

JUDICIARY

Title 1

CHAPTER 1: AUTHORITY, ESTABLISHMENT

1.1.01 Authority

This Law and Order Code, Title 1, Judiciary, is adopted pursuant to the authority granted to the Hoopa Valley Tribal Council by the Hoopa Tribal membership through a referendum election held March 1, 1983. Any prior enactments or amendments of Title I, Judiciary shall have no further force and effect as of the date of the enactment of the amendments to Title 1. These amendments to Title 1 shall apply to all cases that have not been resolved by an agreed upon settlement or a final judgment not subject to an appeal. The short title of the Hoopa Valley Tribe's Law and Order Code shall be cited as the "Hoopa Valley Tribal Code" and shall be referred to in court documents by title and section number, e.g., 1 Hoopa Valley Tribal Code § 1.1.01.

1.1.02 Establishment of the Tribal Court and Appellate Court

Through the authority of Section 1.1.01 of this Code, the Hoopa Valley Tribal Council does hereby establish and adopt this Law and Order Code of the Hoopa Valley Tribe and does establish the Hoopa Tribal Court and Appellate Court.

1.1.03 Establishment of the Judicial Committee

The Tribal Council shall appoint a five (5) member committee to review and comment on Tribal Codes and Legislation that will be enforced by the Tribal Court. The Council will develop policies and procedures regarding how the Judicial Committee will function. The Judicial Committee will have no authority in the areas of screening of Judges for elections.

1.1.04 Jurisdiction

(a) Territory. The jurisdiction of the Hoopa Valley Tribal Court and the effective area of this Code shall include all territory within the Hoopa Valley Indian Reservation, as defined by Article 1 of the Hoopa Tribal Constitution, including fee patents, allotments, assignments, roads, waters, bridges and lands used or maintained for Tribal [agency] purposes, and existing and future lands outside the boundaries of the Reservation owned or controlled by the Hoopa Valley Tribe for the benefit of its members.

(b) Personal Jurisdiction. A court of the Hoopa Valley Indian Reservation may exercise personal jurisdiction on any basis not inconsistent with the Constitution of the Hoopa Valley Tribe or of the United States, or federal law. Examples of a basis of jurisdiction over individuals shall include, but are not limited to presence, domicile, residence, tribal membership, consent, appearance, doing business on the Reservation, an act done on the reservation, causing an effect on the Reservation by act or omission elsewhere, ownership, use or possession of a thing on the

Reservation, other relationships with the Reservation, consent, appointment of agent, appearance, doing business on the Reservation, doing an act on the Reservation, causing and effect on the Reservation by act or omission elsewhere, ownership, use or possession of things in the Reservation, or other relationships .Reservation. Examples of a basis of judicial jurisdiction over corporations, partnership or other unincorporated associations shall include but are not limited to, incorporation on

(c) Subject Matter Jurisdiction. In addition to personal jurisdiction, a court of the Hoopa Valley Indian reservation must have the power to hear the kind of claim being brought before it. The Tribal Court of the Hoopa Valley Indian Reservation shall have the jurisdiction and authority to hear claims and interpret laws for all actions arising under the Hoopa Valley Tribal Constitution and Hoopa Valley Tribal Codes promulgated by the Hoopa Valley Tribal Council consistent with the Tribal Council's authority under Article IX(k), Article IX(I), and Article IX(n) of the Hoopa Valley Tribe's Constitution and Bylaws.

(i) Contract or Tort Civil Actions. The Hoopa Valley Tribal Court has the jurisdiction to hear contract or tort civil actions. Where the Hoopa Valley Tribal Codes do limit contract or tort civil actions the Hoopa Valley Tribal Court may hear contract or tort civil actions and the parties to an action may use state and federal rules or case law as persuasive authority.

