, or prosecution for that offense shall be forever barred. Every criminal offense for which banishment is a possible punishment shall be commenced within seven (7) years of the date of commission and diligent discovery of the offense, or prosecution for that offense shall be forever barred.

(b) If an offense is committed by actions occurring on two (2) or more separate days, the offense will be deemed to have been committed on the day the final act causing the offense to be completed.

(c) The date of "diligent discovery" is the date at which, in the exercise of reasonable diligence, some person other than the Defendant and his co-conspirator(s) know or should have known that an offense had been committed.

(d) Time spent outside the Nation's jurisdiction for the purpose of avoiding prosecution shall not be counted toward the limitation period to begin prosecution.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 104. No Common Law Offenses.

No act or failure to act shall be subject to criminal prosecution unless made an offense by some statute of the Nation.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

CHAPTER TWO
PROCEEDINGS BEFORE TRIAL

Section 201. The Complaint.

(a) Complaint. Every criminal proceeding shall be commenced by the filing of a criminal Complaint. The Complaint is a sworn written statement of the essential fact charging that a named individual(s) has committed a particular offense.

(b) Contents of Complaint. The Complaint shall contain:

(1) The name and address of the District Court:

(2) The name of the Defendant; if known or some other name if not known plus whatever description of the Defendant is known;

(3) The signature of the Prosecuting Attorney or their Assistant; and their typewritten name.

(4) A written statement describing in ordinary and plain language the facts of the offense alleged to have been committed including a reference to the time, date, and place as nearly as may be known. The offense may be alleged in the language of the statute violated;

(5) The person against whom or against whose property the offense was committed and the names of the witnesses of the Nation if known, otherwise no statement need be made;

(6) The general name and Code title and section number of the alleged offense.

(7) If the offense(s) is punishable by banishment, the Prosecuting Attorney may state in the Complaint or an Amendment of the Complaint that banishment will be recommended as a punishment if the Defendant is convicted. If such statement is not made in the Complaint or in an Amendment of the Complaint, banishment may not be imposed as a penalty.

(c) Error. No minor omission from or error in the form of the Complaint shall be grounds for dismissal of the case unless some significant prejudice against the Defendant can be shown to result there from.

(d) Time of filing Complaint. A Complaint may be filed at any time within the period prescribed by Section 103 of this Title, provided, that if an accused has been arrested without a warrant the Complaint shall be filed promptly and in case no later than the time of Arraignment.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;

Approved by BIA February 2, 2012]

Section 202. Arrest Warrant or Summons to Appear.

(a) If it appears from the Complaint that an offense has been charged against the Defendant, a judge of the District Court shall issue a summons to the Defendant to bring him before the District Court. An arrest warrant shall issue only upon a Complaint charging an offense by the Defendant against the law of the Nation supported by the recorded ex parte testimony or affidavit of some person having knowledge of the facts of the case through which the judge can determine that probable cause exists to believe that an offense has been committed and that the Defendant committed it.

(b) Issuance of Arrest Warrants or Summons. Unless the District Court Judge has reasonable grounds to believe that the person will not appear on a summons, or unless the Complaint charges an offense which is punishable by banishment, a summons shall be issued instead of an arrest warrant.

(c) Contents of Arrest Warrants. The warrant of arrest shall be signed by the Judge issuing it, and shall contain the name and address of the District Court; the name of the Defendant, or if the correct name is unknown, any name by which the Defendant is known and the Defendant's description; and, a description of the offense charged with a reference to the Section of the Tribal Code alleged to have been violated. It shall order and command the Defendant be arrested and brought before a Judge of the District Court to enter a plea. When two or more charges are made against the same person only one warrant shall be necessary to commit him to trial.

(d) Contents of Summons. A criminal summons shall contain the same information as an arrest warrant except, that instead of commanding the arrest of the accused, it shall order the Defendant to appear before a District Court Judge within five (5) days or on some certain day to enter a plea to the charge, and a notice that upon the Defendant's failure to appear an arrest warrant shall issue and that the Defendant may be further charged with disobeying a lawful order of the District Court. If the Defendant fails to appear in response to a summons or refuses to accept the summons an arrest warrant shall issue.

(e) Service of Arrest Warrants and Summons.

(1) Warrants for Arrest and Criminal Summons may be served by any Seminole Nation Lighthorse Police Officer or Federal law enforcement officer or any adult person authorized in writing by a Judge of the District Court. Service may be made at any place within the jurisdiction of the Nation.[Note to Judiciary Committee: What about the service of arrest warrants by officers of the Seminole County Sheriff's Office, City of Wewoka etc. who are a party to the cross deputization agreement with the Seminole Nation?]

(2) Warrants of Arrest and Summons are to be served at a person's home only between the hours of 7:00 am and 9:00 pm, unless an authorization to serve such process at night is placed on the face thereof by a Judge of the District Court.

(3) The date, time, and place of service or arrest shall be written on the warrant or summons along with the signature of the person serving such, and the warrant returned to the District Court. A copy, so signed, shall be given to the person served or arrested at the time of arrests if reasonably possible, or as soon thereafter as is reasonable possible.

(4) An officer need not have the warrant in his possession at the time of arrest, but if not, he shall inform the Defendant of the charge, that a warrant of arrest has been issued and shall provide the Defendant a copy of the warrant not later than twenty four (24) hours after arrest or the time of arraignment, whichever is sooner.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 203. Criminal Citations.

(a) Whenever a law enforcement officer would be empowered to make an arrest without a warrant for an offense not punishable by banishment but has reasonable grounds to believe an immediate arrest is not necessary to preserve the public peace and safety, he may, in his direction, issue the Defendant a citation instead of taking said person into custody. Such citation, signed by the law enforcement officer, shall be considered a District Court order, and may be filed in the action in lieu of a formal Complaint, unless the District Court orders that formal Complaint be filed.

(b) Contents of Citation.

(1) The citation shall contain the name and address of the District Court, the name or alias and description of the Defendant, a description of the offense charged, and the signature of the law enforcement officer who issued the citation.

(2) The citation shall contain an agreement by the Defendant to appear before a District Court Judge within five (5) days or on a day certain to answer to the charge, and the signature of the Defendant.

(3) The citation shall contain a notice that upon the Defendant's failure to appear, an arrest warrant shall issue and that the Defendant may be further charged with disobeying a lawful order of the District Court.

(4) One (1) copy of the citation shall be given to the Defendant and two (2) copies shall be delivered to the Prosecuting Attorney.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;

Approved by BIA February 2, 2012]

Section 204. Arraignment.

(a) Arraignment Defined. Arraignment is the bringing of an accused person before the District Court, informing him of the charge against him and of his rights, receiving his plea and setting bail. Arraignment shall be held in open District Court upon the appearance of an accused in response to a Criminal Summons or Citation or, if the accused was arrested and confined, within seventy-two (72) hours of the arrest, Saturdays, Sundays and legal holidays excepted.

(b) Procedure at Arraignment. Arraignments shall be conducted in the following order:

(1) The Judge should request the Prosecuting Attorney to read the charges.

(2) The Prosecuting Attorney should read the entire Complaint, deliver a copy to the Defendant unless he has previously received a copy thereof, and state the minimum and maximum authorized penalties.

(3) The Judge should determine that the accused understands the charge against him and explain to the Defendant that he has the following rights:

(i) the right to remain silent.

(ii) the right to be informed of the charges against him.

(iii) the right to counsel and the right to a reasonable continuance to obtain counsel. If the defendant cannot afford counsel, one will be appointed for them at the expense of the Seminole Nation.

(iv) the right to have the Court compel the witnesses against him to appear and testify.

(v) the right to cross-examine and question witnesses against him.

(vi) the right to call witnesses in his own behalf and to have the Court issue subpoenas within its jurisdictional limits notifying the witness to appear.

(vii) the right to a speedy and public trial.

(viii) the right to a jury trial.

(ix) at trial, the right to testify or not to testify in his own behalf, because he has the privilege against self-incrimination.

(x) if found guilty, the right to appeal.

(xi) To file a petition for writ of habeas corpus in the United States' federal court pursuant to 25 U.S.C. § 1303 and a petition to stay further detention pursuant to 25 U.S.C. § 1304(e).

(xii) the right to be released on bail or on his own recognizance pending trial.

(xiii) the reading of any or all these rights may be waived by a defendant represented by legal counsel.

(4) The Judge shall ask the Defendant if he wishes to obtain counsel and, if the Defendant so desires, he will be given a reasonable time to obtain counsel. If the Defendant shows his indigence and counsel is available for appointment under the rules relating to attorneys, counsel may be appointed. If the Defendant is allowed time to obtain or consult with counsel, he shall not be required to enter a plea until the date set for his appearance.

(5) The Judge should then ask the Defendant whether he wishes to plead "guilty", "nolo contendere", or "not guilty".

(c) Receipt of Plea at Arraignment. The Defendant shall plead "guilty", "nolo contendere", or "not guilty" to the offense charged.

(1) If the Defendant refuses to plead, the Judge shall enter a plea of "not guilty" for him.

