



QUAPAW TRIBE OF OKLAHOMA-LAW AND ORDER CODE

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that the following ordinance shall be enacted as the law of the Tribe to be codified as Title 11 of the Quapaw Code of Laws:

1 **CHAPTER 1. INTRODUCTION & DEFINITIONS**

2 **§ 1. General History**

3 Recognizing the sovereign right to and the necessity of a forum to
4 provide for the fair administration of justice, the Quapaw Tribal Business
5 Committee established the Tribal Courts of the Quapaw Tribe of Oklahoma
6 (O-Gah-Pah) on February 21, 2009, by Resolution No. 022109-D.

7 **§ 2. Title**

8 This ordinance shall be known as the “Quapaw Law and Order Code.”

9 **§ 3. Interim Law Superseded**

10 This Title supersedes all interim laws that the Quapaw Tribal
11 Business Committee has instructed the Quapaw Tribal Courts to apply (Part
12 11 of the Code of Federal Regulations Subpart D) for criminal offenses
13 under Resolution No. 022109-D. Part 11 of the Code of Federal
14 Regulations Subpart D no longer applies to criminal offenses within
15 Quapaw tribal jurisdiction.

16 **§ 4. Construction and Application**

17 (a) The Quapaw Tribe intends by enacting this Title 11 to define
18 certain criminal offenses to provide for the welfare and safety of Quapaw
19 citizens and visitors to Quapaw Indian Country. Following the traditions of
20 the Quapaw Tribe, this Title 11 is intended to promote behavior through
21 teaching, service and, if required, punishment.

22 (b) The courts of the Quapaw Tribe must construe this Title 11
23 so as to carefully guard the rights of the accused.

24 (c) In applying this Title 11, the Quapaw Tribal Courts are to
25 take into account Quapaw traditions and customs concerning the
26 interpretation and implementation of this Title.

27 (d) The Quapaw Tribal Courts are authorized to use (1) fines,
28 (2) imprisonment, (3) educational requirements, (4) restitution, (5) property
29 forfeiture, (6) Banishment, and (7) any other punishments provided by the
30 Quapaw Tribal Business Committee as a mechanism to address crime in
31 Quapaw Indian Country. The educational requirements may include (but
32 are not limited to) requiring vocational-tech training, GED training, college
33 classes or other counseling or training as the court determines.

34 (e) For repeat offenders, the Quapaw Tribal Courts should
35 impose increasingly harsh punishments.

1 (f) This Title 11 will apply to all Persons as defined in Section 6
2 of this Chapter to the extent not inconsistent with federal law.

3 (g) For this Title 11, the following are considered separate
4 offenses punishable by a separate violation:

5 (1) each act, event, transaction and/or occurrence that
6 violates this Title 11;

7 (2) each day any violation occurs or continues.

8 **§ 5. Prosecution**

9 (a) The Criminal Procedure Code as adopted by the Tribal
10 Business Committee establishes the manner of prosecuting and convicting
11 individuals for crimes under this Title 11.

12 (b) Prosecution under this Title 11 does not prevent any civil
13 action or judgment.

14 (c) Exclusions: The Quapaw Tribe as a matter of public policy
15 will not prosecute the following under this Title 11:

16 (1) She-she-ga (children under the age of seven years);

17 (2) Ah-zhin-ga-zhi (children over the age of seven years,
18 but under the age of fourteen years who can prove that they did not
19 understand the wrongfulness of their actions when they committed a
20 crime under this Title 11);

21 (3) Wa-h-hung-ga-zhe (individuals who are impaired by
22 reason of a mental condition who can prove they were incapable of
23 knowing the wrongfulness of their actions when they committed a
24 crime under this Title 11);

25 (4) Individuals who committed a crime under this Title
26 11 but can prove that they were operating under a situation which
27 disproves any criminal intent, including:

28 i) committing the crime under an ignorance or
29 mistake of fact—provided however, that ignorance of the
30 law does not excuse such Persons from punishment for a
31 violation of the law; or

32 ii) committing the crime without being conscious
33 of their actions; or

34 iii) committing the crime while under involuntary
35 control of another in a superior position that creates a
36 situation of duress for the Individual committing the crime;
37 or

38 iv) committing the crime while under the

1 direction of a He-tah (Law Enforcement Officer) or an
2 authorized emergency response provider; or

3 v) when aiding a He-tah or other emergency
4 worker and the crime was committed in good faith during
5 such aid.

6 (d) The Quapaw Tribal Business Committee directs the Tribal
7 Prosecutor to:

8 (1) In the discretion of the Tribal Prosecutor, charge any
9 Individual with any applicable crimes under this Title 11 where the
10 Quapaw Tribe exerts exclusive tribal authority.

11 (2) Coordinate with federal authorities in matters of
12 concurrent jurisdiction under 18 U.S.C. § 1152 or § 1153 in such a
13 manner as to most effectively promote justice and the health and
14 welfare of the Quapaw Tribe and conserve the legal resources of the
15 Quapaw Tribe. In making the decision to charge any Individual, the
16 Tribal Prosecutor under this Title where a federal charge could
17 instead occur, the Tribal Prosecutor should recognize that 25 U.S.C.
18 § 1302(7) limits the punishment for each conviction by a tribe.

19 (3) Work with federal authorities to seek justice on
20 behalf of Indian victims of crimes committed by Non-Indians in
21 Quapaw Indian Country using applicable federal laws and
22 obligations under the United States' treaty obligation to protect the
23 Quapaw people "in their new residence, against all interruption or
24 disturbance from any other tribe or nation of Indians or from any
25 person or persons whatever." Treaty with the Quapaw, 1833,
26 Article II. (Kappler, 1904, vol. 2, p. 395, 7 Stat. 424.) and federal
27 authority under 18 U.S.C. § 1152 or § 1153.

28 (4) Work with state authorities to seek justice:

29 i) on behalf of the Quapaw Tribe and the
30 non-Indian visitors to Quapaw Indian Country for crimes
31 committed by non-Indians on other non-Indians in Quapaw
32 Indian Country; and

33 ii) on behalf of the Quapaw Tribe for victimless
34 crimes committed by non-Indians in Quapaw Indian
35 Country.

36 (5) Use the Quapaw Tribe's right to exclude any
37 individual (Indian or non-Indian) from Quapaw Indian Country by
38 using Banishment as a punishment for crimes committed under this
39 Title 11 or a separate measure for non-Indians.

1 **§ 6. Definitions**

2 (a) Generally, the definitions in this section apply only to crimes
3 committed under this Title 11 unless specifically adopted by reference in
4 another Title. A definition within a specific provision of this Title 11 will
5 take precedence over any general definition provided in this section.

6 (b) “Banishment” means punishment by exclusion from Quapaw
7 Indian Country under the Quapaw Tribe’s sovereign right to exclude and
8 that set forth in the Treaty with the Quapaw, 1833, Article II. (Kappler,
9 1904, vol. 2, p. 395, 7 Stat. 424). Banishment may include (at the Tribal
10 Court’s discretion) all or any of the following: (1) suspension of Tribal
11 benefits available to tribal members; (2) suspension of voting rights
12 available to tribal members; and (3) exclusion from all property owned by
13 the Quapaw tribe in fee, trust or restricted status, but does not include
14 restricted property owned by Tribal members. A tribal member may not be
15 excluded from a funeral service on the grounds of the tribal complex. A
16 tribal member under a sentence of exclusion must request and receive
17 special permission from the Tribal Court or the Quapaw Tribal Business
18 Committee to attend General Council and/ or the annual pow-wow.
19 Banishment by the Tribal Court may be appealed to Quapaw courts at any
20 time after the Banishment.

21 (c) “Child” means any Person under eighteen (18) years of age
22 unless the particular offense contains a different definition, in which case
23 the definition in the particular offense will control.

24 (d) “Court” or “Quapaw Tribal Courts” means the courts of the
25 Quapaw Tribe established under Tribal law.

26 (e) “He-Tah” means any officer of the Quapaw Tribal Marshal’s
27 office or any other tribal, state or federal law enforcement officer acting
28 under (a) a cross-deputization agreement with the Quapaw Tribe and in
29 response to a request from any officer of the Tribal Marshal’s office, or
30 (b) an emergency request by the Tribal Marshal.

31 (f) “Indian” (Zh-ani nika-shiga) means a Person who is or
32 qualifies to be a member of a Federally-recognized Indian tribe.

33 (g) “Indian Country” or “Quapaw Indian Country” means all
34 territory described as Indian country within the meaning of Section 1151 of
35 Title 18 and Section 2710 of Title 25 of the United States Code and located
36 within the original boundaries of the Quapaw Indian Territory established
37 by the Treaty with the Quapaw, May 13, 1833, 7 Stat. 424, including,
38 without limitation:

39 1. All dependent Indian communities, irrespective of the
40 Tribe or Tribe which may have any ownership interest

1 2. All Indian allotments the Indian titles to which have
2 not been extinguished including rights-of-way running through the
3 same. For the purpose of enforcement of this Ordinance,
4 extinguishment of the Indian title shall mean the extinguishment of
5 all aspects of the trust title held by the United States for the Indian
6 beneficiaries or the removal of all restrictions imposed upon
7 alienation by the United States to protect the Indian beneficiaries. If
8 any interest in the land, whether surface, mineral, water, or
9 otherwise is held in trust or restricted status, the land will be deemed
10 to be Indian Country;

11 3. All land and waters held in trust by the federal
12 government for or on behalf of the Quapaw Tribe;

13 4. All land and waters owned by the Quapaw Tribe, its
14 agencies or political subdivisions or business entities, in process to
15 achieve trust status under the federal government;

16 5. All land however acquired owned by Quapaw Tribe
17 of Oklahoma, its agencies or political subdivisions, its members and
18 business entities subject to restriction against alienation by the
19 United States; and

20 6. All land however acquired and owned by the Quapaw
21 Tribe of Oklahoma, its agencies or political subdivisions and
22 business entities and not currently in process to achieve trust status
23 under the federal government.

24 7. The term "land" includes all water, property,
25 airspace, surface rights, subsurface rights, natural resources, and any
26 interests therein, notwithstanding the issuance of any patent or right-
27 of-way in fee or otherwise, held by the governments of the United
28 States or the Tribe, existing or in the future;

29 (h) "Individual" means any human being whether Indian or
30 Non-Indian.

31 (i) "Law Enforcement Officer" see "He-Tah."

32 (j) "Non-Indian" means any human being that is not a Person as
33 defined in this Title 11.

34 (k) "Public" means affecting or likely to affect people in a place
35 to which the public has access including highways, schools, prisons,
36 apartments, places of business or amusement, or any neighborhood within
37 Quapaw Indian Country.

38 (l) "Person" means any human being or corporate entity that is a
39 member or entity of the Quapaw Tribe, is a member or entity of another

1 federally recognized Indian tribe, or is a non-Indian human being or
2 corporate entity who has a consensual relationship with the Quapaw Tribe
3 or consents to tribal jurisdiction. Employment by the Quapaw Tribe or
4 participation as an advocate in the Quapaw Tribal Courts represents a
5 consensual relationship with the Tribe.

6 (m) "Tribe" or "Quapaw Tribe" means the Quapaw Tribe of
7 Oklahoma (O-Gah-Pah).

8 **CHAPTER 2. CRIMES INVOLVING PUBLIC HEALTH AND**
9 **SAFETY**

10 **§ 7. Carrying Dangerous Weapons**

11 (a) Elements: A Person commits this offense if that Person goes
12 about in Public armed with a dangerous weapon upon his or her person
13 unless he or she is authorized to do so by the Quapaw Tribal Business
14 Committee.

15 (b) Punishment: The Tribal Court may institute a punishment of:

16 (1) up to three (3) years in prison; and/or

17 (2) a fine of up to fifteen thousand dollars (\$15,000);

18 and/or

19 (3) community service and/or training; and/or

20 (4) forfeiture of the dangerous weapon; and/or

21 (5) temporary or permanent Banishment from Quapaw
22 Indian Country.

23 (c) Definitions: The term "dangerous weapon" includes, but is
24 not limited to, any type of firearm, explosive, knife have a blade greater
25 than three inches long, clubs, throwing stars or any object whose sole
26 purpose is to inflict bodily injury upon another Individual.

27 **§ 8. Disorderly Conduct**

28 (a) Elements: A Person commits the offense of disorderly
29 conduct if:

30 (1) that Person acts with purpose to cause any of the
31 following:

32 i) public inconvenience; and/or

33 ii) annoyance or alarm; and/or

34 iii) disrupting a public or religious assembly;

35 and/or

36 iv) recklessly creating a risk of public
37 inconvenience or annoyance or alarm;

- 1 (2) and, that Person engages in:
2 i) fighting or threatening; and/or
3 ii) violent or tumultuous behavior; and/or
4 iii) makes unreasonable noise or offensively
5 coarse utterance, gesture or display, or addresses abusive
6 language to any person present; and/or
7 iv) creates a hazardous or physically offensive
8 condition by any act which serves no legitimate purpose of
9 the actor.
- 10 (b) Punishment: The Tribal Court may institute a punishment
11 of:
12 (1) up to six (6) months in prison; and/or
13 (2) a fine of up to two thousand five hundred dollars
14 (\$2,500); and/or
15 (3) community service; and/or
16 (4) training or counseling concerning behavior; and/or
17 (5) temporary suspension of tribal benefits.

18 **§ 9. False Alarms**

- 19 (a) Elements: A Person who is guilty under this provision if:
20 (1) That Person knew the alarm was false; and
21 (2) The alarm was received by any fire, police or other
22 emergency responder.
- 23 (b) Punishment: The Tribal Court may institute a punishment
24 of:
25 (1) up to three (3) years in prison; and/or
26 (2) a fine of up to fifteen thousand dollars (\$15,000);
27 and/or
28 (3) community service; and/or
29 (4) training or counseling concerning behavior; and/or
30 (5) reimbursement of costs associated with the false
31 alarm; and/or
32 (6) temporary suspension of tribal benefits.

33 **§ 10. Riot; Failure to Disperse**

- 34 (a) Elements: A Person commits this offense, if that Person
35 participates with two or more others in a course of disorderly conduct:

- 1 (1) With purpose to commit or facilitate the commission
2 of crime under this Title 11; and/or
- 3 (2) With purpose to prevent or coerce official action;
4 and/or
- 5 (3) When the Person has any knowledge of the potential
6 use of a firearm or other deadly weapon; and/or
- 7 (4) When the Person refuses to follow orders to disperse
8 issued by a He-tah (Law Enforcement Officer) when the He-tah
9 reasonably believes the disorderly conduct will likely cause
10 substantial harm or serious inconvenience to the Public.
- 11 (b) Punishment: The Tribal Court may institute a punishment
12 of:
- 13 (1) up to three (3) years in prison; and/or
14 (2) a fine of up to fifteen thousand dollars (\$15,000);
15 and/or
16 (3) community service; and/or
17 (4) training or counseling concerning behavior; and/or
18 (5) restitution to any Individual for damage to person or
19 property; and/or
20 (6) temporary or permanent Banishment from Quapaw
21 Indian Country.

22 **§ 11. Maintaining a Public Nuisance**

- 23 (a) Elements: A Person commits this offense if that Person
24 permits his or her property to fall into a condition that:
- 25 (1) could injure or endanger the safety, health, comfort,
26 or property of that Person's neighbors; and/or
27 (2) offend public decency; and/or
28 (3) interferes with access or use of a public park, stream,
29 lake, road or highway, or pow-wow ground.
- 30 (b) Punishment: The Tribal Court may institute a punishment
31 of:
- 32 (1) up to three (3) months in prison; and/or
33 (2) a fine of up to one thousand (\$1,000); and/or
34 (3) paying the costs to have the nuisance abated.

35 **§ 12. Littering and Dumping**

- 36 (a) Elements: A Person commits this offense if that Person

1 deposits in any way upon Tribal or public property, or within one hundred
2 (100) yards of a highway or road any or other area not owned or controlled
3 by that Person in Indian Country any objects or substances that mar the
4 appearance, detract from the cleanliness, decrease property values, interfere
5 with the use or enjoyment of property or interfere with wildlife or water
6 cleanliness.

7 (b) Punishment: The Tribal Court may institute a punishment
8 of:

9 (1) up to six (6) months in prison; and/or

10 (2) a fine of up to two thousand five hundred dollars
11 (\$2,500); and/or

12 (3) force the person to remove and properly dispose of
13 the objects or substances; and/or

14 (4) pay the costs to have the litter collected and removed;
15 and/or

16 (5) make restitution to any property owner affected;
17 and/or

18 (6) community service and/or training.

19 (c) From Vehicle: when littering occurs from a vehicle, the
20 operator of the vehicle is responsible for the act unless another Individual in
21 the vehicle admits to or is indentified as committing the act.

22 (d) Exemptions: a solid waste disposal facility properly
23 permitted by the appropriate Tribal authorities may deposit solid waste
24 within one hundred (100) yards of a highway or road.

25 **§ 13. Disregarding Burn Ban**

26 (a) Elements: A Person commits this offense if that Person,
27 during a burn ban issued by the Chairman or the governor for the region
28 containing Quapaw Indian Country, starts an outdoor fire or discards any
29 object that could reasonably start a fire such as a lit cigarette.

30 (b) Punishment: The Tribal Court may institute a punishment
31 of:

32 (1) up to six (6) months in prison; and/or

33 (2) a fine of up to two thousand five hundred dollars
34 (\$2,500); and/or

35 (3) make restitution to any property owners affected;
36 and/or

37 (4) community service and/or training.

- 1 (c) Exceptions:
2 (1) The Chairman may grant special permission for fires
3 used in tribal or religious ceremonies.
4 (2) The term “outdoor fire” does not include fires in
5 manufactured grills.

6 **§ 14. Terrorism**

- 7 (a) Elements: A Person commits this offense if that Person
8 commits, or conspires to commit any terrorist activity.
9 (b) Punishment: The Tribal Court may institute a punishment
10 of:
11 (1) up to three (3) years in prison; and/or
12 (2) a fine of up to fifteen thousand dollars (\$15,000);
13 and/or
14 (3) community service and/or training; and/or
15 (4) temporary or permanent Banishment from Quapaw
16 Indian Country.
17 (c) Definition: The term “terrorist activity” means any act
18 intended to create property damage, inflict personal injury or cause fear
19 designed to coerce a civilian population or government into granting
20 political or economic demands whether that act succeeds in damage or not.
21 Peaceful picketing or boycotts and other nonviolent actions are not terrorist
22 activities.

23 **§ 15. Tampering with Firearm Identification Numbers**

- 24 (a) Elements: A Person commits this offense if that Person:
25 (1) Possesses a firearm with a removed or defaced
26 identification number during the commission of any other offense
27 under this Title 11; or
28 (2) Removes, defaces or alters in any manner the
29 identification number of a firearm.
30 (b) Punishment: The Tribal Court may institute a punishment
31 of:
32 (1) up to three (3) years in prison; and/or
33 (2) a fine of up to fifteen thousand dollars (\$15,000);
34 and/or
35 (3) forfeiture of the firearm; and/or
36 (4) community service and/or training; and/or

1 (5) temporary or permanent Banishment from Quapaw
2 Indian Country.

3 **§ 16. Transporting Hazardous Wastes**

4 (a) Elements: A Person commits this offense if that Person
5 knowingly and willfully transports or causes the transportation of more than
6 twenty-eight (28) gallons of liquid or more than two hundred twenty (220)
7 pounds of solid hazardous waste on or through Quapaw Indian Country
8 without a proper permission granted by the Tribal government.

9 (b) Punishment: The Tribal Court may institute a punishment
10 of:

11 (1) up to three (3) years in prison; and/or

12 (2) a fine of up to fifteen thousand dollars (\$15,000);
13 and/or

14 (3) community service and/or training; and/or

15 (4) temporary or permanent Banishment from Quapaw
16 Indian Country.

17 (c) Definition: The term "Hazardous waste" means:

18 (1) waste that is subject to regulation as a hazardous
19 waste under the federal Resource Conservation and Recovery Act,
20 Title 42 U.S.C. § 6901 et seq., and regulations adopted pursuant
21 thereto; and

22 (2) waste that is ignitable, corrosive, reactive or toxic as
23 determined by testing for the characteristics of ignitability,
24 corrosivity, reactivity or toxicity as provided in 40 Code of Federal
25 Regulations §§ 261.21 through 261.24; but

26 (3) excludes salt water, mineral brines, waste oil and
27 other deleterious substances produced from or obtained or used in
28 connection with the drilling, development, producing and processing
29 of oil and gas, and only that chat hauled pursuant to agreements and
30 operations approved the United States Environmental Protection
31 Agency and the Tribal government.

32 **CHAPTER 3. CRIMES INVOLVING PUBLIC ORDER**

33 **§ 17. Resisting Arrest**

34 (a) Elements: A Person commits this offense if, with the
35 purpose of preventing a He-Tah (Law Enforcement Officer) from effecting
36 a lawful arrest or discharging any other duty:

37 (1) that Person creates a substantial risk of bodily injury
38 to the He-Tah (Law Enforcement Officer) or anyone else; or

- 1 (2) that Person's arrest justifies or requires substantial
2 force to overcome the Person's resistance.
- 3 (b) Punishment: The Tribal Court may institute a punishment
4 of:
- 5 (1) up to six (6) months in prison; and/or
6 (2) a fine of up to two thousand five hundred dollars
7 (\$2,500); and/or
8 (3) community service and/or training and/or counseling;
9 and/or
10 (4) temporary suspension of tribal benefits.