(d) Constitution: Civil Rights. The Court shall have exclusive jurisdiction to construe and enforce provisions of the Constitution and Bylaws of the Hoopa Valley Tribe, to deal with alleged violations of the Indian Civil Rights Act of 1968 (ICRA), 25 U.S.C §§ 1301-1303, to enforce the ICRA where tribal agencies or officers act outside the scope of their authority, and to review actions of the Tribal Council for compliance with the ICRA. Such jurisdiction shall be found for the purposes of granting declaratory and injunctive relief. (e) Sovereign Immunity. The Court shall have no jurisdiction over any suit brought against the Hoopa Valley Tribe, its officials, its entities, or employees for money judgments without the consent of the Tribe. Nothing contained within this code, or other Tribal ordinance, resolution, policy or otherwise shall be deemed to constitute a waiver or renunciation of the sovereign immunity of the Tribe to suit. Such consent or waiver must be expressly made by the Hoopa Valley Tribal Council by majority vote through passage of an ordinance, by resolution, by entering into a written contract, which provides for an express waiver, or other means adopted by the Hoopa Valley Tribal Council. Unless specifically stated in a valid waiver of sovereign immunity described under this section, the Hoopa Valley Tribe does not waive its sovereign immunity with respect to any monetary damages, or monetary sanctions including any awards of costs or attorney's fees against the Tribe.

(f) Limited Waiver of Sovereign Immunity for Tribal Employee Wrongful Termination Civil Complaints. The Hoopa Valley Tribe hereby makes a limited waiver of sovereign immunity for actions brought in the Hoopa Valley Tribal Court solely based on the employee's wrongful

termination from employment. The employee must be subject to Title 30 of the Hoopa Valley Tribal Code, otherwise known as the Tribe's Personnel Policy and Procedures. This limited waiver of sovereign immunity shall as of the date of the enactment of Title 1, apply to terminated employees that have cases currently appealed to the TERO Commission for the hearing process or terminated employee appeals from the TERO Commission to the Hoopa Valley Tribal Court that are not yet resolved by an agreed upon settlement or a final judgment not subject to appeal. If the Hoopa Valley Tribal Court determines an employee has been wrongfully terminated, the Hoopa Valley Tribal Court shall have the power and jurisdiction to award money damages against the Tribe for actual unpaid wages and benefits not to exceed an amount equal to one (1) years wages of the employee. The wages shall be calculated at the amount the employee was actually receiving on the date of the termination. Any wages or money earned by employment or self-employment shall be used to offset any damage award. The Hoopa Valley Tribe shall only pay judgments after final appeals have been exhausted or the Tribe chooses not to appeal an adverse decision. The Hoopa Valley Tribe does not waive its sovereign immunity with respect to any other forms of damages or costs and attorney fees. This limited waiver of sovereign immunity extends only to the relief stated in this waiver, and does not include any waiver of sovereign immunity whatsoever for relief not stated in this waiver. This limited waiver of sovereign immunity shall only apply to the employee terminated and shall have no application to any third party claims. This limited waiver of sovereign immunity shall only apply to timely filed complaints in accordance with 2 H.V.T.e. §2.3.13(b). If a complaint is not filed according to 2 H.V.T.C. § 2.3.13(b), this Court shall have no jurisdiction over the suit and it shall be dismissed.

1.1.05 Concurrent Jurisdiction

The jurisdiction invoked by this Code over any person, cause of action, or subject shall be concurrent with any valid jurisdiction over the same, of the courts of the United States, any state, or any political subdivision thereof; provided, however, this Code does not recognize or cede jurisdiction to any other political or governmental entity in which jurisdiction does not otherwise exist in law.

1.1.06 Prior Inconsistent Codes and Ordinances Repealed

Any and all codes and ordinances of the Hoopa Valley Tribe adopted prior to or which conflicts in any way with the provisions of the Law and Order Code, Titles 1,2, and 3 as amended, are hereby repealed.

1.1.07 Amendment of Law and Order Code

This Law and Order Code, Titles 1 and 2 may be amended with notice according to the Hoopa Valley Tribe's Legislative Procedures Act. Amendments and additions to this Law and Order Code shall become a part of the Code for all purposes and shall be codified and incorporated herein in a manner consistent with the numbering and organization of the this Code.