(2) If the Defendant pleads "not guilty", the Judge shall set a trial date and conditions for bail prior to trial.

(3) If the Defendant pleads "nolo contendere" or "guilty" the Judge shall question the Defendant personally to determine that he understands the nature of his action, the rights that he is waiving, and that his action is voluntary. The Judge may refuse to accept a guilty plea and enter a plea of "not guilty" for him. If the guilty plea is accepted, the Judge may immediately sentence the Defendant or order a sentencing hearing.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012;
Amended by TO-2013-16, October 26, 2013;
Amended by TO-2015-02, June 6, 2015; Effective July 6, 2015]

Section 205. Commitments.

No person shall be detained or jailed for a period longer than seventy-two (72) hours, Saturdays, Sundays, and legal holidays excepted, unless a commitment bearing the signature of a Judge of the District Court has been issued.

(a) A temporary commitment shall be issued pending investigation of charges or trial.

(b) A final commitment shall be issued for those persons incarcerated as a result of a judgment and sentence of the District Court.

Section 206. Joinder.

(a) Joinder of Offenses. Two or more offenses may be charged in one Complaint so long as they are set out in separate counts and:

(1) They are part of a common scheme or plan, or

(2) They arose out of the same transaction.

(b) Joinder of Defendants. Two or more Defendants may be joined in one Complaint if they are alleged to have participated in a common act, scheme, or plan to commit one or more offenses. Each Defendant need not be charged in each count.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 207. Pleas.

(a) A Defendant may plead guilty, nolo contendere, or not guilty. The District Court shall not accept a plea of guilty or nolo contendere without first addressing the Defendant personally and determining that the plea is made voluntarily with understanding of the nature of the charge and the consequences of the plea. If the Defendant refuses to plead or if the District Court refuses to accept a plea of guilty, or nolo contendere, the District Court shall enter a plea of not guilty. The District Court shall not enter a judgment upon a plea of guilty or nolo contendere unless it is satisfied that there is a factual basis for the plea.

(b) The Defendant, with the consent of the District Court and of the Prosecuting Attorney, may plead guilty to any lesser offense than that charged which is included in the offense charged in the Complaint or to any lesser degree of the offense charged.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 208. Withdrawing Guilty Plea.

A motion to withdraw a plea of guilty may be made only before a sentence is imposed, deferred, or suspended, except that the District Court may allow a guilty plea to be withdrawn to correct a manifest injustice.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 209. Plea Bargaining.

Whenever the Defendant pleads guilty as a result of a plea arrangement with the Prosecuting Attorney, the full terms of such agreement shall be disclosed to the Judge. The Judge, in his discretion, is not required to honor such agreement. In the event that the Judge decides not to honor such agreement, he should offer the Defendant an opportunity to withdraw his plea and proceed to trial.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 210. Pleading and Motions Before Trial: Defenses and Objections.

(a) Pleading in criminal proceedings shall consist of the Complaint or citation and the plea of either guilty, nolo contendere, or not guilty. All other pleas and motions shall be made in accordance with this Title.

(b) Motions raising defenses and objections may be made as follows:

(1) Any defenses or objections which are capable of determination other than at trial may be raised before trial by motion.

(2) Defenses and objections based on defects in the institution of the prosecution of the Complaint other than that it fails to show jurisdiction in the District Court or fails to charge an offense may be raised on motion only before trial or such shall be deemed waived, unless the District Court for good cause shown grants relief from such waiver. Lack of jurisdiction or failure to charge an offense may be raised as a defense or noticed by the District Court on its own motion at any stage of the proceeding.

(3) Such motions shall be made in writing and filed with the District Court at least five (5) business days before the day set for trial. Such motions will be argued before the District Court on the date of trial unless the District Court directs otherwise. Decision on such motions shall be made by the judge and not by the jury.

(4) If a motion is decided against a Defendant, the trial shall proceed as if no motion were made. If a motion is decided in favor of a Defendant, the judge shall alter

the proceedings, allow an interlocutory appeal to be taken as provided in the Appellate Codes, or enter judgment as is appropriate in light of the decision.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 211. Concurrent Trial of Defendant or Charges.

(a) The District Court may order two or more Defendants tried together if they could have been joined in single Complaint, or may order a single Defendant tried on more than one Complaint at a single trial.

(b) If it appears that a Defendant or the Nation is prejudiced by a joinder of offenses or other Defendants for trial, the District Court may order separate Complaints and may order separate trials or provide such other relief as justice requires. In ruling on a motion for severance, the District Court may order the Nation to deliver to the District Court for inspection in chambers, any statements made by a Defendant which the Nation intends to introduce in evidence at the trial.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 212. Discovery and Inspection.

(a) The Seminole Nation Lighthorse Police, or Prosecuting Attorney, shall, upon request, permit the Defendant or his attorney to inspect and copy any statements or confessions, or copies thereof, made by the Defendant if such are within the possession or control of or reasonably obtainable by the police or prosecution. The Seminole Nation Lighthorse Police and Prosecuting Attorney shall make similarly available copies of reports of physical, mental or scientific test or examinations relating to or done on the Defendant.

(c) The Defendant or his attorney shall reveal by written notice to the District Court and the Prosecuting Attorney at least five (5) working days before trial the names and addresses of any witnesses upon whom the defense intends to rely to provide an alibi or insanity defense for the Defendant. Failure to provide such notice to shall prevent the use of such witnesses by the defense unless it can be shown by the defense that prior notice was impossible or that no prejudice to the prosecution has resulted, in which case the judge may order the trial delayed or make such other orders as tend to assure a just determination of the case.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 213. Subpoena.

(a) The Defendant and the Prosecuting Attorney shall have the right to subpoena any witnesses they deem necessary for the presentation of their case, including subpoenas issued in blank. Subpoenas in criminal cases shall be issued, served and returned as in civil cases.

(b) A subpoena may be served any place within the jurisdiction of the District Court, and as provided for service in civil cases.

(c) Failure, without adequate excuse, to obey a properly served subpoena may be deemed contempt of District Court, and prosecution thereof may proceed upon the order of the District Court. No contempt shall be prosecuted unless a return of service of the subpoena has been made on which is endorsed the date, time and place of service and the person performing such service.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

CHAPTER THREE
TRIAL

Section 301. Trial By Jury or By the District Court.

(a) All trials of offenses shall be by the District Court without a jury unless the Defendant files a request for a jury trial and a One Hundred Dollar ($100.00) jury fee not less than ten business days prior to the day set for trial. A judge may in his discretion waive the jury fee if the Defendant shows that he is without sufficient funds to pay the jury fee.

(b) Juries shall be composed of six (6) members with one alternate if an alternate juror is deemed advisable by the District Court.

(c) In a case tried without a jury, the judge shall make a general finding of guilt or innocence and shall, upon request of any party, make specific findings which may be embodied in a written decision.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012;
Amended by TO-2013-16, October 26, 2013;
Amended by TO-2015-02, June 6, 2015; Effective July 6, 2015]

Section 302. Trial Jurors.

(a) Jurors shall be drawn from the list of eligible juror, prepared as provided in the Civil Procedure Code.

(b) The District Court shall permit the Defendant or his counsel and the Prosecuting Attorney to examine the jurors and the District Court itself may make such an examination.

(c) Challenges regarding jury members may be taken as follows:

(1) Each side shall be entitled to three (3) peremptory challenges;

(2) Either side may challenge any juror for cause;

(3) An alternate juror shall be treated as a regular juror for purpose of challenges.

(d) The alternate juror shall be dismissed prior to the jury's retiring to deliberation if he has not first been called to replace an original juror who has become, for any reason, unable or disqualified to serve.

(e) Jurors shall otherwise be subject to all rules applicable to juries in civil cases.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;

Approved by BIA February 2, 2012]

Section 303. Order of Trial.

The trial of all criminal offenses shall be conducted in the following manner:

(a) The District Court shall call the case name and number and ask the parties if they are ready to proceed. If the parties are not ready, the District Court may continue the case or direct the case to proceed in its discretion.

(b) If the parties are ready to proceed, and if the case is to be tried by the jury, the Judge should require all prospective jurors to swear to decide the case in a fair and impartial manner if selected for jury duty.

(c) If the case is to a jury, the District Court should select a potential jury panel as selected under the Civil Procedure Code by random and question them to determine if they have any interest in the case.

(d) When the District Court is satisfied that no juror should be dismissed for statutory cause, the prosecution and then the Defendant shall be allowed to question the prospective jurors. The District Court may delay any examination it wishes to make until after the parties have examined the jury panel.

(e) If it appears that a prospective juror is related to a party in the case or is biased for or against a party, or if the outcome would significantly affect the property, family, or other important interest of the prospective juror, the District Court shall dismiss the prospective juror for cause and select another person from the jury panel.

(f) Both the Prosecuting Attorney and the Defendant may alternatively request the District Court to dismiss any juror by peremptory challenge. Each party shall have three (3) peremptory challenges and the District Court may not refuse to grant them. No reasons need be given for the challenges and alternate jurors shall be examined and selected as the original panel was selected. The final jury panel should then be sworn.

