TITLE III CRIMINAL ACTION INDEX

Chapter 1 Rules of Criminal Procedure

3-1-1 Scope 1
3-1-2 Purpose and Construction 1
3-1-3 Title 1
3-1-4 Complaint 1
3-1-5 Arrest Warrant or Summons Upon Complaint 1
3-1-6 Arrest 4
3-1-7 Notification of Rights at Time of Arrest 4
3-1-8 Initial Appearance Before the Tribal Court Judge or Magistrate Judge 4
3-1-9 Release from Custody 5
3-1-10 Joinder of Offenses and Defendants 7
3-1-11 Arraignment 7
3-1-12 Withdrawal of Plea 9
3-1-13 Pleadings and Before Trial 9
3-1-14 Trial Joinder 11
3-1-15 Relief from Prejudicial Joinder 12
3-1-16 Depositions 12
3-1-17 Discovery and Inspection 14
3-1-18 Search Warrant Defined: Search and Seizure 17
3-1-19 Search Without Warrant 17
3-1-20 Disposition of Seized Property 18
3-1-21 Subpoena 18
3-1-22 Place of Trial 19
3-1-23 Evidence 19
3-1-24 Time for Jury Request 19
3-1-25 Jury Trial Selection Repealed (see Title 1, Chapter 2, Jury Selection) 19
3-1-26 Sentencing and Judgment 20
3-1-27 New Trial 20
3-1-28 Arrest of Judgment 20
3-1-29 Clerical Mistakes 20
3-1-30 Probation 21
3-1-31 Parole and Pardon 21
3-1-32 Appeals 22
3-1-33 Stay of Execution and Relief of Pending Review 22
3-1-34 Dismissal 23
3-1-35 Calendars 23
3-1-36 Regulation of Conduct in Courtroom 23
3-1-37 Application and Exception 23
3-1-38 Effective Date: Statues Superseded 23

Chapter 2 Provisions for Criminal Practice

3-2-1 Scope 24
3-2-2 Purpose and Construction 24
3-2-3 Provisions and Principles of Construction 24

3-2-4 Territorial Applicability…….. 25
3-2-5 Offenses Defined by Published Statutes…….. 25
3-2-6 Prior Offenses…… 26
3-2-7 Prior Sentences…….. 26
3-2-8 Method of Prosecution When Conduct Constitutes More Than One Offense…… 26
3-2-9 Limitation on Separate Trials for Multiple Offenses…….. 26
3-2-10 Authority of the Court to Order Separate Trials…… 26
3-2-11 Conviction of Lessor Included Offense Permitted…….. 27
3-2-12 Charging Offenses Together…….. 27
3-2-13 Submission of Lessor Included Offense to Jury…… 27
3-2-14 Prosecution Barred by Former Prosecution for the Same Offense…….. 27
3-2-15 Prosecution Barred by Former Prosecution for Different Offenses…… 28
3-2-16 Former Prosecution in Another Jurisdiction…… 28
3-2-17 Former Prosecution before Court Lacking Jurisdiction or when Fraudulently Procured by the Defendant…….. 28
3-2-18 Proof and Presumptions…… 28
3-2-19 General Definitions…… 29
3-2-20 General Principles of Liability Requirement of Voluntary Act; Omission as a Basis of Liability for an Act…….. 30
3-2-21 Absolute Liability…… 30
3-2-22 General Requirement of Culpability…….. 31
3-2-23 Inapplicable Culpability Requirements…….. 32
3-2-24 Causal Relationship Between Conduct and Result…… 32
3-2-25 Divergence Between Result Designed or Contemplated and Actual Result or Between Probable and Actual Result…… 32
3-2-26 Liability for Conduct of Another; Complicity…….. 34

Chapter 3 Criminal Extradition Procedure 34

Chapter 4 Statute of Limitations

3-4-1 Statute of Limitations…….. 35
3-4-2 Completed Offense…….. 35
3-4-3 Tolling of Limitations…… 36
3-4-4 Concealed Crime…….. 36
3-4-5 Speedy Trial…… 36