(a) It shall be the duty of the Chief Judge of the Tribal Court to enact or amend such rules as he/she believes to be necessary in the interests of improved judicial procedures. Any judge of the Court or any member of the Tribal Court Bar may recommend such a proposed enactment or amendment. The Chief Judge will first submit all recommended enactments or amendments to the Tribal judiciary and the Tribal Court Bar for comment. The Chief Judge shall then submit the proposed enactment or amendment with comments to the Judicial Committee for 30 day review. The Judicial Committee will review the proposed enactment or amendment for the purposes of determining its constitutionality and fairness and to verify that the proposal does not conflict with any other section or rule in the Code. The Judicial Committee, after reviewing the proposed enactment or amendment and after reviewing all comments, shall submit any recommendations to the Chief Judge within 10 days after the 30 day review period has expired. The Chief Judge shall review the recommendations of the Judicial Committee and may, but is not required to, adopt the recommendations before enacting or amending such rules. The rules governing Tribal Court procedure, enacted in the manner described above, will be made a part of this Code. Should any rules enacted under this section conflict with or are inconsistent with the Hoopa Valley Tribal Codes, the Hoopa Valley Tribal Codes shall govern and the inconsistent section or sections of Title 3 shall be repealed. [See, Title 3, Rule 1] (b) Rules Not Announced. Where the Law and Order Code or any other Hoopa Valley Tribal Code does not expressly address a question, and it is necessary for the proper adjudication of an action before the Court, the Court may adopt a rule, giving prior notice to the parties, and may issue any order to accomplish substantial justice. Such a rule shall only apply to the hearing for which it was adopted. 1.1.08 C.F.R. No Longer Applicable Any and all provisions of the Code of Federal Regulations ("C.F.R. "), Title 25, as presently constituted or hereafter constituted which deal with subjects covered in this Law and Order Code or are otherwise inconsistent with or in conflict with the provisions of the Law and Order Code or the spirit of this Law and Order Code are declared to be no longer applicable to the Hoopa Valley Indian Reservation.

1.1.09 Codification

Any law, enactment, resolution, code, or ordinance duly approved and adopted by this Tribal Council which are intended to be included in the Hoopa Valley Tribal Codes and enforced by the Hoopa Tribal Court, shall be codified pursuant to the numbering and organization of this Law and Order Code. Failure to codify for inclusion of any law, enactment, resolution, code, or ordinances shall not effect its validity. Under no circumstances shall any duly approved and adopted measure remain uncoded for a period of more than six (6) months from date of adoption. It shall be the responsibility of the Hoopa Valley Tribal Council to assure the continued updating of this Hoopa Law and Order Code.

1.1.10 Court Evaluation

At the end of each fiscal year, the caseload of the Tribal Court for the previous year shall be evaluated. The evaluation shall include consistency with the Tribal Codes, acceptable court

procedures, compliance with proper court authority, and any other proper consideration for court performance. The cost of the evaluation shall be borne by the Tribal Council by contract with an organization such as the National American Indian Judges Association.

The Tribal Council will at least annually sponsor and pay for a Tribal Court Training session to be held on or near the Hoopa Valley Indian Reservation. The purpose of the training session will be to familiarize prospective spokespersons and prospective pro-tern judicial candidates of the rules of court, rules of civil procedure, rules of evidence, trial procedure, and tribal law. The training session will be open to any person wishing to attend and each person may be charged a registration fee to help off-set the costs to the Council.

CHAPTER 2: ELECTION, APPOINTMENT AND REMOVAL OF JUDGES

1.2.01 Number of Judges and Manner of Selection

The Hoopa Valley Tribal Court shall consist of one elected Chief Judge. One or more Judges Pro Tern may be appointed by the Chief Judge as provided in Section 1.2.04.

1.2.02 Bonding

Before taking office, each judge of the Tribal Court shall, at tribal expense, post bond in an amount determined by the Tribal Council, or shall be covered by the Tribe's blanket bond.

1.2.03 Term

The Chief Judge shall be elected by the Tribal membership for a 4 year term; provided that the first elected Chief Judge shall be elected for the period set out in section 1.2.8 below. Judges Pro Tern shall be appointed by the Chief Judge for terms that do not exceed six months. The terms of Judges Pro-Tern may be renewed by the Chief Judge.