11 **§ 18. Obstructing Justice**

- 12 (a) Elements: A Person commits the offense of obstructing
13 justice if, with purpose to hinder the apprehension, prosecution, conviction
14 or punishment of another for a crime, that Person:
- 15 (1) harbors or conceals the other; or
16 (2) provides a weapon, transportation, disguise or other
17 means of avoiding apprehension and escape; or
18 (3) warns the other of impending discovery except in any
19 attempt get the Individual to comply with the law; or
20 (4) volunteers false information to a He-Tah (Law
21 Enforcement Officer); or
22 (5) obstructs by force, threat, bribery or deception
23 anyone from performing an act which might aid in the discovery,
24 apprehension, prosecution or conviction of another person.
- 25 (b) Punishment: The Tribal Court may institute a punishment of:
- 26 (1) up to six (6) months in prison; and/or
27 (2) a fine of up to two thousand five hundred dollars
28 (\$2,500); and/or
29 (3) community service and/or training; and/or
30 (4) temporary suspension of tribal benefits.

31 **§ 19. Escape**

- 32 (a) Elements: A Person commits the offense of escape, if that
33 Person:
- 34 (1) unlawfully removes himself or herself from official
35 detention; or
36 (2) fails to return to official detention following

- 1 temporary leave granted for a specific purpose or limited period; or
2 (3) knowingly procures, makes, or possesses anything
3 which may facilitate escape while being held in official detention.
4 (b) Punishment: The Tribal Court may institute a punishment
5 of:
6 (1) up to three (3) years in prison; and/or
7 (2) a fine of up to fifteen thousand dollars (\$15,000);
8 and/or
9 (3) or community service and/or training and/or
10 counseling; and/or
11 (4) temporary suspension of tribal benefits.

12 **§ 20. False Reports**

- 13 (a) Elements: A Person commits this offense if that Person
14 knowingly gives false information to any He-Tah law enforcement officer
15 with the purpose to implicate another Individual.
16 (b) Punishment: The Tribal Court may institute a punishment
17 of:
18 (1) up to three (3) years in prison; and/or
19 (2) a fine of up to fifteen thousand dollars (\$15,000);
20 and/or
21 (3) community service and/or training; and/or
22 (4) restitution to any Individual for damage to or loss of
23 property; and/or
24 (5) temporary suspension of tribal benefits.

25 **§ 21. Bail Jumping**

- 26 (a) Elements: A Person commits this offense if that Person is
27 set at liberty by court order, with or without bail, or by the issuance of a
28 citation, upon condition that the Person will subsequently appear at a
29 specified time or place, and fails to appear at that time and place without
30 lawful excuse.
31 (b) Punishment: The Tribal Court may institute a punishment
32 of:
33 (1) up to six (6) months in prison; and/or
34 (2) a fine of up to two thousand five hundred dollars
35 (\$2,500); and/or
36 (3) temporary suspension of tribal benefits.

1 **§ 22. Flight to Avoid Prosecution or Judicial Process**

2 (a) Elements: A Person is guilty of this offense when that
3 Person leaves the Quapaw Tribe Indian Country for the purpose of avoiding
4 arrest, prosecution or other judicial process.

5 (b) Punishment: The Tribal Court may institute a punishment
6 of:

- 7 (1) up to six (6) months in prison; and/or
- 8 (2) a fine of up to two thousand five hundred dollars
9 (\$2,500); and/or
- 10 (3) temporary or permanent Banishment from Quapaw
11 Indian Country.

12 **§ 23. Witness Tampering**

13 (a) Elements: A Person commits this offense when that Person
14 attempts to cause or causes a witness or informant to:

- 15 (1) Testify or inform falsely; or
- 16 (2) Withhold any testimony, information, document or
17 thing; or
- 18 (3) Elude any legal process summoning him or her to
19 supply evidence; or
- 20 (4) Miss or cause any delay in attending a proceeding or
21 investigation to which the witness or informant has been legally
22 summoned; or
- 23 (5) prevent the communication by any Individual to a
24 He-Tah or Tribal judge of information relating to the commission or
25 possible commission of an offense or a violation of conditions or
26 probation, parole, or release pending judicial proceedings.

27 (b) Punishment: The Tribal Court may institute a punishment
28 of:

- 29 (1) up to six (6) months in prison; and/or
- 30 (2) a fine of up to two thousand five hundred dollars
31 (\$2,500); and/or
- 32 (3) temporary suspension of tribal benefits.

33 **§ 24. Tampering with or Fabricating Physical Evidence**

34 (a) Elements: A Person commits this offense, believing that an
35 official proceeding or investigation is pending or about to be instituted or
36 knowing that an official proceeding or investigation has been instituted, that
37 Person:

1 (1) Alters, destroys, conceals, or removes any record,
2 document or thing with purpose to impair its truth or availability in
3 such proceeding or investigation; or

4 (2) Makes, presents or uses any record, document or
5 thing knowing it to be false and with the purpose to mislead any
6 investigator who is or may be engaged in such proceeding or
7 investigation.

8 (b) Punishment: The Tribal Court may institute a punishment
9 of:

10 (1) up to six (6) months in prison; and/or

11 (2) a fine of up to two thousand five hundred dollars
12 (\$2,500); and/or

13 (3) temporary or permanent Banishment from Quapaw
14 Indian Country.

15 **§ 25. Perjury**

16 (a) Elements: A Person commits perjury if, in any official
17 proceeding, that Person:

18 (1) makes a false statement (either written or verbal)
19 either affirmatively or by omission under oath or equivalent
20 affirmation, or swears or affirms the truth of a statement previously
21 made and the Person does not believe his or her statement to be true;
22 and

23 (2) the false statement (either written or verbal) was not
24 corrected before it could substantially affect the proceeding; and

25 (3) the statement was proven false by at least two other
26 people beyond the defendant.

27 (b) Punishment: The Tribal Court may institute a punishment
28 of:

29 (1) up to three (3) years in prison; and/or

30 (2) a fine of up to fifteen thousand dollars (\$15,000);
31 and/or

32 (3) community service and/or training and/or counseling;
33 and/or

34 (4) temporary or permanent Banishment from Quapaw
35 Indian Country.

1 **§ 26. Abuse of Office**

2 (a) Elements: A Person commits this offense if that Person
3 acting or purporting to act in an official capacity or taking advantage of
4 such actual or purported capacity commits and knowing that his or her
5 conduct is illegal, he or she:

6 (1) Subjects another to arrest, detention, search, seizure,
7 mistreatment, dispossession, assessment, lien or other infringement
8 of personal or property rights; or

9 (2) Denies or impedes another in the exercise or
10 enjoyment of any right, privilege, power or immunity.

11 (b) Punishment: The Tribal Court may institute a punishment
12 of:

13 (1) up to three (3) years in prison; and/or

14 (2) a fine of up to fifteen thousand dollars (\$15,000);
15 and/or

16 (3) community service and/or training; and/or

17 (4) temporary or permanent Banishment from Quapaw
18 Indian Country.

19 **§ 27. Contempt**

20 (a) Elements: A Person commits the offense of contempt of
21 court if that Person:

22 (1) Exhibits disorderly or insolent behavior during a
23 court session; and/or

24 (2) unlawfully and willfully refuses to be sworn as a
25 witness; and/or

26 (3) refuses to answer any legal or proper question;
27 and/or

28 (4) makes noise or disturbance so as to interrupt the court
29 proceedings; and/or

30 (5) is willfully disobedient of any process or order
31 lawfully issued or made by court.

32 (b) Punishment: The Tribal Court may institute a punishment
33 of:

34 (1) up to six (6) months in prison; and/or

35 (2) a fine of up to two thousand five hundred dollars
36 (\$2,500); and/or

1 (3) temporary suspension of tribal benefits.

2 (c) Exemption: This section does not apply to a failure to
3 appear as a party in a civil action where default or a similar remedy is
4 available to the other party.

5 **§ 28. Failure to Obey a He-Tah (Law Enforcement Officer)**

6 (a) Elements: A Person commits this offense if that Person

7 (1) knowingly or recklessly fails to obey the reasonable
8 command or direction given in good faith or pursuing their official
9 duties of any He-Tah (law enforcement officer); or

10 (2) knowingly interferes with the operations of any
11 He-Tah or emergency responder.

12 (b) Punishment: The Tribal Court may institute a punishment
13 of:

14 (1) up to six (6) months in prison; and/or

15 (2) a fine of up to one thousand (\$1,000); and/or

16 (3) community service and/or training; and/or

17 (4) temporary suspension of tribal benefits.

18 **§ 29. False Arrest**

19 (a) Elements: A Person commits this offense when that Person
20 is any public officer or pretends to be a public officer, under the pretense or
21 color of any process or other legal authority, arrests or detains any
22 Individual against that Individual's will, except where such Person
23 reasonably believes he or she is authorized by law to do so.

24 (b) Punishment: The Tribal Court may institute a punishment
25 of:

26 (1) up to six (6) months in prison; and/or

27 (2) a fine of up to one thousand (\$1,000); and/or

28 (3) community service and/or training; and/or

29 (4) temporary suspension of tribal benefits.

30 **§ 30. False Imprisonment**

31 (a) Elements: A Person commits this offense when that Person
32 knowingly and wrongfully restrains or imprisons another so as to interfere
33 with his personal liberty.

34 (b) Punishment: The Tribal Court may institute a punishment
35 of:

36 (1) up to six (6) months in prison; and/or

- 1 (2) a fine of up to one thousand (\$1,000); and/or
- 2 (3) community service and/or training; and/or
- 3 (4) temporary suspension of tribal benefits.

4 **§ 31. Interference with Process Server**

5 (a) Elements: A Person commits this offense when that Person
6 knowingly and willfully obstructs, resists, or opposes any officer of the
7 Tribe, or other duly authorized person, in serving, or attempting to serve or
8 execute, any legal or judicial writ or process of any Court of the Tribe, or
9 tribal judge; or

10 (b) Punishment: The Tribal Court may institute a punishment
11 of:

- 12 (1) up to six (6) months in prison; and/or
- 13 (2) a fine of up to one thousand (\$1,000); and/or
- 14 (3) community service and/or training; and/or
- 15 (4) temporary suspension of tribal benefits.

16 **§ 32. Interference of Tribal Government Operation**

17 (a) Elements: A Person commits this offense when that Person
18 interferes with any Tribal officer, agent, or employee engaged in the
19 performance of official duties.

20 (b) Punishment: The Tribal Court may institute a punishment
21 of:

- 22 (1) up to six (6) months in prison; and/or
- 23 (2) a fine of up to one thousand (\$1,000); and/or
- 24 (3) community service and/or training; and/or
- 25 (4) temporary suspension of tribal benefits.

26 **§ 33. Resistance to Extradition Agent**

27 (a) Elements: A Person commits this offense when that Person
28 knowingly and willfully obstructs, resists, or opposes an extradition agent
29 of any federal, tribal, state, or local government engage in the execution of
30 the agent's duties.

31 (b) Punishment: The Tribal Court may institute a punishment
32 of:

- 33 (1) up to six (6) months in prison; and/or
- 34 (2) a fine of up to one thousand (\$1,000); and/or
- 35 (3) community service and/or training; and/or

1 (4) temporary suspension of tribal benefits.

2 **§ 34. Providing Contraband**

3 (a) Elements: A Person commits this offense when that Person
4 provides any Individual in official detention with alcoholic beverages,
5 drugs, weapons, implements of escape, or any other thing or substance
6 which the actor knows is improper or unlawful for the detainee to possess.

7 (b) Punishment: The Tribal Court may institute a punishment
8 of:

9 (1) up to three (3) months in prison; and/or

10 (2) a fine of up to \$250; and/or

11 (3) community service and/or training and/or counseling;
12 and/or

13 (4) temporary suspension of tribal benefits.

14 **§ 35. Resisting Lawful Arrest**

15 (a) Elements: A Person commits this offense when that Person
16 resists lawful arrest in such a manner as to create a substantial risk of bodily
17 harm to anyone or employs resistance justifying or requiring the He-Tah to
18 use force to complete the intended arrest.

19 (b) Punishment: The Tribal Court may institute a punishment
20 of:

21 (1) up to three (3) months in prison; and/or

22 (2) a fine of up to \$250; and/or

23 (3) community service and/or training and/or counseling;
24 and/or

25 (4) temporary suspension of tribal benefits.

26 **§ 36. Unlawful Return of Banished Persons**

27 (a) Elements: A Person commits this offense, if during the term
28 of a lawfully imposed Banishment, the Person:

29 (1) physically returns to Quapaw Indian Country (except
30 while actually traveling upon a public highway, or as allowed by
31 law); or

32 (2) applies for or attempts to claim any right, benefit,
33 privilege or immunity by virtue of membership in the Tribe except
34 as provided by law.

35 (b) Punishment: The Tribal Court may institute a punishment
36 of:

- 1 (1) a fine of up to fifteen thousand dollars (\$15,000);
2 and/or
3 (2) up to three (3) years in prison; and/or
4 (3) Banishment for a term equal to the original term of
5 Banishment which was violated from Quapaw Indian Country;
6 and/or
7 (4) Forfeiting all personal property which the banished
8 Person brought with him or used to return to the Tribal jurisdiction.
9 If any such property belongs to another individual, that individual, if
10 known, may defend by showing that the banished person did not
11 have permission to use or possess the property or to enter the Tribal
12 jurisdiction with that property.

13 **§ 37. Unlawful Use of License or Identification Card**

- 14 (a) Elements: A Person commits this offense when that Person:
15 (1) displays or causes or permits to be displayed one's
16 own license after such license has been suspended, revoked or
17 canceled or to possess one's own license after having received notice
18 of its suspension, revocation, or cancelling; or
19 (2) displays or causes or permits to be displayed or
20 possesses a license or identification card issued to oneself which
21 bears altered information concerning the date of birth, expiration
22 date, sex, height, eye color, weight or license or card number; or
23 (3) fails or refuses to surrender upon lawful demand any
24 license or identification card which has been suspended, revoked or
25 canceled; or
26 (4) permits any unlawful use of a license or identification
27 card issued to oneself including lending one's license; or
28 (5) adds to, deletes from, alters, or defaces the required
29 information on a driver license or identification card; or
30 (6) displays or causes or permits to be displayed or
31 knowingly possesses any counterfeit or fictitious license or
32 identification card; or
33 (7) displays or represents as one's own, any license or
34 identification card not issued to that Person, for the purpose of
35 committing a fraud in any commercial transaction or to mislead a
36 peace officer in the performance of his duties; or
37 (8) uses a false or fictitious name in any application for a
38 license or identification card or to knowingly makes a false
39 statement or to knowingly conceals a material fact or otherwise

- 1 commits a fraud in any such application.
- 2 (b) Punishment: The Tribal Court may institute a punishment of:
- 3 (1) a fine of up to one thousand (\$1,000); and/or
- 4 (2) up to six (6) months in prison or any combination of
- 5 the above punishments.
- 6 (c) Definition: For purposes of this section, the term "licenses"
- 7 includes a motor vehicle license plate or tag.

8 **CHAPTER 4. CRIMES AFFECTING TRIBAL GOVERNMENT**

9 **§ 38. Threats and Other Improper Influence in Official and**

10 **Political Matters**

- 11 (a) Elements: A Person commits this offense if that Person:
- 12 (1) Threatens unlawful harm to any Individual or any
- 13 Individual's relative or close acquaintance with purpose to influence
- 14 the Individual's decision, vote or other exercise of discretion as a
- 15 public servant, or voter; or
- 16 (2) Threatens harm to any public servant with purpose to
- 17 influence his decision, opinion, recommendation, vote or other
- 18 exercise of discretion in a judicial or administrative proceeding; or
- 19 (3) Willfully either by force, physical interference, fraud
- 20 intimidation, threat of violence, or by means of any unlawful act,
- 21 prevents or attempts to prevent, any public servant or official from
- 22 performing any official act, function or power or duty imposed upon
- 23 such official by law; or
- 24 (4) Privately addresses any public servant who has or
- 25 will have an official discretion in a judicial or administrative
- 26 proceeding and making any communication designed to influence
- 27 the outcome of a particular issue on the basis of considerations other
- 28 than those authorized by law.
- 29 (b) Punishment: The Tribal Court may institute a punishment
- 30 of:
- 31 (1) up to three (3) years in prison; and/or
- 32 (2) a fine of up to fifteen thousand dollars (\$15,000);
- 33 and/or
- 34 (3) community service and/or training; and/or
- 35 (4) temporary suspension of tribal benefits.

1 **§ 39. Refusal to Surrender Books to Successor**

2 (a) Elements: A Person who has been a member of the Quapaw
3 Tribal Business Committee or other governmental authority, business
4 entity, or committee commits this offense if that Person wrongfully refuses
5 to surrender any books and papers pertaining to that Person's office to a
6 successor who has been duly elected or appointed under Quapaw law and
7 has demanded the surrender of the books and papers of such office.

8 (b) Punishment: The Tribal Court may institute a punishment
9 of:

10 (1) Order the surrender of any books or papers pertaining
11 to that Person's office to either the successor or another government
12 official.

13 (2) up to three (3) years in prison; and/or

14 (3) a fine of up to fifteen thousand dollars (\$15,000).

15 **§ 40. Disrupting Tribal Operations**

16 (a) Elements: A Person commits with offense if that Person
17 willfully and by force or fraud prevents or interferes or disrupts any
18 operations or meetings of the Tribal government or any Tribal agency,
19 business entity or committee or interferes with the performance of any
20 Tribal employee's job.

21 (b) Punishment: The Tribal Court may institute a punishment
22 of:

23 (1) up to three (3) years in prison; and/or

24 (2) a fine of up to fifteen thousand dollars (\$15,000);
25 and/or

26 (3) community service and/or training; and/or

27 (4) temporary suspension of tribal benefits.

28 **§ 41. Preventing or Disturbing Governmental Proceedings**

29 (a) Elements: A Person commits this offense if that Person
30 alone or in concert with others willfully prevents, disturbs, disrupts or
31 interferes with any meeting or proceeding of the government of the Quapaw
32 Tribe by:

33 (1) Engaging in violent, tumultuous or threatening
34 behavior;

35 (2) Using abusive or obscene language or making an
36 obscene gesture;

37 (3) Making unreasonable noise; or

1 (4) Congregating with other Individuals and refusing to
2 comply with a lawful order of the He-Tah to disperse.

3 (b) Punishment: The Tribal Court may institute a punishment
4 of:

5 (1) up to three (3) years in prison; and/or

6 (2) a fine of up to fifteen thousand dollars (\$15,000);
7 and/or

8 (3) community service and/or training; and/or

9 (4) temporary suspension of tribal benefits.

10 **§ 42. Retaliation for Past Official Action**

11 (a) Elements: A Person commits this offense if that Person
12 harms another Individual by any unlawful act in retaliation for anything
13 lawfully done by that Individual in the capacity of a public servant.

14 (b) Punishment: The Tribal Court may institute a punishment
15 of:

16 (1) up to six (6) months in prison; and/or

17 (2) a fine of up to one thousand (\$1,000); and/or

18 (3) community service and/or training; and/or

19 (4) restitution to any Individual for damage to or loss of
20 property; and/or

21 (5) temporary or permanent Banishment from Quapaw
22 Indian Country.

23 **§ 43. Destruction or Falsification of Records**

24 (a) Elements: A Tribal Marshal, Court Clerk or other
25 ministerial officer of the Quapaw Tribe or any of their subordinates
26 commits this offense when that Person intentionally mutilates, destroys,
27 conceals, erases, falsely changes, obliterates or falsifies any record or
28 document pertaining to the Tribal government, agency, business entity,
29 committee or the Tribal courts when the record or document should have
30 been preserved in its original form.

31 (b) Punishment: The Tribal Court may institute a punishment
32 of:

33 (1) up to six (6) months in prison; and/or

34 (2) a fine of up to one thousand (\$1,000); and/or

35 (3) community service and/or training; and/or

36 (4) temporary suspension of tribal benefits.

1 **§ 44. Misconduct in Executing a Search Warrant**

2 (a) Elements: A He-Tah commits this offence when that
3 He-Tah, in executing a search warrant, willfully exceeds his authority, or
4 exercises it with unnecessary severity.

5 (b) Punishment: The Tribal Court may institute a punishment
6 of:

- 7 (1) up to three (3) months in prison; and/or
8 (2) a fine of up to one thousand (\$1,000); and/or
9 (3) temporary suspension of tribal benefits.

10 **§ 45. Impersonating a Public Servant**

11 (a) Elements: A Person commits this offense if that Person
12 falsely pretends to hold a position in the public service or He-Tah with
13 purpose to induce another to submit to such pretended official authority or
14 otherwise to act in reliance upon that pretense to his or her prejudice.

15 (b) Punishment: The Tribal Court may institute a punishment
16 of:

- 17 (1) up to six (6) months in prison; and/or
18 (2) a fine of up to one thousand (\$1,000); and/or
19 (3) community service and/or training; and/or
20 (4) forfeiture of all property including uniforms or
21 vehicles used in committing the offense; and/or
22 (5) temporary suspension of tribal benefits.

23 (c) Imputed intent: A Person is assumed to have intended to
24 commit this offense, if that Person:

- 25 (1) wears the badge of the Tribal Marshal Service or a
26 badge of similar design which would tend to deceive anyone; or
27 (2) without authority wears a uniform likely to be
28 confused with the official uniform of any member of the Tribal
29 Marshal Service; or
30 (3) wears a Tribal Marshal's uniform and is not either an
31 active or honorably retired Tribal Marshal Service member; or
32 (4) makes what appears to be a routine traffic stop using
33 an unmarked car or a car appearing to be one of the Tribal Marshal
34 Service.

