

# CRIMINAL HISTORY INFORMATION USE ORDINANCE

Hoop Valley Tribe  
Hoop Valley, California

## Title 63

ORDINANCE NO: 05-00

DATE APPROVED: July 20, 2000

SUBJECT: Adoption Of Criminal History Information Use Ordinance, Title 63 Of The Hoopa Valley Tribal Code.

WHEREAS: The Hoopa Valley Tribal Council is the governing body of the Hoopa Valley Indian Tribe of California pursuant to authority expressed in Article V, Section 1 of the Hoopa Valley Tribal Constitution and Bylaws as approved by the Commissioner of Indian Affairs on August 18, 1972 and subsequently confirmed and ratified by the United States Congress on October 31, 1988 (25 U.S.C. sec. 1300i *et seq.*); and

WHEREAS: By tribal law, the sovereign authority of the Hoopa Valley Tribe over the matter described herein is delegated to the Hoopa Valley Tribal Council, acting by law; and

WHEREAS: The Hoopa Valley Tribe is authorized to promulgate and enforce ordinances governing the conduct of members and non-members of the Hoopa Valley Tribe within the exterior boundaries of the Hoopa Valley Indian Reservation pursuant to Article IX of the Constitution and Bylaws; and

WHEREAS: The Hoopa Valley Tribal Council is authorized to safeguard and promote the peace, safety morals and general welfare of the membership pursuant to Article IX of the Constitution and Bylaws; and

WHEREAS: The Hoopa Valley Tribal Council established the Hoopa Valley Tribal Gaming Commission to protect the integrity of Indian gaming; and

WHEREAS: The Tribal Gaming Commission is responsible for conducting background investigations for prospective licensees; and

WHEREAS: The Tribal Gaming Commission reviews criminal history information as part of the process to issue gaming licenses; and

WHEREAS: Access to criminal history information through the California Law Enforcement Telecommunications System (CLETS) will improve the time necessary to process

license applications and will reduce costs of outside background investigations;  
and

WHEREAS: The Tribal-State Class III Gaming Compact entered into by and between the Hoopa Valley Tribe and the State of California on or about September 10, 1999 provides that the Hoopa Valley Tribe may access CLETS information upon adoption of an appropriate tribal ordinance; and

NOW, THEREFORE, BE IT RESOLVED: The Hoopa Valley Tribal Council hereby adopts and enacts the Criminal History Information Use Ordinance as Title 63 of the Hoopa Valley Tribal Code.

### **63.1 SHORT TITLE**

This Ordinance shall be known and may be cited as the "Criminal History Information Use Code" or Title 63.

### **63.2 PURPOSE**

The purpose of this Ordinance is to provide a means to ensure the confidential use of information obtained by the Tribal Gaming Commission or any other authorized Tribal department or entity from the California Law Enforcement Telecommunications System (CLETS) and to provide sufficient remedies should an individual improperly disclosed confidential information.

### **63.3 SCOPE**

This Ordinance shall only apply to the Hoopa Valley Tribe.

### **63.4 DEFINITIONS**

As used in this Ordinance:

- (A) "Tribal Court" means the Hoopa Valley Tribal Court;
- (B) "Penal Code" means the California Penal Code or specific sections thereof;
- (C) "Reservation" means the Hoopa Valley Indian Reservation, as presently and hereafter constituted;
- (D) "Tribal Council" means the Hoopa Valley Tribal Council, the governing body of the Tribe;
- (E) "Gaming Commission" means the Hoopa Valley Tribal Gaming Commission;

- (F) "CLETS" means the California Law Enforcement Telecommunications System;
- (G) "Tribe" means the Hoopa Valley Tribe;
- (H) "Ordinance" means the "Criminal History Information Use Code" or Title 63;
- (I) "State" means the State of California;
- (J) "Record" means the State summary criminal history information as defined by subdivision (a) of Penal Code Section 11105, or a copy thereof, maintained under a person's name by the State Department of Justice;