1.2.04 Judges Pro-Tern

Whenever the need arises, the Chief Judge may make temporary appointments of persons who otherwise meet the qualifications in this Chapter, to serve as Trial or Appellate Judges Pro-Tern. The Chief Judge may, in his/her sound discretion, appoint more than one judge pro tern thereby creating a pool of qualified judges pro tern from which one may from time to time be selected as circumstances dictate. Such persons may be judges serving other Indian Reservations, in which case they need not meet the requirements of Section 1.2.07.

1.2.05 Non-attorney Judge's Clerk

If the person elected as Chief Judge is not a licensed attorney, a law clerk shall be hired by the Chief Judge to assist in carrying out judicial responsibilities. Minimum qualifications for the Judge's clerk shall include:

- (a) a law degree;

- (b) at least two years full-time experience working as a licensed attorney, law clerk or paralegal with strong Approved October 2, 2008 5 background in legal research and writing;
 - (c) excellent communications skills;
 - (d) excellent working knowledge of court operations and civil procedure,
 - (e) must pass the same test as is required of judges, and
 - (f) must be a licensed attorney good standing with the state bar where they are licensed.
- The law clerk's contract of employment shall be coterminous with the term of the Chief Judge.

1.2.06 Compensation

Each judge shall be compensated pursuant to a written contract with the Hoopa Valley Tribal Council. Under no circumstances shall any judge's compensation be reduced during his or her current term of office. Compensation shall be according to the following schedule:

- (a) The Chief Judge shall be compensated in an amount equal to the salary of the Tribal Chairman at the time of the Chief Judges' election; such salary shall be prorated on an hourly basis for less than full-time work, defined as forty (40) hours per week. An additional amount shall be appropriated annually and available for training of the Chief Judge and for a research assistant and consultative services for all tribal judges. The elected Chief Judge shall receive all fringe benefits accorded the Chairman. To the extent it is not inconsistent with his or her duties as a Tribal judge, the Chief Judge may engage in the practice of law or any other type of employment.
- (b) Judges Pro-Tern shall be compensated at negotiated hourly rates.

1.2.07 Eligibility

To be eligible to serve as a judge of the Tribal Court, and in order to qualify as a candidate for Chief Judge, a person must:

- (1) be at least 25 years of age;
- (2) never have been convicted of a felony, or been convicted, within the ten years preceding his election, of a misdemeanor involving moral turpitude, corruption or dishonesty;
- (3) agree to be subject to a background investigation which shall be conducted by the Tribal law enforcement agency;
- (4) live within 100 miles of the Reservation while holding office;
- (5) have successfully completed a Tribal Court orientation session conducted by a judge of the Tribal Court, the Office of Tribal Attorney, or an attorney knowledgeable in Indian law and familiar with practice before the Tribal Court, and
- (6) have passed an examination, which shall be created, administered and evaluated by a qualified professional consultant and given in conjunction with the Tribal Court orientation session described herein; demonstrating:

- (a) at least a minimal working knowledge of the operation and procedures of the Tribal Court and the sources of law applied by the Tribal Court,
- (b) basic ability to communicate well in writing,
- (c) a working knowledge of the Hoopa Valley Law and Order Code, and
- (d) a familiarity with federal Indian law.

Each prospective candidate for Chief Judge is required to successfully pass the examination session to be eligible to run for the Office of Chief Judge. An incumbent Chief Judge is not required to take the orientation or examination as required by subsections (5) and (6) above. In addition, non-attorney judges who have not previously served as a judge of the Tribal Court shall, after election or appointment and prior to assuming office, at the expense of the Tribal Court, successfully complete a special court or tribal court jurisdiction course provided by the National Judicial College at the University of Nevada, Reno, Nevada.

1.2.08 Screening by Election Board and Conduct of Elections.

The Election Board shall screen all candidates for elected judicial office and all applicants for appointed judicial office and shall certify for election or appointment only those candidates or applicants who meet the qualifications set forth in this chapter. The Election Board shall conduct elections for Chief Judge. The time of the primary and general election of the first judge's election in accordance with this revised Chapter 2.0 shall be held as soon as can be reasonably scheduled, but in no case later than the end of 1995; no person may be elected Chief Judge except upon receiving more than 50% of the votes cast in either the primary or a run-off in the general election. Thereafter, all judicial elections shall be held at the time of the tribal primary and general election commencing with said elections in 1998; provided that if necessitated by the resignation, death, or removal of an elected judge, a special election shall be called not less than ninety (90) days after said resignation, death or removal, unless it occurs within sixty (60) days of a previously scheduled tribal election, in which case the special election shall be held at that time; provided further that said Chief Judge shall serve out the remainder of the 4 year term of the resigned, deceased or removed Judge; provided further that until a new judge is elected and sworn into office, the Tribal Council shall appoint a Judge Pro-Tern.