Chapter 5 Bail

3-5-1 Definitions…… 36
3-5-2 License Required…….. 36
3-5-3 Persons Disqualified as Bail Bond Agents …….. 37
3-5-4 Bail…….. 37
3-5-5 Bail Hearing…… 37
3-5-6 Taking of Bail…….. 37
3-5-7 Bond Forfeiture and Enforcement…….. 37
3-5-8 Setting of Bail…….. 37
3-5-9 Release of Defendant…….. 38

3-5-10 Forfeiture of Bail…… 38
3-5-11 Return of Bail…… 38

Chapter 6 Defenses

3-6-1 Definitions…… 38
3-6-2 Excuse or Mistake…… 39
3-6-3 Intoxication…… 39
3-6-4 Duress…… 40
3-6-5 Military Orders…… 40
3-6-6 Consent…… 40
3-6-7 De Minimis Infractions…… 40
3-6-8 Entrapment…… 40
3-6-9 Justification Generally - Choice of Evil…… 41
3-6-10 Justification and Affirmative Defense - Civil Remedies Unaffected…… 41
3-6-11 Execution of Public Duty…… 41
3-6-12 Use of Force in Self-Defense…… 42
3-6-13 Use of Force for Protection of Other Persons…… 43
3-6-14 Use of Force for the Protection of Property…… 43
3-6-15 Use of Force in Law Enforcement…… 45
3-6-16 Use of Force with Parental, Custodial, or Similar Responsibilities…… 45
3-6-17 Justification in Property Crimes…… 46

Chapter 7 Criminal Responsibility

3-7-1 Mental Disease or Defect Excluding Responsibility…… 46
3-7-2 Evidence of Mental Disease or Defect Admissible When Relevant to Element of the Offense…… 46
3-7-3 Mental Disease or Defect Excluding Responsibility is Affirmative Defense; Requirement Of Notice; from Form of Verdict and Judgment When Finding of Irresponsibility is Made 47
3-7-4 Mental Disease or Defect Excluding Fitness to Proceed…… 47
3-7-5 Psychiatric Examination of Defendant with Respect to Mental Disease or Defect…… 47
3-7-6 Determination of Fitness to Proceed; Effect of Finding Unfitness; Proceeding if Fitness is Regained…… 47
3-7-7 Determination of Responsibility on Basis of Report; Access to Defendant by Psychiatrist Of His Own Choice…… 48
3-7-8 Form of Expert Testimony When Issue of Responsibility Brought to Trial…… 48
3-7-9 Legal Effect of Acquittal on the Grounds of Mental Disease or Defect Excluding Responsibility; Commitment; Release, or Discharge…… 49
3-7-10 Statement for Purpose of Examination or Treatment Inadmissible Except on the Issue of Mental Condition…… 50
3-7-11 Immaturity Excluding Criminal Conviction; Transfer of Proceeding to Juvenile Court…… 50

Chapter 8 Inchoate Crimes

3-8-1 Criminal Attempt …… 50
3-8-2 Criminal Solicitation…… 51
3-8-3 Criminal Conspiracy…… 51

3-8-4 Incapacity, Irresponsibility, or Immunity of Party to Solicitation or Conspiracy…….. 52
3-8-5 Grading of Criminal Attempt, Solicitation, and Conspiracy, Mitigation in Offense Conduct, Multiple Convictions Barred…….. 52

Chapter 9 Offenses, Penalties, and Sentencing

3-9-1 Tribal Law and Order Act Enactment…… 53
3-9-2 Classification of Offenses—Penalties…… 53
3-9-3 Authority of Court in Sentencing…….. 53
3-9-4 Authorized Disposition of Offenders…….. 54
3-9-5 Place of Imprisonment…….. 54
3-9-6 Reduction of Conviction by Court to Lesser Degree of Misdemeanor…….. 54
3-9-7 Civil Commitment in Lieu of Prosecution or of Sentence…… 54
3-9-8 Hearing Prior to Restitution or Reparation Order—Conditions…… 55
3-9-9 Imposition of Fine—Response of Non-payment……. 55
3-9-10 Multiple Sentences, Concurrent or Consecutive Terms…… 55
3-9-11 The Court May Order a Pre-Sentence Investigations in any Case……. 56
3-9-12 Credit for Time of Detention Prior to Sentence, Credit for Imprisonment Under Earlier Sentence for the Same Crime…….. 57