35 **§ 46. Interfering with Tax Collections**

36 (a) Elements: A Person commits this offense if that Person

1 willfully attempts in any manner to fail to pay, evade, defeat or interfere
2 with the collection of any tax or fee imposed by the Tribal government or
3 any of its agencies or business entities.

4 (b) Punishment: The Tribal Court may institute a punishment
5 of:

- 6 (1) up to three (3) years in prison; and/or
7 (2) a fine of up to fifteen thousand dollars (\$15,000);
8 and/or
9 (3) community service and/or training; and/or
10 (4) temporary suspension of tribal benefits.

11 **§ 47. Improper Gifts to Tribal Official or Employees**

12 (a) Elements: A Person commits this offense if that Person
13 knowingly confers or offers, or agrees to confer or offer, any benefit to a
14 public servant with the intent to induce an exercise of their discretion in an
15 unlawful manner, or to undermine official impartiality.

16 (b) Punishment: The Tribal Court may institute a punishment of:

- 17 (1) up to three (3) years in prison; and/or
18 (2) a fine of up to fifteen thousand dollars (\$15,000);
19 and/or
20 (3) community service and/or training; and/or
21 (4) temporary suspension of tribal benefits.

22 (c) Exclusions: This section does not apply to:

23 (1) Fees prescribed by law to be received by public
24 servant, or any benefit for which the recipient gives lawful
25 consideration or to which he is otherwise entitled; or

26 (2) Gifts or other benefits conferred on account of
27 kinship, traditional ceremonies, or other personal, professional or
28 business relationship independent of the official status of the
29 receiver; or

30 (3) Trivial benefits incidental to personal, professional or
31 business contacts and involving no substantial risk of undermining
32 official impartiality.

33 **§ 48. Gratuity or Reward for Appointment**

34 (a) Elements: A Person commits this offense if that Person
35 gives or agrees or offers to give, any gratuity or reward in consideration that
36 himself or any other Individual attain any public office, or obtain the
37 powers associated with any Tribal public office or become any type of

1 Tribal employee or appointee.

2 (b) Punishment: The Tribal Court may institute a punishment
3 of:

4 (1) up to three (3) years in prison; and/or

5 (2) a fine of up to fifteen thousand dollars (\$15,000);
6 and/or

7 (3) community service and/or training; and/or

8 (4) temporary or permanent Banishment from Quapaw
9 Indian Country.

10 **§ 49. Abuse of Office**

11 (a) Elements: A Person acting or purporting to act in an official
12 capacity or taking advantage of such actual or purported capacity commits
13 this offense if, knowing that his or her conduct is illegal, he or she:

14 (1) Subjects another to arrest, detention, search, seizure,
15 mistreatment, dispossession, assessment, lien or other infringement
16 of personal or property rights; or

17 (2) Denies or impedes another in the exercise or
18 enjoyment of any right, privilege, power or immunity.

19 (b) Punishment: The Tribal Court may institute a punishment of:

20 (1) up to three (3) years in prison; and/or

21 (2) a fine of up to fifteen thousand dollars (\$15,000);
22 and/or

23 (3) community service and/or training; and/or

24 (4) temporary or permanent Banishment from Quapaw
25 Indian Country.

26 **§ 50. Misusing Public Money**

27 (a) Elements: A Person commits this offense if that Person is
28 charged with the receipt, safekeeping, transfer, disbursement or approval for
29 expenditure of public monies, and that Person:

30 (1) Without lawful authority appropriates all or any
31 portion of public money for personal use or the use of another; or

32 (2) Loans any public money without lawful authority; or

33 (3) Fails to use all good faith efforts to keep public
34 money in his or her possession until lawfully disbursed or paid out
35 according to law; or

36 (4) Deposits the public money into an unauthorized bank

- 1 or with a person not lawfully authorized to receive such; or
- 2 (5) Knowingly keeps any false account, or makes a false
3 entry or erasure in any account of or relating to public money; or
- 4 (6) Fraudulently alters, falsifies, conceals, or destroys
5 any such account; or
- 6 (7) Knowingly refuses or omits to pay over on lawful
7 demand by competent authority any public monies in his hands; or
- 8 (8) Knowingly omits to transfer public money when
9 transfer is required by proper authority; or
- 10 (9) Makes a profit for himself or another when not
11 lawfully entitled to such, or in an unlawful manner, out of public
12 monies; or
- 13 (10) Fails to pay over to the proper account or authority
14 any fines, forfeitures, or fees received by him; or
- 15 (11) Otherwise handles public money in a manner not
16 authorized by law for his own benefit or the benefit of another; or
- 17 (12) Handles public money in a reckless manner as a
18 result of which a risk of loss of such money is significant.
- 19 (b) Punishment: The Tribal Court may institute a punishment
20 of:
- 21 (1) up to three (3) years in prison; and/or
- 22 (2) a fine of up to fifteen thousand dollars (\$15,000);
23 and/or
- 24 (3) community service and/or training; and/or
- 25 (4) reimbursement to the Tribe for any public monies
26 lost; and/or
- 27 (5) temporary suspension of tribal benefits.
- 28 (c) Definition: "Public money" includes all money, bonds, and
29 evidences of indebtedness or their equivalent, belonging to, or received or
30 held by the Tribe or any other government, or any account or money held
31 by the Tribe or government for any individual or group.

32 **§ 51. Personal Interest of Official in Transaction**

- 33 (a) Elements: A Person commits this offense if that Person is a
34 public official authorized in his or her official capacity to sell or lease any
35 property, or make any contract, and that Person directly or indirectly
36 voluntarily acquires any type of personal interest in such sale, lease or
37 contract.

- 1 (b) Punishment: The Tribal Court may institute a punishment
2 of:
3 (1) up to three (3) years in prison; and/or
4 (2) a fine of up to fifteen thousand dollars (\$15,000);
5 and/or
6 (3) community service and/or training; and/or
7 (4) temporary suspension of tribal benefits.

8 **§ 52. Compensation for Past Official Behavior**

9 (a) Elements: A Person commits this offense if that Person
10 solicits, accepts or agrees to accept any financial benefit as compensation
11 for having given a decision, opinion, recommendation, vote, or otherwise
12 exercised a discretion any of which is favorable to another.

- 13 (b) Punishment: The Tribal Court may institute a punishment
14 of:
15 (1) up to three (3) years in prison; and/or
16 (2) a fine of up to fifteen thousand dollars (\$15,000);
17 and/or
18 (3) community service and/or training; and/or
19 (4) temporary suspension of tribal benefits.

20 **§ 53. Offenses by Officers and Employees**

21 (a) Elements: A Person that is an officer or employee of the
22 Tribe commits this offense when that Person, acting in connection with his
23 office or employment:

- 24 (1) knowingly demands other or greater sums than are
25 authorized by law, or receives any fee, compensation, or reward,
26 except as by law prescribed, for the performance of any duty; or
27 (2) with intent to defeat the application of any provision
28 of Tribal law, fails to perform any of the duties of his office or
29 employment; or
30 (3) conspires or colludes with any other Individual to
31 defraud the Tribe; or
32 (4) knowingly makes opportunity for any person to
33 defraud the Tribe; or
34 (5) takes or fails to take any act with intent to enable any
35 other Individual to defraud the Tribe.
36 (b) Punishment: The Tribal Court may institute a punishment

1 of:

- 2 (1) up to three (3) years in prison; and/or
3 (2) a fine of up to fifteen thousand dollars (\$15,000);
4 and/or
5 (3) community service and/or training; and/or
6 (4) temporary suspension of tribal benefits.

7 **§ 54. Official Unlawful Action**

8 (a) Elements: A Person commits this offense when that Person
9 is a public servant, and with the intent to materially benefit himself or
10 another or to harm another:

11 (1) Knowingly commits an unauthorized act which
12 purports to be an act of his office, or knowingly refrains from
13 performing a non-discretionary duty imposed on him by law; or

14 (2) Knowing that official action is contemplated or in
15 reliance on non-public information which he has acquired by virtue
16 of his office or from another public servant, the Person:

17 i) acquires or divests himself of a valuable
18 interest in any property, transaction, or enterprise which may
19 be affected by such action or information; or

20 ii) speculates or wagers on the basis of such
21 action or information, or knowingly aid another to do so.

22 (b) Punishment: The Tribal Court may institute a punishment

23 of:

- 24 (1) Up to three (3) years in prison; and/or
25 (2) a fine of up to fifteen thousand dollars (\$15,000);
26 and/or
27 (3) community service and/or training; and/or
28 (4) temporary or permanent Banishment from Quapaw
29 Indian Country.

30 **§ 55. Undue Influence**

31 (a) Elements: A Person commits this offense when that Person
32 solicits, receives, or agrees to receive any financial benefit as consideration
33 for exerting special unlawful influence upon an officer, judge or employee
34 of any Tribal governmental or business entity, in order to influence that
35 Tribal officer, judge, or employee to violate the law or to exercise his
36 discretion in a particular fashion.

37 (b) Punishment: The Tribal Court may institute a punishment

1 of:

- 2 (1) up to three (3) years in prison; and/or
3 (2) a fine of up to fifteen thousand dollars (\$15,000);
4 and/or
5 (3) community service and/or training; and/or
6 (4) temporary or permanent Banishment from Quapaw
7 Indian Country.

8 **§ 56. Attempt to Interfere with Administration of Laws**

9 (a) A Person commits this offense if that Person:

10 (1) corruptly or by force or threat of force (including any
11 threatening letter or communication) endeavors to intimidate or
12 impede any officer or employee of the Tribal government, agency,
13 business entity or committee acting in an official capacity to
14 obstruct or impede or endeavor to obstruct or impede, the due
15 administration of any Tribal law or regulation; or

16 (2) forcibly rescues or causes to be rescued or attempts to
17 rescue any property after lawful seizure under tribal law or
18 regulation.

19 (b) Punishment: The Tribal Court may institute a punishment

20 of:

- 21 (1) up to three (3) years in prison; and/or
22 (2) a fine of up to fifteen thousand dollars (\$15,000);
23 and/or
24 (3) community service and/or training; and/or
25 (4) temporary or permanent Banishment from Quapaw
26 Indian Country.

27 **§ 57. Fraudulent Alteration of Bill or Resolution**

28 (a) Elements: A Person commits this offense if that Person
29 fraudulently alters the draft of any bill or resolution which has been
30 presented to the Quapaw Tribal Business Committee for vote with intent to
31 procure passage in language different from that intended by the Quapaw
32 Tribal Business Committee.

33 (b) Punishment: The Tribal Court may institute a punishment

34 of:

- 35 (1) up to three (3) years in prison; and/or
36 (2) a fine of up to fifteen thousand dollars (\$15,000);
37 and/or

- 1 (3) community service and/or training; and/or
2 (4) temporary or permanent Banishment from Quapaw
3 Indian Country.

4 **§ 58. Doing Business Without a License**

5 (a) Elements: A Person commits this offense if that Person
6 commences or conducts any business, trade, or profession which Tribal law
7 requires be licensed, without having the appropriate license.

8 (b) Punishment: The Tribal Court may institute a punishment
9 of:

- 10 (1) a fine of up to five hundred dollars (\$500); and/or
11 (2) community service and/or training; and/or
12 (3) temporary suspension of tribal benefits.

13 **§ 59. Violation of Gaming Law**

14 (a) Elements: A Person commits this offense if that person
15 willfully violates any gaming law, rule or regulation of the Tribe.

16 (b) Punishment: The Tribal Court may institute a punishment
17 of:

- 18 (1) a fine of up to fifteen thousand dollars (\$15,000);
19 and/or
20 (2) community service and/or training; and/or
21 (3) temporary suspension of tribal benefits; and/or
22 (4) forfeiture of any equipment or associated property
23 used in violation of any gaming law, rule or regulation.

24 **§ 60. Tampering With Public Property**

25 (a) Elements: A Person commits this offense if that Person:

26 (1) Steals, defaces, mutilates, alters, falsifies, or removes
27 (or permits another Individual to do so) all or part of any record,
28 map, book, document or thing placed or filed in any public office, or
29 with any public officer; or

30 (2) Knowingly injures, defaces or removes any signal,
31 monument or other marker placed or erected as part of an official
32 survey of the tribe or federal government without authority to do so;
33 or

34 (3) Intentionally defaces, removes or destroys any
35 document lawfully displayed per order of the Tribal government or
36 court without authority to do so.

- 1 (b) Punishment: The Tribal Court may institute a punishment
2 of:
3 (1) a fine of up to five hundred dollars (\$500); and/or
4 (2) community service and/or training.

5 **§ 61. Injuring Public Property**

6 (a) Elements: A Person commits this offense when that Person
7 intentionally removes, injures, defaces, or destroys any building, structure,
8 or any personal property belonging to or leased by the Tribal government or
9 any other Tribal agency or business entity.

- 10 (b) Punishment: The Tribal Court may institute a punishment
11 of:

- 12 (1) a fine of up to fifteen thousand dollars (\$15,000);
13 and/or
14 (2) reimbursement of the amount required for repair or
15 replacement of the property; and/or
16 (3) community service and/or training (including
17 repairing any property damaged); and/or
18 (4) temporary or permanent Banishment from Quapaw
19 Indian Country.

20 (c) Clarifying definitions:

- 21 (1) "Structure" includes but is not limited to any public
22 roadway highway or bridge or private road or bridge or other public
23 building or structure.
24 (2) "Personal Property" includes but is not limited to any
25 milepost, guidepost or road or highway sign or marker, any
26 equipment, machine or furniture.

27 **§ 62. Fraud in Obtaining Tribal Services or Employment**

28 (a) Elements: A Person commits this offense when that Person
29 presents any false documentation or statement to the government, any
30 agency or business entity of the Tribe with the intent to obtains services,
31 funds or employment when that Person reasonably should have known such
32 documentation or statements were inaccurate.

- 33 (b) Punishment: The Tribal Court may institute a punishment
34 of:

- 35 (1) a fine of up to fifteen thousand dollars (\$15,000);
36 and/or
37 (2) six (6) months in jail; and/or

1 (3) reimbursement of any funds or the value of other
2 goods or services obtained with false documentation or statement to
3 the appropriate tribal office; and/or

4 (4) community service and/or training; and/or

5 (5) temporary suspension of tribal benefits.

6 **CHAPTER 5. CRIMES INVOLVING TOBACCO, ALCOHOL &**
7 **DRUGS**

8 **§ 63. Possession of a Controlled Substance**

9 (a) Elements: A Person commits this offense when that Person
10 to knowingly or intentionally possess any controlled substance listed in 21
11 U.S.C. § 812 (2006) or the precursors for such substance with the intent to
12 manufacture unless:

13 (1) The Controlled Substances Act or Drug Enforcement
14 Agency regulations specifically authorizes possession of the
15 substance;

16 (2) The substance or preparation is excluded or exempted
17 by 21 C.F.R. § 1308.21 through § 1308.35, as amended; or

18 (3) The provisions of 42 U.S.C. § 1996a (regarding
19 traditional Indian religious use of peyote) apply.

20 (b) Punishment: The Tribal Court may institute a punishment
21 of:

22 (1) the confiscation of any controlled substance involved
23 in violation of this section as contraband; and/or

24 (2) the confiscation of any personal property used to
25 transport, conceal, manufacture, cultivate, or distribute a controlled
26 substance in violation of this section, following public notice and
27 opportunity for any Individual claiming an interest in the property to
28 be heard; and/or

29 (3) ordering any Person using or distributing any
30 controlled substance in violation of this section to be committed to a
31 facility for treatment for up to six (6) months; and/or

32 (4) community service and/or training and/or counseling;
33 and/or

34 (5) up to three (3) years in prison; and/or

35 (6) a fine of up to fifteen thousand dollars (\$15,000);
36 and/or

37 (7) temporary suspension of tribal benefits.

1 **§ 64. Paint Sniffing and Huffing**

2 (a) Elements: A Person commits this offense when that Person:

3 (1) intentionally smells or inhales the fumes of any
4 chemical solvent to create a mind-altered state;

5 (2) possesses, purchases, or attempts to possess or
6 purchase any chemical solvent, for the purpose of inhaling to create
7 a mind-altered state;

8 (3) sells or otherwise provides or offers to sell or provide
9 any chemical solvent knowing or believing that the purchaser or
10 another Individual intends to use the solvent in violation of this
11 section.

12 (b) Punishment: The Tribal Court may institute a punishment
13 of:

14 (1) The confiscation of any items containing chemical
15 solvents involved in violation of this section as contraband; and/or

16 (2) ordering any Person using or distributing any
17 controlled substance in violation of this section to be committed to a
18 facility for treatment for up to 6 months; and/or

19 (3) community service and/or training; and/or

20 (4) Up to three (3) years in prison; and/or

21 (5) a fine of up to one thousand (\$1,000); and/or

22 (6) temporary suspension of tribal benefits.

23 (c) Exclusions: This section does not apply to inhalation of
24 anesthesia for medical or dental purposes.

25 (d) Definition: As used in this section, “chemical solvent”
26 means any chemical substance the inhalation of whose fumes or vapors can
27 cause intoxication, inebriation, excitement, stupefaction, or the dulling of
28 the brain or nervous system. This includes, but is not limited to, any glue,
29 gasoline, paint, hair spray, Lysol and any other substance where the
30 manufacturer places a warning concerning the effects of breathing on the
31 vapors on the packaging.

32 **§ 65. Providing Intoxicating Beverages or Controlled Substances**
33 **to a Minor**

34 (a) Elements: A Person commits this offense if that person,
35 knowingly sells, furnishes or gives any intoxicating beverage, drug, or other
36 controlled substance to a person under twenty-one (21) years of age.

37 (b) Punishment: The Tribal Court may institute a punishment
38 of:

- 1 (1) a fine of up to five hundred dollars (\$500); and/or
2 (2) community service and/or training; and/or
3 (3) temporary suspension of tribal benefits.

4 (c) Exclusions: Provision with the permission of a parent or
5 legal guardian of an intoxicating beverage or controlled substance to minor
6 as part of traditional, ceremonial or religious custom generally accepted
7 under Quapaw culture is not considered an offense under this provision.

8 **§ 66. Public Intoxication**

9 (a) Elements: A Person commits this offense if that Person is
10 under the influence of an intoxicating beverage, drugs, intentionally
11 concentrated fumes or a controlled substance, to any degree, in a public
12 place or in a private place where one unreasonably disturbs another
13 Individual.

14 (b) Punishment: The Tribal Court may institute a punishment
15 of:

- 16 (1) a fine of up to five hundred dollars (\$500); and/or
17 (2) up to three (3) months in prison; and/or
18 (3) community service and/or training and/or counseling;
19 and/or
20 (4) ordering any Person in violation of this section to be
21 committed to a facility for treatment for up to two (2) months;
22 and/or
23 (5) temporary suspension of tribal benefits.

24 **§ 67. Open Container**

25 (a) Elements: A Person commits this offense if that Person is:

26 (1) the owner, operator, manager, employee, or agent of
27 any establishment licensed by the Tribe for the sale of beer or
28 alcohol and permits any Individual to exit the licensed premises with
29 an open container containing beer or alcohol.

30 (2) any Person possessing an open container in a public
31 place beyond the limits of an establishment licensed by the Tribe.

32 (b) Punishment: The Tribal Court may institute a punishment
33 of:

- 34 (1) a fine of up to five hundred dollars (\$500); and/or
35 (2) up to three (3) months in prison; and/or
36 (3) community service and/or training; and/or

1 (4) ordering any Person in violation of this section to be
2 committed to a facility for treatment for up to six (6) months; and/or

3 (5) temporary suspension of tribal benefits.

4 **§ 68. Possession or Sale of Drug Related Paraphernalia**

5 (a) Elements: A Person commits this offense if that Person:

6 (1) uses or possesses drug paraphernalia to plant,
7 propagate, cultivate, grow, harvest, manufacture, compound,
8 convert, produce, process, prepare, test, analyze, pack, repack, store,
9 contain, conceal, inject, ingest, inhale or otherwise introduce into the
10 human body a controlled dangerous substance in violation of the
11 criminal laws; or

12 (2) delivers, possesses or manufactures drug
13 paraphernalia knowing it will be used to plant, propagate, cultivate,
14 grow, harvest, manufacture, compound, convert, produce, process,
15 prepare, test, analyze, pack, repack, store, contain, conceal, inject,
16 ingest, inhale or otherwise introduce into the human body a
17 controlled dangerous substance in violation of the criminal laws.

18 (b) Punishment: The Tribal Court may institute a punishment
19 of:

20 (1) a fine of up to five hundred dollars (\$500); and/or

21 (2) up to three (3) months in prison; and/or

22 (3) community service and/or training; and/or
23 counseling; and/or

24 (4) ordering any Person in violation of this section to be
25 committed to a facility for treatment for up to six (6) months; and/or

26 (5) temporary suspension of tribal benefits.