1.2.09 Recusal or Disqualification of Judge

(a) Reasons for Recusal or Disqualification

Any judge of the Tribal Court or Appellate Court must recuse himself or herself if he or she is aware that any of the following circumstances apply:

- (1) The judge has a financial interest in the outcome of the case; or
- (2) The judge's spouse, son, daughter, sister, brother, mother, father, granddaughter, grandson, grandmother, grandfather, aunt, uncle niece, or nephew or any of the following in-laws: son, daughter, brother, sister, mother or father, is a party in the case or directly affected by the case outcome; or
- (3) The judge knows he or she cannot be impartial in the case for any reason; or

- (4) The judge finds that person aware of the facts might reasonably believe that the judge could not be impartial; or
- (5) The judge is unable to properly perceive the evidence or is unable to properly conduct the proceeding due to a temporary or permanent physical impairment.

(b) Motion to Disqualify

- (1) Any party to a case may bring a motion for disqualification based upon any grounds listed in subsection (a).
- (2) The motion must be brought within 20 days of the party discovering the grounds for disqualification. Any party who does not file a motion to disqualify within this timeline waives their objection to the judge hearing the case.
- (3) The judge who the motion is filed against is the judge who will make the decision on whether or not he or she should be disqualified from the case.
- (4) If the motion is denied the judge must explain in writing his or her reasons for denying the motion.
- (5) If the motion is granted the case will be assigned to another judge.
- (6) An order denying a motion to disqualify is immediately appealable.
- (7) A judge shall not allow a motion to disqualify influence his or her impartiality in the case.

1.2.10 Removal of Judges

Removal of any judge by the Tribal Chairman shall be automatic upon receipt of proof of a felony conviction at any time, or a misdemeanor conviction involving moral turpitude, corruption or dishonesty within ten years of election to office. Otherwise, the elected judge shall be subject to removal by recall election, or any other means provided for in the Tribal Law and Order Code.

1.2.11 Judicial Cooperation

Judges and personnel of the Tribal Court shall cooperate with federal and state courts and agencies to the extent such cooperation is consistent with Tribal law.

1.2.12 Administrative Responsibilities

The Chief Judge shall be responsible for administering the Hoopa Valley Tribal Court. The Chief Judge's responsibilities shall include, but not be limited to, the administration of the Tribal Court budget; entering into contracts for funding; contracting with judges Pro-Tern, and contracting with the parties or organizations necessary to provide the judicial services of a Court of Appeals.

1.2.13 Oath of Office

Before taking office, and in the presence of the Tribal Chairperson, all Tribal Judges shall be required to take the following oath of office:

Tribal Judge's Oath

I, _____, do solemnly swear:

1. I will respect and uphold the Constitution and by-laws and the Tribal Code of the Hoopa Valley Tribe;
2. I will, at all times, act in a professional manner and will promote the respect and integrity for the Constitution and by-laws and the Tribal Code of the Hoopa Valley Tribe;
3. I will protect and promote the intent and purpose of the Code of the Hoopa Valley Tribe;
4. I will be faithful and honest to the office of the Tribal Judge for as long as I hold that office; and,
5. I will uphold the Tribal Code of the Hoopa Valley Tribe fairly and equally to all persons who may come before the Tribal Court.

Judge

Subscribed and sworn before me this __ day of "20__.

Tribal Chairperson

1.2.14 Intertribal Agreements

By written resolution, the Tribal Council may enter into agreements with other Indian tribes to establish and participate in an organization which makes court personnel and/or administrative services available to participating tribes, In the event of such an agreement, such personnel shall be appointed, compensated, and removed, or payment for such services shall be accomplished, as provided for in the intertribal agreements,

CHAPTER 3: GENERAL COURT PROCEDURES

1.3.01 Sessions of Court

Sessions of the Tribal Court for the trial of cases shall be held in open court by the Chief Judge, or in case of his/her disability, absence, or unavailability, by a Judge Pro-Tern, provided, however, that a Judge Pro-Tern may be called in to hear cases at any time for any reasonable cause by the Chief Judge.

