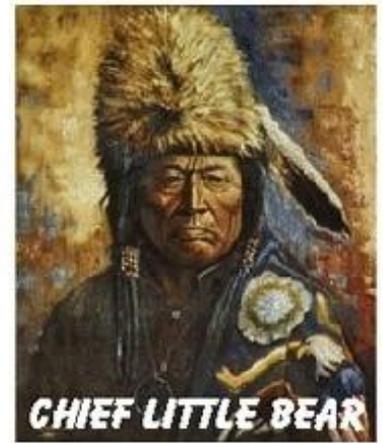
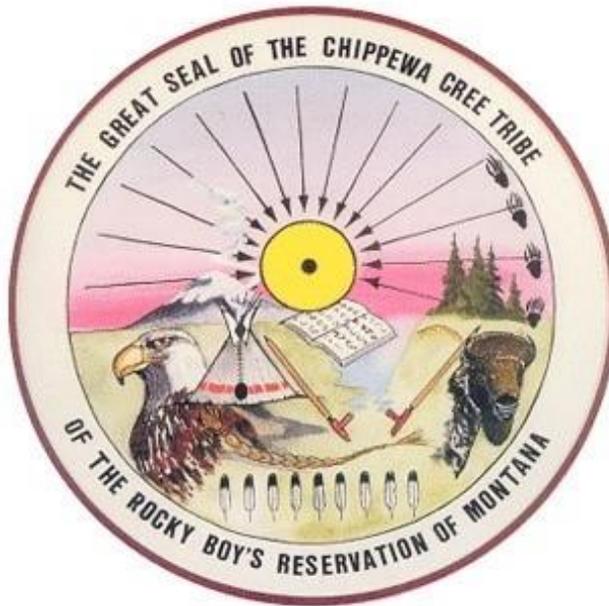
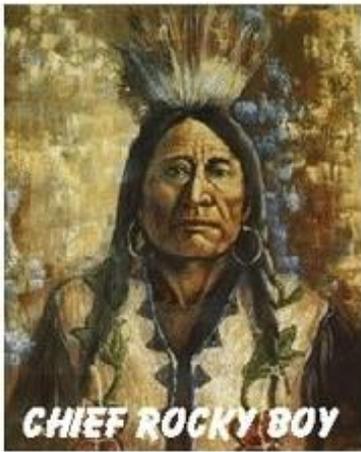


Chippewa Cree Tribal Probation Department Standard Operating Procedures



As Adopted By The
Chippewa Cree Judicial Commission

Authorized Official: _____

Date: _____

Chippewa Cree Tribal Courts
31 Agency Square
Box Elder, Montana 59521



Chippewa Cree Tribal Probation Standard Operating Procedures

Introduction-Responsibilities of Personnel

It is recognized that personnel are serving in this specialized division within the Judicial Branch of tribal government need additional guidance and clarification regarding their duties and responsibilities. For the reason, Standard Operating Procedures are authorized and provided to all personnel within this division.

The Standard Operating Procedures/Manual shall not contradict or change any directives found in the Chippewa Cree Tribal Law and Order Code, Chippewa Cree Policies and Procedures or Chippewa Cree Constitution and Bylaws but will provide additional detail and operational guidelines for division personnel in order to ensure optimum efficiency, effectiveness, and safety for these personnel.

Policies, rules and regulations contained in this manual will apply to all probation, security officers and bailiff personnel under the Judicial Branch. It shall be the duty of all personnel to familiarize themselves with the contents of this manual. All personnel will be held accountable for compliance with these standards.

Authority

By virtue of the Authority vested in the governing board, namely the Judicial Commission-Chippewa Cree Tribe-Judicial Branch, hereby prescribe and adopt this Standard Operating Procedure manual for use by all probation personnel.

Judicial Commission Chairman

Date

CCT Court Administrator

Date



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Procedure Management System 1.1.100

Effective Date:

Revision Date (s):

Signature/ Title: /s/

Division Directive:

The Chippewa Cree Tribal Probation Department will develop a standard operating procedures manual which outlines and identifies applicable policies, procedures and protocol related to the duties and responsibilities of Division employees and programs. The manual will be implemented upon mutual agreement between the Chippewa Cree Judicial Commission.

I. Definitions:

Probation Division: The Division includes the Supervisory Probation Officer, Adult Probation Officer, Juvenile Probation Officer, Adult and Juvenile Healing to Wellness Program Staff, Security Officer and Bailiff for the Chippewa Cree Tribal Court.

Effective Date: The original date of procedure implementation. A revision date supersedes the original effective date.

Management: Probation employees with management or supervisor responsibilities and duties including, but not limited to, the Court Administrator, Supervisory Probation Officer.

Policy: For the purposes of this procedure, a department, a division or other tribal agency policy.

Procedure Manual: An electronic or hard copy manual containing directives or procedures that direct the operations of the probation department.

Revision Date: The date a policy/procedure was officially revised. The revision date indicates the effective date of changes in policy/procedure. A revised policy/procedure supersedes all previous revisions.

SOP-Standard Operating Procedure- An internal probation department or division document written in compliance with Department policies, CCT Law and Order Code



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statutes/resolutions, court rulings, or other governing agencies, providing direction on implementing a policy, required action or program.

II. Procedures:

A. The Court Administrator/ Supervisory Probation Officer will maintain a hard copy of the Division's SOP Manual. These SOP's specifically address how operational aspects of the Division are implemented. All procedures will be made available to division staff. All unrestricted procedures will be available to the general public with permission of the Court Administrator or designee.

1. Organization:

The Probation Department SOP manual will be divided into chapters by topic. The title and numbering system used will be consistent with department policies.

2. Restricted Procedures:

To ensure the safety and security of the department, some procedures may be designated as restricted from general procedure distribution. These procedures must include "RESTRICTED" in red print immediately following the procedure number. At no time may offenders or the general public be given access to restricted procedures. The Court Administrator will establish a list for the distribution of these procedures and further distribution shall be on a need-to-know basis.

If printed, all pages must be clearly marked by watermark as restricted and retained in a secure location.

B. Annual SOP Review:

The Court Administrator or designee shall be responsible for ensuring annual reviews of procedures are completed in compliance with department/ tribal policy, if any. Procedures may be reviewed by staff at any time as directed by the Administrator and/or Judicial Commission.

C. SOP Comment:

Comments or questions regarding the applicability or utility of a policy/procedure/form may be submitted to the Court Administrator or designee.

D. Revision of New/Revised SOP:



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1. Until a specific SOP is developed for a specific contract item or area, staff will follow the previously established language of policy and procedure for operating and compliance monitoring purposes. Once the new SOP has been developed, reviewed, and agreed upon, the previous contract language, policy and procedure will be null and void.
 2. Revision of a procedure will result in the entire procedure being reissued, reflecting the revision date. Revision of a form associated with a procedure will not necessitate reissuing the procedure. Any preceding procedure or form, related instruction, letter, directive, or memorandum covering the same content is thereby rescinded.
 3. The Court Administrator/Judicial Commission or designee will determine which individual (s) will conduct a review of the proposed/revised procedure and distribute it accordingly. This will include division staff, supervisory, and subject matters within the department. This person (s) will have twenty (20) business days to review the procedure and provide comment. The proposed procedure may be distributed to select employees for review and comment within the time period. An extension may be granted by the Judicial Commission.
 4. When the review and editing process is completed, the final procedure is reviewed, signed and distributed within ten (10) days by the Judicial Commission or designee. Procedures which have been revised can be discarded by all manual holders except those originals maintained in the department.
- E. Employee Orientation:
- New and current employees to the division and its program will either review or provide self-training on SOPs and appropriate for their duties within (30) calendar days of employment. Orientation will include familiarizing new/current employees with the location of, and methods of access to, department/division policies and procedures. Management will provide or arrange policy, procedure or form training based on the employee's position, duties and responsibilities.



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Code of Ethics/Oath of Office 1.1.200

Effective Date:

Revision Date (s):

Signature/ Title: /s/

Policy

All division employees must conduct themselves in a professional manner and not engage in illegal or unethical behavior. All employees must sign a Code of Ethics and a Code of Conduct to acknowledge receipt and understanding. All employees will sign an Oath of Office, which can be signed/administered by a Chippewa Cree Tribal Judge or designee.

Supervisor (s) must ensure an initial and annual Code of Ethics and Code of Conduct is signed annually and kept in personnel file.