27 (c) Definition: For purposes of this section, the term "Drug
28 Paraphernalia" means all equipment, products and materials of any kind
29 which are used or intended for use in planting, propagating, cultivating,
30 growing, harvesting, manufacturing, compounding, converting, producing,
31 processing, preparing, testing, analyzing, packaging, repackaging, storing,
32 containing, concealing, injecting, ingesting, inhaling or otherwise
33 introducing into the human body, a drug or other controlled dangerous
34 substance in violation of law. The term includes but is not limited to:

35 (1) Kits used or intended for use in planting,
36 propagating, cultivating, growing or harvesting of any species of
37 plant which is a controlled dangerous substance or from which a
38 controlled dangerous substance can be derived;

39 (2) Kits used or intended for use in manufacturing,

1 compounding, converting, producing, processing, or preparing
2 controlled dangerous substances, isomerization devices used or
3 intended for use in increasing the potency of any species of plant
4 which is a controlled dangerous substance;

5 (3) Testing equipment used or intended for use in
6 identifying, or in analyzing the strength, effectiveness or purity of
7 controlled dangerous substances; scales and balances used or
8 intended for use in weighing or measuring controlled dangerous
9 substances;

10 (4) Diluents and adulterants, such as quinine
11 hydrochloride, mannitol, mannite, dextrose and lactose, used or
12 intended for use in cutting controlled dangerous substances;

13 (5) Separation gins and sifters used or intended for use in
14 removing twigs and seeds from, or in otherwise cleaning or refining,
15 marijuana;

16 (6) Blenders, bowls, containers, spoons and mixing
17 devices used or intended for use in compounding controlled
18 dangerous substances;

19 (7) Capsules, balloons, envelopes and other containers
20 used or intended for use in packaging small quantities of controlled
21 dangerous substances;

22 (8) Containers and other objects used or intended for use
23 in parenterally injecting controlled dangerous substances into the
24 human body;

25 (9) Hypodermic syringes, needles and other objects used
26 or intended for use in parenterally injecting controlled dangerous
27 substances into the human body;

28 (10) Objects used or intended for use in ingesting,
29 inhaling or otherwise introducing marijuana, cocaine, hashish or
30 hashish oil into the human body, such as:

31 i) Metal, wooden, acrylic, glass, stone, plastic or
32 ceramic pipes with or without screens, permanent screens,
33 hashish heads or punctured metal bowls;

34 ii) Water pipes;

35 iii) Carburetion tubes and devices;

36 iv) Smoking and carburetion masks;

37 v) Roach clips: Meaning objects used to hold
38 burning material, such as a marijuana cigarette, that has
39 become too small or too short to be held in the hand;

- 1 vi) Miniature cocaine spoons and cocaine vials;
- 2 vii) Chamber pipes;
- 3 viii) Carburetor pipes;
- 4 ix) Electric pipes;
- 5 x) Air-driven pipes;
- 6 xi) Chillums;
- 7 xii) Bongs;
- 8 xiii) Ice pipes or chillers.

9 (d) Factors used in determining: In determining whether an
10 object is "drug paraphernalia," consider, in addition to all other logically
11 relevant factors, the following:

- 12 (1) Statements by an owner or by anyone in control of
13 the object concerning its use;
- 14 (2) The proximity of the object, in time and space, to a
15 direct violation of the criminal laws;
- 16 (3) The proximity of the object to controlled dangerous
17 substances;
- 18 (4) The existence of any residue of controlled dangerous
19 substances on the object;
- 20 (5) Instructions, oral or written, provided with the object
21 which either state directly or imply that the object is to be used for
22 the consumption of controlled substances;
- 23 (6) Descriptive materials accompanying the object which
24 explain or depict its use as an object for the consumption of
25 controlled substances;
- 26 (7) The manner in which the object is displayed for sale;
- 27 (8) Whether the owner, or anyone in control of the
28 object, is a legitimate supplier of like or related items to the
29 community, such as a licensed distributor or dealer of tobacco
30 products;
- 31 (9) The existence and scope of legitimate uses for the
32 object in the community.

33 **§ 69. Providing Tobacco to a Minor**

34 (a) A Person commits this offense if that Person knowingly
35 sells, furnishes or gives any tobacco product to a person under eighteen (18)
36 years of age.

1 (b) Punishment: The Tribal Court may institute a punishment
2 of:

- 3 (1) a fine of up to \$1,500; and/or
- 4 (2) up to three (3) months in prison; and/or
- 5 (3) community service and/or training; and/or
- 6 (4) temporary suspension of tribal benefits.

7 (c) Exclusions: Provision with the permission of a parent or
8 legal guardian of tobacco to minor as part of traditional, ceremonial or
9 religious custom generally accepted under Quapaw culture is not considered
10 an offense under this provision.

11 **§ 70. Sales of Alcohol or Tobacco Without Tribal Authority**

12 (a) Elements: A Person commits this offense if that Person sells
13 any beverage or product containing alcohol for ingestion by Individuals or
14 sells any tobacco product without lawful authority from the Tribe.

15 (b) Punishment: The Tribal Court may institute a punishment
16 of:

- 17 (1) a fine of up to \$1,500; and/or
- 18 (2) community service and/or training; and/or
- 19 (3) forfeiture of any beverages or tobacco products and
20 the raw materials for selling such; and/or
- 21 (4) temporary suspension of tribal benefits.

22 **§ 71. Possession of a Controlled Substance by a Minor**

23 (a) Elements: A Person commits this offense when that Person
24 is:

- 25 (1) less than twenty-one (21) years old and in the
26 possession of any beverage containing alcohol or any drug or
27 mind-altering substance controlled under this Title 11; or
- 28 (2) less than eighteen (18) years old and in the
29 possession of any tobacco product.

30 (b) Punishment: The Tribal Court may institute a punishment
31 of:

- 32 (1) a fine of up to \$250; and/or
- 33 (2) community service and/or training and/or counseling;
34 and/or

35 **§ 72. Hosting Events with Minors and Controlled Substances**

36 (a) Elements: A Person commits this offense if that Person:

- 1 (1) controls of any premises; and
- 2 (2) knowingly hosts, permits or allows a gathering to
3 take place at said premises where at least one minor uses, possesses,
4 or consumes an alcoholic beverage, drug, or other intoxicating
5 substance; or
- 6 (3) fails to take all reasonable steps to prevent the
7 consumption of an alcoholic beverage, drug, or other intoxicating
8 substance by a minor at such gathering.
- 9 (b) Punishment: The Tribal Court may institute a punishment of:
- 10 (1) a fine of up to \$1,500; and/or
- 11 (2) community service and/or training; and/or
- 12 (3) forfeiture of any beverages or products and the raw
13 materials for such; and/or
- 14 (4) temporary suspension of tribal benefits.
- 15 (c) Definition: "Reasonable steps" include but are not limited to
16 controlling access to alcoholic beverages at the gathering; controlling the
17 quantity of alcoholic beverages present at the gathering; verifying the age of
18 persons attending the gathering by inspecting drivers' licenses or other
19 government issued identification cards to insure that minors do not consume
20 alcoholic beverages while at the gathering; and supervising the activities of
21 minors at the gathering.
- 22 (d) Exclusions: Nothing in this section should be interpreted to
23 prohibit any family activity held in the confines of the family home from
24 providing alcohol to immediate family members within the supervision of
25 parents and guardians. However, if a minor leaves such a family gathering
26 intoxicated and is found in public, then said providers of alcohol will be
27 held responsible in the same manner as at a non-family gathering; this
28 section shall not apply to any premises licensed by the tribe to dispense
29 alcoholic beverages.

30 **CHAPTER 6. CRIMES INVOLVING PROPERTY**

31 **§ 73. Breaking and Entering**

- 32 (a) Elements: A Person is guilty of Breaking and Entering if the
33 Person enters the dwelling, building or other structure belonging to another
34 Individual or entity without the consent of the owner.
- 35 (b) Punishment: The Tribal Court may institute a punishment
36 of:
- 37 (1) up to three (3) years in prison; and/or
- 38 (2) community service and/or training and/or counseling;

- 1 and/or
2 (3) restitution to any Individual for damage to person or
3 property; and/or
4 (4) a fine of up to fifteen thousand dollars (\$15,000);
5 and/or
6 (5) temporary suspension of tribal benefits.

7 **§ 74. Criminal Mischief**

8 (a) Elements: A Person is guilty of criminal mischief if that
9 Person:

- 10 (1) damages tangible property of another Individual
11 purposely, recklessly, or by negligence; or
12 (2) purposely or recklessly tampers with tangible
13 property of another so as to endanger a Person or property; or
14 (3) purposely or recklessly causes another to suffer
15 monetary loss by deception or threat.
16 (b) Punishment: The Tribal Court may institute a punishment of:
17 (1) up to two months in prison; and/or
18 (2) a fine of up to one thousand (\$1,000); and/or
19 (3) community service and/or training; and/or
20 (4) restitution to any Individual for damage to person or
21 property; and/or
22 (5) temporary suspension of tribal benefits.

23 **§ 75. Trespass**

24 (a) Elements: A Person commits this offense if, knowing that he
25 or she is not licensed or privileged to do so, that Person enters and/or
26 surreptitiously remains in any building, structure or on any property.
27 Specifically, this offense includes but is not limited to:

- 28 (1) Recreational or other activities in areas such as the
29 chat piles which are clearly posted as no trespassing areas; or
30 (2) Cutting down or destroying any kind of wood or
31 timber, standing or growing upon the lands of another; or, driving or
32 riding through, into, or across any cultivated hedge or tree row, or
33 any grove of ornamental trees or orchard of fruit trees growing upon
34 the land of another, or in any other manner injuring the same; or
35 (3) Carrying away any kind of wood, timber or any crop
36 that has been cut down, and is lying on such lands; or

1 (4) Maliciously severing from another's property any
2 produce thereof, or anything attached thereto; or

3 (5) Digging, taking, or carrying away any earth, chat,
4 soil, or stone from any public or private property without the license
5 of the owner or legal occupant; or

6 (6) Entering upon the premises or property of a child
7 care shelter or facility without permission being first obtained.

8 (b) Punishment: The Tribal Court may institute a punishment
9 of:

10 (1) up to three (3) years in prison; and/or

11 (2) a fine of up to fifteen thousand dollars (\$15,000);
12 and/or

13 (3) community service and/or training; and/or

14 (4) forfeiture of any vehicles (including ATVs),
15 equipment or other personal property used in the violation; and/or
16 restitution to any Individual for damage to person or property;
17 and/or

18 (5) forcible removal by the He-Tah; and/or

19 (6) temporary suspension of tribal benefits.

20 (c) Definition: The term "not licensed" includes, but is not
21 limited to circumstances in which the Person was on notice by:

22 (1) personal communication by the owner or someone
23 having authority to act for the owner; or

24 (2) fencing, other enclosure obviously designed to
25 exclude intruders, or

26 (3) posting of signs restricting unauthorized entry or
27 prohibiting entry reasonably designed to come to the attention of
28 intruders.

29 **§ 76. Deceptive Business Practices**

30 (a) A Person commits this offense if that Person, in the course of
31 business, intentionally:

32 (1) uses or possesses for use a false weight or measure or
33 any other device for falsely determining or recording any quality or
34 quantity; or

35 (2) sells, offers or exposes for sale, or delivers less than
36 the represented quality or quantity of any commodity or service; or

37 (3) takes or attempts to take more than the represented

1 quantity of any commodity or service when as buyer he furnishes
2 the weight or measure; or

3 (4) Sells, offers or exposes for sale adulterated or
4 mislabeled commodities:

5 i) "adulterated" means varying from the
6 standard of composition or quality prescribed by law or
7 commercial usage; or

8 ii) "mislabeled" means varying from the
9 standard of truth or disclosure in labeling prescribed by law
10 or commercial usage; or

11 (5) Makes a substantial false or misleading statement in
12 any advertisement addressed to the public or a substantial segment
13 thereof for the purpose of promoting the purchase or sale of property
14 or services; or

15 (6) Makes a false or misleading written statement for the
16 purpose of obtaining property or credit; or

17 (7) Makes a false or misleading written statement for the
18 purpose of promoting the sales of securities, or omits information
19 required by law to be disclosed in written documents relating to
20 securities.

21 (b) It is an affirmative defense to deceptive business practice
22 that the defendant's conduct was not knowingly or recklessly deceptive.

23 (c) Punishment: The Tribal Court may institute a punishment
24 of:

25 (1) up to three (3) years in prison; and/or

26 (2) a fine of up to fifteen thousand dollars (\$15,000);
27 and/or

28 (3) community service and/or training; and/or

29 (4) restitution to any Individual for losses or damage;
30 and/or

31 (5) temporary suspension of tribal benefits.

32 **§ 77. Usury**

33 (a) Elements: A Person commits this offense if that Person
34 intentionally provides financing or makes loans at a rate higher than the
35 following:

36 (1) If the amount to which interest applies is less than
37 \$100 or the period of the load or financing is less than three (3)
38 years, or both the maximum interest rate is 24% per annum simple

1 interest rate.

2 (2) If the amount to which the interest applies is greater
3 than \$100 or the period of the loan is greater than three (3) years, or
4 both, the maximum interest rate is 18% annum simple interest rate.

5 (b) Punishment: The Tribal Court may institute a punishment
6 of:

7 (1) up to three (3) years in prison; and/or

8 (2) a fine of up to fifteen thousand dollars (\$15,000);

9 and/or

10 (3) order an adjustment of the interest note; and/or

11 (4) temporary or permanent Banishment from Quapaw
12 Indian Country.

13 **§ 78. Theft**

14 (a) Elements: A Person commits this offense if that Person:

15 (1) without permission of the owner, takes, shoplifts,
16 possesses or exercises unlawful control over movable property that
17 is not that Person's or under that Person's control with the purpose
18 to deprive the owner of that property; and/or

19 (2) fails to return or deliver property mistakenly given or
20 found by the Person when the Person reasonably should have or
21 could have determined the proper owner.

22 (b) Punishment: The Tribal Court may institute a punishment
23 of:

24 (1) up to three (3) years in prison; and/or

25 (2) a fine of up to fifteen thousand dollars (\$15,000);

26 and/or

27 (3) community service and/or training; and/or

28 (4) restitution to any Individual for damage to or loss of
29 property; and/or

30 (5) temporary suspension of tribal benefits.

31 **§ 79. Receiving Stolen Property**

32 (a) Elements: A Person commits the offense of receiving stolen
33 property if that Person purposely receives, retains, or disposes of movable
34 property of another Individual or business entity knowing that the property
35 has been stolen, or believing that it has probably been stolen, unless the
36 property is received, retained, or disposed of with purpose to restore it to the
37 owner. Receiving means acquiring possession, control or title, or lending on

1 the security of the property.

2 (b) Punishment: The Tribal Court may institute a punishment
3 of:

4 (1) up to three (3) years in prison; and/or

5 (2) a fine of up to fifteen thousand dollars (\$15,000)
6 and/or community service and/or training; and/or

7 (3) restitution to any Individual for damage to or loss of
8 property; and/or

9 (4) temporary suspension of tribal benefits.

10 **§ 80. Unauthorized Use of Automobiles and Other Vehicles**

11 (a) Elements: A Person commits this offense if that Person
12 operates another person's automobile, airplane, motorcycle, motorboat, or
13 other motor-propelled vehicle without consent of the owner.

14 (b) Punishment: The Tribal Court may institute a punishment
15 of:

16 (1) up to three (3) years in prison; and/or

17 (2) a fine of up to fifteen thousand dollars (\$15,000);
18 and/or

19 (3) community service and/or training; and/or

20 (4) restitution to any Individual for damage to or loss of
21 property; and/or

22 (5) temporary suspension of tribal benefits.

23 (c) It is an affirmative defense to prosecution under this section
24 that the actor reasonably believed that the owner would have consented to
25 the operation had he or she known of it.

26 **§ 81. Unlawful Dealing with Property by a Fiduciary**

27 (a) Elements: A Person commits this offense if that Person
28 knowingly deals with property that has been entrusted to that Person in a
29 fiduciary capacity, or property of the Tribal government, agency or Tribal
30 business entity or of a financial institution, in a manner which violates that
31 Person's fiduciary duty, or which involves a substantial risk or loss to the
32 owner or to an Individual for whose benefit the property was entrusted to
33 the Person.

34 (b) Definition: As used in this section, "fiduciary" includes a
35 trustee, guardian, executor, administrator, receiver or any Individual
36 carrying on fiduciary functions on behalf of a corporation or other
37 organization which is a fiduciary.

- 1 (c) Punishment: The Tribal Court may institute a punishment
2 of:
3 (1) up to three (3) years in prison; and/or
4 (2) a fine of up to fifteen thousand dollars (\$15,000);
5 and/or
6 (3) community service and/or training; and/or
7 (4) restitution to any Individual for damage to or loss of
8 property; and/or
9 (5) temporary suspension of tribal benefits.

10 **CHAPTER 7. CRIMES OF A PHYSICAL NATURE**

11 **§ 82. Recklessly Endangering Another Person**

12 (a) Elements: A Person commits this offense if that Person
13 recklessly engages in conduct which places or may place another person in
14 danger of death or serious bodily injury. Recklessness and danger shall be
15 presumed where a Person knowingly points a firearm at or in the direction
16 of another Individual, whether or not the actor believed the firearm to be
17 loaded.

- 18 (b) Punishment: The Tribal Court may institute a punishment
19 of:
20 (1) up to three (3) years in prison; and/or
21 (2) a fine of up to fifteen thousand dollars (\$15,000);
22 and/or
23 (3) community service and/or training and/or counseling;
24 and/or
25 (4) temporary suspension of tribal benefits.

26 **§ 83. False Imprisonment**

27 (a) Elements: A Person commits this offense if that Person
28 knowingly restrains another unlawfully so as to interfere substantially with
29 his or her liberty.

- 30 (b) Punishment: The Tribal Court may institute a punishment
31 of:
32 (1) up to three (3) years in prison; and/or
33 (2) a fine of up to fifteen thousand dollars (\$15,000);
34 and/or
35 (3) community services and/or training; and/or
36 (4) temporary suspension of tribal benefits.

1 **§ 84. Domestic Violence**

2 (a) A Person commits the offense of domestic violence by
3 inflicting physical harm, bodily injury, or sexual assault, or inflicting the
4 fear of imminent physical harm, bodily injury, or sexual assault on a family
5 member. For purposes of this section, a family member is any of the
6 following:

- 7 (1) A spouse;
8 (2) A former spouse;
9 (3) A person related by blood;
10 (4) A person related by existing or prior marriage;
11 (5) A person who resides or resided with the defendant;
12 (6) A person with whom the defendant has a child in
13 common; or
14 (7) A person with whom the defendant is or was in a
15 dating or intimate relationship.

16 (b) Punishment: The Tribal Court may institute a punishment
17 of:

- 18 (1) up to three (3) years in prison; and/or
19 (2) a fine of up to fifteen thousand dollars (\$15,000);
20 and/or
21 (3) community service and/or training and/or counseling;
22 and/or
23 (4) restitution to any Individual for personal harm;
24 and/or
25 (5) temporary or permanent Banishment from Quapaw
26 Indian Country.

27 **CHAPTER 8. CRIMES OF AN INTERPERSONAL NATURE**

28 **§ 85. Harassment**

29 (a) Elements: A Person commits this offense if, with purpose to
30 harass another, that Person:

- 31 (1) makes an electronic communication (including but
32 not limited to telephone calls, texts, instant messaging, or email)
33 without purpose or legitimate communication or with intent to
34 terrify, intimidate or harass, or threaten to inflict injury or physical
35 harm to any Individual or property; or
36 (2) insults, taunts or challenges another in a manner

- 1 likely to provoke violent or disorderly response; or
2 (3) makes repeated communications anonymously or at
3 extremely inconvenient hours, or in offensively coarse language; or
4 (4) subjects another to an offensive touching; or
5 (5) engages in any other course of alarming conduct
6 serving no legitimate purpose.

7 (b) Punishment: The Tribal Court may institute a punishment
8 of:

- 9 (1) up to three (3) years in prison; and/or
10 (2) a fine of up to fifteen thousand dollars (\$15,000);
11 and/or
12 (3) community service and/or training and/or counseling;
13 and/or
14 (4) temporary suspension of tribal benefits.

15 **§ 86. Causing a Suicide**

16 (a) Elements: A Person commits this offense when that Person
17 intentionally causes a suicide by force, duress, or deception.

18 (b) Punishment: The Tribal Court may institute a punishment
19 of:

- 20 (1) up to three (3) years in prison; and/or
21 (2) a fine of up to fifteen thousand dollars (\$15,000);
22 and/or
23 (3) community service and/or training and/or counseling;
24 and/or
25 (4) temporary or permanent Banishment from Quapaw
26 Indian Country.

27 **§ 87. Pointing a Weapon at Another Individual**

28 (a) Elements: A Person commits this offense if that Person
29 points any pistol, rifle, or shotgun, or any other deadly weapon, whether
30 loaded or not, at any other Individual.

31 (b) Punishment: The Tribal Court may institute a punishment of:

- 32 (1) up to three (3) years in prison; and/or
33 (2) a fine of up to fifteen thousand dollars (\$15,000);
34 and/or
35 (3) community service and/or training and/or counseling;
36 and/or

- 1 (4) forfeiture of the weapon.
2 (c) Exception: Actions taken in self-defense will not constitute
3 an offense under this section.

4 **§ 88. Violation of Privacy**

5 (a) Elements: A Person commits this offense when that Person
6 (except as authorized by law):

7 (1) trespasses on property with intent to eavesdrop or
8 conduct other surveillance in a private place; or

9 (2) installs in any private place, without the consent of
10 the Individuals entitled to privacy there, any device for observing,
11 photographing, recording, amplifying, or broadcasting sounds or
12 events in such place, or use any such unauthorized installation; or

13 (3) installs or uses outside of any private place any
14 device for hearing, recording, amplifying, or broadcasting sounds
15 originating in such place which would not ordinarily be audible or
16 comprehensible outside, without the consent of the Individual or
17 Individuals entitled to privacy there; or

18 (4) divulges without the consent of the sender or
19 receiver the existence or contents of any message received privately
20 if the actor knows that the message was illegally intercepted, or if he
21 learned of the message in the course of employment with a business
22 or service engaged in transmitting it.