(g) The District Court should request the Prosecuting Attorney to read the criminal Complaint and to make his opening statement. Prior to reading the Complaint, the District Court should explain to the jury that the Complaint is not evidence, but is being read for the sole purpose of informing the Defendant and the jury that the statements of counsel are not evidence but are presented so that the jury will have an opportunity to hear what counsel for each party expect the evidence to show.

(h) The Prosecuting Attorney should then read the Complaint and briefly present the facts which he intends to prove to show the offense. No argument of the fact or law shall be allowed. In reading the Complaint, no reference to any recommendation for banishment may be made prior to the verdict of guilty or not guilty.

(i) The defense may then make an opening statement or may reserve their opening statement until the beginning of the presentation of the defense evidence.

(j) The Prosecuting Attorney shall then present his evidence followed by the Defendant's presentation of his defense evidence. After the Defendant has presented his evidence, the Prosecuting Attorney may present evidence in rebuttal.

(k) The Prosecuting Attorney shall then present his closing argument, the Defendant his closing argument, and the Prosecuting Attorney shall be allowed to present a rebuttal.

(l) If trial is to a jury, the Judge should give them his instructions and they shall return to decide their verdict. If trial is to the Judge, he shall then make his decision or announce the time at which he will present his decision.

(m) If the verdict is "not guilty", the Defendant should be discharged and bail exonerated.

(n) If the verdict is "guilty", the judge may impose sentence immediately or may hold hearing at a later time or date to decide on an appropriate sentence. In a case tried before a jury, the District Court, after receiving a verdict of "guilty", shall inform the jury if banishment has been recommended as a punishment of the offense. The prosecution and the defense shall then be given an opportunity to present any additional evidence they may wish to present on the issue of whether banishment should be imposed, and the prosecution shall be given the final opportunity to rebut any defense evidence. The jury should then be requested to retire and consider whether banishment should be imposed and the maximum term thereof. No banishment shall be imposed in excess of the term recommended by a unanimous vote of the jury, although a recommendation that banishment be imposed is not binding on the Judge.

(o) After sentencing the Judge may hold a hearing to determine appeal bond if an appeal is filed.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 304. Trial by Judicial Panel.

(a) In every trial for an offense or offenses punishable by imprisonment for more than three months in which a jury trial is not requested, the Judge may, in his discretion, upon request of the defense or prosecution, order the matter to be heard by a three (3) Judge panel.

(b) In every trial for an offense or offenses punishable by banishment in which a jury trial is not requested, and in which the Prosecuting Attorney shall recommend in the Complaint that banishment be imposed upon conviction, the District Court shall order the case to be heard before a three (3) Judge panel. If no recommendation for banishment is made in the Complaint or an amendment thereof, banishment may not be imposed.

(c) The Chief Judge shall assign three (3) Judges to sit on the judicial panel for trial, one of whom shall be designated as the presiding Judge for that trial. The Judges chosen for the Judicial Panel shall be subject to disqualification only for good cause shown.

(d) The Presiding Judge in such cases shall rule on all motions, objections, and procedural questions, however, the judgments of conviction or acquittal shall be by majority vote. In cases in which banishment has been recommended, banishment may not be imposed unless there is a unanimous finding of guilt by the judicial panel and a unanimous agreement by the panel that banishment is a proper sentence and the term of banishment must be agreed upon by the judicial panel. The actual vote of each Judge shall be held in strict confidence and only the actual decision shall be announced.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 305. Judge Disability.

(a) If by reason of death, sickness or other disability, the Judge before whom a jury trial has commenced is unable to proceed with the trial, any other District Court Judge may, upon certifying that he has familiarized himself with the record of the trial, proceed with the trial.

(b) If by reason of death, sickness or other disability, the Judge before whom the Defendant has been tried is unable to perform the required duties of a Judge after the verdict or finding of guilt, any other District Court Judge may perform those duties unless such Judge feels he cannot fairly perform those duties in which case a new trial may be granted. A new trial shall not be granted if all that remains of the prosecution process is the sentencing of a Defendant.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 306. Evidence.

The admissibility of evidence and the competence and privileges of witnesses shall be governed by the Evidence Code of the Nation, except as herein otherwise provided.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 307. Expert Witnesses and Interpreters.

(a) Either party may call expert witnesses of their selection and each bear the cost of such.

(b) The District Court may appoint an interpreter of its own selection and each party may provide their own interpreters. An interpreter through whom testimony is received from a Defendant or witness or communicated to a Defendant or other witness shall be put under oath to faithfully and accurately translate and communicate as required by the District Court.

(c) The trial Judge or Court Clerk may act as interpreter only with the consent of all parties.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 308. Motion for Judgment of Acquittal.

(a) The District Court on motion from Defendant or on its own motion, shall order the entry of a judgment of acquittal of one or more offenses charged in the Complaint after the presentation of evidence by the Prosecution or Defendant has been completed and if the evidence is insufficient as a matter of law to sustain a conviction of such offenses. A motion for acquittal by the Defendant does not affect his right to present evidence.

(b) If a motion for judgment of acquittal is made at the close of all the evidence, the District Court may reserve decision on the motion, submit the case to the jury and decide the motion any time either before or after the jury returns its verdict or is discharged.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 309. Jury Instructions.

At the close of evidence or at such earlier time during the trial as the District Court reasonably directs, any party may file written requests that the District Court instruct the jury on the law as set forth in the request. At the same time, copies of such requests shall be furnished to adverse parties. The District Court shall inform counsel of its proposed action upon the requests prior to the arguments of counsel to the jury, but the District Court shall instruct the jury after the arguments are completed. No party may assign as error any portion of the charge or omission there from unless he objects thereto before the jury retires to consider its verdict, stating distinctly the matter to which he objects and the grounds of the objection. Opportunity for hearing objections by either the Prosecuting Attorney or Defendant shall be given out of the hearing and out of the presence of the jury.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 310. Verdict.

(a) Except as hereinbefore provided in cases where banishment is recommended, the verdict of a trial to a judicial panel shall be by majority vote and shall be returned in open District Court.

(b) The verdict of a jury shall be unanimous. It shall be returned by the jury to the judge in open District Court. If the jury is unable to agree, the jury may be discharged and the Defendant tried against before a new jury.

(c) If there are multiple Defendants or charge, the jury may at any time return its verdict as to any Defendant or charges to which it has agreed and continue to deliberate on the others.

(d) If the evidence is found to support such verdict, the Defendant may be found guilty of a lesser included offense or attempt to commit the crime charged or a lesser included offense without having been formally charged with the lesser included offense or attempt.

(e) Upon return of the verdict, the jury may be polled at the request of either party. If upon the poll there is not unanimous concurrence, the jury may be directed to retire for further deliberation or may be discharged.

(f) After return of the verdict, the jury may, in the Judge's discretion, request to recommend the punishment to be imposed after a hearing at which both parties have the opportunity to present evidence in mitigation or aggravation of the sentence. The jury's recommendation in such cases shall not be binding on the judge at sentencing except as otherwise provided in the case of sentences of banishment.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

CHAPTER FOUR
JUDGMENT AND SENTENCE

Section 401. Judgment.

A judgment of conviction shall set forth in writing the charge, plea, verdict or findings, and the sentence imposed. If the Defendant is found not guilty or is otherwise entitled to be released, judgment shall be entered accordingly. The judgment shall be signed by the Judge and entered by the Court Clerk.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 401. Sentence.

Sentence shall be set forth as follows:

(a) Sentence shall be imposed without reasonable delay in accordance with the provisions of the criminal statute or ordinance violated, and this Title. Pending sentence the District Court may commit the Defendant to jail or continue or alter the bail. Before imposing sentence, the District Court shall allow counsel an opportunity to speak on behalf of the Defendant and shall address the Defendant personally and ask him if he wishes to make a statement on his own behalf and to present any information in mitigation of punishment.

(b) After imposing sentence, the District Court shall inform the Defendant of his right to appeal, and if so requested, shall direct the Court Clerk to file a notice of appeal on behalf of the Defendant. At any time after a notice of appeal is filed, the District Court may entertain a motion to set bail pending appeal.

(c) Time served in jail prior to the judgment and sentence while waiting or during trial shall be allowed as a credit toward any sentence of imprisonment or banishment imposed.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 403. General Sentencing Provisions.

Statement of Policy. The sentencing policy of the Nation in criminal cases is to strive toward restitution and reconciliation of the offender and the victim and Nation. While one goal of sentencing is to impress upon the wrongdoer the wrong he has committed, the paramount goal is to restore the victim and Nation to the position that existed prior to commitment of the offense, and to restore the offender to harmony with them and the community by requiring him to right his wrongdoing. Therefore, with consideration of these goals in mind, the provisions of this Chapter shall govern the sentencing for criminal offenses within the jurisdiction of the District Court.

(a) Unless the District Court determines that the ends of justice will not be served thereby, or that a civil action will more adequately adjudicate damages in the specific case at hand, then in addition to any sentence otherwise provided by law the District Court shall:

(1) Order the offender to pay restitution to the victim in money, property, or services; and/or

(2) Order the offender to pay restitution to the Nation in money, property, or services.