Chapter 10 Offenses Against the Person

3-10-1 Definitions……. 57
3-10-2 Murder……. 58
3-10-3 Manslaughter……. 58
3-10-4 Negligent Homicide…….. 58
3-10-5 Assisting with Commission of Suicide; Causing Death by Suicide……. 58
3-10-6 Kidnapping…….. 58
3-10-7 Felonious Restraint……. 58
3-10-8 False Imprisonment…… 59
3-10-9 Assault Resulting in Bodily Injury…….. 59
3-10-10 Aggravated Assault…… 59
3-10-11 Assault on Tribal Law Enforcement Officer……. 59
3-10-12 Killing or Injury of Law Enforcement Support Animal…….. 59
3-10-13 Assault on Tribal Government Employee……. 60
3-10-14 Custody of Committed Person……. 60
3-10-15 Criminal Coercion…… 60
3-10-16 Reckless Endangerment……. 60
3-10-17 Terrorizing……. 60
3-10-18 Menacing……. 61

Chapter 11 Sex Offenses

3-11-1 Definitions……. 61
3-11-2 Rape…….. 63
3-11-3 Assault with Intent to Commit Rape…… 63
3-11-4 Statutory Rape……. 64
3-11-5 Sexual Abuse of a Ward……. 64

3-16-6 Sexual Assault…… 64
3-16-7 Sexual Assault of a Child…… 64
3-16-8 Indecent Exposure…… 64
3-16-9 Incest…… 64
3-16-10 Loitering to Solicit Sexual Activity…… 64
3-16-11 Prostitution…… 64
3-16-12 Promoting Prostitution…… 65
3-16-13 Engaging in Prostitution…… 65
3-16-14 Video Voyeurism…… 65
3-16-15 Entering Reservation with a Child to Engage in Sexual Act…… 65
3-16-16 Sexual Exploitation of Children…… 66
3-16-17 Selling or Buying of Children…… 66
3-16-18 Materials Involving Sexual Exploitation of Children…… 67
3-16-19 Materials Constituting or Containing Child Pornography…… 67
3-16-20 Obscenity…… 68
3-16-21 Misleading Domain Names on the Internet…… 69
3-16-22 Misleading Words or Digital Images on the Internet…… 69
3-16-23 Use of Child's Name for Illicit Purpose…… 69
3-16-24 Open Lewdness…… 69
3-16-25 Credibility or Conduct of Complaining Witness…… 69
3-16-26 Affirmative Defenses…… 69

Chapter 12 Offenses Against Property

3-12-1 Definition…… 70
3-12-2 Arson and Related Offenses…… 70
3-12-3 Causing or Risking Catastrophe…… 70
3-12-4 Criminal Mischief…… 71
3-12-5 Burglary and other Criminal Intrusion…… 71
3-12-6 Criminal Trespass…… 71
3-12-7 Robbery…… 72

Chapter 13 Theft and Related Offenses

3-13-1 Definitions…… 72
3-13-2 General Provisions and Grading of Theft Offenses…… 73
3-13-3 Theft by Unlawful Taking or Disposition…… 73
3-13-4 Theft by Deception…… 74
3-13-5 Theft by Extortion…… 74
3-13-6 Theft of Property Lost, Mislaid, or Delivered by Mistake…… 74
3-13-7 Receiving Stolen Property…… 74
3-13-8 Theft of Service …… 75
3-13-9 Theft by Failure to Make Required Disposition of Funds Received …… 75
3-13-10 Unauthorized Use of Automobiles and Other Vehicles…… 75

Chapter 14 Forgery and Fraudulent Practices

3-14-1 Definitions…… 75

3-14-2 Forgery…… 76
3-14-3 Simulation Objects of Antiquity, Rarity, Source, or Authorship…… 76
3-14-4 Fraudulent Destruction, Removal, or Concealment or Recordable Instruments…… 76
3-14-5 Tampering with Records…… 76
3-14-6 Bad Checks…… 76
3-14-7 Credit Cards…… 77
3-14-8 Deceptive Business Practices…… 77
3-14-9 Rigging Public Exhibited Contest…… 77
3-14-10 Defrauding Secured Creditors…… 78
3-14-11 Fraud in Insolvency…… 78
3-14-12 Receiving Deposits in a Failing Financial Institution…… 78
3-14-13 Misapplication of Entrusted Property of Government or Financial Institution…… 78
3-14-14 Securing Execution of Documents by Deception…… 78