23 (b) Punishment: The Tribal Court may institute a punishment
24 of:

25 (1) up to three (3) years in prison; and/or

26 (2) a fine of up to fifteen thousand dollars (\$15,000);

27 and/or

28 (3) community service and/or training and/or counseling;

29 and/or

30 (4) forfeiture of any equipment used in the violation;

31 and/or

32 (5) temporary suspension of tribal benefits.

33 (c) Definitions:

34 (1) "Eavesdrop" means to overhear, record, amplify, or
35 transmit any part of an oral or written communication of others
36 without the consent of at least one party thereto by means of any
37 electrical, mechanical or other device.

38 (2) "Private place" means a place where one can

1 reasonably expect to be safe from casual or hostile intrusion or
2 surveillance.

3 **§ 89. Loitering to Watch Occupants**

4 (a) Elements: A Person commits this offense if that Person
5 hides, waits or otherwise loiters in the vicinity of any private home,
6 apartment building, any other place of residence, or in the vicinity of any
7 locker room, dressing room, restroom or any other place where an
8 Individual has a right to a reasonable expectation of privacy, with the
9 unlawful and willful intent to watch, gaze, or look upon any person in a
10 clandestine manner.

11 (b) Punishment: The Tribal Court may institute a punishment
12 of:

- 13 (1) up to three (3) years in prison; and/or
- 14 (2) a fine of up to fifteen thousand dollars (\$15,000);
- 15 and/or
- 16 (3) community service and/or training and counseling;
- 17 and/or
- 18 (4) temporary suspension of tribal benefits.

19 (c) Definition: For the purpose of this section, "loitering"
20 includes the use of photographic, electronic or video equipment in a
21 clandestine manner or the publication or distribution of any image obtained
22 from such act.

23 **§ 90. Stalking**

24 (a) Elements: A Person commits this offense if that Person
25 willfully, maliciously, and repeatedly follows or harasses another Individual
26 in a manner that:

- 27 (1) Would cause a reasonable person or a member of the
28 immediate family of that person to feel frightened, intimidated,
29 threatened, harassed, or molested; and
- 30 (2) Actually causes the Individual being followed or
31 harassed to feel terrorized, frightened, intimidated, threatened,
32 harassed, or molested.

33 (b) Punishment: The Tribal Court may institute a punishment
34 of:

- 35 (1) up to three (3) years in prison; and/or
- 36 (2) a fine of up to fifteen thousand dollars (\$15,000);
- 37 and/or
- 38 (3) community service and/or training and/or counseling;

- 1 and/or
2 (4) forfeiture of any vehicle used in this offense; and/or
3 (5) temporary or permanent Banishment from Quapaw
4 Indian Country.

5 (c) Presumptions of offense: The following create a
6 presumption of a violation of this section:

7 (1) a permanent or temporary restraining order, a
8 protective order, an emergency ex parte protective order, or an
9 injunction in effect prohibiting the behavior when the Person
10 violating the provisions of this section has actual notice of the
11 issuance of such order or injunction; or

12 (2) said Person is on probation or parole, a condition of
13 which prohibits the behavior described in this section against the
14 same party or under the conditions of a community or alternative
15 punishment; or

16 (3) said Person, within ten (10) years preceding a
17 violation of this section, had completed the sentence for a conviction
18 of a crime involving the use or threat of violence against the same
19 party, or against any member of the immediate family of such party.

20 **§ 91. Interjurisdictional Violation of Protection Order**

21 (a) Elements: A Person commits this offense if that Person:

22 (1) enters or leaves Indian Country with the intent to
23 engage in conduct that violates the portion of a protection order that
24 prohibits or provides protection against violence, threats, or
25 harassment against, contact or communication with, or physical
26 proximity to, another person, or that would violate such a portion of
27 a protection order in the jurisdiction in which the order was issued,
28 and subsequently engages in such conduct;

29 (2) causes another Individual to enter or leave Indian
30 Country by force, coercion, duress, or fraud, and in the course of, as
31 a result of, or to facilitate such conduct or travel engages in conduct
32 that violates the portion of a protection order that prohibits or
33 provides protection against violence, threats, or harassment against,
34 contact or communication with, or physical proximity to, another
35 Individual, or that would violate such a portion of a protection order
36 in the jurisdiction in which the order was issued.

37 (b) Punishment: The Tribal Court may institute a punishment
38 of:

39 (1) up to three (3) years in prison; and/or

- 1 (2) a fine of up to fifteen thousand dollars (\$15,000);
2 and/or
3 (3) community service and/or training and/or counseling;
4 and/or
5 (4) forfeiture of any vehicle used in this offense.

6 **§ 92. Criminal Defamation**

7 (a) Elements: A Person commits this offense if that Person
8 knowingly and with malicious intent communicates to any Individual orally
9 or in writing any information which one knows or should know to be false
10 and tends to impeach the honesty, integrity, virtue or reputation, or
11 publishes the natural defects of one who is alive, or who has not been
12 declared missing or dead for a period exceeding twenty (20) years, and
13 thereby exposes him to public hatred, contempt or ridicule. An injurious
14 publication is presumed to have been malicious if no justifiable motive for
15 making it is shown by way of defense.

16 (b) Punishment: The Tribal Court may institute a punishment
17 of:

- 18 (1) up to three (3) years in prison; and/or
19 (2) a fine of up to fifteen thousand dollars (\$15,000);
20 and/or
21 (3) community service and/or training and/or counseling;
22 and/or
23 (4) forfeiture of any vehicle used in this offense; and/or
24 (5) temporary suspension of tribal benefits.

25 (c) Exclusion: This offense excludes a Person, who in the
26 course of their job in the formal broadcast or publication of news, and, in
27 good faith, the Person believed he or she was reporting a newsworthy event
28 concerning a public figure with a basis in truth.

29 **CHAPTER 9. CRIMES OF A SEXUAL NATURE**

30 **§ 93. Sexual Assault**

31 (a) Elements: A Person is guilty of the offense of sexual assault
32 when that Person has or receives sexual contact with another Individual that
33 is not that Person's spouse if:

- 34 (1) The Person knows that the conduct is offensive to the
35 other Individual; or
36 (2) The Person knows that the other Individual suffers
37 from a mental condition which renders such other Individual
38 incapable of appraising the nature of his or her conduct; or

1 (3) The Person knows that the other Individual is
2 unaware that a sexual act is being committed; or

3 (4) The Person has substantially impaired the other
4 Individual's power to appraise or control his or her conduct, by
5 administering or employing without the other's knowledge drugs,
6 intoxicants or other means for the purpose of preventing resistance;
7 or

8 (5) The other Individual is less than 14 years old
9 regardless of consent; or

10 (6) The other Individual is less than 16 years old and the
11 actor is at least four years older than the Person regardless of
12 consent; or

13 (7) The other Individual is less than 21 years old and the
14 actor is his or her guardian or otherwise responsible for general
15 supervision of his or her welfare regardless of consent; or

16 (8) The other Individual is in custody of law or detained
17 in a hospital or other institution and the actor has supervisory or
18 disciplinary authority over him or her regardless of consent.

19 (b) Punishment: The Tribal Court may institute a punishment
20 of:

21 (1) up to three (3) years in prison; and/or

22 (2) a fine of up to fifteen thousand dollars (\$15,000);
23 and/or

24 (3) community service and/or training and/or counseling;
25 and/or

26 (4) temporary or permanent Banishment from Quapaw
27 Indian Country.

28 (c) Definition for this Section: Sexual contact is any touching of
29 the sexual or other intimate parts of an Individual for the purpose of
30 arousing or gratifying sexual desire, or for the purpose of abusing,
31 humiliating, harassing, or degrading the victim.

32 **§ 94. Sex Absent Proper Consent**

33 (a) Elements: A Person is guilty of this offense when that
34 Person commits an act of sexual intercourse involving vaginal or anal
35 penetration accomplished with another Individual who is not the spouse of
36 the Person under any of the following circumstances:

37 (1) Where the other Individual is under sixteen (16)
38 years of age, but over the age of fourteen (14) where the perpetrator
39 is more than four (4) years older than the victim;

- 1 (2) Where the other Individual is incapable through a
2 mental condition of giving legal consent;
- 3 (3) Where the other Individual is intoxicated by a
4 chemical substance administered by or with the knowledge of the
5 Person as a means of forcing the victim to submit;
- 6 (4) Where the other Individual is at the time of the act
7 unconscious of the nature of the act and this fact is known to the
8 accused;
- 9 (b) Punishment: The Tribal Court may institute a punishment
10 of:
- 11 (1) up to three (3) years in prison; and/or
12 (2) a fine of up to fifteen thousand dollars (\$15,000);
13 and/or
14 (3) or community service and/or training and/or
15 counseling; and/or
16 (4) temporary suspension of tribal benefits.

17 **§ 95. Prostitution or Solicitation**

- 18 (a) Elements: A Person commits prostitution or solicitation
19 when that Person:
- 20 (1) Receives or agrees to receive monetary or other
21 consideration in exchange for sex; or
- 22 (2) Knowingly maintains, rents or leases any house,
23 room or other place for the purpose of prostitution; or
- 24 (3) Loiters in or within the view of a public place for the
25 purpose of being hired to engage in sexual activity; or
- 26 (4) Pays or offers or agrees to pay another Individual a
27 fee for the purpose of engaging in an act of sexual activity; or
- 28 (5) Enters or remains in a house of prostitution for the
29 purpose of engaging in sexual activity; or
- 30 (6) Owns, controls, manages, supervises, or otherwise
31 keeps a house of prostitution or a prostitution business; or
- 32 (7) Solicits a person to patronize a prostitute; or
- 33 (8) Procures or attempts to procure a prostitute for
34 another Individual; or
- 35 (9) Leases or otherwise permits a place controlled by the
36 actor to be used for prostitution or the promotion of prostitution; or

- 1 (10) Procures an inmate for a house of prostitution; or
2 (11) Encourages, induces, or otherwise purposely causes
3 another to become or remain a prostitute; or
4 (12) Transports a person with a purpose to promote that
5 person's engaging in prostitution or procuring or paying for
6 transportation with that purpose; or
7 (13) Shares in the proceeds of a prostitute pursuant to an
8 understanding that one is to share therein, unless one is the Child or
9 legal dependent of a prostitute.

10 (b) Punishment: The Tribal Court may institute a punishment
11 of:

- 12 (1) up to three (3) years in prison; and/or
13 (2) a fine of up to fifteen thousand dollars (\$15,000);
14 and/or
15 (3) community service and/or training and/or counseling;
16 and/or
17 (4) forfeiture of any vehicles or other personal items
18 used in the offense; and/or
19 (5) temporary or permanent Banishment from Quapaw
20 Indian Country.

21 (c) Definitions: For purposes of this section:

22 (1) "Sexual activity" means intercourse or any sexual act
23 involving the genitals of one person and the hand, mouth or anus of
24 another person, regardless of the sex of either participant.

25 (2) "House of prostitution" means a place where
26 prostitution or promotion of prostitution is regularly carried on by
27 one or more persons under the control, management, or supervision
28 of another. In proving this definition, the following is admissible in
29 evidence: its general reputation; the reputation of the persons who
30 reside in or frequent the place; the frequency, timing and duration of
31 visits by non-residents.

32 (3) "Inmate" means a person who engages in prostitution
33 in or through the agency of a house of prostitution.

34 (4) "Public place" means any place to which the public
35 has access.

36 (d) The testimony of a person against his or her spouse is
37 admissible to prove offense under this section.

38 **§ 96. Spreading Venereal Disease**

1 (a) Elements: A Person commits this offense when that Person
2 infects another Individual with venereal disease, if one knows or has reason
3 to believe he or she is infected with a venereal disease.

4 (b) Punishment: The Tribal Court may institute a punishment
5 of:

6 (1) a fine of up to five hundred dollars (\$500); and/or

7 (2) community service and/or training and/or counseling;
8 and/or

9 (3) order the medical examination and treatment of the
10 convicted Person and/or order an investigation to determine to what
11 extent others may have been infected by the convicted Person;
12 and/or

13 (4) forfeiture of any vehicles or other personal items
14 used in the offense; and/or

15 (5) temporary suspension of tribal benefits.

16 **§ 97. Lewd or Indecent Proposals or Act to Child Under Age 16**

17 (a) Elements: A Person commits this offense if that Person
18 knowingly and intentionally:

19 (1) makes any oral, written or electronically or
20 computer-generated lewd or indecent proposal to any child under
21 sixteen (16) years of age for the child to have unlawful sexual
22 relations or sexual intercourse with any person; or

23 (2) looks upon, touches, mauls, or feels the body or
24 private parts of any child under sixteen (16) years of age in any
25 indecent, sexual, lewd or lascivious manner; or

26 (3) Asks, invites, entices, or persuades any child under
27 sixteen (16) years of age to go alone with any person to a secluded,
28 remote, or secret place, with the unlawful and willful intent and
29 purpose then and there to commit any crime against public decency
30 and morality, as defined by law, with the child; or

31 (4) for the purpose of sexual gratification, urinates or
32 defecates upon a child under sixteen (16) years of age or ejaculates
33 upon or in the presence of a child, or forces or requires a child to
34 look upon the body or private parts of another Individual or upon
35 sexual acts performed in the presence of the child or forces or
36 requires a child to touch or feel the body or private parts of said
37 Person or another Individual.

38 (b) Punishment: The Tribal Court may institute a punishment
39 of:

- 1 (1) up to three (3) years in prison; and/or
2 (2) a fine of up to fifteen thousand dollars (\$15,000);
3 and/or
4 (3) community service and/or training and/or counseling;
5 and/or
6 (4) forfeiture of any vehicles or other personal items
7 used in the offense; and/or
8 (5) pay for counseling services for the child; and/or
9 (6) temporary or permanent Banishment from Quapaw
10 Indian Country.

11 **§ 98. Indecent Exposure**

12 (a) Elements: A Person commits this offense if that Person
13 lewdly exposes his or her person or genitals in any public place, or in any
14 place where other Individuals are present with the intent to offend or annoy
15 others.

16 (b) Punishment: The Tribal Court may institute a punishment
17 of:

- 18 (1) up to three (3) months in prison; and/or
19 (2) a fine of up to one thousand (\$1,000); and/or
20 (3) community service and/or training and/or counseling;
21 and/or

22 **§ 99. Child Pornography**

23 (a) Elements: A Person commits this offense if that Person:

24 (1) Writes, composes, prints, photographs, designs,
25 copies, draws, engraves, paints, molds, cuts, creates any electronic
26 recording, game or video, or otherwise prepares, publishes, sells,
27 distributes, keeps for sale, knowingly downloads on a computer, or
28 exhibit or otherwise makes available any child pornography; or

29 (2) Buys, procures, or possesses child pornography; or

30 (3) Knowingly sells child pornography.

31 (b) Punishment: The Tribal Court may institute a punishment
32 of:

- 33 (1) up to three (3) years in prison; and/or
34 (2) a fine of up to fifteen thousand dollars (\$15,000);
35 and/or
36 (3) community service and/or training and/or counseling;

1 and/or
2 (4) forfeiture of any personal items used in the offense;
3 and/or

4 (5) temporary or permanent Banishment from Quapaw
5 Indian Country.

6 (c) Definition: As used in this section, "child pornography"
7 includes any film, motion picture, videotape, photograph, negative,
8 undeveloped film, slide, photographic product, reproduction of a
9 photographic product, magnetic disk memory, magnetic tape memory, any
10 other type of electronic media play or performance wherein a minor under
11 the age of eighteen (18) years is engaged in any act of sexual intercourse,
12 any lewd exhibition of the uncovered genitals in the context of masturbation
13 or other sexual conduct, or where the lewd exhibition of the uncovered
14 genitals has the purpose of sexual stimulation of the viewer, or where a
15 person under the age of eighteen (18) years observes such acts or
16 exhibitions.

17 **§ 100. Failure to Register as Sex Offender**

18 (a) Elements: A Person commits this offense when that Person
19 has been has been convicted in any jurisdiction and declared to be a sex
20 offender by a legitimate authority in that jurisdiction and fails to register
21 with the designated authorities as required within the tribal jurisdiction.

22 (b) Punishment: The Tribal Court may institute a punishment
23 of:

24 (1) up to three (3) years in prison; and/or

25 (2) a fine of up to fifteen thousand dollars (\$15,000);

26 and/or

27 (3) community service and/or training and/or counseling;

28 and/or

29 (4) temporary or permanent Banishment from Quapaw
30 Indian Country.

31 **CHAPTER 10. CRIMES OF AN ETHICAL NATURE**

32 **§ 101. Aiding in a Crime**

33 (a) Elements: A Person is guilty of any crime listed in this Title
34 11 in which that Person aids another in actually committing that crime.

35 (b) Punishment: The Tribal Court may institute a punishment
36 equal to that of any of the punishments listed for the crime in which the
37 Person aids another Individual.

38 **§ 102. Criminal Conspiracy**

1 (a) Elements: A Person commits this offense if that Person
2 agrees within the Tribal jurisdiction with one or more persons to engage in
3 or cause the performance of conduct with the intent to commit any offense
4 punishable by Tribal, Federal, or state laws applicable to the jurisdiction in
5 which the conduct is agreed to be performed, and any one person commits
6 an overt act in pursuance of the conspiracy.

7 (b) Punishment: Conspiracy to commit an offense carries the
8 same possible punishment as the completed offense.

9 **§ 103. Solicitation**

10 (a) Elements: A Person commits this offense if that Person
11 within the Tribal jurisdiction entices, advises, incites, orders, or otherwise
12 encourages another to commit any offense, with the intent that such other
13 Individual commits an offense punishable under the laws of the jurisdiction
14 where the conduct was to be performed.

15 (b) Punishment: The Tribal Court may institute a punishment
16 of:

- 17 (1) up to three (3) years in prison; and/or
18 (2) a fine of up to fifteen thousand dollars (\$15,000);
19 and/or
20 (3) community service and/or training or counseling;
21 and/or
22 (4) temporary suspension of tribal benefits.

23 **§ 104. Attempt to Commit a Crime**

24 (a) Elements: A Person is guilty of any crime listed in this Title
25 11 in which that Person attempts but fails to commit such crime.

26 (b) Punishment: The Tribal Court may institute a punishment
27 equal to that of any of the punishments listed for the attempted crime.

28 **§ 105. Criminal Coercion**

29 (a) Elements: A Person is guilty of criminal coercion if, with
30 purpose to unlawfully restrict another's freedom of action to his or her
31 detriment, he or she threatens to:

- 32 (1) commit any criminal offense; or
33 (2) accuse anyone of a criminal offense; or
34 (3) expose any secret tending to subject any Individual to
35 hatred, contempt or ridicule, or to impair his credit or business
36 reputation; or
37 (4) unlawfully take or withhold action as an official, or

1 cause an official to take or withhold action.
2 (b) Punishment: The Tribal Court may institute a punishment
3 of:
4 (1) up to three (3) years in prison; and/or
5 (2) a fine of up to fifteen thousand dollars (\$15,000);
6 and/or
7 (3) temporary or permanent Banishment from Quapaw
8 Indian Country.

9 **§ 106. Embezzlement**

10 (a) Elements: A Person commits this offense when that Person,
11 having lawful custody of property not his or her own, appropriates the same
12 to his or her own use, with intent to deprive the owner of such property.

13 (b) Punishment: The Tribal Court may institute a punishment
14 of:
15 (1) up to three (3) years in prison; and/or
16 (2) a fine of up to fifteen thousand dollars (\$15,000);
17 and/or
18 (3) community service and/or training and/or; and/or
19 (4) restitution to any Individual for damage to or loss of
20 property; and/or
21 (5) temporary suspension of tribal benefits.

22 **§ 107. Fraud**

23 (a) Elements: A Person commits fraud when that Person by
24 willful misrepresentation or deceit, or by falsely interpreting, or by the use
25 of false weights or measures or false recording or causing another to
26 execute any instrument affecting or likely to affect property obtains any
27 money or other property.

28 (b) Punishment: The Tribal Court may institute a punishment
29 of:
30 (1) up to three (3) years in prison; and/or
31 (2) a fine of up to fifteen thousand dollars (\$15,000);
32 and/or
33 (3) community service and/or training; and/or
34 (4) restitution to any Individual for damage to or loss of
35 property; and/or
36 (5) temporary suspension of tribal benefits.

1 **§ 108. Forgery**

2 (a) Elements: A Person commits forgery with purpose to
3 defraud or injure anyone, or with knowledge that he or she is facilitating
4 fraud or injury to be perpetrated by anyone, when that Person:

5 (1) Alters, makes, completes, authenticates, issues or
6 transfers any writing of another without his or her authority; or

7 (2) Utters any writing which he or she knows to be
8 forged in a manner above specified.

9 (b) Punishment: The Tribal Court may institute a punishment
10 of:

11 (1) up to three (3) years in prison; and/or

12 (2) a fine of up to fifteen thousand dollars (\$15,000);
13 and/or

14 (3) community service and/or training; and/or

15 (4) restitution to any Individual for damage to or loss of
16 property; and/or

17 (5) temporary suspension of tribal benefits.

18 (c) Definition for this section: "Writing" includes printing or
19 any other method of recording information, money, coins, tokens, stamps,
20 seals, credit cards, badges, trademarks, and other symbols of value, right,
21 privilege, or identification.