Rules and Procedures

Code of Ethics- Code of Conduct

- A. Employees are expected to demonstrate the highest standards of personal conduct.
 - 1. Division staff is charged with the responsibility for the supervision of offenders. Cognizant of this public trust, the staff must understand that any individual or collective compromise of their integrity or self-respect can damage the ability of the department to accomplish its mission. The best insurance against loss of public confidence is adherence to the highest standards of personal conduct.
 - 2. With these principles in mind, staff members will report to their immediate supervisor at the earliest possible opportunity, any adverse contact they have with law enforcement. Adverse contacts include but are not limited to traffic citation (s), domestic disturbance where police are called, and may also include contacts with law enforcement such as being a witness to a crime or a victim of a crime.
 - 3. Staff members will advise their immediate supervisor of any familial or personal relationships regarding any persons on probation. Whenever possible, authorizations regarding the person on probation will be made or approved by another probation officer of equal or higher rank.
- B. Employees are expected to demonstrate the highest standards of professional conduct.
 - 1. Progress as a profession depends not only on public trust but on professional competency. Therefore, staff will strive for excellence in job performance which advances the cause of the profession by gaining



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increased public respect in order to further the best interest of offenders. Staff will support and encourage programs which develop knowledge, skills, and abilities directly relevant to probation services. The staff will demand regular and periodic feedback regarding their job performance and career goals.

2. The staff will understand that the important component of probation services is the relationship between staff and offenders. Staff will emphasize training and skill acquisition in the area of interpersonal communication.
 3. The staff will be concerned with providing the highest quality of care.
 4. Staff will refrain from performing their duties in a meddlesome or overbearing manner. Neither will they permit personal feelings, prejudices, animosities, or friendships to influence their decisions. The staff will implement probation programs without fear or favor, without malice or preferential treatment. The staff will refrain from violent or hostile responses toward offenders and from employing unnecessary force.
- C. Employees are expected to avoid any interest or activity which is in conflict with or which produces personal gain through the execution of their official duties.
1. Staff will refrain from any task which in conflict or could be viewed as in conflict of job responsibilities. Staff will also refrain from activities or interest's related to partisan politics when they create a conflict of interest, produce personal gain, or occur at the work place and interfere with official duties.
 2. The only gains staff will seek from public employment are salaries, legitimate fringe benefits, respect, and recognition for their work. Personal gain may also include the satisfaction of doing a good job, helping offenders and their families, and achieving career goals. Public property, funds, and power will not be directed toward personal or political gain.
 3. Staff must understand that in the relationship between staff and offenders, dependency and vulnerability are frequently present. Offenders often use this relationship as a method of acquiring staff approval and as a means to bolster their self-esteem. Therefore, staff will value the human worth of these offenders by steadfastly refusing to behave in a manner which satisfies the staff member's personal needs at the expense of the offender.
- D. Employees are expected to safeguard the confidentiality of offenders.
1. Staff will adhere to federal law regarding issues of confidentiality for offenders. Staff will refrain from identifying offenders and discussing critical problems, privileged information and incidents in situations outside the official work setting.



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2. When necessary, audio recording, videotaping, and still camera pictures may be taken and used for official purposes only. Voice or video recordings and still pictures (including cell phone camera pictures) by staff for any type of personal use is prohibited. When used for official purposes, the camera, cellphone etc. is subject to review and retention by department for evidentiary purposes, etc.
- E. Employees are expected to suppose the legal and ethical rights of offenders.
 1. Staff will work to define and articulate policy and procedure which specifies the legal and human rights of offenders. Staff will refuse to remain silent when these rights are violated, and they will speak on behalf of the affected offender.
 2. While supporting the legal rights of offenders, staff will not make any comments, suggestions, or recommendations to offenders that might be construed to be legal advice or assistance.
- F. Employees are expected to eliminate all forms of unethical and illegal behavior.
 1. As a component of the criminal justice system, staff is committed to legal and ethical standards of behavior. Therefore, illegal and unethical behavior shall be reported. Sensitive to the department between effective probation programs and harmonious working relationships between staff, staff is committed to ethical standards over and above issues of friendship, efficiency, and loyalty to one's agency/department.
 2. Staff will not tolerate and will actively work to remove from the profession those who condone or engage in discrimination, theft, or any form of child abuse, i.e.-physical, mental, or sexual abuse.

Code of Conduct

- A. I will faithfully abide by all laws, rules, regulations and customs governing the performance of my duties and I will commit no act that violates these laws or regulations, or the spirit or intent of such laws and regulations, while on or off duty.
- B. In my personal and official activities, I will never knowingly violate any Tribal, State or Federal laws or regulations.
- C. While a Judicial Branch employee, I will accept no outside employment (other than in the armed forces of the United States) without the prior approval required by the Chippewa Cree Tribe.
- D. As a Judicial Branch employee, I will release information pertaining to my official duties orally or in writing, and only in accordance with law and announced policy.
- E. I will not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment or other thing of monetary value except in the context of obvious family or personal relationships where the circumstances make it clear that it is



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that relationship, rather than my position as a Judicial Branch employee, that is the motivating factor.

- F. I understand that violation of this code may be just cause for disciplinary action including discharge from my position as a judicial branch employee in accordance to the Chippewa Cree Tribal Policies and Procedures.

Confidentiality and Release of Records 1.1.300

Effective Date:

Revision Date (s):

Signature/ Title: /s/

Policy

The Probation Division will provide information regarding the status of a past or current offender and its contents, in response to the legitimate information needs of authorized agencies, in compliance with the Freedom of Information Act and the Privacy Act. These Acts are not applicable to Juvenile records.

Rules and Procedures

General

- A. Transfer of Records
1. A copy of an undated offender file for any person (s) transferred from one program to another will be transferred simultaneously or, at the latest, within (72) hours after the offender is transferred. The copy will contain all pertinent and necessary information regarding the offender. Pertinent information includes but not limited to:
 - a . Classification
 - b . Medical
 - c . Risk Behavior
 - d . Court Orders
 - e . CDC and Mental Health Evaluations
 2. The administration will use a consent form/release of information that complies with applicable federal and state regulations. The offender will sign a release-of-information as required by statute or regulation, and a copy of the release form will be maintained in the offenders file.
 3. If an offender refuses to sign a release of information the court having jurisdiction over that offender will be contacted. The court may exercise its authority and order release of information.
- B. Compliance



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The division/department shall comply with 5 U.S.C. 552 (the Freedom of Information Act), 5 U.S.C. 552(a) (the Privacy Act of 1974) as amended prior to the release of privileged information.

- C. Release of Information and Consent
Offenders shall sign a release of information form in compliance with 5 U.S.C. 552(a) (the Privacy Act of 1974) as amended prior to the release of privileged information. The division/department shall keep a copy of the signed release or court order as cited above in the offenders file.
- D. Information may be requested for either investigative purposes, behavioral health reports, medical/psychiatric and/or educational purposes.
- E. The identity of offenders on probation will be protected by the Department.
- F. Records will be secured, at least in a locked fire rated cabinet, and preferably in a locked fire rated cabinet, which is located in a locked room. Records and filing cabinets will be marked "Confidential". Records security must meet criteria outlined by the Chippewa Cree Policies and Procedure Manual.
- G. Confidential information may be subpoenaed.
- H. The division/department will maintain a list of agencies/persons, such as health care professionals, who can access health care records, who may receive confidential information without a subpoena or a signed release of information and the type of information they may access, after establishing a Memorandum of Agreement.
- I. Agencies to which the department would most commonly provide offender information to includes but not limited to;
 - 1 . F.B.I. Investigator
 - 2 . B.I.A./Tribal Law Enforcement/Criminal Investigation Division
 - 3 . Prosecutor's Office
 - 4 . Public Defender Office
 - 5 . Tribal Courts
- J. No original documents may be sent or given out. Copies must always be made of any documents being sent and originals must remain in the court files. Generally, only information regarding expiration and whether offender is on probation with department will be given out.
- K. Requests for records will be in writing or agency letterhead and must be approved by the Court Administrator or designee.
- L. The Freedom of Information Act can be found online at www.usdoj.gov
- M. The Privacy Act can be found online at www.usdoj.gov

Release of Information

- A. Division staff will adhere to the Freedom of Information Act and Privacy Act.



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- B. When an individual requests that the department release information or an offender requests that confidential information about him/her be released, the Court Administrator or designee will instruct the requesting individual to complete a Release of Information form.
- C. If the offender refuses to sign the form, the Court Administrator or designee will notify the requesting individual and explain that the information cannot be released at this time without necessary consent.
- D. The Court Administrator or designee will advise the requester that he/she may complete a Release of Information form to request the information and that the request is subject to approval and the information will be censored for content and any privileged information will be blacked out. The Court Administrator or designee will provide the form if requested.
- E. If the offender signed the form, the Court Administrator or designee will make copies of the requested records and place a copy of the Release of Information form in the file from which the information is released.
- F. The Court Administrator or designee will file the original Release of Information form in the offender's file.
- G. The Court Administrator or designee will forward the copies of the records to the requesting individual.
- H. If the offender has not signed the Release of Information form and the department/agency requesting the information is listed as agency not requiring a subpoena or Release of Information form to obtain information, the division/department staff will consult with the Court Administrator to authorize the release of information.
- I. If the division/department reviews a subpoena for information, the Court Administrator will discuss the subpoena with the Judicial Commission prior to providing a copy of the requested information to the individual.
- J. The Court Administrator or designee will ensure that a copy of the subpoena is placed in the record from which the information was taken and that a separate file is maintained for the original subpoena.