Chapter 15 Offenses Against Family

3-15-1 Bigamy…… 79
3-15-2 Polygamy…… 79
3-15-3 Interference with Custody of Children…… 79
3-15-4 Child Abuse…… 79
3-15-5 Child Neglect …… 79
3-15-6 Removal of Child from Reservation in Violation of Custody Order…… 80
3-15-7 Failure to Send Child to School…… 80
3-15-8 Persistent Failure to Support…… 81
3-15-9 Family Violence…… 81
3-15-10 Endangering Welfare of Children…… 81

Chapter 16 Offenses Against Public Administration

3-16-1 Definitions…… 81
3-16-2 Bribery in Official and Political…… 82
3-16-3 Threats and Other Improper Influence in Official and Political Matters…… 82
3-16-4 Compensation for Past Official Behavior…… 83
3-16-5 Retaliation for Past Official Action…… 83
3-16-6 Bribery to Public Servants…… 83
3-16-7 Interference with Elections…… 84
3-16-8 Official Oppression…… 84
3-16-9 Speculating or Wagering on Official Action or Information…… 84

Chapter 17 Perjury and Other Falsification in Official Matters

3-17-1 Definitions…… 84
3-17-2 Perjury…… 85
3-17-3 False Swearing…… 85
3-17-4 Unsworn Falsification to Authorities…… 85
3-17-5 False Alarms to Agencies of Public Safety…… 86
3-17-6 False Reports to Law Enforcement …… 86
3-17-7 Tampering with Witnesses and Informants…… 86

3-17-8 Tampering with Jurors or Court Officers…… 86
3-17-9 Tampering with or Fabricating Physical Evidence…….. 86
3-17-10 Tampering with Public Records or Information…… 87
3-17-11 Impersonating a Public Servant…….. 87

Chapter 18 Obstructing Governmental Operations

3-18-1 Definitions…….. 87
3-18-2 Obstructing Administration of Law- Contempt of Court…….. 87
3-18-3 Resisting Arrest…….. 87
3-18-4 Hindering Apprehension or Prosecution…….. 87
3-18-5 Aiding Consummation of Crime…….. 88
3-18-6 Failure to Report a Crime or Death…….. 88
3-18-7 Escape…….. 88
3-18-8 Implements for Escape, Other Contraband…….. 88
3-18-9 Bail Jumping; Default in Required Appearance…….. 89
3-18-10 Fleeing a Police Officer…….. 89
3-19-11 Obstruction of Justice…….. 89

Chapter 19 Offenses Against Public Order and Decency

3-19-1 Definitions…….. 89
3-19-2 Riot…….. 90
3-19-3 Failure to Disperse Upon Official Order…….. 90
3-19-4 Disorderly Conduct…….. 90
3-19-5 Public False Alarm…….. 90
3-19-6 Harassment…….. 90
3-19-7 Public Intoxication Due to Alcohol…….. 91
3-19-8 Loitering or Prowling…….. 91
3-19-9 Obstructing Highways or Other Public Passages…….. 91
3-19-10 Disrupting Meetings and Processions…….. 92
3-19-11 Desecration of Venerated Objects…….. 92
3-19-12 Abuse of Corpse…….. 92
3-19-13 Movement or Transportation of a Corpse…….. 92
3-19-14 Cruelty to Animals…….. 92
3-19-15 Violation of Privacy…….. 92
3-19-16 Interference with Emergency Communications…….. 93
3-19-17 Criminal Street Gangs…….. 93
3-19-18 Underage Possession or Consumption of Alcoholic Beverages…….. 93
3-19-19 Underage Possession or Consumption of Tabacco or Vaping Devices…….. 94
3-19-20 Furnishing or Delivering Alcoholic Beverages…….. 94
3-19-21 Inhalation of Noxious Fumes…….. 94
3-19-22 Minor Prohibited From Obtaining Alcoholic Beverages and Entering Liquor Establishments.. 94