(b) In effectuating the sentencing policy of the Nation, if the offender recognizes the wrong he has committed, and earnestly repents of such wrong, the District Court, paying particular attention to prior offenses, in its discretion may:

(1) Allow such offender to exchange actual work performed for the Nation in lieu of a fine or imprisonment, at the rate of eight (8) hours of work per twenty-five dollars ($25.00) of fine; or

(2) Place the offender on probation under such reasonable conditions as the District Court may direct for a period not exceeding three (3) times the amount of the maximum sentence allowed; or

(3) Defer entering the judgment and imposing sentence for a period not exceeding four (4) times the maximum sentence allowed on condition that if the Defendant violated no law and satisfies such other reasonable conditions as may be imposed, such as restitution, the plea or verdict guilty will be withdrawn and said charges will be dismissed; or

(4) In the discretion of the District Court, allow the offender to pay a fine in goods or commodities at the fair market value of the goods or commodities to be surrendered, provided, that the Nation shall not reimburse the offender for any excess value of the property surrendered; or

(5) Participate in Community Court deferred Adjudication pursuant to Chapter 3 of Title 5 Courts.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 404. New Trial.

The District Court, on motion of a Defendant, may grant a new trial to him if required in the interest of justice. If trial was by the District Court without a jury, the District Court, on motion of a Defendant for a new trial, may vacate the judgment it entered, take additional testimony, and direct the entry of a new judgment. A motion for a new trial based on the ground of newly discovered evidence may be made only within one month after final judgment, but if an appeal is

pending the District Court may grant the motion only on remand of the case. A motion for a new trial based on any other grounds shall be made within seven (7) days after verdict or finding guilty or within such further time as the District Court may fix during the seven day period.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 405. Arrest of Judgment.

The District Court, on motion of Defendant, shall dismiss the action if the Complaint does not charge an offense or if the District Court was without jurisdiction of the offense charged. The motion in arrest of judgment shall be made within seven (7) days after verdict or finding of guilty or plea of guilty, or within such further time as the District Court may fix during the seven (7) day period.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 406. Correction or Reduction of Sentence.

The District Court may correct an illegal sentence at any time and may correct a sentence imposed in an illegal matter within thirty days after the sentence is imposed, or within thirty days after receipt by the District Court of a mandate issued upon affirmance of the judgment or dismissal of the appeal. The District Court may also reduce a sentence upon revocation of probation.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 407. Clerical Mistakes.

Clerical mistakes in judgments, orders, or other parts of the record and errors in the record arising from oversight or omission may be corrected by the District Court at any time and after such notice, if any, as the District Court orders.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

CHAPTER FIVE
APPEAL

Section 501. Right of Appeal; How Taken.

(a) The Defendant has the right to appeal from the following:

(1) A final judgment of conviction; and the sentence imposed thereon.

(2) From an order made, after judgment and sentences, affecting his substantial rights.

(b) The Nation has the right to appeal from the following:

(1) A judgment of dismissal, upon a motion to dismiss based on any procedural irregularity occurring before trial, or an order excluding evidence in favor of the Defendant prior to trial;

(2) An order arresting judgment or acquitting the Defendant contrary to the verdict of the jury or before such verdict can be rendered.

(3) An order of the District Court directing the jury to find for the Defendant;

(4) An order made after judgment and sentence affecting the substantial rights of the Nation.

(c) A notice of appeal must filed within ten (10) days of the entry of the final judgment and sentence or other appealable order and such must be served on all parties except the party filing the appeal.

(d) Such appeals shall be had in accordance with the Appellate Procedure Act.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 502. Stay of Judgment and Relief Pending Review.

(a) A sentence of imprisonment or banishment may be stayed if an appeal is taken and the Defendant may be given the opportunity to make bail. Any Defendant not making bail or otherwise obtaining release pending appeal shall have all time spent in incarceration counted towards his sentence in the matter under appeal.

(b) A sentence to pay a fine or a fine and costs, may be stayed pending appeal upon motion of the Defendant, but the District Court may require the Defendant to pay such money subject to return if the appeal should favor the Defendant and negate the requirement for paying such.

(c) An order placing the Defendant on probation may be stayed on motion of the Defendant if an appeal is taken.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

CHAPTER SIX
OTHER PROVISIONS

Section 601. Search and Seizure.

(a) Search Warrants. A search warrant is an order directed to any Tribal or Federal law enforcement officer directing him to search a particular place for described person or property and if found to seize them.

(b) A warrant shall issue only on an affidavit or affidavits sworn to before a District Court Judge and establishing grounds for issuing the warrant. If the Judge is satisfied that grounds for the application exist or that there is probable cause to believe that they exist, he shall issue a warrant identifying the property and naming or describing the person or place to be searched. The finding of probable cause may be based on hearsay evidence either in whole or in part. Before ruling on a request for a warrant, the judgment may require the affiant to appear personally and be examined under oath.

(c) Contents of Search Warrants. Every search warrant shall contain the name and address of the District Court and the signature of the Judge issuing the warrant. It shall specifically describe the place to be searched and the items to be searched for and seized. The warrant shall be directed by any Seminole Nation Lighthorse Police or Federal police or law enforcement officer or official and shall command such person or persons to search, within a specified period of time not to exceed ten (10) days, the person or place named for the property or persons specified, and contain the date on which it was issued.

(d) Service of Search Warrants. Search warrants shall be served by any Seminole Nation Lighthorse Police or Federal law enforcement officer between the hours of 7:00 a.m. and 9:00 p.m. unless otherwise directed on the warrant by the Judge who issued it. A copy of the warrant shall be left with an occupant or owner over sixteen (16) years of age of the place searched if present during said search. If the place to be search is not occupied at the time of the search, a copy of the warrant shall be left in some conspicuous place on the premises. The officer may break open any outer or inner door or window of a place to be searched, or any part of any place to be searched, or anything thereon to execute a search warrant, if after notice of his authority and purpose, or a person aiding in the execution of the warrant or when the premises to be searched are unoccupied at the time of the search.

(e) Inventory. The officer serving a search warrant shall make a signed inventory of all property seized and attached such inventory to the warrant. A copy of the inventory and search warrant shall be left with an occupant or owner over sixteen (16) years of age if present during the search or left in a conspicuous place with the search warrant if an occupant is not present during the search.

(f) Return of Search Warrants.

(1) The officer shall endorse on the warrant the date, time, and place of service and the signature of the officer serving it.

(2) The warrant shall be returned to the District Court with an inventory of property seized within twenty-four (24) hours of service, Saturdays, Sundays, and legal holidays excluded.

(3) In every case the warrant shall be returned within ten (l0) days of the date of issuance, unless return is due on a Saturday, Sunday, or legal holiday, in which case, the return shall be made on the next business day.

(g) Property Subject to Seizure. Property which is subject to seizure is property in which there is probable cause to believe such property is:

(1) Stolen, embezzled, contraband, or otherwise criminally possessed; or

(2) Which is or has been used to commit a criminal offense; or

(3) Property which constitutes evidence of the commission of a criminal offense.

(h) Warrantless Searches. A law enforcement officer may conduct a search without a warrant only:

(1) Incident to a lawful arrest; or

(2) With the consent of the person to be searched, or

(3) With the consent of the person having actual possession and control of the property to be searched; or

(4) When he has reasonable grounds to believe that the person searched may be armed and dangerous; or

(5) When the search is of a vehicle capable of being moved and the officer has probable cause to believe that it contains property subject to seizure, or upon inventory of such vehicle after impoundment and seizure.

(6) In any other circumstances wherein Federal law has held that a search without obtaining a warrant prior to the search in those circumstances would not be unreasonable.

(i) A person aggrieved by an unlawful search and seizure may move the District Court for the return of the property, not contraband, on the ground that he is entitled to lawful possession of the property illegally seized. The judge may receive evidence on any issue of fact necessary to the decision of the motion. If the motion is granted, the property shall be returned, if not contraband, and shall not be admissible at any hearing or trial.

(j) A law enforcement officer may stop any person in a public place whom he has reasonable cause to believe is in the act of committing an offense, or has committed an offense,

or is attempting to commit an offense and demand of him his name, address, an explanation of his actions and may, if he has reasonable grounds to believe his own safety or the safety of others nearby is endangered, conduct a frisk type search of such person for weapons.

(k) The term "property" is used in this Section to include documents, books, papers, and any other tangible object.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 602. Arrest.

(a) An arrest is the taking of a person into custody in the manner authorized by law. An arrest may be made by either a police or law enforcement officer or by a private person.

(b) A police or law enforcement officer may make an arrest in obedience to an arrest warrant, or he may, without a warrant, arrest a person:

(1) When he has probable cause to believe that a criminal offense has been committed in his presence.

(2) When he has probable cause for believing the person has committed a criminal offense, although not in his presence, and there is reasonable cause for believing that before a warrant can be obtained, such person may:

(i) flee the jurisdiction or conceal himself to avoid arrest, or

(ii) destroy or conceal evidence of the commission of an offense, or

(iii) injure or annoy another person or damage property belonging to another person.