Written Requests for Release of Information

- A. Individuals must request information in writing on the letterhead of the agency from which the request is originating, or the department signed Memorandum of Agreement.
- B. Division staff will direct all inquiries from members of the public related to release of information, pertaining to offender records to the Court Administrator or designee.
- C. If the requestor needs more information, the Court Administrator will inform him/her that he/she needs to complete a Release of Information form.



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Offender Records 1.1.400

Effective Date:

Revision Date (s):

Signature/ Title: /s/

Policy

The Division will create and maintain an offender file for each offender in order to preserve and utilize information relevant to each case, to assist staff in performing their job duty and to ensure accurate records management.

Rules and Procedures

Adult and Juvenile Records

A. A master record file, also referred to as a court file is maintained for each adult and juvenile offender. Probation Files will contain all information regarding the offender and must include at the minimum, the following:

1. Signed Informal/Formal contract agreement of probation client and parent (s)/ guardian (s) acknowledgement.
2. Custody Order, if any.
3. Copy of CDIB.
4. Copy of Medicaid Card.
5. Court Order to Probation Department with conditions, if any.
6. Signed Release of Information Form.
7. Education Plan, if required.
8. Progress reports from attending school system of youth.

A. Continued-

9. Case History/Social History, court generated background information.
10. Any record of program participation, including release programs such as treatment facilities.

B. Medical Information will be contained with offender folder for this division, if necessary. All medical information in the folder will be marked "Confidential" and will include but limited to the following:

1. CDC Evaluation
2. Mental Health Evaluation
3. Appointment slips from WSHC or RBHB.
4. Medical Records transferred from another agency.



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- C. Offenders will be allowed reasonable access to information in their records. Access is only limited due to safety or security concerns for the offender, other offenders, or the department.

Compliance with Information Act

The division/department shall comply with 5 U.S.C. 552 (the Freedom of Information Act), 5 U.S.C. 552(a) (the Privacy Act of 1974), as amended, 43 CFR 2.79(a), or comparable Tribal regulation/resolution.

Records Management

- A. The division/department shall have a system for the management, dissemination, retrieval, storage, archiving and (when appropriate) destruction of information and records. The system will be consistent to the Chippewa Cree Tribal Law and Order Code and Chippewa Cree Constitution and Bylaws.
- B. The FULLCOURT computerized records management system will be used when available and required.

Separation of Record Contents

The division/department shall identify and separate contents of juvenile records according to an established format which, at a minimum, shall separate privileged from public information and juvenile records from those of adult offenders.

Access to Information

The Court Administrator or designee shall clearly define, personnel who have access to juvenile and adult records.

Establishment of Adult/Juvenile File

- A. After a new adult/juvenile has been referred to the department, staff will confirm that the adult/juvenile has been adjudicated via court order.
- B. Staff will obtain a new six part file folder from supply and write the adult's/juvenile's name (last name, first name, middle initial) and the adult's/juvenile's court case number on the file folder tab.



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- C. Staff will file all paperwork in the appropriate sections of the file folders with the most recent information on top and complete the table of contents.
- D. Staff will file the offender file and medical information in a locked file cabinet in appropriate office of said staff member.

Accessing Offender Files

- A. When authorized staff needs to access an active or inactive offender file, he/she will request that the Supervisor or designee obtain the requested file.
- B. The supervisor will obtain the requested file and ask the staff member to complete the Records Check-Out Form maintained in a binder at the file cabinet.
- C. The staff member will complete the Records Check-Out Form and the supervisor will ensure that it is completed properly.
- D. The staff member will return the file by the end of day by requesting that the supervisor re-file the checked out file. The staff member will complete the Records Check-Out Form.
- E. If Adult/Juvenile information is requested that is privileged for non-law enforcement/court system purposes, staff must have a signed Release of Information or confirm that the requestor has a signed Release of Information form.
- F. The staff member releasing the information will file the Release of Information Form in the adult's/juvenile's file.

Closing the Adult/Juvenile Files-After Completion

- A. Upon completion, the supervisor or designee will close the adult's/juvenile's offender files by:
 - 1. Adding the paperwork to the file folder in the appropriate location, including completion letter to the offender.
- B. Staff member will request that the supervisor or designee place the adult's/juvenile's file in Records with the inactive files in order and/or unlock Records cabinet so he/she may file it.

Adding to the Adult/Juvenile File-

- A. When an adult/juvenile is referred to the division/department and have been on the probation before, the staff member will use the FULLCOURT system to verify he/she has been on the probation previously. New information/paperwork will be added to the existing file.
- B. The staff member will file the paperwork in the offender file and place the file with the active files in cabinet.

Modifying Records



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- A. If a staff member discovers a mistake in an adult/juvenile offender file, he/she will verbally notify the Supervisor and explain the mistake and, if known, how it occurred.
- B. The Supervisor will document the report with an explanation for the mistake.
- C. The supervisor will file a copy of the letter in the offender file and forward a copy to the Court Administrator. The mistake will be corrected, if applicable.
- D. Any time a staff member obtains pertinent information regarding an adult/juvenile, he/she will record the information on the appropriate form or memorandum, including the date.
- E. If a staff member discovers a mistake in an adult/juvenile offender file, he/she will verbally notify the Supervisor and explain the mistake and, if known, how it occurred.
- F. The Supervisor will document the report with an explanation for the mistake.
- G. The supervisor will file a copy of the letter in the offender file and forward a copy to the Court Administrator. The mistake will be corrected, if applicable.
- H. Any time a staff member obtains pertinent information regarding an adult/juvenile, he/she will record the information on the appropriate form or memorandum, including the date.
- I. If a staff member discovers a mistake in an adult/juvenile offender file, he/she will verbally notify the Supervisor and explain the mistake and, if known, how it occurred.
- J. The Supervisor will document the report with an explanation for the mistake.
- K. The supervisor will file a copy of the letter in the offender file and forward a copy to the Court Administrator. The mistake will be corrected, if applicable.
- L. Any time a staff member obtains pertinent information regarding an adult/juvenile, he/she will record the information on the appropriate form or memorandum, including the date.

Transferring Records

- A. When transferring an adult/juvenile to another jurisdiction, the staff member will copy information documenting the adult's/juvenile's conduct, unusual circumstances, care instructions, court order, if applicable.
- B. The staff member will contact the parent (s)/ guardian (s) for notification of offender (if juvenile) is sent to another jurisdiction/county, namely Bureau of Indian Affairs-Northern Cheyenne Youth Services or Cascade Juvenile Detention Center.
- C. Staff member will sign records release, make a copy for the agency, and file the original in offender file.

Sealing/ Expunging Records

- A. When the division/department receives notice from the Tribal Court to seal or expunge a record, he/she will gather all of the adult's/juvenile's records.
- B. If needed, the division/department will place all the records in one file folder, nothing in the files in which the information originated.



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- C. The division/department will note whether the file is “sealed” or “expunged” and the date the order was received from the Tribal Court on the outside of the file folder.
- D. The division/department will place the written seal/expungement order inside the file.
- E. The division/department will file the record in his office in a file location specifically for sealed or expunged records.

Records Retention

All records will be retained per the Tribal government Records Management Plan.

Employee Reports 1.1.500

Effective Date:

Revision Date (s):

Signature/ Title: /s/

Policy

All divisions/departments maintain a system of reports that keep management informed of the status of the department and allows a review of the effectiveness of current practices.

Documentation Requirement

After notification has been made by the initial employee, the following shall be completed:

1. The staff member at the division/department who is initially and immediately involved in observing and responding to an incident shall complete a report prior to the end of day in which the incident occurred. The report shall be referenced when completing the report.
2. If more than one staff member is involved in, or witnesses the incident, the Court Administrator or Supervisor available will retrieve all written reports from staff. All staff involved will complete individual reports outlining the incident and the extent of their involvement. All supporting documentation, to include photos and outside agency reports etc., will be submitted as attachments to the report prior to the end of day.
3. The Court Administrator or designee will review the report (s) to ensure all areas of the report are accurate and complete prior to submission to the Judicial Commission.
4. The Court Administrator will review the report (s) for completeness, accuracy, follow up, and corrective action prior to being forwarded onto the Judicial Commission. This will be completed five (5) business days after the incident is reported. The Judicial



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Commission shall ensure any modifications made to the report are coordinated with the input of the initial reporting staff member (s).

5. The Court Administrator or designee will review the report, and if necessary return it to the Judicial Commission for clarification, more information or modification. The corrected report shall be returned the same day, if time allows. The Court Administrator or designee will be notified by Judicial Commission board member (s), if the report cannot be completed in a timely manner.
6. Upon receipt of a complete and accurate report, the Court Administrator will forward to the Judicial Commission, if required, who will then brief the Court Administrator through the Chain of Command within five (5) business days after the incident occurred.

Incidents requiring a written narrative by staff include but are not limited to:

1. Use of Force
2. Hot Pursuit (Flea of Defendant)
3. Any Court disturbance in and out of the building
4. Telephonic/In-Person threat or intimidation from the public
5. Conflict with co-worker (s) resulting in verbal, physical and emotional distress.