Chapter 20 Weapons and Explosives

3-20-1 Definitions…….. 94
3-20-2 Adoption of North Dakota and Federal Firearms Laws…….. 95

3-20-3 Prohibition on Possession of Firearm……. 95
3-20-4 Carrying Weapons onto School Property……. 95
3-20-5 Brandishing a Firearm……. 96
3-20-6 Unlawful Use of Weapon…… 96
3-20-7 Use of a Dangerous Weapon or Firearm by a Child…… 96
3-20-8 Possession of Explosives…… 97
3-20-9 Selling Firearms to Minors Prohibited……. 97
3-20-10 Antique Firearms…… 97
3-20-11 Carrying of Concealed Explosives …… 97
3-20-12 Possession Presumptive Evidence of Intent to Use Weapon for Unlawful Purpose……. 97
3-20-13 Use of Firearm by Children Prohibited……. 97
3-20-14 Forfeiture of Weapons by Person Arrested and Convicted of Crime……. 97
3-20-15 Manufacture, Use, Sale of Black Cartridge Firearms and Firecrackers…….. 97
3-20-16 Dealer's License Required…… 97
3-20-17 Federal Firearms Licenses…… 98

Chapter 21 Human Trafficking Code (Loren's Law)

3-21-1 Definitions……. 98
3-21-2 Human Trafficking……. 99
3-21-3 Labor Trafficking……. 99
3-21-4 Sex Trafficking…… 99
3-21-5 Patronizing a Victim of Sex Trafficking……. 100
3-21-6 Patronizing a Minor for Commercial Sexual Activity…….. 100
3-21-7 Business Entity Liability…… 100
3-21-8 Restitution…… 100
3-21-9 Past Sexual Behavior of Victim……. 101
3-21-10 Victim Confidentiality…… 101
3-21-11 Affirmative Defense of Victim……. 101
3-21-12 Additional Penalties and Sentencing Alternatives…….. 101
3-21-13 Motion to Vacate and Seal Conviction……. 102
3-21-14 Civil Action……. 102
3-21-15 Treatment…….. 102

Chapter 22 Amended Sexual Offenders Registration and Notification Act

3-22-1 Title……. 103
3-22-2 Purpose……. 103
3-22-3 Definitions…… 103
3-22-4 Registerable Offenses……. 105
3-22-5 Sex Offenses…… 107
3-22-6 Tiering of Offenses…… 108
3-22-7 Three Affiliated Tribes' Sex Offender Registry and Registration Requirements Tribal Sex Offender Registry…… 110
3-22-8 Requirement for In-Person Appearance…… 110
3-22-9 When Registration is Required…… 110
3-22-10 Timing of Registration……. 111
3-22-11 Frequency, Duration, and Reduction of Registration…… 111

3-22-12 Failure to Appear and Absconding…… 112
3-22-13 Required Information…… 113
3-22-14 International Travel…… 116
3-22-15 Offense Information…… 116
3-22-16 Vehicle Information…… 116
3-22-17 Public Offender Registry Website…… 116
3-22-18 Required and Prohibited Information…… 117
3-22-19 Community Notification…… 117
3-22-20 Crimes and Civil Sanctions…… 118
3-22-21 Immunity…… 118

Chapter 23 Pow-Wow Control Ordinance

3-23-1 Definitions…… 118
3-23-2 Legislative Intent…… 119
3-23-3 Prohibitions…… 119
3-23-4 Penalties…… 119
3-23-5 Confiscation…… 119
3-23-6 Notice…… 119
3-23-7 Enforcement…… 119