22 **§ 109. Extortion**

23 (a) Elements: A Person commits this offense when that Person:

24 (1) willfully takes, receives, obtains, or controls (or
25 attempts to do so) the use or disposition of money, property or any
26 item of value of another Individual with that Individual's consent;
27 and

28 (2) that Individual's consent is induced by a wrongful
29 use of force or fear or under color of a governmental right.

30 (b) Punishment: The Tribal Court may institute a punishment
31 of:

32 (1) up to three (3) years in prison; and/or

33 (2) a fine of up to fifteen thousand dollars (\$15,000);
34 and/or

35 (3) community service and/or training; and/or

36 (4) restitution to any Individual for damage to or loss of

- 1 property; and/or
- 2 (5) temporary or permanent Banishment from Quapaw
3 Indian Country.
- 4 (c) Definitions: In this section, "fear" such as will constitute
5 extortion, may be induced by a threat to:
- 6 (1) To do an unlawful injury to the person or property of
7 the individual threatened, or to any relative of his or member of his
8 family; or
- 9 (2) To accuse him, or any relative of his or member of
10 his family, of any crime; or
- 11 (3) To expose, or impute to him, or any relative of his or
12 member of his family, any deformity or disgrace; or
- 13 (4) To expose any personal information or secret not
14 public knowledge tending to expose any person to hatred, contempt,
15 or ridicule, or to impair his business or reputation, except by
16 institution of legal proceedings to recover the debt demanded or
17 proper reports to bona fide credit agencies; or
- 18 (5) To unlawfully take or withhold official action.

19 **§ 110. Blackmail**

20 (a) Elements: A Person commits this offense if that Person
21 verbally or by written or printed communication and with intent to extort or
22 gain any type of value from another or to compel another to do an act
23 against his will:

- 24 (1) Accuses or threatens to accuse any Individual of a
25 crime or conduct which would tend to degrade and disgrace the
26 Individual accused; or
- 27 (2) Exposes or threatens to expose any fact, report or
28 information concerning any Individual which would in any way
29 subject such Individual to the ridicule or contempt of society,
30 coupled with the threat that such accusation or exposure will be
31 communicated to a third person or persons unless the Individual
32 threatened or some other Individual pays or delivers to the accuser
33 or some other Individual any items of value or commits some act
34 against the Individual's will.

35 (b) Punishment: The Tribal Court may institute a punishment
36 of:

- 37 (1) up to three (3) years in prison; and/or
- 38 (2) a fine of up to fifteen thousand dollars (\$15,000);
39 and/or

- 1 (3) community service and/or training; and/or
2 (4) temporary or permanent Banishment from Quapaw
3 Indian Country.

4 **§ 111. Deceptive Business Practices**

5 (a) Elements: A Person commits this offense when that Person
6 knowingly and willfully:

- 7 (1) misbrands or alters any brand or mark on any
8 livestock of another Individual; or
9 (2) uses or possesses for use a false weight or measure,
10 or any other device for falsely determining or recording any quality
11 or quantity; or
12 (3) sells, offers, or exposes for sale, or delivers less than
13 the represented quality or quantity of any commodity or service; or
14 (4) takes or attempts to take more than the represented
15 quantity of any commodity or service when as buyer he furnishes
16 the weight or measure; or
17 (5) makes a substantial false or misleading statement in
18 any advertisement addressed to the public or a substantial segment
19 thereof for the purpose of promoting the purchase or sale of property
20 or services; or
21 (6) makes a false or misleading written statement for the
22 purpose of obtaining property or credit; or
23 (7) makes a false or misleading written statement for the
24 purpose of promoting the sales of securities, or omit information
25 required by law to be disclosed in written documents relating to
26 securities; or
27 (8) sells, offers or exposes for sale adulterated or
28 misabeled commodities.

29 (b) Punishment: The Tribal Court may institute a punishment
30 of:

- 31 (1) up to three (3) years in prison; and/or
32 (2) a fine of up to fifteen thousand dollars (\$15,000);
33 and/or
34 (3) community service and/or training; and/or
35 (4) restitution to any Individual for damage to or loss of
36 property; and/or
37 (5) temporary suspension of tribal benefits.

- 1 (c) Definitions: In this section, the term:
2 (1) "adulterated" means varying from the standard of
3 composition or quality prescribed by law or commercial usage; or
4 (2) "misabeled" means varying from the standard of
5 truth or disclosure in labeling prescribed by law or commercial
6 usage.

7 **§ 112. Tampering with Records**

8 (a) Elements: A Person commits this offense if knowing that he
9 or she has no privilege to do so, the Person falsifies, destroys, removes or
10 conceals any writing or record, with purpose to deceive or injure anyone or
11 to conceal any wrongdoing.

12 (b) Punishment: The Tribal Court may institute a punishment
13 of:

- 14 (1) up to three (3) years in prison; and/or
15 (2) a fine of up to fifteen thousand dollars (\$15,000);
16 and/or
17 (3) community service and/or training; and/or
18 (4) restitution to any Individual for damage to or loss of
19 property; and/or
20 (5) temporary suspension of tribal benefits.

21 **§ 113. Bad Checks**

22 (a) Elements: A Person commits this offense if that Person
23 issues or passes a check for the payment of money, knowing that such
24 check will not be honored by the bank. For the purposes of this section, the
25 Person is presumed to know that the check or order would not be paid, if:

- 26 (1) The issuer had no account with the bank at the time
27 the check was issued; or
28 (2) The bank refused payment for lack of funds and the
29 Person failed to make good within 10 days after receiving notice of
30 that refusal.

31 (b) Punishment: The Tribal Court may institute a punishment
32 of:

- 33 (1) up to one (1) month in prison; and/or
34 (2) a fine of up to five hundred dollars (\$500); and/or
35 (3) community service and/or training; and/or
36 (4) restitution to any Individual for the full value of the

1 bad check plus any applicable fees or penalties; and/or

2 (5) temporary suspension of tribal benefits.

3 **§ 114. Identity Theft**

4 (a) Elements: A Person commits this offense if that Person:

5 (1) willfully and with fraudulent intent obtains the name,
6 address, social security number, date of birth, place of business or
7 employment, debit, credit or account numbers, driver license
8 number, or any other personal identifying information of another
9 Individual, living or dead, with intent to use, sell, or allow any other
10 Individual to use or sell such personal identifying information to
11 obtain or attempt to obtain money, credit, goods, property, or service
12 in the name of the other person without the consent of that
13 Individual; or

14 (2) with fraudulent intent, uses the personal identity of
15 another Individual, living or dead, or any information relating to the
16 personal identity of another Individual, living or dead, to obtain or
17 attempt to obtain credit or anything of value; or

18 (3) with fraudulent intent, lends, sells, or otherwise
19 offers the use of such Person's own name, address, social security
20 number, date of birth, or any other personal identifying information
21 or document to any other Individual with the intent to allow such
22 other Individual to use the personal identifying information or
23 document to obtain or attempt to obtain any identifying document in
24 the name of such other person; or

25 (4) willfully creates, modifies, alters or changes any
26 personal identifying information of another Individual with
27 fraudulent intent to obtain any money, credit, goods, property,
28 service or any benefit or thing of value; or

29 (5) controls, uses, wastes, hinders or encumbers another
30 Individual's credit, accounts, goods, property, title, interests,
31 benefits or entitlements without the consent of that Individual.

32 (b) Punishment: The Tribal Court may institute a punishment of:

33 (1) up to three (3) years in prison; and/or

34 (2) a fine of up to fifteen thousand dollars (\$15,000);

35 and/or

36 (3) community service and/or training; and/or

37 (4) forfeiture of any items of value obtained using
38 another Individual's information; and/or

39 (5) restitution to any Individual for damage to or loss of

1 property, inconvenience and/or hardship; and/or
2 (6) temporary suspension of tribal benefits.

3 **§ 115. Unauthorized Use of Credit Cards**

4 (a) Elements” A Person commits this offense if that Person uses
5 a credit card for the purpose of obtaining property or services with
6 knowledge that:

- 7 (1) the card is stolen or forged; or
8 (2) the card has been revoked or cancelled; or
9 (3) for any other reason, the Person’s use of the card is
10 unauthorized by the issuer.

11 (b) Punishment: The Tribal Court may institute a punishment
12 of:

- 13 (1) up to three (3) years in prison; and/or
14 (2) a fine of up to fifteen thousand dollars (\$15,000);
15 and/or
16 (3) community service and/or training; and/or
17 (4) restitution to any Individual for the full value of the
18 credit card usage plus any applicable interest, fees or penalties;
19 and/or
20 (5) temporary suspension of tribal benefits.

21 **§ 116. Defrauding Secured Creditors**

22 (a) Elements: A Person commits this offense if that Person with
23 the intent to defeat or obstruct the operation of any law relating to
24 administration of property for the benefit of creditors:

- 25 (1) destroys, conceals, encumbers, transfers or otherwise
26 deals with property subject to a security interest with purpose to
27 hinder that interest; or
28 (2) knowingly falsifies any writing or record relating to
29 the property; or
30 (3) knowingly misrepresents or refuses to disclose to an
31 Individual entitled to administer property for the benefit of creditors,
32 the existence, amount or location of the property, or any other
33 information which the actor could be legally required to furnish in
34 relation to such administration.

35 (b) Punishment: The Tribal Court may institute a punishment
36 of:

- 1 (1) up to three (3) years in prison; and/or
2 (2) a fine of up to fifteen thousand dollars (\$15,000);
3 and/or
4 (3) community service and/or training; and/or
5 (4) restitution to any Individual for any financial losses
6 incurred as a result of the fraud; and/or
7 (5) temporary suspension of tribal benefits.

8 **§ 117. Theft of Services**

9 (a) Elements: A Person commits this offense if that Person
10 obtains services known to be available only for compensation by deception,
11 threat, force or any other means with the intent to avoid due payment for
12 such services.

13 (b) Punishment: The Tribal Court may institute a punishment
14 of:

- 15 (1) up to three (3) years in prison; and/or
16 (2) a fine of up to fifteen thousand dollars (\$15,000);
17 and/or
18 (3) community service and/or training; and/or
19 (4) restitution to any Individual for loss of revenues;
20 and/or
21 (5) temporary suspension of tribal benefits.

22 **§ 118. Bribery**

23 (a) Elements: A Person commits bribery if that Person offers,
24 confers or agrees to confer upon another, or solicits, accepts or agrees to
25 accept from another:

26 (1) Any monetary benefit as consideration for the
27 recipient's decision, opinion, recommendation, vote or other exercise
28 of discretion as a public servant, Tribal employee or voter; or

29 (2) Any benefit as consideration for a violation of a
30 known legal duty as a public servant or Tribal employee.

31 (b) Punishment: The Tribal Court may institute a punishment of:

- 32 (1) up to three (3) years in prison; and/or
33 (2) a fine of up to fifteen thousand dollars (\$15,000);
34 and/or
35 (3) community service and/or training; and/or
36 (4) temporary or permanent Banishment from Quapaw

1 Indian Country.

2 (5) Clarification: It is no defense to prosecution under
3 this section that a Person whom the actor sought to influence was
4 not qualified to act in the desired way, whether because he or she
5 had not yet assumed office, or lacked jurisdiction, or for any other
6 reason.

7 **§ 119. Criminal Simulation**

8 (a) Elements: A Person commits this offense when that Person,
9 with intent to defraud makes, alters or utters or attempts to circulate or sells
10 as genuine any object so that it appears to have value because of antiquity,
11 rarity, source, or authorship which that object does not possess.

12 (b) Punishment: The Tribal Court may institute a punishment
13 of:

- 14 (1) up to three (3) years in prison; and/or
15 (2) a fine of up to fifteen thousand dollars (\$15,000);
16 and/or
17 (3) community service and/or training; and/or
18 (4) restitution to any Individual for loss of value; and/or
19 (5) temporary suspension of tribal benefits.

20 **§ 120. Bill Skipping**

21 (a) Elements: A Person commits this offense when that Person
22 obtains food, lodging, services or other accommodations at any casino,
23 hotel, inn, restaurant, boarding house, rooming house, motel or auto camp,
24 with intent to defraud the owner or keeper for such services.

25 (b) Punishment: The Tribal Court may institute a punishment
26 of:

- 27 (1) up to three (3) months in prison; and/or
28 (2) a fine of up to one thousand dollars (\$1,000); and/or
29 (3) community service and/or training; and/or
30 (4) restitution to any Individual for loss of revenues;
31 and/or
32 (5) temporary suspension of tribal benefits.

33 (c) Definition: In this section, the term "intent to defraud"
34 includes:

- 35 (1) obtaining services by false pretense;
36 (2) using a check for payment knowing that such check

- 1 will be refused by the financial institution to whom it is presented;
- 2 (3) leaving any hotel, inn, restaurant, boarding house,
3 rooming house, motel, apartment house, apartment, rental unit or
4 rental house, trailer camp or auto camp, without payment or offering
5 to pay;
- 6 (4) surreptitiously removing or attempting to remove the
7 Person's baggage; or
- 8 (5) registering under a fictitious name.
- 9 (d) Exclusions: This section does not apply where there has
10 been an agreement in writing for a delay in payment.

11 **§ 121. Making a False Credit Report**

12 (a) Elements: A Person commits this offense when that Person
13 knowingly makes a materially false or misleading statement to obtain
14 property or credit for oneself or another or to keep some other person from
15 obtaining credit.

16 (b) Punishment: The Tribal Court may institute a punishment
17 of:

- 18 (1) up to six (6) months in prison; and/or
19 (2) a fine of up to five hundred dollars (\$500); and/or
20 (3) community service and/or training; and/or
21 (4) restitution to any Individual for any loss of revenues;
22 and/or
23 (5) temporary suspension of tribal benefits.

24 **§ 122. Attempt to Interfere with Administration of Laws**

25 (a) Elements: A Person commits this offense when that Person:

26 (1) corruptly or by force or threat of force (including any
27 threatening letter or communication) endeavors to intimidate or
28 impede any Tribal officer or Tribal employee acting in an official
29 capacity; or

30 (2) corruptly or by force or threat of force (including any
31 threatening letter or communication) obstructs or impedes or
32 endeavors to obstruct or impede, the due administration of any
33 Tribal law or regulation; or

34 (3) forcibly rescues or causes to be rescued or attempts to
35 rescue or cause to be rescued any property after seizure under Tribal
36 law or regulation.

37 (b) Punishment: The Tribal Court may institute a punishment

1 of:

- 2 (1) up to three (3) years in prison; and/or
3 (2) a fine of up to fifteen thousand dollars (\$15,000);
4 and/or
5 (3) community service and/or training; and/or
6 (4) temporary suspension of tribal benefits.

7 **§ 123. Desecration**

8 (a) Elements: A Person commits this offense when that Person
9 willfully with malicious intent removes or in any other way desecrates any
10 tomb, monument or gravestone, or other structure or public monument
11 placed in any cemetery, private or traditional burying ground or other sacred
12 place, or any fence, railing, or other work for the protection or
13 ornamentation of any such place of burial or other sacred place.

14 (b) Punishment: The Tribal Court may institute a punishment
15 of:

- 16 (1) up to three (3) in prison; and/or
17 (2) a fine of up to five hundred dollars (\$500); and/or
18 (3) community service and/or training; and/or
19 (4) pay for any repairs or replacements required to
20 reverse the actions; and/or
21 (5) temporary suspension of tribal benefits.

22 (c) Definition: In this section, the terms "desecrate" means to
23 deface, damage, pollute, destroy, take or otherwise physically mistreat in a
24 way that the actor knows, or believes will outrage, the sensibilities of
25 persons likely to observe or discover his action.

26 **§ 124. Abusing a Corpse**

27 (a) Elements: A Person commits this offense when that Person
28 purposely and unlawfully removes, conceals, dissects, or destroys a corpse
29 or any part of a corpse or disinters a corpse that has been buried or
30 otherwise interred.

31 (b) Punishment: The Tribal Court may institute a punishment
32 of:

- 33 (1) up to three (3) years in prison; and/or
34 (2) a fine of up to fifteen thousand dollars (\$15,000);
35 and/or
36 (3) community service and/or training and/or counseling;

- 1 and/or
2 (4) restitution to any Individual for loss of revenues;
3 and/or
4 (5) temporary or permanent Banishment from Quapaw
5 Indian Country.

6 **§ 125. Cruelty to Animals**

- 7 (a) Elements: A Person commits this offense if that Person
8 purposely or recklessly:
9 (1) subjects any animal in his or her custody to cruel
10 neglect; and/or
11 (2) subjects any animal to cruel mistreatment; and/or
12 (3) abandons an animal for which a Person has accepted
13 responsibility; and/or
14 (4) has sex with an animal; and/or
15 (5) kills or injures any animal belonging to another
16 without legal privilege or consent of the owner unless to done to end
17 the immediate suffering of the animal; and/or
18 (6) causes one animal to fight with another.
19 (b) Punishment: The Tribal Court may institute a punishment
20 of:
21 (1) up to one (1) month in prison; and/or
22 (2) a fine of up to one thousand (\$1,000); and/or
23 (3) community service and/or training and/or counseling;
24 and/or
25 (4) temporary suspension of tribal benefits.

26 **CHAPTER 11. CRIMES INVOLVING CHILDREN**

27 **§ 126. Neglect of Children**

- 28 (a) Elements: A Person that is a parent, guardian, or other
29 Person supervising the welfare of a child under 18 commits this offense if
30 that Person knowingly endangers the child's welfare by violating a duty of
31 care, protection or support or neglects or refuses to send the child to school.
32 (b) Punishment: The Tribal Court may institute a punishment
33 of:
34 (1) up to three (3) months in prison; and/or
35 (2) a fine of up to fifteen thousand dollars (\$15,000);
36 and/or

1 (3) community service and/or training and/or counseling;
2 and/or

3 (4) temporary suspension of tribal benefits.

4 **§ 127. Neglect of Child on Probation**

5 (a) Elements: A Person commits this offense if that Person:

6 (1) is a parent, legal guardian, legal custodian, stepparent
7 or other adult person living in the home of a minor; and

8 (2) the minor has been adjudged delinquent, in need of
9 supervision or deprived by a court of competent jurisdiction, and
10 such court has issued an order for care or probation; and

11 (3) the parent, legal guardian, legal custodian, stepparent
12 or other adult person living in the home of such minor neglects, fails
13 or refuses to give such minor proper care and guidance, or fails or
14 refuses to comply with the court order for care or probation.

15 (b) Punishment: The Tribal Court may institute a punishment
16 of:

17 (1) up to three (3) months in prison; and/or

18 (2) a fine of up to one thousand dollars (\$1,000); and/or

19 (3) community service and/or training and/or counseling;
20 and/or

21 (4) temporary suspension of tribal benefits.

22 **§ 128. Interference with Custody**

23 (a) Elements: A Person commits this offense if that Person
24 knowingly or recklessly:

25 (1) takes or entices any child under the age of 18 from
26 the custody of that child's parent, guardian or other lawful
27 custodian, when that Person has no privilege to do so; or

28 (2) takes or entices any committed Individual away from
29 lawful custody when that Person does not have the privilege to do
30 so. Committed Individual means, in addition to anyone committed
31 under judicial warrant, any orphan, neglected or delinquent child,
32 mentally challenged Individual, or other dependent or incompetent
33 Individual entrusted to another's custody by or through a recognized
34 social agency or by authority of law.

35 (b) Punishment: The Tribal Court may institute a punishment
36 of:

37 (1) up to six (6) months in prison; and/or

- 1 (2) a fine of up to one thousand dollars (\$1,000); and/or
2 (3) community service and/or training and/or counseling;
3 and/or
4 (4) temporary suspension of tribal benefits.

5 **§ 129. Persistent Non-Support**

6 (a) Elements: A Person commits this offense if that Person
7 persistently fails to provide support which he or she can provide and which
8 that Person knows he or she is legally obliged to provide to a spouse, child
9 or other dependent.

10 (b) Punishment: The Tribal Court may institute a punishment
11 of:

- 12 (1) up to three (3) months in prison; and/or
13 (2) a fine of up to one thousand (\$1,000); and/or
14 (3) community service and/or training and/or counseling;
15 and/or
16 (4) temporary suspension of tribal benefits.

17 **§ 130. Child Abuse or Endangerment**

18 (a) Elements: A Person who is the parent, guardian, or Person
19 having custody or control over a child commits child endangerment when
20 the Person:

21 (1) knowingly permits physical, mental or sexual abuse
22 of a child by another Individual; or

23 (2) knowingly permits a child to be present at a location
24 where a controlled dangerous substance is being manufactured or
25 attempted to be manufactured; or

26 (3) knowingly permits or participates in the physical or
27 mental abuse of a child. Provided, however, that this section does
28 not prohibit any parent, guardian, foster parent or other person
29 responsible for a child's health or welfare from using reasonable,
30 ordinary force as a means of discipline if disciplinary action does
31 not cause unreasonable harm or injury to the child.

32 (b) Punishment: The Tribal Court may institute a punishment
33 of:

- 34 (1) up to three (3) years in prison; and/or
35 (2) a fine of up to fifteen thousand dollars (\$15,000);
36 and/or
37 (3) community service and/or training and/or counseling;

1 and/or

2 (4) temporary or permanent Banishment from Quapaw
3 Indian Country.

4 (c) Defenses: For this section, a Person may use as an
5 affirmative defense that the Person had a reasonable apprehension that any
6 action to stop the abuse would result in substantial bodily harm to the
7 Person or the child.