All employees under this division/department shall submit a monthly report, which details the day to day operation/activities from employees, which will be submitted to the monthly Judicial Commission meetings for review and/or question. Note: Employees who fail to submit a monthly report will be subject to Disciplinary action according to the Chippewa Cree Tribal Policy and Procedure manual.

Use of Force 1.1.600

Effective Date:

Revision Date (s):

Signature/ Title: /s/

“RESTRICTED”

POLICY

Based on the Fourth Amendment’s “reasonableness” standard, Tribal/Federal classified employee (s) under the Judicial branch are authorized to use the amount of force that is objectively reasonable in light of the facts and circumstances known to the employee at the time force is used. Employee (s) may use force which is reasonable, necessary, and appropriate



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to lawfully and properly neutralize an unlawful assault against classified employee (s) or other persons, to restore order, to overcome resistance by a person being taken into custody, to affect an arrest, to prevent injury to oneself or other persons, prevent destruction of property, and to prevent escape.

Rules and Procedures

General Information

A. Rationale for Use of Force

1. Classified Employee's/Officers may be confronted with situations where control must be exercised to affect arrests, overcome physical resistance, neutralize assaults, restore order, prevent injury to oneself or others; prevent destruction of property, and to prevent escape. Control may be achieved through persuasion, verbal warnings, implied or threatened use of force, or by the use of physical force. There are varying degrees of physical force that may be used depending on the dynamics of the situation.
2. Employees/Officers must understand that the use of force in law enforcement/judicial branch is not a defensive act but that of offense. It is critical for the officer (s)/ employee (s) to be proactive and react to the threat of violence and not the actual violence itself. In force utilization, the employee/officer should take immediate action to stop or control a subject's action or non-compliance thus employing an offensive tactic to gain control or compliance.

B. Objectively Reasonable Force

1. Tribal Judicial branch policies shall be consistent with the United States Supreme Court decision in *Graham vs. Connor* as a guideline for reasonable force. Note: *Policies and Procedures must also fall in consistency with the Chippewa Cree Constitution and Bylaws, Chippewa Cree Law and Order Code.*
2. The amount and type of force that would be considered rational and logical to an "objective" officer on the scene, supported by facts and circumstances known to an officer at the time force was used.
3. The "objective reasonableness" standard is the standard that directs all use of force applications by an employee/officer. The standard of objectively reasonable set forth in the Fourth Amendment does not require that employees/officers choose the least intrusive level of force, only a reasonable one.



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4. The “reasonableness” of a particular use of force must be judged from the perspective of the “the reasonable employee/officer” on the scene, rather than with the 20/20 vision of hindsight.

Tribal Government-Judicial branch Authorization to Use Force

A. Deadly Force

1. A classified employee/officer may use deadly force to protect himself or others from what is reasonably believed to be an immediate threat of death or serious physical injury.
2. A classified employee/officer may use deadly force to effect a capture or prevent an escape if the officer reasonably believes the suspect has committed a felony involving the use or threatened use of deadly force and the classified employee/officer has probable cause to believe the suspect poses a significant threat of death or serious bodily injury to the employee/officer or others, if not immediately apprehended.

B. Other Use of Force

1. The use of force may be used by a classified employee/officer in a manner in which results in the employee/officer choosing the force option, which is in the officer’s judgement, has the best chance of controlling the situation or reaching the desired legal objective, and immediately employing that option without attempting lesser levels of force.
2. Each situation is unique and classified employees/officers are responsible for using the level of force that is necessary, reasonable, and appropriate to reach the intended legal objective.
3. Classified employees/officers are authorized to use force to restore/maintain order, prevent injury to persons or self, destruction of property, and to prevent escape.

C. Additional Criteria

1. Classified employees/Officers are not authorized to fire warning shots.
2. Classified employees/Officers will not discharge a firearm when it appears likely that an innocent person may be injured/
3. Classified employees/Officers will not discharge a firearm from a moving vehicle. Classified employees/Officers will not fire upon a moving vehicle unless the occupant (s) of the vehicle are using, or attempting to use, deadly force against the officer or others.
4. Classified employees/Officers are authorized to shoot and kill an animal for:
 - a. Self Defense of the officer or another, or
 - b. When the animal is so badly injured that humanity requires its relief from further suffering.
 - c. Except for general maintenance, storage, or authorized training, classified employees/officers will not draw or exhibit their firearms unless circumstances



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create strong reasonable cause to believe that it may be necessary to lawfully use the weapon in conformance with other sections of this directive.

D. Excessive Force

The substantiated use of excessive force in any situation is not authorized, regardless of the provocation or action of the offender, and will result in disciplinary action, termination, and/or criminal prosecution.

Use of Force Elements

- A. There are three elements the U.S. Supreme Court has identified as critical in the determination of the “objective reasonableness” of force utilization. This standard asks whether the officer’s actions are objectively reasonable in light of the facts and circumstances confronting the officer and not whether the officer’s subjective intent or motive was evil or good.
- B. These elements are the reasonable officer’s perception of the situation (Officer Perception) and the officer’s perception of the suspect’s actions (Subject Action) which would determine the officer’s selected force response (Officer Response)/
- C. It is important to recognize that “reasonableness” under the Fourth Amendment is not capable of precise definition or mechanical application. Any action by a suspect can lead to a range of reasonable responses based on the totality of the circumstances.

Classified Employee/Officer Perceptions

- A. **Ability/Capability**
The ability-capability of a subject to carry out threatened action. The subject must have the ability/capability to carry out the action or threat. There does not need to be any verbalization with an action to show ability or capability but the officer/classified employee must however perceive the person insinuating the action or threat is capable. The mere presence of a weapon does not necessarily constitute intent but can definitely indicate a subject’s ability/capability.
- B. **Opportunity**
Indicates that the action or threat perceived by the classified employee/officer is imminent or in the here and now, but not necessarily instantaneous. The subject must be in a position in which he/she can use his/her ability/capability to carry out the act or threat. The classified employee/officer’s decision that an assailant has the opportunity is based on the officer’s perception of the assailant’s positioning, proximity, and availability.
- C. **Intent**
This is the mental state initiating an overt act (words or deeds) in the furtherance of a threat or action. Intent is initiating an overt act in furtherance of a crime or threat.



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Subject Actions

- A. Compliant (Cooperative)
This level represents the vast majority of officer/subject encounters. The likelihood of a physical response by the subject is minimal.
- B. Resistant (Passive)
The subject exhibits the preliminary level of noncompliance which requires some degree of physical contact by the classified employee/officer in order to obtain compliance. The subject offers no physical or mechanical enhancement towards the resistance effort other than to stand motionless or remain seated.
- C. Resistant (Active)
At this level, the scope and intensity of the subject's resistance has increased. The subject is exhibiting physical or mechanical defiance to the officer's control. The subject is using physical energy to establish defiance although directed away from the officer/classified employee.
- D. Assaultive (Physical Injury)
The classified employee/officer has the perception of an attack or the potential for such an attack on the officer or others. The classified employee/officer makes the reasonable assessment that such actions by the subject would not result in death or serious physical injury to the employee/officer or others.
- E. Assaultive (Serious Physical Injury/Death)
The highest level of noncompliance is the least encountered but poses the most serious threat to officer safety. The officer's objectively reasonable assessment is that such assaultive actions by the subject could result in death or serious physical injury to the classified employee/officer or others.

Officer Responses

- A. Cooperative Control
 1. This level includes methods to preserve officer safety and survival including: officer presence, verbal commands, restraint applications, positioning strategies, etc. It is important to recognize that cooperative controls can be used at all levels in addition to other identified tools.
 2. Classified employees/Officers will conduct contacts with citizens in a manner that inspires respect and generates cooperation and approval. The manner and form in which a classified employee/officer speaks to individuals can be effective means of exerting low level of force to control the situation.
 3. Verbal force may be in the form of advice, warning, persuasion, commands, or threats of higher levels of force. Verbal force can be progressive in nature, depending on the circumstances, by changing the type of words or altering the tone or volume of the voice when giving instructions, commands, or direction.
 4. Properly used, verbal force may negate the need for officers to resort to other forms of physical control or force.



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B. Contact Control

1. When confronted with a subject demonstrating resistant behavior, the officer uses physical tactics to gain control and compliance. These tactics can be psychologically manipulative as well as physical, and can include additional verbal persuasion skills, relative positioning strategies, touch pressure points, and escort positions.
2. The majority of arrests made by classified employees/officers require only this level of force. The arrestee will be handcuffed, searched, and transported by Law Enforcement. *If applicable.*
3. In these situations there is neither resistance, nor the need to use force. Other than some form of physical maneuvering, or guidance, as the arrestee is escorted from one location to another.

