

**IOWA TRIBE OF OKLAHOMA
TRIBAL COURTS**

POLICY & PROCEDURES

INTRODUCTION:

The Court is responsible for all matters filed in its office. The Court Administrator and/or Court Clerk have the responsibility to accurately receive, file and maintain all documents pertaining to all cases coming before the Court. The Court Clerk may be appointed by the Supreme Court, and Deputies, as needed, shall be appointed by the Court Clerk.

The Court Clerk is a supervisory administrative position of the Judicial Branch of the Government of the Tribe with the same rank as Department Director. The Court Clerk shall serve as the Court Administrator and shall be charged with the preparation of Court budgets, the acquisition of necessary supplies, the maintenance and upkeep of the Court's law library, the custody upkeep and maintenance of the record, papers, effects, and property of the Court and such other matters as shall be assigned to the Clerk of the Court by law or Court rule. The Court Clerk shall supervise and direct the hiring, firing and work of all deputy court clerks and other employees in the office of the Court Clerk.

The Courts shall apply the Tribal Constitution, and the provision of all statutory law heretofore or hereafter adopted by the Tribe. In matters not covered by Tribal Statute, the Court shall apply traditional tribal customs and usages, which shall be called the Common Law. When in doubt as to the Tribal Common Law, the Court may request the advice of counselors and tribal elders familiar with them. In any dispute not covered by the Tribal Constitution, Tribal Statute, or Tribal Common Law, the Court may apply any laws of the United States or any State which would be cognizable in the Courts of general jurisdiction therein, and any regulation of the Department of Interior which may be of general or specific applicability. Upon this Code becoming effective, neither Part 11 of Title 25 of the Code of Federal Regulations, except those Sections thereof which are effective when the Tribe receives certain funding from the Bureau of Indian Affairs, nor State law shall be binding upon the Court unless specifically incorporated into tribal law by Tribal Statute or be a decision of the Tribal Courts adopting some federal or state law as Tribal Common Law.

**IOWA TRIBE OF OKLAHOMA
TRIBAL COURTS**

GENERAL INFORMATION

SECTION 1: Officers of the Court to be Bonded: The Court Clerk and each Deputy Clerk shall be bonded by a position fidelity bond to guarantee the proper performance of their duties and their fidelity in the handling of the money and other property coming into their hands in the performance of their duties. The amount of such bond shall be set by the Tribal Legislative Body and the cost thereof shall be paid from Tribal funds.

SECTION 2: Hours of Operation and Procedure when office is closed. The Court Clerk's office shall be open daily, Monday through Friday, from 8:00 a.m. to 5:00 p.m., and is closed for lunch from 12:00 to 1:00 each day. In the event the Court Clerk is not available, the person designated as Deputy will be available for persons wanting to make a payment and/or to file documents. On evenings and/or weekends, or when the designated Deputy is not available, those persons are directed by a posted sign to go to the Iowa Tribe Police Department to make payment and/or file documents.

SECTION 3: Action When No Procedure Provided - Whenever specific procedures are absent from the Tribal Code, the Court may proceed in any lawful fashion.

SECTION 4: Authority: There is hereby established, ordained, and activated pursuant to the Constitution of the Tribe the Judicial Branch of the Government of the Tribe with a lower Court known as the District Court and an upper Court known as the Supreme Court.

SECTION 5: Jurisdiction:

- A. **Territorial:** Territorial Jurisdiction of the Court shall extend to all territory described as Indian Country within the meaning of Section 1151 of Title 18 of the United States Code over which the Tribe has authority, including tribal or individual, trust, non-trust and restricted land, and including all land owned by tribal agencies in their own name, all waters, minerals and wildlife, and any other such land, or interest in land, which may be subsequently acquired by virtue of Executive Order, a declaration or order of a Court of competent jurisdiction, by purchase, gift relinquishment, or by any other lawful means.

- B. **Civil:** The Courts shall have general civil jurisdiction over all civil actions arising under the Constitution, laws, or treaties of the Tribe including the tribal common law, over all general civil claims which arise within the tribal jurisdiction, and over all transitory claims in which the defendant may be served within the tribal jurisdiction. Civil matters include, but is not limited to, divorce proceedings, guardianships, traffic citations, collections, and registrations of foreign judgments. Criminal jurisdiction shall exist over all defendants served within the territorial jurisdiction of the Court, or served anywhere in cases arising within the territorial jurisdiction of the Tribe, and all persons consenting to such jurisdiction. The act of entry within the territorial jurisdiction of the Court shall be considered consent

**IOWA TRIBE OF OKLAHOMA
TRIBAL COURTS**

to the jurisdiction of the Court with respect to any civil action arising out of such entry. The act of entry upon the territorial jurisdiction by an extraterritorial seller, merchant, or their agent(s) shall be considered consent by the seller or merchant to the jurisdiction of this Court for any dispute arising out of any sale or commercial transaction regardless of where the sale or transaction was entered into or took place.

- C. Criminal: The Courts shall have original jurisdiction over all criminal offenses enumerated and defined in any ordinance adopted by the Tribe insofar as not prohibited by federal law.