(c) If the offense charged is an offense punishable by banishment or in violation of the federal Major Crimes Act, the arrest may be made at his residence at any time of the day or night. Otherwise the arrest pursuant to a warrant can be made at a person's residence only between the hours of 7:00 a.m. and 9:00 p.m. unless arrest at night at the resident is specifically authorized by the issuing Judge. Arrest at place other than at the residence may be made at any time.

(d) Upon making an arrest, the arresting officer:

(1) Must inform the person to be arrested of his intention to arrest him, of the cause or reasons for the arrest, and his authority to make it, except when the person to be arrested is actually engaged in the commission of, or an attempt to, commit an offense, or is pursued immediately after its commission or an escape if such is not reasonably possible under the circumstances; and

(2) Must show the warrant of arrest as soon as is practicable, if such exists and is demanded; and

(3) May use reasonable force and use all necessary means to effect the arrest if the person to be arrested either flees or forcibly resists after receiving information of the officer's intent to arrest except that deadly force may be used only as otherwise provided by law; and

(4) May break open a door or window of a building in which the person to be arrested is, or is reasonable believed to be, after demanding admittance and explaining the purpose of which admittance is desired; and

(5) May search the person arrested and take from him and put into evidence all weapons he may have about his person; and

(6) Shall as soon as is reasonably possible, deliver the person arrested to the Seminole Nation Lighthorse Police Department or do as commanded by the arrest warrant or deliver the person arrested to the jail for processing of a Complaint.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 603. Arrest in Hot Pursuit.

(a) Any law enforcement officer otherwise empowered to arrest a person within this jurisdiction may continuously pursue such person from a point of initial contact within the jurisdiction of the Nation to any point of arrest within or without the jurisdiction of the Nation and such arrest shall be valid, provided, that such officer shall respect and comply with the extradition requirements of the jurisdiction in which the arrest is finally made.

(b) Any law enforcement officer commissioned by the Federal Government, any Indian Tribe, or State when in hot and continuous pursuit of any person for the commission of a felony within such other jurisdiction may validly arrest such person within the jurisdiction of the Nation, provided, that any person so arrested shall be forthwith delivered to the Seminole Nation Lighthorse Police Chief for a show cause hearing pursuant to the extradition laws of the Nation.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 604. Limitation on Arrests in the Home.

A person may be arrested in the home of the person only in the following circumstances:

(a) By a law enforcement office pursuant to an arrest warrant.

(b) By a law enforcement officer for an offense committed in the home in the presence of the officer.

(c) By a law enforcement officer in continuous pursuit of a person who flees to his home to avoid arrest.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 605. Notification of Rights.

(a) Upon arrest, the Defendant shall be notified that the Defendant has the following rights:

(1) The right to remain silent and that any statements made by the Defendant may be used against him in District Court.

(2) That the Defendant has the right to obtain an attorney at his own expense and to have an attorney present at any questioning.

(3) That if the Defendant wishes to answer the questions of the Seminole Nation Lighthorse Policy the Defendant may stop or request time to speak with his attorney at any point in the questioning.

(b) Prior to conducting a consensual warrantless search pursuant to Section 601(h) (2) or (3) of this Chapter, the officer shall specifically inform the person to be searched or the person in charge of the property to be searched that:

(1) The search will be conducted only with the person's consent.

(2) That the person is under no obligation or requirement to consent to the search and may refuse to consent to the search if he chooses to do so, or request the advice of an attorney at his own expense prior to responding to the requested consent to the search.

(3) That if the person refuses to consent to the search, the officer will not search the person or property without first obtaining a warrant from the District Courts.

(c) Whenever possible, the officer should obtain a written statement that the person knows these rights, understands, and waives them prior to taking a voluntary statement from a Defendant or conducting a warrantless consensual search, provided that the absence of such a written statement does not preclude the admission of the statement or other evidence if the District Court determines that the statement or consent to search were voluntary.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 606. Executive Order for Relief From Judgment.

(a) The Principal Chief of the Nation shall have authority to pardon, or commute any judgment and sentence imposed for any criminal offense upon a determination that pardon or commutation of sentence promotes the ends of justice.

(b) Such pardon or commutation will be entered by filing a copy of the proposed action with the District Court Clerk for a period of sixty (60) days after a copy of the proposed executive action has been submitted for approval to each Justice of the Supreme District Court and to each member of the General Council. If, within sixty (60) days after the filing thereof, with proof of service, any such Justice or Council Member shall disapprove the proposed pardon or commutation with written reasons, in a writing delivered to the Principal Chief and filed with the District Court Clerk, such proposed pardon or commutation shall not be approved. Otherwise, upon expiration of the sixty (60) day period, the pardon or commutation may be issued by the Principal Chief of the Nation.

(c) Upon the filing of written reasons for disapproval of such proposed pardon or commutation by any Justice or General Council Member referred to in (b) above, the Principal Chief may order the proposed pardon or commutation to be placed on the ballot for the next regularly scheduled election to determine, by referendum vote of the Nation, whether such pardon or commutation shall be granted. The vote of the People of the Nation shall be conclusive.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 607. Arrest in Cases of Domestic Abuse.

Notwithstanding the provisions of Section 604 of this Title,

(a) As used in this section:

(1) "Domestic Abuse" means any criminal offense defined by Chapter 1 of Title 7 of the Seminole Code of Laws when the victim and the perpetrator are family or household members.

(2) "Family or Household Members" means spouses, ex-spouses, former spouses, parents, children, persons otherwise related by blood or marriage, or persons living in the same household or who formerly lived in the same household, including the elderly and the handicapped.

(b) Seminole Nation Lighthorse Police or cross deputized law enforcement officers may arrest without a warrant a person anywhere, including his place of residence, if the law enforcement officer has probable cause to believe the person within the preceding four (4) hours,

has committed an act of domestic abuse as defined by this section, although the assault did not take place in the presence of the law enforcement officer, if the law enforcement officer has first observed a recent physical injury to, or an impairment of the physical condition of, the alleged victim.

(c) A law enforcement officer shall not discourage a victim of domestic abuse from pressing charges against the assailant of the victim, provided, that the law enforcement officer may require the victim to sign a Complaint in such matters.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

CHAPTER SEVEN
BAIL

Section 701. Release in Nonbanishment Cases Prior to Trial.

(a) Any person charged with an offense, other than an offense punishable by banishment, shall, at his appearance before a Judge of the District Court, be ordered released pending trial on his personal recognizance or upon execution of an unsecured appearance bond in an amount specified by such judicial officer subject to the condition that such person shall not attempt to influence, injure, tamper with or retaliate against an officer, juror, witness, informant, or victim or violate any other law, unless the judicial officer determines in the exercise of his discretion, that such a release will not reasonably assure the appearance of the person as required.

When such determination is made, the judicial officer shall, either in lieu of or in addition to release on personal recognizance or execution of an unsecured appearance bond, impose one or any combination of the following conditions of release which will reasonably assure the appearance of the person for trial:

(1) Place the person in the custody of a designated person or organization agreeing to supervise him;

(2) Place restrictions on the travel, association, or place of abode of the person during the period of release;

(3) Require the execution of an appearance bond in a specified amount and the deposit in the registry of the District Court, in cash or other security as directed, of a sum not to exceed ten percent (10%) of the amount of the bond, such deposit to be returned upon the performance of the conditions of release;

(4) Require the execution of a bail bond with sufficient solvent sureties, or the deposit of cash in lieu thereof; or

(5) Impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hour.

(b) In determining which conditions of release will reasonably assure appearance, the judicial officer shall, on the basis of available information, take into account the nature and circumstances of the offense charged, the weight of the evidence against the accused, the accused's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and his record of appearance at District Court proceedings or of flight to avoid prosecution or failure to appear at District Court proceedings.

(c) A judicial officer authorizing the release of a person under this section shall issue an appropriate order containing a statement of the conditions imposed, if any, shall inform such

person of the penalties applicable to violations of the conditions of his release and shall advise him that warrant for his arrest will be issued immediately upon such violation.

(d) A person for whom conditions of release are imposed and who after seventy-two hours from the time of the release hearing continues to be detained as a result of his inability to meet the conditions of release, shall, upon application, be entitled to have the conditions reviewed by the judicial officer who imposed them. Unless the conditions of release are amended and the person is thereupon released, the judicial officer shall set forth in writing the reasons for requiring the conditions imposed. A person who is ordered released on a condition which requires that he return to custody after specified hours shall, upon application, be entitled to a review by the judicial officer who imposed the condition. Unless the requirement is removed and the person is thereupon released on another condition, the judicial officer shall set forth in writing the reasons for continuing the requirement. In the event that the judicial officer who imposed conditions of release is not available, any other judicial officer of the District Court may review such conditions.

(e) A judicial officer ordering the release of a person on any condition specified in this section may at any time amend his order to impose additional or different conditions of release: Provided, That, if the imposition of such additional or different conditions results in the detention of the person as a result of his inability to meet such conditions or in the release of the person on a condition requiring him to return to custody after specified hours, the provisions of subsection (d) shall apply.