C. Compliance Techniques

1. When the subject becomes actively resistant, the classified employee/officer may use physical control tactics. These tactics should be sufficient force to overcome the active resistance of the subject and the officer should remain vigilant for more aggressive behavior from the subject.
2. When a classified employee/officer is faced with an individual who refuses to be placed in custody or follow verbal commands or instructions, the employee/officer may use authorized control and compliance techniques and holds which, in the employee/officer's judgement, have the best chance of success. These techniques and holds may include deployment of an authorized chemical spray, i.e. OC spray or mace; use of control holds, pain compliance or pressure point techniques; or other authorized compliance and control tactics.
3. Classified employees/Officers will use only those holds and pressure points, or compression type, tactics and techniques, that they have received training in and demonstrated proficiency.
4. When physical force, threats of force or compliance techniques are judged to be, or have been, ineffective, classified employees/officers may need to use chemical agents, i.e., Capstan or Mace. Chemical agents will be deployed in a manner consistent with the manufacturer's instructions and warnings. Classified employees/officers will receive training in the use and deployment of chemical agents prior to receiving authorization to carry chemical agents.
5. Electronic Control Devices. Refer to "Use of Electronic Control Devices".

D. Defensive Tactics

1. At this level, the subject attempts or achieves an assault on the employee/officer or another person. The classified employee/officer is justified in using defensive/offensive tactics designed to stop the subject's non-lethal assault on the employee/officer or others, regain control, and assure continued compliance.



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2. Personal Weapons- This level of unarmed force involves the use of personal weapons (i.e. fist, hand, elbow, foot, knee, etc.) The use of personal weapons can be used by classified employees/officers to defend themselves against assault, or as a method of using physical force to gain control of the situation, when other levels of force are inappropriate or ineffective.
 3. Baton- Classified Employees/Officers will carry the agency authorized baton:
 - a. Uniformed Officers will carry the authorized baton while on duty and out in the field.
 - b. Officers will use batons only in accordance with current departmental training standards approved by the Indian Police Academy/Montana Law Enforcement Academy.
 - c. The use of baton is restricted to overcoming physical confrontations, or as a means of self-defense, in situations where other forms of force would be, or have been, inappropriate or ineffective.
 - d. Prior to being authorized to carry the baton, classified employees/officers are required to successfully complete a training course taught by certified instructors. Re-certification in the use of baton will occur semiannually.
 - e. When carried, the baton will be secured in a manner consistent with established uniform standards.
 - f. Use of other types of striking devices (i.e. saps, riot stick, bats, num-chucks etc.) is strictly prohibited.
- E. Deadly Force
- a. When the classified employee/officer perceives that the subject of such force poses the potential for death or serious physical injury to the officer or to another person, immediate officer response must be used to stop the threat. These tactics could include the use of a firearm, baton, or any other available item, including personal weapons. If the use of deadly force is justified the implement used is of no consequence.
 - b. Classified employees/Officers will fire their weapons in a manner intended to stop and incapacitate an assailant from completing a potentially deadly use of force. For maximum stopping effectiveness, and minimal danger to innocent bystanders, officers shoot at “center body mass” of the threat presented.

Medical Assistance and Transfer of Custody

- A. Following any reportable use of force, as soon as reasonably practical, classified employees/officers will determine if anyone was injured and render medical aid consistent with training and request Emergency Medical Service (EMS) if necessary/
- B. Prior to transferring custody of a subject that force was used upon; Judicial Branch employees/officers shall verbally notify the receiving agency or employee of:
 1. The type of force used.



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2. Any injuries sustained (real or alleged) and,
3. Any medical aid/EMS rendered.

Use of Force Training

All division/department Supervisor (s) and Court Administrator will ensure that all classified employees/officers are issued this order and are thoroughly trained in its content prior to being authorized to carry a firearm or other immediate weapon. Each classified employee/officer will receive semiannual re-training on the Judicial branch Use of Force Policy.

Use of Force Reporting

- A. A Supervisor or Administrator will be immediately notified and the supervisor will ensure that a written use of force report is completed and forwarded through the chain of command in the following situations:
 1. When a service firearm is discharged for other than training/qualification or authorized practice purposes.
 2. When an employee/officer takes an action that results in, or is alleged to have resulted in, injury or death of another person.
 3. When a subject complains that an injury has been inflicted.
 4. When an employee applies force through the use of lethal or less-than-lethal weapons.

B. Administrative Leave

1. When an employee's use of force causes death or serious injury, the Court Administrator, Supervisor, or designee will place the employee on administrative leave pending completion of all internal investigative requirements. Once the investigation is complete and a determination is made concerning the disposition of the investigation, the Court Administrator, Supervisor, or designee will determine when the employee is ready to return to duty. The supervisor may require a "fitness for duty" evaluation by a mental health professional to aid him/her in this decision.
2. Judicial Commission may order both an administrative and criminal investigation into the incident.

C. Administrative review of use of force incidents

1. All reported use of force incidents will be reviewed by the Judicial Commission, Internal Affairs appointee, or Office of the Attorney General to determine whether:



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- a. Judicial Branch rules, policy, or operating procedures were violated.
- b. The relevant policy was clear and effective to cover the situation.
- c. Training is adequate.
2. All findings of policy violations or training deficiencies will be reported to the appropriate board for resolution and/or discipline.
3. All Use of Force incident reports will be retained by the Court Administrator to ascertain training and policy needs.
4. An Annual Summary Report of use of force incidents will be prepared by the Court Administrator and forwarded through the Chain of Command to the CCT Business Committee Chairman.
- D. The investigative reports of incidents of use of force which resulted in death or serious physical injury to any person as a result of the officer's actions will be forwarded to review to the Office of Attorney General to determine if criminal charges will be filed.

Use of Force in the building

Policy

The use of force by the judicial branch employees is clearly defined in this manual, 1.1.600 "Use of Force" which can be found in this manual. Additional rules and regulations applicable to facilities are provided in this directive. In no case, will this directive replace or supersede the Chippewa Cree Constitution and Bylaws and Chippewa Cree Law and Order Code, or Chippewa Cree Business Committee Action.

Rules and Regulations

Use of Force inside of Building

- A. All personnel will be thoroughly trained in all aspects of the use of force and will acknowledge such training in a signed acknowledgment. All use of force will be documented in an appropriate form and/or incident report form.
- B. Written policy, procedure, and practice restrict the use of physical force to instances justifiable self-defense, protection of others, preventing self-harm, protection of property, prevention of escapes and to maintain or regain control and then only when it is objectively reasonable and in accordance with the appropriate statutory authority. In no event is physical force justifiable as punishment. A written report will be prepared following all uses of force and will be submitted to Supervisory/Administrative staff for review.

Principles Governing the Use of Force in a Building

- A. Whenever possible, staff shall first attempt to gain the person's voluntary cooperation before using force.



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- B. Force may not be used to punish any persons.
- C. Hog tying and leaving a person (s) in a face down position after application of restraints is prohibited.
- D. Force may be warranted to include, but are not limited to:
 - 1. Defense or protection of self or others.
 - 2. Enforcement of institutional regulations.
 - 3. The prevention of a crime or apprehension of one who has committed a crime.

Incidents Requiring Use of Force

Staff are authorized to use force or apply physical restraints when it is necessary to gain control of person (s) whose actions meet any of the following:

- 1. Assaults on any individual;
- 2. Destroys government or Tribal property or attempts to;
- 3. Inflicts injury upon self or attempts to;
- 4. Attempt to escape;
- 5. Becomes violent or displays signs of imminent violence.

Immediate Use of Force

- A. Staff may immediately use force and/or apply restraints when the person (s) behavior constitutes an immediate, imminent threat to the staff, others, property, or to institution security and good order.
- B. In an immediate use of force situation, staff may respond with or without the presence or direction of a supervisor.

Use of Chemical Agents or Less-Lethal Weapons

- A. All personnel authorized to use chemical agents or less-lethal weapons will be trained, and when applicable, will maintain annual certification on the use of force of these devices, prior to being issued the devices.
- B. The division/department may authorize the use of chemical agents or less-lethal weapons when the situation is such that the person (s):
 - 1. Is armed and/or barricaded.
 - 2. Cannot be approached without danger to self or others.
 - 3. It is determined that a delay in bringing the situation under control would constitute a serious hazard to the staff, others, or would result in a major disturbance or serious property damage.

Use of Baton



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Only the Court Administrator has the authority to approve the use of a baton; however, in emergency situations staff may use a baton, but must do so in accordance with policy, based on their training. Untrained staff are not authorized to use and will not be issued a baton.

1. The use of the baton is restricted to major emergency situations or instances when a person (s) is armed and/or barricaded, and cannot be approached without definite danger to staff.
2. The baton is authorized for carry during outside patrol and for transports, or when deemed necessary by the Court Administrator.
3. Whenever a baton is utilized, the use must be reported in an Incident Report form.

Use of Chemical Agents

Only the Court Administrator has the authority to approve the use of chemical agents and Oleoresin Capsicum (OC). The decision to use a chemical agent will include what type i.e. fogger, stream, will be used. The decision will be based on the area/situation, and the need to minimize contamination of the building/facility. The usage protocols may be outlines in applicable Post Orders to guide staff in immediate response to emergency situations.