### **63.5 APPLICATION OF CALIFORNIA PENAL CODE 11140**

- (A) The Tribal Council hereby adopts Penal Code Sections 11140 through 11144. Penal Code Sections 11140 - 11144 shall apply to members, investigators and staff of the Gaming Commission, subject to Sections 5 and 6 of this Ordinance.
- (B) The Gaming Commission is hereby authorized and shall be entitled to receive State summary criminal history information through CLETS pursuant to Penal Code § 11105.
- (C) Any other department or entity of the Hoopa Valley Tribe, including but not limited to the Hoopa Tribal Police Department, K'ima:w Medical Center or Education Department, may seek permission from the State of California to access to State summary criminal history information through CLETS pursuant to Penal Code § 11105.
- (D) Any other department or entity authorized by law to access State summary criminal history information through CLETS shall be subject to the requirements of this Ordinance.

### **63.6 VIOLATION OF ORDINANCE**

- (A) It shall be a violation of this Ordinance for any person authorized by law to receive a record or information obtained from a Record to furnish the Record or information to a person who is not authorized by law to receive the record or information.
- (B) It shall be a violation of this Ordinance for any person, who knowing he is not authorized by law to receive a Record or information obtained from a Record, to possess, buy, or receive the Record or information.
- (C) It is not a violation of this Ordinance to:

- (1) disseminate statistical or research information obtained from a Record, provided that the identity of the subject of the Record is not disclosed;
- (2) disseminate information obtained from a Record for the purpose of assisting in the apprehension of a person wanted in connection with the commission of a crime;
- (3) include information obtained from a Record in (a) a transcript or record of a judicial or administrative proceeding or (b) any other public record when the inclusion of the information in the public record is authorized by a court, statute, ordinance or decisional law.

### **63.7 TRIBAL COURT AUTHORITY**

- (A) The Tribal Court shall have exclusive authority to adjudicate civil actions brought against the Tribe, Tribal Council, or individuals for alleged violation of this Ordinance.
- (B) Civil Penalties. Any person who violates this Ordinance shall be fined a civil penalty not to exceed \$500.00.
- (C) Individual Civil Action. Any person aggrieved by violation of this Ordinance may bring an action in the Tribal Court to recover from the person violating the Ordinance (hereinafter "violinator") actual damages or two hundred dollars (\$200.00), whichever is greater, plus costs and reasonable attorney's fees. An intentional violation of this Ordinance shall entitle the person to recover from the violinator treble actual damages or five hundred dollars (\$500.00), whichever is greater, plus costs and reasonable attorney's fees.

### **63.8 CRIMINAL PROSECUTION**

Nothing herein shall prevent the Tribe from seeking criminal prosecution by the appropriate authority of any person who violates this Ordinance for violation of any applicable criminal law(s).

### **63.9 EFFECTIVE DATE, AMENDMENT**

This Ordinance shall be effective from the date of its approval by the Hoopa Valley Tribal Council. This Ordinance may be amended as provided in accordance with the Legislative Procedures Act.

### **63.10 SEVERABILITY**

If any part of this Ordinance is held to be invalid, the remainder shall continue to be in full force and effect to the maximum extent possible.

**63.11 SOVEREIGN IMMUNITY**

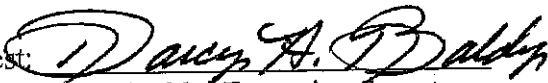
Nothing herein is intended to be or shall be construed to be a waiver of the sovereign immunity of the Hoopa Valley Tribe from unconsented suit in Tribal, federal or state court except to the extent stated herein.

**CERTIFICATION**

I, the undersigned, as Chairman of the Hoopa Valley Tribe, do certify that the Hoopa Tribal Council is composed of eight (8) members of which seven (7) were present, constituting a quorum, at a special meeting thereof; duly and specially called, noticed and convened and held this 20<sup>th</sup> day of July, 2000; and that this Ordinance was adopted by a vote of six (6) for, none (0) opposed, and none (0) abstaining; and that since approval, this Ordinance has not been rescinded, amended or modified in any form.

Dated this 20<sup>th</sup> day of July, 2000

  
DUANE J. SHERMAN, SR., Chairman  
Hoopa Valley Tribal Council

Attest:   
Darcy Baldy, Executive Secretary  
Hoopa Valley Tribal Council