Chapter 24 Domestic Violence and Covered Crimes

3-24-1 Special Tribal Criminal Jurisdiction…… 120
3-24-2 Purpose…… 120
3-24-3 Definitions…… 120
3-24-4 General Jurisdiction…… 123
3-24-5 Rights of Defendants…… 123
3-24-6 Petitions to Stay Detention…… 124
3-24-7 Petitions for Writs of Habeas Corpus…… 124
3-24-8 Crime of Domestic Violence…… 124
3-24-9 Crime of Dating Violence…… 125
3-24-10 Stalking…… 125
3-24-11 Defenses…… 126
3-24-12 Classification for Penalty for Stalking…… 126
3-24-13 Violation of Domestic Violence Protection Order…… 126
3-24-14 Domestic Violence Protection Order…… 127
3-24-15 Temporary Ex Parte Protection Order…… 128
3-24-16 Domestication, Recognition, and Enforcement of Foreign Protection Orders…… 129
3-24-17 Mandatory Arrest…… 130
3-24-18 Mandatory Hold…… 131
3-24-19 Bail…… 131
3-24-20 Filing of Complaint…… 131
3-24-21 Victims Rights…… 131
3-24-22 Persons Required to Report…… 133
3-24-23 Protection of Domestic Violence Advocate…… 133
3-24-24 Immunity from Liability…… 134
3-24-25 Rights and Required Procedures…… 134

3-24-26 Savings and Severability…… 134

Chapter 25 Drug Code of the Three Affiliated Tribes

3-25-1 General Provisions……. 135
3-25-2 Definitions…… 136
3-25-3 Classification of Offenses and Penalties……. 139
3-25-4 Prohibited Acts…… 140
3-25-5 Nomenclature…….. 144
3-25-6 Schedule for Drug Code…… 144
3-25-7 Forfeiture of Drug Related Assets…… 150
3-25-8 Protection of Children…… 152
3-25-9 Banishment of Drug Dealers…… 153
3-25-10 Use of Canines…… 154
3-25-11 Miscellaneous Provisions…….. 154

Chapter 26 Criminal Traffic Offenses and Penalties

3-26-1 Definitions…… 155
3-26-2 Operating a Motor Vehicle Under the Influence of Intoxicating Liquor or Controlled Substances…… 157
3-26-3 Interpretation of Chemical Tests…… 158
3-26-4 Implied Consent to Determine Concentration of Alcohol in Blood…… 160
3-26-5 Record of the Court…… 165
3-26-6 Vehicular Manslaughter…… 161
3-26-7 Duties in the Event of a Motor Vehicle Crash…… 161
3-26-8 Reckless Driving – Aggravated Reckless Driving – Penalty…… 162
3-26-9 Fleeing or Attempting to Elude a Law Enforcement Officer- Penalty…… 162
3-26-10 Refusing to Halt…… 163

CHAPTER INDEX

Chapters		Pages
Chapter 1	Rules of Criminal Procedure…….	1-24
Chapter 2	Provisions for Criminal Practice……..	24-34
Chapter 3	Criminal Extradition Procedure……..	34-35
Chapter 4	Statute of Limitations……	35-36
Chapter 5	Bail……..	36-38
Chapter 6	Defenses……..	38-46
Chapter 7	Criminal Responsibility……..	46-50
Chapter 8	Inchoate Crimes……..	50-53
Chapter 9	Offenses, Penalties, and Sentencing……	53-57
Chapter 10	Offenses Against the Person……..	57-70
Chapter 11	Sex Offenses……	61-67
Chapter 12	Offenses Against Property……	70-72
Chapter 13	Theft and Related Offenses……	72-75
Chapter 14	Forgery and Fraudulent Practices……	75-78
Chapter 15	Offenses Against Family……	79-81
Chapter 16	Offenses Against Public Administration……..	81-84
Chapter 17	Perjury and Other Falsification in Official Matters……	84-87
Chapter 18	Obstructing Government Operations……..	87-89
Chapter 19	Offenses Against Public Order and Decency……	89-94
Chapter 20	Weapons and Explosives……	94-98
Chapter 21	Human Trafficking Code (Loren's Law) ……	98-103
Chapter 22	Amended Sexual Offenders Registration and Notification Act……	103-118
Chapter 23	Pow-Wow Control Ordinance……	118-119
Chapter 24	Domestic Violence and Covered Crimes……	120-135
Chapter 25	Drug Code of the Three Affiliated Tribes……	135-155
Chapter 26	Criminal Traffic Offenses and Penalties……..	155-163