1. The Supervisor or designee may authorize the use of chemical agents and oleoresin capsicum in situations which require an immediate response to an emergency, when sufficient time does not exist to secure higher level approval. The Court Administrator shall be notified as soon as possible after such any use.
2. The use of chemical agents shall be restricted to instances such as when a person is armed and/or barricaded and cannot be approached without danger to personnel or self or delay in restoring order would result in a larger disturbance or loss of control. Sufficient chemical agents should be used to control the situation.
3. Dispensers will be secured in an armory and/or controlled area and will be carried by staff inside the building/facility's secure perimeter only when authorized by the Court Administrator in writing. Preceding the use of any chemical agent, staff will be equipped with working and well-maintained protective eyewear. In emergency situations where the use of chemical agents is necessary, those staff members unable to don protective eyewear because they wear glasses will only use the agent as a last resort to enter an area, unless a mask that accommodates glasses is available.
4. Chemical agent dispensers should be used only when they can be aimed at a single individual and not for area control which requires regular CS or Oleoresin Capsicum. The aerosol chemical dispenser should not be used at ranges closer than four feet and should not be dispensed in small rooms without ventilation, except in extreme cases. A decontamination location will be available for all staff involved with or may have come into contact with any chemical agent discharge. All staff shall be provided with training in the decontamination process.



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5. If it becomes necessary to use a chemical agent, all personnel and person (s) must be evacuated to avoid damage from prolonged inhalation, in all contaminated areas, unless contamination can be mechanically controlled within the building/facility.

Use of Oleoresin Capsicum

OC shall be discharged in a short burst, approximately two seconds at a range not closer than four feet. The OC stream should be dispensed to target the person's entire face to ensure full effect. If compliance is not achieved after the first burst, a second burst may be discharged.

1. Decontamination procedures include fresh air and water rinsing. A fan can be used if available. Within (15) minutes after OC has been applied, the person shall be allowed to wash with soap and water including all areas affected by the agent. The person must be examined immediately by a medical professional.
2. Area decontamination is by ventilation only.
3. Whenever a chemical agent is utilized, it must be reported via Incident Report.

Medical Attention in Use of Force Incidents

- A. In immediate use of force incidents, staff shall seek the assistance of a mental health or qualified health care provider, if available, upon gaining physical control of the person. When possible, staff shall seek such assistance at the onset of the violent behavior.
- B. After any use of force or forcible application of restraints, the person shall be examined by a qualified health care provider, if available. Any injuries will be noted and photographed and immediately treated. When Mental Health staff or qualified health care personnel determine that a person requires continuing care, and particularly when the person to be restrained is pregnant, the deciding staff shall assume responsibility for the person's care, to include possible admission to the hospital, or in the case of a pregnant person, restraining her in other than face down four-point restraints.
- C. If any staff involved in a use of force reports an injury, a qualified health care professional should provide immediate examination and initial emergency treatment.

Training in Use of Force

- A. In order to control any potential situation involving aggressive person's, all staff must be made aware of their responsibilities through ongoing training. At a minimum, training must cover:
 1. SOP Use of Force Policy.
 2. Use of Force in Building/Facility.
 3. Communication Techniques
 4. Cultural Diversity



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5. Dealing with the person with mental health concerns,
6. Confrontation avoidance procedures,
7. Application of restraints (progressive and hard),
8. Reporting procedures.

B. Training Topics

A sufficient number of staff should be trained annually in both confrontation avoidance and control techniques. Each staff member participating in a use of force incident must have documented proof of annual training in these areas. Training should also include specific information pertaining to special situations.

C. Restraint Training

Staff should be thoroughly trained in the use of soft and hard restraints. Soft restraints can be cumbersome to apply on a person, if proper training is not provided. Soft restraints such as vinyl or leather restraints should be used prior to applying hard restraints, if available.

Use of Force Documentation and Reporting

- A. Staff shall document all incidents involving the use of force, chemical agents, OC spray, application of progressive restraints, or less-lethal weapons on an Incident Report form. A copy of the report shall be placed in a Use of Force folder.
 1. This documentation will include, whenever practicable or available, audio/video recording of the incident and having it reviewed by the Court Administrator or designee. Reports and audio/video media/tapes of the incident must be reviewed, audited, and monitored by management/administration staff.
 2. Use of Force incidents must be reported and investigated both to protect staff from unfounded allegations and to eliminate the unwarranted use of force.
 3. All photographs taken of person (s) and/or staff injuries will be included with the Incident Report. Additional photographs may be appropriate should injuries become more visible.
- B. The confrontation avoidance process will be documented in writing for placement in the Use of Force folder, and will be audio/video recorded (if available and staff resources allow) to include an introduction of all staff participating in the confrontation avoidance group and the actual confrontation avoidance process.
 1. This audio/video recording (when available) and documentation will be made part of the investigation package for the After Action review process. Additionally, the Court Administrator shall forward each audio/video reporting (if available) of each incident where force is used to the Court Administrator, within four (4) working days of the incident unless requested earlier by the Court Administrator.
 2. The entire interaction shall be documented in writing and placed in the Use of Force folder.



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- C. The Court Administrator shall ensure all documentation, including a copy of the audio/video recording, if produced, and a copy of the Incident Report is maintained. A Use of Force file shall be established, and documentation on each individual use of force incident will be separately filed within this file and maintained as evidence.

After-Action Review of Use of Force

- A. Following any incident involving the use of force, whether immediate or calculated, e.g. restraints, chemical agents, or less-lethal weapons, the Court Administrator and appropriate staff shall meet and review the incident no later than two (2) days after the incident. The review will assess the reasonableness of the actions taken (e.g., if the force used was appropriate and in proportion to the person's actions).
- B. They should gather relevant information to determine if policy was followed, and then initiate a standard After-Action Review Report. This report, along with the audio/video recording shall be forwarded to the Chairman of Judicial Commission, no later than (4) working days after the incident. Once received, an After-Action Review Team shall be designated by the Chairman of Judicial Commission.
- C. The team designated by the Chairman of Judicial Commission shall review the After-Action Review Report and audio/video recording. Upon review of these items, the After-Action Review Report, along with a memorandum outlining the findings. During the review of the audio/video recording, team members shall determine the following and include the findings in the report.
- 1 . Professionalism of the staff during the force event should be evident.
 - 2 . Were staff actions during the use of force situation narrated by the supervisor or designee in charge of the situation? In addition, the supervisor or designee should be observing the action and speaking normally.
 - 3 . Did the Disturbance Control Team members in the area use the amount of force reasonably necessary to subdue the person (s)? If the person was already restrained, voluntarily submits to placement of restraints, discontinues his or her violent behavior etc. It may have been necessary for the Disturbance Control Team to reduce the amount of force used.
 - 4 . Did the Supervisor or designee in charge of the disturbance ensure that only the amount of force reasonably necessary was used, based on the nature of the situation? The Supervisor or designee must clearly monitor the actions of the person (s) and the team members. The supervisor ordinarily should not be actively involved in subduing the person (s), unless it is determined necessary to prevent staff or person injury.
 - 5 . Was the application of restraints by staff appropriate, and was reasonable? If an excessive amount of time lapsed, and the person was not struggling with staff, it may be that staff were not adequately trained.



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6. Did the audio/video recording run continuously during the entire process? If there are breaks or apparent missing sequences in the video, reviewers must question why and document the reasonableness of the explanation.
 7. Did a health care provider, if available, promptly examine the person after the action? Were the findings noted by that person on the audio/video recording?
 8. If a chemical agent or OC spray was used, was the method of use in accordance with policy? Staff should ensure use of these devices was appropriate.
 9. Was the person given the opportunity to voluntarily submit to the placement of restraints prior to staff arrival? If he or she submitted, then staff action is ordinarily unnecessary.
 10. Did any inappropriate conversations (derogatory, demeaning, taunting, etc.) occur between staff and the person (s), or between staff?
- D. The reviewers should also decide if the matter requires further investigation, and whether the incident should be referred to the Office of Attorney General. If deemed appropriate, the Chairman of Judicial Commission rationale for such an assessment shall be included. Copies of this report shall be forwarded to the Office of the Attorney General.

Searches 1.1.700
Effective Date:
Revision Date (s):
Signature/ Title: /s/

Searches

Policy

The Chippewa Cree Tribe Judicial branch controls the introduction of unwanted material into the facility and maintains security and order by searching persons whenever appropriate, preserving constitutional rights.

- A. Personal property items that are not illegal to possess but are items not permitted in the court room due to confidentiality and privacy regulations will be taken by staff until court proceedings have ended. These items include but are not limited to:
 1. Cellular Phones
 2. Mp3 players
 3. IPADS/related device
 4. Pocket Knives



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5. Matches/lighters
6. Food/Beverages
7. Tobacco Products

Rules and Regulations

General

The Chippewa Cree Judicial branch-Judicial Commission authorizes division staff to conduct searches as outlined in this policy. All searches will be accomplished to ensure the safety and security of the facility/department, in a professional and respectful manner. All searches will be conducted with the least amount of disruption as possible. Property in searched areas will not be damaged or unduly disturbed whenever possible.