8 (d) Exclusions: This section shall not apply to any parent,
9 guardian or other person having custody or control of a child for the sole
10 reason that the parent, guardian or other person in good faith selects and
11 depends upon spiritual means or prayer for the treatment or cure of disease
12 or remedial care for such child.

13 **§ 131. Leaving Child Unattended in Vehicle, Residence or Building**

14 (a) Elements: A Person commits this offense if that Person
15 leaves any child unattended under the age of twelve years in any residence
16 or building, or in any motor vehicle or other vehicle parked on any avenue,
17 street, alley, or public place unless such child is within the custody and care
18 of some Individual over the age of 16 years.

19 (b) Punishment: The Tribal Court may institute a punishment
20 of:

- 21 (1) up to three (3) months in prison; and/or
22 (2) a fine of up to five hundred dollars (\$500); and/or
23 (3) community service and/or training and/or counseling.

24 **§ 132. Child Stealing**

25 (a) Elements: A Person commits this offense if that Person
26 leads, takes, entices or detains a child with the intent to detain and conceal
27 the child from the Individual having legal custody of said child.

28 (b) Punishment: The Tribal Court may institute a punishment
29 of:

- 30 (1) up to three (3) years in prison; and/or
31 (2) a fine of up to fifteen thousand dollars (\$15,000);
32 and/or
33 (3) community service and/or training and/or counseling;
34 and/or
35 (4) temporary suspension of tribal benefits.

36 **§ 133. Truancy**

37 (a) Elements: A Person commits this offense when that Person:

1 (1) is a parent or legal guardian of a minor who is over
2 the age of six years and under the age of 18 years and neglects or
3 refuses to cause or compel such a minor to attend and comply with
4 the rules of a public, private or other school of the parent's or legal
5 guardian's choosing; or

6 (2) is a minor who is over the age of five and who has
7 not finished four years of high school work and neglects or refuses
8 to attend and comply with the rules of some public, private or other
9 school or receive an education by other means for the full term of the
10 schools of the district in which the minor resides are in session.

11 (b) Exclusions: This section shall not apply if any such minor
12 is:

13 (1) Prevented from attending school because of mental or
14 physical disability, as determined by the board of education of the
15 district, upon a certificate of the school physician or public health
16 physician or, if no such physician is available, a duly licensed and
17 practicing physician;

18 (2) Excused from attending school, by the principal of
19 the school in which the minor is enrolled, at the request of the parent
20 or legal guardian of the minor; or

21 (3) Observing religious holy days or traditional
22 ceremonies generally accepted within Quapaw customs including
23 the actual the religious holy days or ceremonies and any required
24 travel time.

25 (c) Punishment: The Tribal Court may institute a punishment
26 of:

- 27 (1) up to three (3) months in prison; and/or
28 (2) a fine of up to five hundred dollars (\$500); and/or
29 (3) community service and/or training and/or counseling.

30 **§ 134. Allowing or Encouraging Criminal Conduct**

31 (a) Elements: A Person commits this offense when that Person
32 aids, abets, encourages or, by omission of a duty, encourages or assists a
33 minor under 18 years of age to commit any municipal, state, tribal or federal
34 offense.

35 (b) Punishment: The Tribal Court may institute a punishment
36 of:

- 37 (1) up to three (3) years in prison; and/or
38 (2) a fine of up to fifteen thousand dollars (\$15,000);
39 and/or

1 (3) community service and/or training and/or counseling;
2 and/or

3 (4) temporary or permanent Banishment from Quapaw
4 Indian Country.

5 (c) Definition: This offense explicitly includes the recruitment
6 of any minor into a gang or other organization that promotes activity
7 contrary to the law of any jurisdiction.

8 **§ 135. Commission of a Crime in the Presence of Minor**

9 (a) Elements: A Person commits this offense when that Person
10 commits any municipal, state, tribal, or federal offense in the presence of
11 any minor under 18 years of age.

12 (b) Punishment: The Tribal Court may institute a punishment
13 of:

14 (1) up to three (3) years in prison; and/or

15 (2) a fine of up to fifteen thousand dollars (\$15,000);
16 and/or

17 (3) community service and/or training and/or counseling;
18 and/or

19 (4) temporary suspension of tribal benefits.

20 **§ 136. Failure of Parental Responsibility**

21 (a) Elements: A Person commits this offense when that Person
22 is a parent or guardian and fails to make all good faith efforts to control a
23 minor who is (i) under the parent's supervision and (ii) after notification of a
24 prior offense of an law or ordinance of any jurisdiction committed by the
25 minor, fails to prevent the minor from committing another offense within
26 one year of the date the minor committed the first offense.

27 (b) Punishment: The Tribal Court may institute a punishment
28 of:

29 (1) a fine of up to five hundred dollars (\$500); and/or

30 (2) community service and/or training and/or counseling.

31 **§ 137. Failure to Report Child Abuse**

32 (a) Elements: A Person commits this offense if that Person:

33 (1) is a:

34 i) health care worker of any type including but
35 not limited to (doctors, dentists, chiropractors, nurses,
36 medical examiner, emergency medical technician,
37 paramedic, or health care provider); or

- 1 ii) any type of education worker (including but
- 2 not limited to (administrators, teachers, school counselors,
- 3 instructional aides, or bus drivers) employed by any tribal,
- 4 federal, public or private school; or
- 5 iii) any type of child care worker (including but
- 6 not limited to Headstart teachers, public assistance workers,
- 7 workers in a group home or residential or day care facility,
- 8 or social worker); or
- 9 iv) any type of counselor (including but not
- 10 limited to psychiatrists, psychologists, or psychological
- 11 assistants, licensed or unlicensed marriage, family, or child
- 12 counselor, person employed in the mental health profession);
- 13 or
- 14 v) any He-Tah (law enforcement officers),
- 15 probation officers, workers in a juvenile rehabilitation or
- 16 detention facility, or employees in a public agency who is
- 17 responsible for enforcing statutes and judicial orders;
- 18 (2) and knows, or has reasonable suspicion, that a child
- 19 was abused in Quapaw Indian Country, or actions are being taken,
- 20 or are going to be taken, that would reasonably be expected to result
- 21 in abuse of a child in Quapaw Indian Country; and
- 22 (3) fails to immediately report such knowledge or
- 23 suspicion to the local child protective services agency or local law
- 24 enforcement agency.
- 25 (b) Punishment: The Tribal Court may institute a punishment
- 26 of:
- 27 (1) up to six (6) months in prison; and/or
- 28 (2) a fine of up to fifteen thousand dollars (\$15,000);
- 29 and/or
- 30 (3) community service and/or training and/or counseling;
- 31 and/or
- 32 (4) temporary suspension of tribal benefits.
- 33 (c) Definitions: For purposes of this section:
- 34 (1) The term "abuse" includes any case in which a child
- 35 is dead or exhibits evidence of skin bruising, bleeding, malnutrition,
- 36 failure to thrive, burns, fracture of any bone, subdural hematoma,
- 37 soft tissue swelling, and such condition is not justifiably explained
- 38 or may not be the product of an accidental occurrence; and any case
- 39 in which a child is subjected to sexual assault, sexual molestation,
- 40 sexual exploitation, sexual contact, or prostitution.

1 (2) The term “child” means an individual who is not
2 married, and has not attained 18 years of age.

3 (3) The term “local child protective services agency”
4 means that agency of the federal government, of a state, or of an
5 Indian tribe that has the primary responsibility for child protection
6 on any Indian reservation or within any community in Indian
7 Country; and

8 (4) “local law enforcement agency” means that federal,
9 tribal, or state law enforcement agency that has the primary
10 responsibility for the investigation of an instance of alleged child
11 abuse within the portion of Indian Country involved.

12 (d) Exclusions: Any Individual making a report required under
13 this section which is based upon their reasonable belief and which is made
14 in good faith shall be immune from civil or criminal liability for making
15 that report.

16 **§ 138. Contributing to the Delinquency of a Minor**

17 (a) Elements: A Person commits this offense if that Person is
18 eighteen (18) years of age or older and:

19 (1) knowingly or recklessly sells or gives to or otherwise
20 makes available beer, liquor, wine or other alcoholic beverages to an
21 Individual under the age of twenty-one (21) years; or

22 (2) knowingly or recklessly, by act or omission,
23 encourages, causes or contributes to the delinquency or unlawful
24 conduct of a minor under eighteen (18) years of age; or

25 (3) knowingly or recklessly sells or gives or otherwise
26 makes available any tobacco product to an Individual under the age
27 of eighteen (18) years; or

28 (4) knowingly or willfully causes, aids, abets or
29 encourages a minor to be, to remain, or to become a delinquent child
30 or a runaway child, except as otherwise specifically provided by law
31 or with a compelling reason; or

32 (5) knowingly or willfully causes, aids, abets, or
33 encourages a minor to commit or participate in committing an act
34 that would be a criminal offense if committed by an adult. Violation
35 of this subparagraph shall be punishable by the maximum penalty
36 allowed for conviction of the offense or offenses which the Person
37 caused, aided, abetted, or encouraged the minor to commit or
38 participate in committing.

39 (b) Punishment: The Tribal Court may institute a punishment
40 of:

- 1 (1) up to three (3) years in prison; and/or
2 (2) a fine of up to fifteen thousand dollars (\$15,000);
3 and/or
4 (3) community service and/or training and/or counseling;
5 and/or
6 (4) temporary suspension of tribal benefits.

7 (c) Definitions: For purposes this section, the term:

8 (1) "runaway child" means an unemancipated minor who
9 is voluntarily absent from the home without a compelling reason,
10 without the consent of a custodial parent or other custodial adult and
11 without the parent or other custodial adult's knowledge as to the
12 child's whereabouts.

13 (2) "Compelling reason" means imminent danger from
14 incest, a life-threatening situation, or equally traumatizing
15 circumstance. A person aiding a runaway child based upon a
16 reasonable belief that the child is in physical, mental or emotional
17 danger and with notice to the Social Services Department or a local
18 law enforcement agency of the location of the child within twelve
19 (12) hours of aiding the child shall not be subject to prosecution
20 under this section.

21 (3) "Minor" means any unmarried person under the age
22 of eighteen (18) years.

23 **§ 139. Child Trafficking**

24 (a) Elements: A Person commits this offense if that Person:

25 (1) accepts any compensation, in money, property or
26 other thing of value, at any time, from the Individual or Individuals
27 adopting a child, for services of any kind performed or rendered, or
28 purported to be performed or rendered, in connection with such
29 adoption; or

30 (2) accepts any compensation, in money, property or
31 other thing of value, from any other person, in return for placing,
32 assisting to place, or attempting to place a child for adoption or for
33 permanent care in a foster home; or

34 (3) offers to place, or advertises to place, a child for
35 adoption or for care in a foster home, as an inducement to any
36 woman to enter an institution or home or other place for maternity
37 care or for the delivery of a child.

38 (b) Punishment: The Tribal Court may institute a punishment
39 of:

- 1 (1) up to three (3) years in prison; and/or
2 (2) a fine of up to fifteen thousand dollars (\$15,000);
3 and/or
4 (3) community service and/or training and/or counseling;
5 and/or
6 (4) temporary or permanent Banishment from the Indian
7 Country of the Quapaw.

8 (c) Definition: For purposes of this section, "Child" means an
9 unmarried or unemancipated person under the age of eighteen (18) years.

10 (d) Exclusion: This section does not apply to attorneys or
11 advocates licensed by the Tribal Courts receiving reasonable fees for legal
12 services actually rendered in the course of lawful adoption proceedings or to
13 any bona fide social worker or government employee receiving their normal
14 salary and making such placements as a part of their official duties.

15 **CHAPTER 12. CRIMES INVOLVING ELDERS**

16 **§ 140. Abuse of an Elder**

17 (a) Elements: A Person commits this offense if that Person:

18 (1) physically or verbally abuses, commits financial
19 neglect, neglects, commits sexual abuse, or exploits any person
20 entrusted to the care of such Person in a nursing facility or other
21 setting; or

22 (2) knowingly causes or permits any of the acts in
23 number 1 above to be done.

24 (b) Punishment: The Tribal Court may institute a punishment
25 of:

- 26 (1) up to three (3) years in prison; and/or
27 (2) a fine of up to fifteen thousand dollars (\$15,000);
28 and/or
29 (3) community service and/or training and/or counseling;
30 and/or
31 (4) temporary or permanent Banishment from Quapaw
32 Indian Country.

33 **§ 141. Interference with Custody**

34 (a) Elements: A Person commits this offense if that Person
35 knowingly or recklessly:

36 (1) takes or entices any Committed Person away from
37 lawful custody when that Person does not have the privilege to do

1 so. Committed Person means, in addition to anyone committed
2 under judicial warrant, mentally challenged person, or other
3 dependent or incompetent Individual entrusted to another's custody
4 by or through a recognized social agency or by authority of law.

5 (b) Punishment: The Tribal Court may institute a punishment
6 of:

- 7 (1) up to six (6) months in prison; and/or
8 (2) a fine of up to fifteen thousand dollars (\$15,000);
9 and/or
10 (3) community service and/or training and/or counseling;
11 and/or
12 (4) temporary suspension of tribal benefits.

13 **§ 142. Exploitation of Elderly or Disabled Adult**

14 (a) Elements: A Person commits this offense if that Person
15 knowingly, by deception or intimidation, obtains or uses (or endeavors to
16 obtain or use) an elderly Individual's or disabled adult's funds, assets, or
17 property with the intent to temporarily or permanently deprive the elderly
18 Individual or disabled adult of the use, benefit, or possession of the funds,
19 assets, or property, or to benefit someone other than the elderly Individual
20 or disabled adult.

21 (b) Punishment: The Tribal Court may institute a punishment
22 of:

- 23 (1) up to three (3) years in prison; and/or
24 (2) a fine of up to fifteen thousand dollars (\$15,000);
25 and/or
26 (3) community service and/or training and/or
27 Counseling; and/or
28 (4) restitution to any Individual for damage to or loss of
29 assets or property; and/or
30 (5) temporary or permanent Banishment from Quapaw
31 Indian Country.

32 (c) Definitions for this section:

- 33 (1) "elderly person" means any person sixty-two (62)
34 years of age or older;
35 (2) "disabled adult" means any person that due to a
36 temporary or permanent mental condition cannot make a clear
37 judgment typical of an adult in similar situation.

1 **CHAPTER 13. MAJOR CRIMES**

2 **§ 143. In General**

3 18 U.S.C. § 1153 extends concurrent federal jurisdiction into Indian
4 Country for Indian on Indian violations of the fourteen "major crimes"
5 listed in this chapter. It is the intent of the Quapaw Tribal Business
6 Committee to allow for tribal prosecution of these crimes recognizing that
7 prosecution by the federal sovereign may occur in parallel with tribal
8 proceedings and convictions.

9 **§ 144. Murder**

10 (a) Elements: A Person commits the offense of murder if that
11 Person purposely or knowingly causes the death of another Individual with
12 malice aforethought.

13 (b) Punishment: The Tribal Court may institute a punishment
14 of:

- 15 (1) up to three (3) years in prison; and/or
16 (2) a fine of up to fifteen thousand dollars (\$15,000);
17 and/or
18 (3) community service and/or training; and/or
19 (4) temporary or permanent Banishment from Quapaw
20 Indian Country.

21 Cross Reference: Charge under Major Crimes Act would be
22 pursuant to 18 U.S.C. § 1111.

23 **§ 145. Manslaughter**

24 (a) Elements: A Person commits the offense of manslaughter if
25 that Person causes the death of another Person without malice.

26 (b) Punishment: The Tribal Court may institute a punishment
27 of:

- 28 (1) up to three (3) years in prison; and/or
29 (2) a fine of up to fifteen thousand dollars (\$15,000);
30 and/or
31 (3) community service and/or training; and/or
32 (4) temporary or permanent Banishment from Quapaw
33 Indian Country.

34 (c) Definitions: An offense under this section includes, but is
35 not limited to:

- 36 (1) Causing the death of an Individual which results from

1 the commission of any offense under this Title 11.

2 (2) Recklessly or negligently causing the death of an
3 Individual with disregard of the possible consequence of one's
4 conduct.

5 (3) Causing the death of an Individual by operating a
6 motor vehicle in a reckless, negligent, or careless manner, or while
7 under the influence of an alcoholic beverage, intoxicating liquor, a
8 controlled substance, or any drug, to a degree which renders the
9 person incapable of safely driving a vehicle.

10 (4) A blood alcohol content in excess of .10 shall create a
11 rebuttable presumption that the person was under the influence of an
12 alcoholic beverage.

13 (5) For purposes of this section, a "motor vehicle" is any
14 self-propelled vehicle and includes, but is not limited to, any
15 automobile, truck, van, motorcycle, train, engine, watercraft, aircraft
16 or snowmobile.

17 Cross Reference: Charge under Major Crimes Act would be
18 pursuant to 18 U.S.C. § 1112.

19 **§ 146. Attempt to Commit Murder or Manslaughter**

20 (a) Elements: A Person commits the offense of "attempted
21 murder" or "attempted manslaughter" when that Person takes or fails to take
22 actions that would have reasonably resulted in the charge of murder or
23 manslaughter had an Individual died.

24 (b) Punishment: The Tribal Court may institute a punishment
25 of:

26 (1) up to three (3) years in prison; and/or

27 (2) a fine of up to fifteen thousand dollars (\$15,000);
28 and/or

29 (3) community service and/or training; and/or

30 (4) temporary or permanent Banishment from Quapaw
31 Indian Country.

32 Cross Reference: Charge under Major Crimes Act would be
33 pursuant to 18 U.S.C. § 1113.

34 **§ 147. Kidnapping and Abduction**

35 (a) Elements: A Person commits this offense if that Person
36 unlawfully removes an Individual from that Individual's place of residence
37 or business, or a substantial distance from the vicinity where that Individual
38 was found, or to unlawfully confine any Individual for a substantial period

1 of time in a place of isolation with any of the following purposes:

2 (1) to hold for ransom or reward, or as a shield or
3 hostage; or

4 (2) to facilitate the commission of any crime or flight
5 thereafter; or

6 (3) to inflict bodily injury to or to terrorize or frighten
7 the Individual or another Individual; or

8 (4) to prevent or interfere with the Individual's
9 performance of any governmental function.

10 (b) Punishment: The Tribal Court may institute a punishment of:

11 (1) up to three (3) years in prison; and/or

12 (2) a fine of up to fifteen thousand dollars (\$15,000);
13 and/or

14 (3) community service and/or training; and/or

15 (4) temporary or permanent Banishment from Quapaw
16 Indian Country.

17 (c) Definitions: For purposes of this section, the terms
18 "unlawfully remove" and "unlawfully confine" if either is accomplished by
19 force, threat or deception, or, in the case of an Individual under the age of
20 fourteen (14) or incompetent, if it is accomplished without the consent of a
21 parent, guardian or other Individual responsible for general supervision of
22 that Individual's welfare.

23 Cross Reference: Charge under Major Crimes Act would be
24 pursuant to 18 U.S.C. § 1201.

25 **§ 148. Maiming**

26 (a) Elements: A Person commits the offense of maiming if that
27 Person with an intent to torture, maim, or disfigure commits any action that
28 causes the permanent disfiguring damage to face, eyes, tongue, limbs or
29 sexual organs of an Individual.

30 (b) Punishment: The Tribal Court may institute a punishment
31 of:

32 (1) up to three (3) years in prison; and/or

33 (2) a fine of up to fifteen thousand dollars (\$15,000);
34 and/or

35 (3) community service and/or training and counseling;
36 and/or

37 (4) temporary or permanent Banishment from Quapaw

1 Indian Country.

2 Cross Reference: Charge under Major Crimes Act would be
3 pursuant to 18 U.S.C. § 114.

4 **§ 149. Rape and Sexual Abuse**

5 (a) Elements: A Person commits the offense of rape and sexual
6 abuse if that Person:

7 (1) causes another Individual to engage in a sexual act by
8 threatening or placing that other Individual in fear of death, serious
9 bodily injury to the Individual in fear or another Individual, or
10 kidnapping; or

11 (2) engages in a sexual act with another Individual if that
12 other Individual is:

13 i) incapable of appraising the nature of the
14 conduct; or

15 ii) physically incapable of declining participation
16 in, or communicating unwillingness to engage in, that sexual
17 act.

18 (3) Engages in a sexual act with an Individual less than
19 fourteen (14) years old.

20 (b) Punishment: The Tribal Court may institute a punishment
21 of:

22 (1) up to three (3) years in prison; and/or

23 (2) a fine of up to fifteen thousand dollars (\$15,000);
24 and/or

25 (3) community service and/or training and/or counseling;
26 and/or

27 (4) temporary or permanent Banishment from Quapaw
28 Indian Country.

29 Cross Reference: Charge under Major Crimes Act would be
30 pursuant to 18 U.S.C. §§ 2241 and 2242.

31 **§ 150. Sexual Abuse of a Minor**

32 (a) Elements: A Person commits this offense if that Person
33 knowingly engages or attempts to engage in a sexual act with another
34 Individual who:

35 (1) has not attained the age of 16 years; and

36 (2) is at least four years younger than the person so
37 engaging.

- 1 (b) Punishment: The Tribal Court may institute a punishment
2 of:
3 (1) up to three (3) years in prison; and/or
4 (2) a fine of up to fifteen thousand dollars (\$15,000);
5 and/or
6 (3) community service and/or training and/or counseling;
7 and/or
8 (4) temporary or permanent Banishment from Quapaw
9 Indian Country.