1.3.02 Acting Chief judge

The Chief Judge of the Tribal Court shall designate, in writing, a Judge Pro Tern to act as Chief Judge whenever the Chief Judge is absent from the Reservation, is on vacation, ill, or otherwise unable to perform the duties of his/her office. The Acting Chief Judge may exercise all powers of the Chief Judge. The elected Chief Judge may at any time change his/her designation of the judge empowered to act as Chief Judge.

1.3.03 Rules of Court - Procedures

The time and place of court sessions, and all other details of judicial procedure shall be governed by Title 2, Civil Actions, and Title 3 Rules of Court, promulgated as herein provided. The rules of court are subject to change by the Court with notice according to the requirements of this Code.

1.3.04 Means to Carry Jurisdiction into Effect

When personal and subject matter jurisdiction is vested in the Court by the Hoopa Valley Tribal Council, all the means necessary to carry into effect are also given, subject to the provisions of the Constitution and Bylaws of the Hoopa Valley Tribe, its ordinances, resolutions, and applicable federal law.

1.3.05 Annual Budget

The Tribal Court shall be funded by the Tribe through an annual appropriation. Additional funding may be obtained through the levy of fines or fees. Federal, State or private grants may also be used to fund Court operations. The Tribal Council shall establish a base funding amount which shall be the basis for each annual appropriation. The base funding level shall not be decreased unless there is a significant reduction in total funds available to the Tribe for budgetary purposes or if Federal, State or private grants provide for the funding of the Court. The Chief Judge may request additional funding from the Tribal Council. If the Tribal Council grants an increase, said increase shall not be considered a change in the base funding amount, unless specifically stated in the appropriation language. The Chief Judge shall be responsible for the efficient operation of the Tribal Court. The Chief Judge may expend funds for salaries and fringe benefits, capital additions, and operational expenses as he/she deems appropriate to meet the goals and objectives of the Court. All costs associated with the operation of the Tribal Court must be within the limits of the funds appropriated annually by the Tribal Council.

CHAPTER 4: COURT OF APPEALS

1.4.01 Court of Appeals

(a) A panel of three judges shall sit as a Court of Appeals to hear appeals from final judgments, sentences and other final orders of the Tribal Court.

1.4.02 Appellate Panel

The appellate panel provided for herein shall consist of judges appointed by or contracted with by the Hoopa Valley Tribal Council. Appellate Court judges shall be licensed attorneys in good standing and when practicable and have practiced appellate law or have served as a judge in another jurisdiction.

1.4.03 Appellate Court Chief Judge

The Appellate Court shall appoint or elect one of its members to serve as Chief Judge. The Appellate Court Chief Judge shall preside over all appellate hearings and shall execute all documents related to the case, if of the majority view. In those cases where the Chief Judge is not the majority view, the judges who are of such view shall designate Approved October 2, 2008 10 one of their number to execute all necessary documents. Any dissenting judges shall have an opportunity to present their written minority opinion of the case.

1.4.04 Decisions

The appellate panel may affirm the judgment as entered, modify it, or reverse the judgment by the majority vote, and its decision shall be final.

CHAPTER 5: COURT PERSONNEL POLICIES

1.5.01 Tribal Personnel Policies

Generally The Personnel Policies of the Hoopa Valley Tribe shall apply to all Tribal Court personnel except where they may conflict with this Code.

1.5.02 Exempt Employees

Judges and Clerks of the Tribal Court shall be exempt from such provisions of the Tribal Personnel Policies to the extent such provisions are covered or intended to be covered in this Code.

1.5.03 Holidays

Except in unforeseeable situations, holidays to be honored by the Tribal Court will be those holidays observed by the Hoopa Valley Tribal Council included as part of the Tribal Personnel Policies.

1.5.04 Court Hours

Regular office hours for the Tribal Court office will be Monday through Friday of each week from 8:00 a.m. to 5:00 p.m. Any Trial Judge hearing a case shall have the discretion to designate a time most convenient to hear the case. The Tribal Court calendar scheduling shall have precedent over any request by either party in the case.