Personal Searches will only be conducted when deemed necessary by the Court Administrator.

Use of Metal Detector

- A. The facility/department where metal detector's (walk through) for screening processes are used; personnel will be properly trained in their use. Training should include the fact that metal detectors may be activated by metal (rebar) used for structural integrity in floors.
- B. A metal detector will be used to screen ALL incoming persons entering secure area (court room).
- C. When a search is required concluding a metal detector screening, the staff members will get prior approval from the supervisor or designee.
- D. Staff will properly document the details of the search and the findings.

Perimeter Security & Checks 1.1.800

Effective Date:

Revision Date (s):

Signature/ Title: /s/

Perimeter Security and Checks

Policy

The Chippewa Cree Judicial Commission is committed to protecting the public, and maintaining a secure, safe, and orderly environment for persons, staff in the building/facility. Facility perimeter checks will be conducted in a timely manner. (Including the Annex Building)



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Definitions

Facility Perimeter-The entire area on the outside of the building/facility which encompasses the facility site. Included in the perimeter are all fences, outbuildings, and parking lots.

Rules and Procedures

General

- A. To provide a secure perimeter, perimeter checks shall be routinely accomplished.
- B. The building/facility is responsible for initiating a perimeter check procedure which includes the following requirements.

Perimeter Checks

- A. Perimeter check procedures will include the following:
 1. If and how equipment and appropriate attire will be obtained to conduct a perimeter check.
 2. Who will be notified that a perimeter check is being conducted and when it will be completed.
 3. How often perimeter checks will ordinarily be conducted (at a minimum one time per day) on a random basis.
 4. What a staff member conducting a perimeter check is looking for. The following, at a minimum, will be observed for and reported immediately. If warranted:
 - a. Breaches of Secure areas.
 - b. Natural wear on the physical plant
 - c. Vandalism
 - d. Intruders
 - e. Suspicious conditions/circumstances
 - f. Unusual activity
 - g. Unknown vehicles
 - h. Proper operation of all entrances/exits
 5. How a staff member responds to what is discovered during a perimeter check.
 6. Identification of what the perimeter check includes.
 7. Perimeter checks will be documented on the daily log, noting the day, time, and name of staff member conducting the check.
 8. If check cannot be completed, reason why will be noted on the daily log.
- B. The Perimeter Checklist will be attached to the Daily Log prior to the end of day.



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Offender Drug & Alcohol Testing Program 1.1.900

Effective Date:

Revision Date (s):

Signature/ Title: /s/

Purpose

The Probation Division programs will follow established policies and procedures for offender drug testing to promote a drug-free standard and offender accountability.

Definitions

Administrator- The official, regardless of local title (division or department administrator), ultimately responsible for the division, program, department and management.

Cause- Any indication that an offender may be using an unauthorized substance or any substance in an unauthorized manner. Such indication may be direct (observed by a staff person), hearsay (relayed through other individuals), circumstantial (perceived via reasonable inference), or self-admission.

Confirmatory Testing- Refers to a laboratory testing process performed by the Desert West-Medical Review Services or other lab confirming the presence of a drug or molecule within testing sample. Used when offender does not admit to drug use after receiving a positive sample result.

AHTW Coordinator- Staff person by the Department Director and responsible for overseeing and tracking the Department-wide offender drug testing program.

Drug Testing Appointee- The staff person designated by the appropriate supervisor and/or Administrator to coordinate division/program testing and reporting functions to respective program within the division.

Drug- Any substance described in the CCT Law and Order Code, or any substance taken through any means of administration, which alters the mood, the level of perception, or brain functioning. Such substances range from prescription medications to illegal substances, as well as alcohol, synthetic intoxicants and solvents.

Drug Testing- The chemical analysis using specialized equipment and techniques to identify the presence of a drug or drug metabolite in a sample collected from an individual.

Probation- Supervision and Case Management services for adult probation, juvenile probation, Adult Healing to Wellness, Juvenile Healing to Wellness Program, and conditional release offenders.



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Positive Sample- A screening showing the presence of a controlled or prohibited substance meeting or exceeding levels determined by the Premier Biotech or Instant-View companies.

Procedures

A. General Requirements

1. The division will promote a drug-free standard and offender accountability with a standardized drug screening and intervention program, which includes random testing requirement, for the following purposes:
 - a. To identify offenders who are using drugs and identify types of drugs used;
 - b. To identify offender treatment needs and provide treatment strategies designed to meet those identified needs;
 - c. To provide appropriate interventions for every offender who tests positive for drugs and/or alcohol;
 - d. To properly identify supervision level of offenders, who pose a risk to public safety due to their drug/alcohol use;
 - e. To reduce drug & alcohol use/abuse among offenders, which is intended to reduce disciplinary actions among offenders and reduce returns to secure facilities.
2. Division employees will be trained on the process of urine specimen collection and will implement this procedure without discrimination on the basis of race, religion, gender, national origin, creed or political belief. Law enforcement and other trained professionals may also conduct the test at the request of the division/department.

B. Probation and Parole

1. Urinalysis Drug Testing:
 - a. A Substance Test record in FULLCOURT systems must be completed and saved:
 - i. With each urinalysis test,
 - ii. When an offender refuses to submit a specimen, and
 - iii. Upon an offender's admittance to substance use prior to testing and a urinalysis test is not completed.
 - b. If ordered by the court, offenders will be required to provide a urine specimen within the court ordered time frame. Thereafter, offenders will be tested:
 - i. By random testing as determined by the staff member;
 - ii. As necessary for cause;
 - iii. As a condition of release to pre-conditions, or an intensive supervision program; or
 - iv. Upon return to a correctional facility from the community.

C. Random Testing



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- i. Offenders will be made aware that they are subject to random testing at any time during their supervision or placement.
 - ii. Random testing will be determined by the Supervisor and/or staff member which will be a minimum of 5% of the offender population each month.
- D. For-Cause Testing
- i. For-cause testing may be administered at any time for reasons including, but not limited to, the following circumstances:
 - 1.) Ant time there is reason to suspect an offender has recently used drugs/alcohol
 - 2.) Testing is a requirement of a treatment or training program;
 - 3.) An incarcerated offender has had community contact; or
 - 4.) Offender misuses a commitment/meeting.
 - ii. Urine will be the primary specimen tested using the rapid-result screening test.
 - 1. Offenders will be given the opportunity to admit substance use prior to providing a urine specimen.
 - 2. The offender has one (1) hour to comply with a request for a urine specimen; however, additional time may be granted. If necessary, the offender should be given eight (8) ounces of water and remain under staff supervision until the specimen is provided. Failure to provide enough urine to comply with test requirements will result in interventions and/or immediate arrest.
 - 3. Failure to provide specimen after one (1) hour, or the additional time granted, will be considered a refusal. Staff will note in their respective paperwork/report (s) a refusal was attempted and adding additional comment, if any.
 - 4. Offenders refusing to provide a specimen demonstrate an admission of guilt. A hearing or other intervention (s) will be necessary as a result of a refusal.
 - 5. A hearing will be required if an offender is found tampering with the sample collection (i.e. adulteration, substitution). Officer may send sample to the Desert West-Medical review or other lab to testing if tampering is suspected.
 - 6. Offender will also be given an opportunity to admit substance use upon a positive sample test result.
- E. If the offender admits to the use of illegal substances prior to testing, no urinalysis is required, however, the staff member may complete for-cause testing to ensure other drug use not admitted to is present:
- i. Steps outlines in section below for conducting test are followed if urinalysis is taken;



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- ii. If urinalysis is not completed, officer will record “sample not taken”;
- iii. Confirmatory testing will not be done to track drug usage or drug quantity levels.

Rapid-Result Screening Tests

- i. Employees conducting testing must:
 - 1. Complete appropriate documentation/record each time offender is tested;
 - 2. Use one of the test-kits provided by the Department-approved vendor, PRIMIER BIOTECH, INSTANT-VIEW for all rapid-result screening tests. Re-testing using additional strips will NOT be done.
 - a.) 8 panel: THC, OXY, MET, BZD, BUP, BAR, AMP, MOR/OPI300
 - b.) 12 panel:
AMP500/BAR200/BZO200/COC150/EDDP3000
EtG500/K2 25/
MDMA500/MET500/OPI300/OXY100/THC50
 - 3. Wear protective gloves when obtaining sample. Additional personal protective equipment is optional;
 - 4. Comply with the specimen collection procedures recommended by Department-vendor;
 - 5. Be thoroughly trained in collection procedures;
 - 6. Be the same gender as offender;
 - 7. Collect sample in a private setting;
 - 8. Carefully, closely, and directly observe at all times from collection to secure storage.

Collections Outside of Division Office

- i. Urine samples collected during a visit to an offender will be gathered using the appropriate evidence kit. Samples will be labeled with an evidence bag, packaged in a tamper-proof container, and refrigerated as soon as possible. (if required) The officer requesting the sample and the officer taking custody of the evidence will initial appropriate container/bag.