10 Cross Reference: Charge under Major Crimes Act would be
11 pursuant to 18 U.S.C. § 2243.

12 **§ 151. Sexual Abuse of a Ward**

13 (a) Elements: A Person commits this offense if that Person
14 knowingly engages or attempts to engage in a sexual act with another
15 Individual who is:

- 16 (1) in official detention; and
17 (2) under the custodial, supervisory, or disciplinary
18 authority of the Person so engaging.

- 19 (b) Punishment: The Tribal Court may institute a punishment
20 of:
21 (1) up to three (3) years in prison; and/or
22 (2) a fine of up to fifteen thousand dollars (\$15,000);
23 and/or
24 (3) community service and/or training and counseling;
25 and/or
26 (4) temporary or permanent Banishment from Quapaw
27 Indian Country.

28 Cross Reference: Charge under Major Crimes Act would be
29 pursuant to 18 U.S.C. § 2243.

30 **§ 152. Incest**

31 (a) Elements: A Person commits this offense if that Person
32 knowingly marries or cohabits as husband and wife or has sexual
33 intercourse with that Person's daughter, son, granddaughter, grandson,
34 mother, father, grandmother, grandfather, brother, sister, half-brother, half-
35 sister, uncle, aunt, nephew, niece or first cousin.

- 36 (b) Punishment: The Tribal Court may institute a punishment
37 of:

- 1 (1) up to three (3) years in prison; and/or
2 (2) a fine of up to fifteen thousand dollars (\$15,000);
3 and/or
4 (3) community service and/or training and/or counseling;
5 and/or
6 (4) temporary or permanent Banishment from Quapaw
7 Indian Country.

8 Cross Reference: No federal statute exists for this offense, therefore
9 the federal government utilizes the law of Oklahoma, Oklahoma Statutes
10 Title 21, Section 885.

11 **§ 153. Assault**

12 (a) Elements: A Person is guilty of assault if he or she:

13 (1) Attempts to cause or wrongfully, purposely,
14 knowingly or recklessly causes bodily injury to another; or

15 (2) Negligently causes bodily injury to another with a
16 deadly weapon; or

17 (3) Attempts by physical menace to put another in fear of
18 imminent serious bodily injury.

19 (b) Punishment: The Tribal Court may institute a punishment
20 of:

21 (1) up to three (3) years in prison; and/or

22 (2) a fine of up to fifteen thousand dollars (\$15,000);
23 and/or

24 (3) community service and/or training and/or counseling;
25 and/or

26 (4) temporary or permanent Banishment from Quapaw
27 Indian Country.

28 Cross Reference: Charge under Major Crimes Act would be
29 pursuant to 18 U.S.C. § 113.

30 **§ 154. Arson I**

31 (a) Elements: A Person is guilty of Arson I when that Person
32 knowingly and willfully starts a fire or creates an explosion with the
33 purpose of:

34 (1) destroying or damaging any property of another; or

35 (2) destroying or damaging any property to collect
36 insurance for a loss whether owned by the Person or another.

- 1 (b) Punishment: The Tribal Court may institute a punishment
2 of:
3 (1) up to three (3) years in prison; and/or
4 (2) a fine of up to fifteen thousand dollars (\$15,000);
5 and/or
6 (3) community service and/or training and/or counseling;
7 and/or
8 (4) restitution to any Individual for damage to person or
9 property; and/or
10 (5) temporary or permanent Banishment from Quapaw
11 Indian Country.

12 Cross Reference: Charge under Major Crimes Act would be
13 pursuant to 18 U.S.C. § 81.

14 **§ 155. Arson II**

15 (a) Elements: A Person is guilty of Arson II when that Person
16 knowingly or recklessly, carelessly or negligently, without regard for the
17 consequences starts a fire or creates an explosion which:

- 18 (1) destroys or damages any property of another; or
19 (2) endangers human life or safety.

20 (b) Punishment: The Tribal Court may institute a punishment
21 of:

- 22 (1) up to six (6) months in prison; and/or
23 (2) a fine of up to two thousand five hundred dollars
24 (\$2,500); and/or
25 (3) community service and/or training; and/or
26 (4) restitution to any Individual for damage to person or
27 property; and/or
28 (5) temporary suspension of tribal benefits.

29 (c) Definition: Discarding a lit cigarette constitutes
30 carelessness.

31 Cross Reference: This offense does not exist under federal law.

32 **§ 156. Arson III**

33 (a) Elements: A Person is guilty of Arson III when that Person
34 intentionally or inadvertently starts fire (even though for a legal purpose)
35 and fails to either:

- 36 (1) Take reasonable measures to put out or control the

1 fire; or

2 (2) To give prompt alarm, if the fire is spreading in such
3 a manner that the fire might endanger the life or property of another.

4 (b) Punishment: The Tribal Court may institute a punishment
5 of:

6 (1) up to one (1) month in prison; and/or

7 (2) a fine of up to one thousand (\$1,000); and/or

8 (3) community service and/or training; and/or

9 (4) restitution to any Individual for damage to person or
10 property.

11 Cross Reference: This offense does not exist under federal law.

12 **§ 157. Burglary**

13 (a) Elements: A Person is guilty of Burglary if that Person uses
14 any type of force to enter into any structure, dwelling, tent vehicle or vessel:

15 (1) with no consent and with an intent to steal; or

16 (2) with the intent to commit any crime listed in this

17 Title.

18 (b) Punishment: The Tribal Court may institute a punishment
19 of:

20 (1) up to three (3) years in prison; and/or

21 (2) a fine of up to fifteen thousand dollars (\$15,000);

22 and/or

23 (3) community service and/or training and/or counseling;

24 and/or

25 (4) restitution to any Individual for damage to person or
26 property; and/or

27 (5) temporary or permanent Banishment from Quapaw
28 Indian Country.

29 Cross Reference: No federal statute exists for this offense, therefore
30 the federal government utilizes the law of Oklahoma.

31 **§ 158. Robbery**

32 (a) Elements: A Person commits this offense if that Person by
33 force and violence, or by intimidation, takes or attempts to take from
34 another Person anything of value.

35 (b) Punishment: The Tribal Court may institute a punishment
36 of:

- 1 (1) up to three (3) years in prison; and/or
2 (2) a fine of up to fifteen thousand dollars (\$15,000);
3 and/or
4 (3) community service and/or training; and/or
5 (4) restitution to any Individual for damage to person or
6 property; and/or
7 (5) temporary or permanent Banishment from Quapaw
8 Indian Country.

9 Cross Reference: Charge under Major Crimes Act would be
10 pursuant to 18 U.S.C. § 2111.

11 **CHAPTER 14. DRIVING VIOLATIONS**

12 **§ 159. General**

13 The provisions of this chapter apply to all Persons operating motor
14 vehicles within Quapaw Indian Country.

15 **§ 160. Failure to Obey Traffic Signs and Signals**

16 (a) Elements: Any Person who is the driver of a motor vehicle
17 commits this offense if that Person fails to obey any traffic or railroad sign
18 or signal, unless:

- 19 (1) the Person is acting under the direction of a He-Tah
20 (Law Enforcement Officer);
21 (2) the Person is the driver of an authorized emergency
22 vehicle; or
23 (3) at the time and place of the alleged violation the
24 traffic sign or signal is not in proper position and sufficiently legible
25 to be seen by an ordinarily observant person.

26 (b) Punishment: The Tribal Court may institute a punishment
27 of:

- 28 (1) up to three (3) months in prison; and/or
29 (2) a fine of up to one thousand (\$1,000); and/or
30 (3) community service and/or training.

31 **§ 161. Interference with Traffic Signs or Signals**

32 (a) Elements: A Person commits this offense if that Person
33 alters, removes, disables or in any way creates a situation that would cause
34 an Individual to fail to see or understand a traffic sign or signal in Quapaw
35 Indian Country.

36 (b) Punishment:

- 1 (1) up to three (3) years in prison; and/or
- 2 (2) a fine of up to two thousand dollars (\$2,000); and/or
- 3 (3) community service and/or training; and/or
- 4 (4) restitution to any Individual for damage to person or
- 5 property; and/or
- 6 (5) temporary suspension of tribal benefits.

7 **§ 162. Failure to Obey Law Enforcement Directions**

8 (a) Elements: A Person commits this offense when that Person
9 willfully fails or refuses to comply with any traffic order given by a He-tah
10 (Law Enforcement Officer).

11 (b) Punishment:

- 12 (1) up to three (3) years in prison; and/or
- 13 (2) a fine of up to fifteen thousand dollars (\$15,000);
- 14 and/or
- 15 (3) community service and/or training; and/or
- 16 (4) restitution to any Individual for damage to person or
- 17 property; and/or
- 18 (5) temporary suspension of tribal benefits.

19 **§ 163. Failure to Stop for School Bus**

20 (a) Elements: A Person that is the driver of a vehicle commits
21 this offense if that Person fails to stop when a school bus is stopped with its
22 the red loading signals flashing.

23 (b) Punishment:

- 24 (1) up to three (3) years in prison; and/or
- 25 (2) a fine of up to fifteen thousand dollars (\$15,000);
- 26 and/or
- 27 (3) community service and/or training; and/or
- 28 (4) restitution to any Individual for damage to person or
- 29 property; and/or
- 30 (5) temporary suspension of tribal benefits.

31 **§ 164. Speeding Violations**

32 (a) Elements: A Person commits this offense if that Person is
33 the driver of a vehicle in Quapaw Indian Country drives at a speed beyond
34 that which is reasonable and prudent given the traffic, road and weather
35 conditions, and that is at or below the maximum speed limit posted by the

1 Quapaw Tribe or in absence of a tribal speed limit that of the State of
2 Oklahoma for that road segment.

3 (b) Punishment:

4 (1) up to three (3) years in prison; and/or

5 (2) a fine of up to fifteen thousand dollars (\$15,000);

6 and/or

7 (3) community service and/or training; and/or

8 (4) restitution to any Individual for damage to person or
9 property; and/or

10 (5) temporary suspension of tribal benefits.

11 **§ 165. Parking Violations**

12 (a) Elements: A Person commits a parking violation if that
13 Person stops or parks a vehicle, except when necessary to avoid conflict
14 with other traffic or in compliance with the directions of a He-Tah (Law
15 Enforcement Officer) in any of the following places in Quapaw Indian
16 Country:

17 (1) At any place where official signs prohibit stopping;

18 (2) On a sidewalk;

19 (3) In front of a public or private driveway;

20 (4) Within fifteen (15) feet of a fire hydrant;

21 (5) Within an intersection;

22 (6) On a crosswalk;

23 (7) Within fifty (50) feet of a rail of a railroad crossing;

24 (8) At any place that might interfere with the ability of
25 emergency responders or He-Tah (Law Enforcement Officers) to
26 quickly to respond to an emergency or otherwise perform their
27 function.

28 (9) At any place in a construction area that might
29 obstruct traffic;

30 (10) On the roadway side of any vehicle stopped or parked
31 at the edge or curb of a street; or

32 (11) Upon any bridge or other elevated structure upon a
33 highway or within a highway underpass.

34 (b) Punishment: The Tribal Court may institute a punishment
35 of:

36 (1) a fine of up to \$100; and/or

- 1 (2) community service; and/or
2 (3) He-Tah (Law Enforcement Officers), using
3 reasonable care, may remove any vehicle in violation of this section
4 to a reasonable location. The owner of the vehicle must pay for any
5 associated reasonable towing and/or storage costs.

6 **§ 166. Creating a Hazard on Quapaw Indian Country Roadways**

7 (a) Elements: A Person commits this offense if that Person in
8 anyway places any glass bottle, glass, nails, tacks, wire, cans or any other
9 substances likely to injure any Individual or vehicle upon Quapaw Indian
10 Country roadways without stopping to remove such hazard.

11 (b) Punishment: The Tribal Court may institute a punishment
12 of:

- 13 (1) up to three (3) years in prison; and/or
14 (2) a fine of up to fifteen thousand dollars (\$15,000);
15 and/or
16 (3) community service and/or training; and/or
17 (4) restitution to any Individual for damage to person or
18 property.

19 **§ 167. Throwing or Dropping an Object at or on Moving Vehicles**

20 (a) Elements: A Person commits this offense if that Person
21 willfully throws or drops anything at or on a moving vehicle including
22 throwing or dropping anything from a bridge or overpass.

23 (b) Punishment: The Tribal Court may institute a punishment
24 of:

- 25 (1) up to three (3) years in prison; and/or
26 (2) a fine of up to fifteen thousand dollars (\$15,000);
27 and/or
28 (3) community service and/or training; and/or
29 (4) restitution to any Individual for damage to person or
30 property; and/or
31 (5) temporary or permanent Banishment from Quapaw
32 Indian Country.

33 **§ 168. Failure to Use Child Passenger Restraint Systems**

34 (a) Elements: A Person that is a driver of a vehicle commits this
35 offense if that Person fails to use child passenger restraint system that meets
36 federal standards as set by 49 C.F.R. § 571.213 for all children in the car
37 under six (6) years of age unless:

- 1 (1) the Person is the driver of a school bus;
2 (2) the Person is the driver of an ambulance or
3 emergency vehicle; or
4 (3) the Person is transporting a child who for medical
5 reasons is unable to be placed in such devices; or
6 (4) the child weighs more than forty (40) pounds and is
7 being transported in the back seat of a vehicle while wearing a
8 safety belt.

9 (b) Punishment: The Tribal Court may institute a punishment
10 of:

- 11 (1) a fine of up to \$100; and/or
12 (2) community service and training.

13 **§ 169. Leaving a Child or Vulnerable Adult in Motor Vehicle**
14 **Unattended.**

15 (a) Elements: A Person commits this offense if that Person
16 leaves a child under twelve or a vulnerable adult unattended by another
17 Individual at least twelve years old in a motor vehicle creating a situation
18 where the child or vulnerable adult could reasonably be in danger due to
19 conditions such as extreme weather, inadequate ventilation or other factors.

20 (b) Punishment: The Tribal Court may institute a punishment of
21 a fine of:

- 22 (1) \$50 upon a first conviction; or
23 (2) Upon a second or greater conviction, an minimum
24 fine of at least \$400; at least 60 hours of community service; and,
25 referral to the appropriate tribal or state child or adult protective
26 services organization.

27 **§ 170. Failure to Stop after an Accident**

28 (a) Elements: A Person that is the driver of any vehicle commits
29 this offense if that Person willfully, or maliciously fails to immediately stop
30 after being involved in an accident resulting in damage to another
31 Individual's property or to another Individual and remain at the scene of the
32 accident until the Person has exchanged valid information with the other
33 driver or a He-tah (Law Enforcement Officer).

34 (b) Punishment: The Tribal Court may institute a punishment
35 of:

- 36 (1) up to three (3) years in prison; and/or
37 (2) a fine of up to fifteen thousand dollars (\$15,000);
38 and/or

- 1 (3) community service and/or training; and/or
2 (4) restitution to any Individual for damage to person or
3 property.

4 **§ 171. Exemption for Emergency Vehicles**

5 (a) The driver of an emergency or law enforcement vehicle
6 recognized by any sovereign is exempt from the provisions of this Chapter
7 3 except for Sections 14 (Reckless Driving) and 15 of this Chapter (Driving
8 under the influence of drugs or alcohol), but only when responding to an
9 emergency or law enforcement situation and is using the lights and audible
10 signal associated with the vehicle.

11 **§ 172. Reckless Driving**

12 (a) Elements: A Person commits this offense when that Person
13 operates any vehicle in a manner dangerous to the public safety.

14 (b) Punishment: The Tribal Court may institute a punishment
15 of:

- 16 (1) up to six (6) months in prison; and/or
17 (2) a fine of up to two thousand five hundred dollars
18 (\$2,500); and/or
19 (3) community service and/or training; and/or
20 (4) temporary suspension of tribal benefits.

21 **§ 173. Driving Under the Influence of Alcohol or Drugs**

22 (a) Elements: A Person commits this offense when that Person
23 drives, operates or is in physical control of any motor vehicle when:

- 24 (1) that Person's alcohol concentration is 0.10 or more;
25 and/or
26 (2) that Person's judgment or physical ability to drive is
27 impaired by any prescription or illegal drug or substance.

28 (b) Punishment: The Tribal Court may institute a punishment
29 of:

- 30 (1) up to three (3) years in prison; and/or
31 (2) a fine of up to fifteen thousand dollars (\$15,000);
32 and/or
33 (3) community service, rehabilitation and/or training;
34 and/or
35 (4) restitution to any Individual for damage to person or
36 property; and/or

- 1 (5) temporary suspension of tribal benefits.
- 2 (c) Consent to testing:
- 3 (1) Any Individual who drives, operates, or is in physical
4 control of a motor vehicle within the jurisdiction of the Quapaw
5 Tribe consents to any appropriate chemical test of that Person's
6 blood, breath, or urine for the purpose of determining the presence
7 of any substance that might impair that Person's ability to drive or
8 operate a motor vehicle.
- 9 (2) The chemical test will be administered at the
10 direction of a He-Tah (Law Enforcement Officer) when:
- 11 i) the officer has reasonable cause to believe
12 that a Person is driving under the influence, and
- 13 ii) the officer has either lawfully placed that
14 Person under arrest for a violation of this section or the
15 Person has been involved in a motor vehicle accident or
16 collision resulting in property damage, personal injury, or
17 death.

18 **§ 174. Negligent Homicide Involving Vehicle**

- 19 (a) Elements: A Person commits this offense if any Individual
20 dies within three (3) years of an accident and the death is a proximate result
21 of injury received by the driving of any vehicle by that Person with reckless
22 disregard of the safety of others.
- 23 (b) Punishment: The Tribal Court may institute a punishment
24 of:
- 25 (1) up to three (3) years in prison; and/or
26 (2) a fine of up to fifteen thousand dollars (\$15,000);
27 and/or
28 (3) community service and/or training; and/or
29 (4) temporary or permanent Banishment from Quapaw
30 Indian Country.

31 **CHAPTER 15. CRIMES BY NON-INDIANS**

32 **§ 175. Right to Impose Civil Penalties**

33 For a Non-Indian that commits any crime under this Title 11, the
34 Quapaw Courts will consider such an action as voiding the visitor status of
35 the Non-Indian in Quapaw Indian Country and will impose penalties for
36 trespassing on the property of the Tribe and may impose civil fines for such
37 trespass against the Non-Indian proximate to the fines that could have been
38 imposed for a criminal offense under this Title 11.

1 **§ 176. Right to Exclude/Banishment**

2 For a Non-Indian that commits any crime under this Title 11, the
3 Quapaw Courts may utilize its sovereign right to exclude any non-member
4 of the Quapaw Tribe from Quapaw Indian Country. In seeking to exclude a
5 Non-Indian from Quapaw Indian Country, the Tribal Prosecutor will bring
6 an action to exclude for reason of the crime committed. Such an action to
7 exclude will utilize the same processes and definitions as if the Non-Indian
8 was being tried for that crime, however, the penalty imposed under this
9 provision will be an exclusion from Quapaw Indian Country for that time
10 set forth by the Trial Court.

11 History: In order to best promote the general welfare and safety of
12 the people of the Quapaw Tribe and visitors to its Indian Country, the
13 Quapaw Tribe intends to fully use this recognized right to exclude and to
14 fully exercise its treaty rights to request federal assistance in enforcing this
15 right to exclude per Article II of the 1833 Quapaw Treaty which requires
16 the United States to protect the Quapaw “in their new residence, against all
17 interruption or disturbance from any other tribe or nation of Indians or from
18 any person or persons whatever.” Treaty with the Quapaw, 1833, Article II
19 (Kappler, 1904, vol. 2, p. 395, 7 Stat. 424).

20 **§ 177. Violation of Right to Exclude**

21 Should any Non-Indian violate an Order of Exclusion and
22 Banishment from Quapaw Indian Country, the Tribal Prosecutor will work
23 with federal authorities to seek the maximum punishment under federal law
24 and under Quapaw treaty rights which require the federal government to
25 protect the Quapaw people “in their new residence, against all interruption
26 or disturbance from any other tribe or nation of Indians or from any person
27 or persons whatever.” Treaty with the Quapaw, 1833, Article II. (Kappler,
28 1904, vol. 2, p. 395, 7 Stat. 424).

*BE IT FURTHER RESOLVED that the Tribal Business Committee finds and
resolves as follows:*

1. *The foregoing Ordinance shall become effective immediately upon its
certification.*

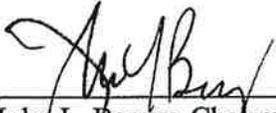
2. *Section 9 of Resolution No. 022109-D, as adopted by the Tribal
Business Committee on February 21, 2009, is hereby repealed, in part, and
Subpart D of Part 11 of Title 25 of the Code of Federal Regulations is hereby
repealed as Tribal law and is superseded by the foregoing ordinance.*

3. *The foregoing ordinance shall be codified by the General Counsel in
the Quapaw Code as the permanent law of the Tribe.*

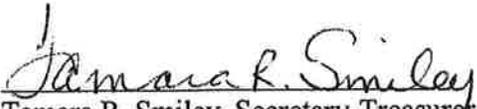
[Certification of this Resolution follows.]

CERTIFICATION

The foregoing resolution of the Quapaw Tribal Business Committee was presented and duly adopted at a regular meeting of the Tribal Business Committee on September 18, 2010, with a vote reflecting 16 yes, 0 no, 0 abstaining, and 0 absent.



John L. Berrey, Chairman
Quapaw Tribal Business Committee



Tamara R. Smiley, Secretary-Treasurer
Quapaw Tribal Business Committee