(f) Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a District Court of law.

(g) Nothing contained in this section shall be construed to prevent the disposition of any case or class of cases by forfeiture of collateral security where such disposition is authorized by the District Court, nor to prevent the District Court by rule from authorizing and establishing a Policeman's Bail Schedule for certain offenses or classes of offenses through which a person. arrested may post bail with the Chief of the Lighthorse Police for transmittal to the District Court Clerk and obtain his release prior to his appearance before a Judicial officer.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 702. Appeal from Conditions of Release.

(a) A person who is detained, or whose release on a condition requiring him to return to custody after specified hours is continued, after review of his application pursuant to Section 701(d) or Section 701(e) by a Judge of the District Court, may move the District Court to amend the order and have such motion determined by a Judge of the District Court. Said motion will be determined promptly.

(b) In any case in which a person is detained after: (1) a Judge of the District Court denies a motion, under subsection (a) above, to amend an order imposing conditions of release; or (2) conditions of release have been imposed or amended by a Judge of the District Court, an appeal may be taken to the Supreme Court. Any order so appealed shall be affirmed if it is supported by the proceedings below. If an order is not so supported, the Supreme Court may remand the case for further hearing, or may, with or without additional evidence, order the person released pursuant to Section 701 upon such conditions as the Supreme District Court determines to be proper and this appeal shall be determined promptly.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 703. Release in Banishment Cases or After Conviction.

A person: (1) who is charged with an offense punishable by banishment; or (2) who has been convicted of an offense and is either awaiting sentence or has filed an appeal, shall be treated in accordance with the provisions of Section 701 unless the District Court or Judge has reason to believe that no one or more conditions of release will reasonably assure that the person will not flee or pose a danger to any other person or to the community. If such a risk of flight or danger is believed to exist, or if it appears that an appeal is frivolous or taken for delay, the person may be ordered detained. The provisions of Section 702 shall not apply to person described in this Section.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 704. Penalties for Failure to Appear.

Whoever, having been released pursuant to this Chapter willfully fails to appear before the District Court or a judicial officer as required, shall incur a forfeiture of any security which was given or pledged for his release, and in addition, shall: (1) if he was released in connection with a charge having banishment as a possible punishment, or while awaiting sentence or pending appeal after conviction of any offense having had banishment imposed as a part of the sentence, be subject to a fine of $5,000.00 and imprisonment for a term of one (1) year, and if banishment is imposed one year shall be added to the term of banishment otherwise imposed; or (2) if he was released in connection with a charge other than as described, in (1) above, he shall be fined not more than the maximum provided for the offense charged or imprisoned for not more than one (1) year or both; or (3) if he was released for appearance as a material witness, shall be fined not more than Two Hundred Fifty Dollars ($250.00) or imprisoned for not more than three (3) months or both.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 705. Person or Classes Prohibited as Bondsmen.

The following persons or classes shall not be bail bondsmen and shall not directly or indirectly receive any benefits from the execution of any bail bond: jailers, police officers, magistrates, judges, District Court clerks, prosecutors or any other person having the power to arrest or having anything to do with the control of Tribal prisoners.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 706. Authority to Act as Bail Bondsmen.

Any person authorized to act as bail bondsmen or runners in the federal or state District Courts shall be qualified to act as bondsmen and runners in the District Court, and be liable to the same obligations as in their licensing jurisdiction and comply with all orders and rules of the Supreme Court and District Court.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

CHAPTER EIGHT
INTENSIVE SUPERVISION & PROBATION

Section 800. Intensive Supervision Program – Probation Department Policy and Procedures.

(a) Probation Officers shall be officers of the District Court, and the District Court Clerk shall supervise all Probation Officers.

(b) Probation Officers shall work with the Social Services Department and other Departments of the Nation to staff a treatment plan for a Defendant who has received a deferred adjudication pursuant to the Community Court provisions of Chapter 3 of Title 5A of the laws of the Nation.

(c) Probation Officers shall work forty (40) hours per week. These hours may be set by each Probation Officer for the convenience of his or her clients.

(d) Probation Officers shall have full police powers and shall assist the Lighthorse Police Department when needed. In emergencies, Probation Officers shall contact the Lighthorse Police Department as soon as possible to determine whether their services are required.

(e) Probation Officers shall enforce all orders of the District Court when ordered to do so, in professional and District Courteous manner.

(f) Probation Officers are responsible for keeping a record of all clients assigned to the Probation Department.

(g) Probation Officers shall carry proper credentials identifying themselves as an officer of the Seminole Nation at all times.

(h) Probation Officers shall furnish his own transportation and keep it in a dependable condition and liability insured. Probation Officers shall be paid a mileage fee.

(i) Probation Officers shall dress in a neat and clean, professional manner when on duty.

(j) Probation Officers shall attend schools and training to further their professional education when such training is available.

(k) Probation Officers shall abide by all laws and policies of the Seminole Nation, unless otherwise stipulated in writing.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 801. Appointment of Probation Officers.

The District Court Judge may appoint such Probation Officers, Court Clerks, and other persons as may be required to carry out the work of the District Court, subject to General Council approval of the expenditure of tribal funds to pay such persons. Probation Officers of the District Court may also serve the Juvenile District Court as established by the Seminole Nation in the Juvenile Code.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 802. Duties and Powers of Probation Officers.

The Probation Officer shall make preliminary inquiries and social studies and such other investigations as the Judge may direct, and shall keep written records of such investigations or studies, and shall make reports to the Judge as provided in this Code or as directed by the Judge. Upon the placing of any person upon probation or under protective supervision, the Probation Officer shall explain to the child, if old enough, and the parents and other persons concerned, what the meaning and conditions of probation or protective supervision are and shall give them the necessary instructions. The Probation Officer shall keep informed concerning the conduct and conditions of each person on probation or under protective supervision and shall report thereon to the District Court as the District Court may direct. Probation Officers shall use all suitable methods to aid persons on probation or under protective supervision to bring about improvements in their conduct or condition, and shall perform such other duties in connection with the care, custody or transportation of children as the District Court may require. Probation Officers shall have the powers of police officers for purposes of this Code and the Juvenile Code but shall, whenever possible, refrain from exercising such powers except in urgent situations in which a regular police officer is not immediately available.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 803. Suspension of Sentence and Probation.

(a) Except as otherwise provided in this code, the District Court shall have the authority to suspend the imposition of sentence on a person who has been convicted of an offense or to place him on probation as provided herein.

(b) When the District Court suspends the imposition of sentence on a person who has been convicted of a crime or sentences him to be placed on probation, it shall attach such reasonable conditions, as authorized herein, as it deems necessary to insure that he will lead a law abiding life or likely to assist him to do so.

(c) The District Court, as a condition of its order suspending a sentence or probation, may require the Defendant:

(1) to meet his family responsibilities;

(2) to devote himself to a specific employment or occupation;

(3) to undergo available medical or psychiatric or other rehabilitative treatment and to enter and remain in a specified institution, when required for that purpose;

(4) to attend social services as required to address the underlying causes of the Defendant's criminal activity and listed in the deferred adjudication agreement pursuant to Chapter 3 of Title 5A;

(5) to attend Domestic Violence, anger management or parenting classes;

(6) to pursue a prescribed secular course of study or vocational training;

(7) to attend or reside in a facility established for the instruction, recreation or residence of persons on probation;

(8) to refrain from frequenting unlawful or disreputable places or consorting with disreputable persons;

(9) to refrain from all use of intoxicants, narcotic, or drugs, the sale of which is controlled by the Nation or by a Tribal, federal, State government, unless taken or used under a doctor’s orders and obtained by a doctor’s prescription;

(10) to have in his possession no firearm or other dangerous weapon unless granted written permission by the District Court or the Probation Department;

(11) to make restitution to the victims of the crime committed by the Defendant or to make reparation, in an amount he can afford to pay, for the loss or damage caused by the crime;

(12) to remain within the jurisdiction of the District Court and notify the District Court or the Probation Officer of any change of address or employment;

(13) to report as directed to the District Court or the Probation Officer and to permit the officer to visit his home;

(14) to post a bond, with our without surety, conditioned on the performance of any of the foregoing obligations;

(15) to pay all or part of a fine and/or District Court costs imposed in the original sentence;

(16) to satisfy any other conditions reasonably related to the rehabilitation of the Defendant and not incompatible with his freedom of conscience or unduly restrictive of his liberty given his status.

(d) The Defendant shall be given a copy of the requirements of his probation stated with sufficient specificity to enable him to guide himself accordingly.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 804. Period of Suspension or Probation; Modification.

(a) During the period of suspension or probation, the District Court, on application of the Probation Officer or of the Defendant, or on its own motion, may modify the requirements imposed on the Defendant or add further requirements consistent with the rehabilitative needs of the Defendant or may discharge the Defendant, after notice to the parties and hearing if requested.

(b) Upon the successful termination of the period of suspension or probation, or the earlier discharge of the Defendant, the Defendant may be relieved of any obligations imposed by the District Court order and shall have satisfied his sentence for the offense.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 805. Violation of Terms of Suspension or Probation.