1.5.05 Implied Consent

Any person applying for an office within the Tribal Court must consent to any and all measures necessary to confirm that person's qualifications and criminal record as may be required in this Code.

CHAPTER 6: RELATIONS WITH COURT

1.6.01 BIA Employees

No employee of the Bureau of Indian Affairs shall obstruct, interfere with or control the Approved October 2, 2008 11 functions of the Tribal Court, nor shall he/she influence such functions in any manner except as permitted by this Code or in response to a request for advice or information from the Court. Employees of the Bureau of Indian Affairs, particularly those who are engaged in social service, health and educational work, may assist the court, upon its request, in the proper treatment of individual offenders.

CHAPTER 7: PROBATION DEPARTMENT & COURT SECURITY

1.6.01 Establishment of Probation and Court Security Departments

A Probation Department and Court Security Department is hereby established in the Court. The employee(s) of these departments shall be employee(s) of the court, but not political appointees.

1.6.02 Court Security Duties

The Court Officer shall provide courthouse security which includes but is not limited to:

- (1) Pre-hearing screening of anyone entering the courtroom; and
- (2) Stopping disrespectful or hostile behavior within the courtroom; and
- (3) Managing witnesses and evidence during hearings and trials;
- (4) Assisting the court clerk if someone becomes hostile in the clerk's office;
- (5) Personal service of court papers.

1.6.03 Probation Duties

The Court Officer shall provide probation services, which includes but is not limited to:

- (1) Coordinating with local service providers for supportive and/or rehabilitative services that are likely to decrease future offenses by those who have violated Tribal laws; and
- (2) Coordinating with local schools and service providers to provide services designed to prevent violations of Tribal law; and
- (3) Provide information to the Court about individual's progress toward completing their probation goals; and
- (4) Locating individuals who have missed court and temporarily detaining them and transporting them to court pursuant to a court order;
- (5) Supervision of adults and juveniles who have violated Tribal laws and been placed on probation by the Court including but not limited to the following:
 - (i) Executing searches of individuals on probation and seizing any contraband pursuant to a court order; and

- (ii) Administering drug tests; and
- (iii) Installing electronic monitoring equipment pursuant to a court order; and
- (iv) Transporting individuals on probation to secure detention, out of home placement, or a residential treatment program if authorized to do so by a court order; and
- (v) Supervising completion of community service hours

1.6.04 Law Enforcement Authority

The Court Officer, in performing his or her duties, possesses the following law enforcement authority:

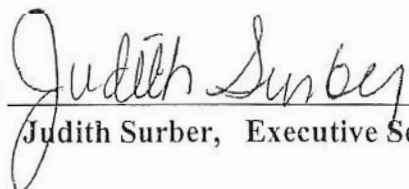
- (1) To carry and use firearms, including concealed firearms, when necessary provided the officer has successfully completed the minimum law enforcement firearms training required of Tribal Police Officers;
- (2) To detain an individual who possess a threat to the safety of courthouse employees or members of the public until the Tribal Police or other law enforcement personnel arrive to cite or arrest the individual;
- (3) To request a Judge issue an order authorizing the secure detention of a juvenile; or search and seizure of an adult or juvenile's person or property; or for such orders as are necessary to carry out the duties of the probation officer;
- (4) To detain a juvenile without an order for violation of a condition of probation until Tribal Police can issue a citation or arrest the juvenile based on the probable cause provide by the probation officer

CERTIFICATION

I the undersigned as Vice-Chairman of the Hoopa Valley Tribal Council do hereby certify that the Hoopa Valley Tribal Council, composed of eight members; of which six (6) were present constituting a quorum at a Regular meeting thereof; duly and regularly called, noticed, and convened and held this 17th day of March 2016; and that this Ordinance was adopted by a vote of five (5) for, zero (0) against, and zero (0) abstaining, and that said Ordinance has not been rescinded or amended in any way. DATED THIS 17th DAY OF MARCH , 2016. Hoopa California



Gary Risling, Vice-Chairman

ATTEST: 
Judith Surber, Executive Secretary