Positive Sample Results:

- a. A positive sample is sufficient reason for interventions or return to a correctional facility. Officers will use particular discretion in how to handle positive test results



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- given the nature of relapse in recovery from addiction, available options for interventions, and concerns for community safety.
- b. If results from the initial screening test is positive (presumptive positive) and the offender does not admit use;
 - i. Officer will NOT re-test using additional strips, but following preservation of evidence procedures, will forward the specimen to the Desert-West medical review to determine precisely which drug or drugs are present in the specimen only;
 - ii. Officer will discuss with offender that increased interventions will result if the Desert-West medical review confirms positive test result.
 - c. Offenders may request, at their own expense, additional screening at the State Crime Lab, Desert-West medical review or other approved screening site, such as CCT Justice Center. This additional screening will not delay disciplinary action that results in jail time or removal to a more secure environment.
 - d. All offenders testing positive and not returned to a correctional facility may be referred to chemical dependency for appropriate programming. The referral will be noted in the offender's file. Within 45 days of a positive UA result, the offender must be retested unannounced. Volunteering for treatment does not dismiss interventions or reports of violation.
 - e. Offenders who test positive and have previously completed treatment may be considered for referral to a relapse program. Offender's privileges may be curtailed while in the program, and the offender may be expected to pay for the cost of treatment.
 - f. The above actions do not preclude disciplinary action or, when applicable, transfer to a secure facility.

Portable Breath or Breath Analyzer Testing:

- a. Breath testing shall be conducted by Officers/staff or local law enforcement to test offenders suspected of alcohol use and will be conducted in accordance with the instructions of the testing device manufacturer. These devices shall be maintained in a secure location and will be the following: Intoximeter instrument
- b. Each test will be recorded in the offender's history and should include the date and time of test, a brief statement describing the reason for the test, and the results.
- c. The staff member will appropriately confront the offender when test results are positive. The offender will be asked to sign the appropriate documentation of admission to said results, which then could result in an appropriate intervention including but not limited to, referral to White Sky Hope Center.

Blood Draws: Officers will NOT request an offender to submit to an involuntary blood draw.

Facilities



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1. Division/Department facilities must establish a system of alcohol and drug testing that complies with CCT Policies and Procedures, CCT Law and Order Code, Resolutions or applicable processes to ensure an alcohol and drug free environment in the facility.
2. Regular, random urinalysis (UA) screening shall be conducted on all offenders.

Case Record Auditing 2.2.100

Effective Date:

Revision Date (s):

Signature/ Title: /s/

Directive:

The Probation Division supervisory/coordinator staff will conduct regular audits on active offender case records to ensure employee case management performance is in compliance with all applicable standards, procedures, and resolution requirements.

Definitions:

Audit- A process by which supervisors/coordinators review adult/juvenile offender files to ensure supervision standards are met and files are organized according to applicable Department policies and Probation Division standard operating procedures.

Department: Chippewa Cree Tribal Probation Division

PROCEDURES:

The case record audit system ensures that the Probation Division staff are meeting job performance standards, grant requirements (if any), and complying with applicable policies and procedures. Audits are used to identify personnel or case record management system compliance. They will be conducted in a manner that reinforces the mission of the Chippewa Cree Tribal Probation Division and/or Chippewa Cree Tribal Court and provides feedback to officers in regards to case records they are maintaining.

1. Offender field file audits will ensure case records are current and that appropriate and accurate materials are being entered and maintained both in FULLCOURT SYSTEMS and hard copies of file. Every effort will be made to ensure compliance with this manual, federal, state and tribal guidelines.
2. The content of all offender case records will be maintained in compliance with SOP Offender Records 1.1.400.



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Supervisors conducting case record audits will also refer to SOP Offender Records 1.1.400 to ensure staff are properly entering information, and storing and handling offender records.

Auditing Guidelines

The offender files to be audited will be determined by the supervisor, until such time as random lists can be generated by FULLCOURT and provide to supervisors. Audits will be conducted on a quarterly basis, beginning January, April, July and October as follows:

- A minimum of ten (10) case records per staff member per quarter (minimum of twenty (20) annually), or
- A minimum of five (5) case records per quarter per staff member on probationary status or officer who has permanent status, but is new to his/her position.

These reviews will determine if the appropriate and approved procedures are being used. Audits will verify whether the supervision standards are being met and reassessments are current.

AUDIT PROCESS

Supervisors will:

1. Notify staff members of each upcoming audit.
2. Review and discuss audit findings which specifically identify compliance or non-compliance with the officer assigned to the case record.
3. Provide officer/staff member an opportunity to discuss/explain any non-compliance. Corrective action, if necessary, will be noted to rectify non-compliance and officer/staff member has five (5) working days to respond in writing or verbally to the action taken. Note: Disciplinary Action will be taken according to the Chippewa Cree Policies and Procedures, if necessary.
4. Recheck files not meeting standards to ensure appropriate action has been taken to correct non-compliance.
5. Maintain original audit forms/documents and provide a copy to the Court Administrator and officer/staff member. Audit results will be used in annual performance appraisals and MUST be sent to Judicial Commission members for review/action, if necessary.

Pre-Sentence Investigation (PSI) and Report/Post-Sentence Investigation 2.2.200

Effective Date:

Revision Date (s):

Signature/ Title: /s/



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Purpose

Probation Division employees will comply with Tribal Court orders for pre-sentence investigations and reports and follow standardized procedures when preparing and distributing these reports.

Definition:

Probation Division- The division oversees Probation clientele sentenced from Tribal Court providing assessments and sanctions, training, conditional release, and treatment services.

Pre-Sentence Investigation and Report- A confidential and official court document designed to provide essential information on a defendant and assist Tribal Court judges in determining an appropriate sentence for the defendant. The report also guides the Tribal Court judges to determine Probation Division admittance for management of the offender and in developing a case plan for the offender.

Procedures:

PSI-Pre-Sentence Investigation and Report

1. General Requirements

- a. The PSI is primarily designed to assist judges in making appropriate sentencing decisions, including the use of alternatives to incarceration. Secondly, it is often used after the defendant enters the corrections system by correctional, treatment, and community alternative facilities to classify offenders, develop treatment plans, and make referrals.
- b. The PSI must be accurate, concise, and understandable to a wide range of users, and staff member is required to conduct and prepare the PSI's should be thoroughly familiar with the basic requirements of the applicable law.
- c. The court may order a PSI for a defendant convicted of any offense in the Chippewa Cree Law and Order code.
- d. The court may require that the PSI include a physical and mental examination of the defendant.

2. PSI Procedures and Responsibilities:

- a. Within (10) days or as so otherwise court ordered by the court, a PSI writer will inquire into and report upon:
 - i. The defendant's characteristic's, circumstances, needs, and potentialities;
 - ii. The defendant's criminal record, social history;
 - iii. The circumstances of the offense;
 - iv. Time of the defendant's detention for the offenses charged;
 - v. The harm caused to the victim, victim's immediate family, and the community;
 - vi. The defendant's assets; and



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- vii. The victim's pecuniary loss.
- b. The PSI Report will be reviewed by a supervisor during a PSI writer's probationary period, after which PSI writers are encouraged to have another staff members review the report prior to submission to the court.
- c. The PSI is distributed upon completion to the following:
 - i. Sentencing Court (original);
 - ii. Prosecuting Attorney;
 - iii. Defendant's Attorney;
 - iv. Defendant;
 - v. Agency or institution to which the defendant is committed; and
 - vi. Offender File
- d. The sentencing court may permit other access to the PSI as it considers necessary. A motion or petition requesting such access must be filed with the court.

Testifying in Court 2.2.300

Effective Date:

Revision Date (s):

Signature/ Title: /s/:

Directive:

Probation Division employees will follow established procedures when testifying in court.

Procedures:

Probation Officer (s) will testify in court in support of pre-sentence investigation reports, violation investigations, and at any other time required by the court of record. Officer should comply with the following, and review the information contained in this policy.

- a. Be prepared before testifying. Review records, notes, chronological history, etc.
- b. Discuss case with presiding prosecutor, including whether offender's field file should/should not be brought into court.
- c. Officers must be aware that offender files and other documents brought into the courtroom may become subject to examination by all parties:
 - i. If there is not a subpoena for the offender's file, avoid taking file. If certain documents, notes, and/or specific entries are needed to recall or confirm specific dates, Officer/staff member should bring additional copies of those documents, notes and/or entries for possible examination by others.



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- ii. If officer/staff member is served with “subpoena”, which requires the file is brought to court, the complete, true and accurate copy of the file to the court.
- iii. Maintain control of the offender’s file. Do not release the file to anyone other than the prosecutor except by court order.
- iv. Maintain composure, tell the truth, and answer with facts.

ALL POLICIES AND PROCEDURES NOT CONTAINED WITHIN THESE STANDARD OPERATING PROCEDURES, STAFF WILL REFERR TO THE CCT TRIBAL POLICIES AND PROCEDURES, IF NECESSARY.