(a) At any time before the discharge of the Defendant or the termination of the period of suspension or probation:

(1) the District Court may summon the Defendant to appear before it or it may issue a warrant for his arrest;

(2) a probation or law enforcement officer, having probable cause to believe the Defendant has failed to comply with a requirement imposed as a condition of the probation order or that he had committed another crime, may arrest him without a warrant;

(3) the District Court, if there is probable cause to believe that the Defendant has committed another crime or if he has been held to answer therefore, may commit him without bail, pending a determination of the charge by the District Court;

(4) the District Court, if satisfied or has probable cause to believe that the Defendant has inexcusably failed to comply with a substantial requirement imposed as a condition of the suspension or probation order, or if he has been convicted of another

crime, or the District Court has probable cause to believe the Defendant has committed a crime, may revoke the suspension or probation and re-impose the original sentence.

(b) The District Court shall not revoke suspension or probation or increase the requirements imposed thereby except after a hearing upon written notice to the Defendant of the grounds on which such action is proposed. The Defendant shall have the right to hear and controvert the evidence against him, to offer evidence in his defense and to be represented by counsel of his choice at his own expense.

(c) Whenever a Defendant is taken into and held in custody as provided in this section for violation of suspension or probation conditions other than the alleged commission of an offense, he shall be entitled to have his sentence considered by the District Court within one hundred forty four (144) hours of his confinement, excluding weekends and holidays, unless he requests further time to prepare his defense.

(d) Only the District Court has the power to set bail for Defendants taken into custody as provided by this section and no bail shall be set until the District Court has done so. Any bail or bond must be a cash bond or certified funds such as a cashier's check or money order. The District Court, without hearing, may forfeit the bond and apply it to fines and or restitution not yet paid by the Defendant if the Defendant's sentence is revoked in whole or in part.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 806. Order Removing Disqualification or Disability Based on Conviction.

When the District Court has suspended sentence or has sentenced the Defendant to be placed on probation and the Defendant has fully complied with the requirements imposed as a condition of such order and has satisfied the sentence, the District Court may order that so long as the Defendant is not convicted of another offense, the judgment shall not constitute a conviction for the purpose of any disqualification or disability imposed by law upon conviction of a crime or offense.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 807. Final Judgment.

A judgment suspending sentence or sentencing a Defendant to be placed on probation shall be deemed tentative to the extent such is modifiable as provided herein, but for all other purposes shall constitute a final judgment.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 808. Trials – Suspension of Sentence – Probation.

(a) If it appears that there are circumstances in mitigation of the punishment, or that the ends of justice will be served thereby, the District Court may, in its discretion, place the Defendant upon probation in the following manner:

(1) The District Court may suspend the imposing of sentence and may direct that the suspension continue for such period of time, not exceeding the maximum term of sentence which may be imposed, and upon such terms and conditions as the District Court determines, and shall place such person on probation, under the charge and supervision of the Probation Officer of the District Court during such suspension.

(2) If the sentence is to pay a fine, and the Defendant is imprisoned until the fine is paid, the District Court, upon imposing sentence, may direct that the execution of the sentence of imprisonment be suspended for such period of time, not exceeding the maximum term of sentence which may be imposed on such terms as it determines. The Defendant shall be on probation, under the charge and supervision of the Probation Officer during such suspension, for the purpose of giving the Defendant an opportunity to pay the fine. Upon payment of the fine, the sentence shall be satisfied and the probation cease.

(b) Upon the revocation and termination of the probation, the District Court may, if the sentence has been suspended, pronounce sentence at any time after the suspension of the sentence within the longest period for which the Defendant might have been sentenced, but if the sentence has been pronounced and the execution thereof has been suspended, the District Court may revoke such suspension, whereupon the sentence shall be in full force and effect, and the person shall be delivered to the proper officer to serve sentence.

(c) The District Court may at any time during the period of probation revoke or modify its order of suspension of imposition or execution of sentence. It may at any time, when the ends of justice will be served thereby, and when good conduct and reform of the person so held on probation warrants it, terminate the period of probation and discharge the person so held, and in all instances, if the District Court has not seen fit to revoke the order of probation and impose sentence or pronounce sentence, the Defendant shall, at the end of the term of probation, be discharged by the District Court.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 809. Probation Officers.

(a) A Probation Officer shall have the authority of a police officer to make arrest for violation of probation or parole agreements.

(b) The Probation Officers, subject to the supervision of the chief judge, shall have the responsibility of assuring the faithful performance of probation agreements by persons

subject thereto, counseling such persons and their families, preparing pre-sentence or other reports as requested by a District Court Judge, and perform other duties as directed by a District Court Judge or otherwise required by law.

(c) A Probation Officer shall have the authority of a police officer to make arrest for violation of probation agreements.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

CHAPTER NINE
GRAND JURY

Section 901. Calling the Grand Jury.

Upon written petition of the Prosecuting Attorney, any judge of the District Court shall order a Grand Jury to be convened.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 902. Term of the Grand Jury.

Except as hereinafter provided, and except in the case of special Grand Juries called to investigate a particular circumstance, a term of the Grand Jury shall not continue longer than one hundred twenty (120) days after the date upon which it is impaneled and sworn.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 903. Selection and Qualifications of Jurors.

Grand Jurors shall be selected and qualified as provided in Chapter Three of Title 7 of the Seminole Nation Code of Laws.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 904. Grand Jury Defined.

A Grand Jury is a body consisting of six jurors impaneled and sworn to inquire into and true presentment make of all public offenses against the Nation committed or subject to prosecution within the jurisdiction of the Nation. Any five of the grand jurors concurring may find an indictment or return a true bill.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 905. Challenge of Grand Jury.

The Nation, or a person held to answer a charge for a public offense, may challenge the panel of a Grand Jury, or an individual Grand Juror.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 906. Grounds for Challenge to Panel.

A challenge to the panel may be interposed by either party for one or more of the following causes only:

(a) That the requisite number of ballots was not drawn from the Jury wheel of the Nation.

(b) That the drawing was not conducted in the presence of the officers designated by law, or in the manner prescribed by law.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 907. Jury Discharged if Challenge Allowed.

If a challenge to the panel be allowed, the Grand Jury must be discharged.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 908. Grounds for Challenge to Juror.

A challenge to an individual Grand juror may be interposed by either party, for one or more of the following causes only:

(a) That he is a minor.

(b) That he is not a qualified juror.

(c) That he is otherwise disqualified under any of the provisions of law, in relation to the qualification of grand jurors.

(d) That he is insane.

(e) That he is a Prosecutor upon a charge against the Defendant.

(f) That he is a witness on the part of the Prosecution and has been served with process by an undertaking as such.

(g) That a state of mind exists on his part in reference to the case, which will prevent him from acting impartially and without prejudice to the substantial rights of the party

challenging; but no person shall be disqualified as a grand juror, by reason of having formed and expressed an opinion upon the matter or cause to be submitted to such Jury, founded upon public rumor, statements in public journals, or common notoriety, provided it satisfactorily appear to the District Court, upon his declaration, under oath, or otherwise, that he can and will, notwithstanding such opinion, act impartially and fairly upon the matters to be submitted to him.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 909. Challenge May be Oral or Written – How Adjudicated.

Challenges may be oral or in writing, and must be adjudicated by the District Court.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 910. Ruling on Challenge.

The District Court must allow or disallow the challenge and the Court Clerk must enter its decision upon the record of the District Court if demanded.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 911. Effect of Challenge Allowed.

If a challenge to an individual Grand Juror is allowed, he cannot be present at, or take part in the consideration of the charge against the Defendant who interposed the challenge, or the deliberations of the Grand Jury thereon.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 912. Violation, Where Challenge Allowed.

The Grand Jury must inform the District Court of a violation of the last section and it is punishable by the District Court as contempt.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 913. Challenge to be Made Before Jury is Sworn – Exception.

Neither the Nation, nor a person held to answer a charge for a public offense, can take advantage of any objection to the panel or to an individual grand juror unless it be by challenge, and before the Grand Jury is sworn, except that after the Grand Jury is sworn, and before the indictment is found, the District Court may, in its discretion, upon a good cause shown, receive and allow a challenge.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 914. New Grand Jury in Certain Cases.

If the Grand Jury is discharged by the allowance of a challenge to the whole panel; or if from any cause, in the opinion of the District Court, another Grand Jury may become necessary; the District Court may in its discretion order that another Grand Jury be summoned.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 915. Special Grand Jury.

(a) A Grand Jury formed and impaneled as to a particular case(s), after a challenge or challenges to individual Grand Jurors have been allowed, shall be sworn to act only in such particular case(s), and as to all other cases at the same term of the District Court the Grand Jury shall be formed in the usual manner provided by law.

(b) A special Grand Jury may continue in existence for such period of time as may be necessary to properly act in the particular case(s) for which it is formed.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 916. District Court to Appoint Foreman.

From the persons summoned to serve as Grand Jurors, and appearing, the District Court must appoint a foreman. The District Court must also appoint a foreman when a person already appointed is discharged or excused before the Grand Jury are dismissed.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 917. Oath to Foreman.

The following oath must be administered to the foreman of the Grand Jury:

> You, as foreman of this Grand Jury, shall diligently inquire into, and true presentment make, of all public offenses against the Seminole Nation, committed or subject to prosecution within the jurisdiction of this District Court, of which you shall have or can obtain legal evidence. You will keep your own counsel, and that of your fellows, and of the Seminole Nation, and will not, except when required in the due course of judicial proceedings, disclose the testimony of any witness examined before you, nor anything which you or any other grand juror may have said, nor the manner in which you or any other grand juror may have voted on any matter before you. You shall present no person through malice, hatred, or ill will, nor leave any unpresented through fear, favor or affection, or for any reward, or the promise or hope thereof; but in all your presentments, or indictments, you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding. So help you God.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 918. Oath to Other Grand Jurors.

The following oath must be administered to all members of the Grand Jury, not including the Foreman:

> You shall diligently inquire into, and true presentment make, of all public offenses against the Seminole Nation, committed or subject to prosecution within the jurisdiction of this District Court of which you shall have or can obtain legal evidence. You will keep your own counsel, and that of your fellows, and of the Seminole Nation, and will not, except when required in the due course of judicial proceedings, disclose the testimony of any witness examined before you, nor anything which you or any other grand juror may have said, nor the manner in which you or any other grand juror may have voted on any matter before you. You shall present no person through malice, hatred, or ill will, nor leave any unpresented through fear, favor or affection, or for any reward, or the promise or hope thereof; but in all your presentments, or indictments, you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding. So help you God.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 919. Reserved.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 920. Charge to Grand Jury.

The Grand Jury, being impaneled and sworn, must be charged by the District Court. In doing so the District Court must give them such information as it may deem proper as to the nature of their duties, and as to the charges for public offenses returned to the District Court, or likely to come before the Grand Jury.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 921. Jury to Retire.

The Grand Jury must then retire to a private room and inquire into the offenses cognizable by them.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 922. Grand Jury Must Appoint Clerk.

The Grand Jury must appoint one of their number a clerk, who must preserve minutes of their proceedings, except of the votes of the individual members, and of the evidence given before them.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 923. Charge of Grand Juror.

A member of the Grand Jury may for ill health of himself or immediate family, or other cause rendering him unable to serve, be discharged before the term is ended or the labor of the Grand Jury completed; or if the Judge becomes satisfied that any grand juror is willfully refusing to discharge his duty, the District Court may order his discharge. In either event or in case of the death of one or more grand jurors, as many names as the District Court may order shall be drawn from the Jury wheel in the same manner the original grand jurors were drawn, and from the names so drawn that shall be summoned as many grand jurors as can be found and are able to attend as necessary, and if found they shall be summoned in the order in which their names were drawn from the wheel. If the number be not thus obtained there shall be another drawing in the

same manner. When a sufficient number so drawn appears to fill the panel, the Grand Jury shall in open District Court be re-impaneled, but subject to challenge and be charged and sworn in the same manner as when the Grand Jury was originally impaneled.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 924. Discharge of Grand Jury.

On the completion of the business before the Grand Jury, or completion of the statutory time limit for sessions of a Grand Jury, or whenever the District Court shall be of the opinion that the public interests will not be served by further continuance of the session, the Grand Jury must be discharged, but whether the business be completed or not they are to be discharged not later than one hundred twenty (120) days after the date on which they be first impaneled.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 925. General Powers and Duties of Grand Jury.

The Grand Jury has power to inquire into all public offenses committed or subject to prosecution in the jurisdiction of the Nation, and to present them to the District Court, by indictment or accusation in writing.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 926. Foreman to Swear Witness.

The foreman may administer an oath to any witness appearing before the Grand Jury.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 927. Evidence Before Grand Jury.

In the investigation of a charge for the purpose of presenting an indictment or accusation, the Grand Jury may receive the written testimony of the witness taken in a preliminary examination of the same charge, and also the sworn testimony prepared by the Prosecuting Attorney without bringing those witnesses before them, and may hear evidence given by witnesses produced and sworn before them, and may also receive legal documentary evidence. Each indictment or accusation shall be voted on separately by the Grand Jury.

Section 928. Hearsay Inadmissible.

The Grand Jury may not receive hearsay or secondary evidence.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 929. Evidence for the Accused – Procuring Additional Evidence.

The Grand Jurors, upon request of the accused, shall, and on their own motion may, hear the evidence for the accused. It is their duty to weigh all the evidence submitted to them and when they have reason to believe that there is other evidence, they may order such evidence to be produced, and for that purpose the Prosecuting Attorney shall cause process to issue for the witnesses.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 930. Indictment to be Found When.

The Grand Jury ought to find an indictment when all the evidence before them, taken together, is such as in their judgment would, if unexplained or uncontradicted, warrant a conviction by the trial District Court or jury.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 931. Members to Give Evidence.

If a member of the Grand Jury knows, or has reason to believe, that a public offense has been committed, which is eligible to submit for trial in the jurisdiction of the Nation, he must declare the same to his fellow jurors, who must thereupon investigate the same.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 932. Subjects for Inquiry by Grand Jury.

The Grand Jury must inquire:

(a) Into the case of every person imprisoned in the jail utilized by the Nation, on a criminal charge, and not indicted or formally charged by information.

(b) Into the condition and management of the jail utilized by the Nation; and,

(c) Into the willful, wrongful, or corrupt misconduct in office of public officers of every description in the jurisdiction of the Nation.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 933. Access to Prisons and Records.

The Grand Jury is also entitled to free access at all reasonable times, to the tribal jail, and to the examination, without charge, of all public records of the Nation.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 934. Advice of District Court or Prosecuting Attorney – Who May Be Present.

The Grand Jury may at all reasonable times ask the advice of the District Court or of the Prosecuting Attorney. In no event shall the Grand Jury be advised as to the sufficiency or insufficiency of the evidence necessary to return a true bill, in a matter under investigation before them. The Prosecuting Attorney, with or without a regularly appointed Assistant Prosecuting Attorney individually or collectively, may at all times cause to be issued subpoenas for the attendance of witnesses and other evidence, appear before the Grand Jury for the purpose of giving information or advice relative to any matter cognizable before them, and may interrogate witnesses before them whenever he thinks it necessary. A qualified District Court Clerk or reporter shall be present and take the testimony of all witnesses as in cases at trial and upon request a transcript of said testimony or any portion thereof shall be made available to an accused or the Prosecuting Attorney, at the expense of the requesting party or officer. But no other person is permitted to be present during their sessions except the members and a witness actually under examination, except that an interpreter, when necessary, may be present during the interrogation of a witness. Provided that, no person, except the members of the Grand Jury, shall be permitted to be present during the expression of their opinions or the giving of their votes upon any matter before them.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 935. Proceedings Kept Secret.

Every member of the Grand Jury must keep secret whatever he himself or any other grand juror may have said or in what manner he or any other grand juror may have voted on a matter before them.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 936. Juror May Disclose Proceedings, When.

A member of the Grand Jury may, however, be required by any District Court to disclose the testimony of a witness examined before the Grand Jury for the purpose of ascertaining whether it is consistent with that given by the witness before the District Court, or to disclose the testimony given before them by any person, upon a charge against him for perjury in giving his testimony or upon his trial thereof.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 937. Privilege of Grand Juror.

A Grand Juror cannot be questioned for anything he may say, or any vote he may give in the Grand Jury, relative to a matter legally pending before the Jury, except for a perjury of which he may have been guilty in making an accusation of giving testimony to his fellow jurors.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 938. Interpreter – Appointment – Compensation.

(a) Upon the request of either the Prosecuting Attorney, or the Grand Jurors, a District Judge shall appoint, whenever necessary, an interpreter, and shall swear him to secrecy, not to disclose any testimony or the name of any witness which shall be presented to the Grand Jury except when testifying in a District Court of record.

(b) The compensation for any interpreter thus appointed shall be fixed and allowed by the judge appointing him, and such fees, when earned, may be allowed and paid from time to time as they accrue, and shall be paid from the funds from which the grand jurors are paid.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 939. Restriction on Sessions Before and After Elections.

No Grand Jury shall be convened or remain in session during a period beginning thirty (30) days before any primary, run-off primary, or general election, for elected office of the Seminole Nation, and ending ten (10) days after such primary, run-off primary, or general election. Any Grand Jury in session at the commencement of any such period shall be discharged forthwith.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]

Section 940. Reports of Investigations of Public Offices or Institutions.

In addition to any indictments or accusations that may be returned, the Grand Jury, in their discretion, may make formal written reports as to the condition and operation of any public office or public institution investigated by them. No such report shall charge any public officer, or other person with willful misconduct or malfeasance, nor reflect on the management of any public office as being willful and corrupt misconduct. It being the intent of this section to preserve to every person the right to meet his accusers in open District Court and be heard, in open District Court, in his defense.

[HISTORY: Ordinance No. 2009-03, December 5, 2009;
Approved by BIA February 2, 2012]