- D. Juvenile: The Juvenile Division of the District Court shall have exclusive original jurisdiction in all proceedings and matters affecting dependent or neglected children, child in need of supervision, or children under the age of eighteen (18) accused of crime, when such children are found within the jurisdiction of the Court, or when jurisdiction is transferred to the Court pursuant to law. The Supreme Court shall hear appeals in juvenile cases as in other civil actions.

SECTION 6: Recordkeeping: The District Court shall be a Court of Record. To preserve such records in all Court proceedings, the Court Reporter, which may be the Clerk in the absence of an official Court Reporter, shall record the proceedings of the Court by electronic or stenographic means. The recording shall be identified by case number and kept for five (5) years for use in appeals or collateral proceedings in which the events of the hearing are at issue. At the close of each hearing, or as otherwise specified, the Reporter shall cause a transcript to be made of the recording upon the request of any party or the Court as a permanent part of the case record. Court Reporters may be licensed by the Supreme Court, and shall be allowed such fees from the Parties for their services as shall be set by Rule of the Supreme Court.

To preserve the integrity of the electronic record, the Reporter shall store the recording in a safe place and release it only to the relevant Court or pursuant to an Order of a Tribe Judge or Justice.

The Clerk shall keep in files bearing the case name and number every written document filed in the case. The Clerk shall also maintain logs known as “CIVIL CASE LOG”, “CRIMINAL CASE LOG”, “JUVENILE CASE LOG”, “BAR APPLICATION LOG”, “WELLNESS COURT LOG”, “APPEALS LOG”, and “SUPREME COURT LOG”. Every case heard in Iowa Tribal Court shall be listed in chronological order and shall be updated each time a new case is added. The “Logs” shall be the basis for assigning the next subsequent number to a new case.

All Court records shall be public records except in juvenile matters and as otherwise provided by law.

After five (5) years, court records except judgments, appearance, and other dockets may be reproduced on computer tape or disk, microfilm, or microfiche or similar space saving record keeping methods, provided, that at least one (1) hard copy, including microfilm or microfiche, of electronically stored data shall be kept at all times.

**IOWA TRIBE OF OKLAHOMA
TRIBAL COURTS**

The Supreme Court shall, upon request, provide for the publication in books or similar reporters of all of its decisions and opinions in cases before it, and the opinions and decisions of the District Court which would be useful to the Bar of the Court and the public.

Inspection of Records: Except in juvenile matters and as otherwise provided by law, Court files on a particular case are generally open to the public. Any person may inspect the records of a case and obtain copies of documents contained therein during normal business hours, again with the exception of juvenile records.

- A. Any persons desiring to inspect the records of a case or obtain copies thereof may inspect such files only during the ordinary working hours of the Clerk, or a Judge and in their presence to insure the integrity of Court records under no circumstance shall anyone, except a Judge or a licensed advocate, attorney or the Clerk taking a file to a Judge in his chambers or a courtroom, take a file from the Clerk's office.
- B. A copy of any document contained in such a file may be obtained from the Clerk by any person for a reasonable copy fee, to be set by rule of the Supreme Court. When requested and for a reasonable fee, the Clerk is hereby authorized to certify under the seal of his office that such copies are accurate reproductions of those documents on file in his office. The Supreme Court by rule may provide for such certification.
- C. To provide a record in the absence of a Court Reporter to accurately and completely record all proceedings and hearings of the Courts. If a Court Reporter is available, the Court Reporter shall have the authority to administer oaths and undertake such other Court functions as shall be provided by law or Court Rule.
- D. To provide stenographic and clerical services to the Court and the Attorney General or Prosecuting Attorney when requested or when required.

**IOWA TRIBE OF OKLAHOMA
TRIBAL COURTS**

GENERAL DUTIES

Generally, the Court Clerk will do and provide the following services in addition to those services specifically provided under FILING INSTRUCTIONS below:

- A. Librarian: To act as librarian, and to keep and maintain the Court's law library.
- B. Undertake all Duties Assigned: To undertake all duties assigned or delegated to the Clerk's office by Tribal law or Court Rule.
- C. Administer Oaths, Issue Summons/Subpoenas, Certify True Copies, and Keep Records: To administer oaths, issue summons and subpoenas, certify a true copy of Court records, and to accurately keep each and every record of the Supreme and District Court.
- D. Provide Records in Absence of Court Reporter: To provide a record in the absence of a Court Reporter to accurately and completely record all proceedings and hearings of the Courts. If a Court Reporter is available, the Court Reporter shall have the authority to administer oaths and undertake such other Court functions as shall be provided by law or Court Rule.
- E. Provide Stenographic/Clerical Services: To provide stenographic and clerical services to the Court and the Attorney General or Prosecuting Attorney when required.
- F. Record Orders, Judgments and Decrees in Timely Manner: It is the duty of the Court to write out, sign, and record its orders, judgments, and decrees within a reasonable time after their rendition. To aid in the performance of this duty, the Court may direct counsel or the Court Clerk to prepare the written memorialization for its signature and, after it is signed, to file it in the case record, or, the Court may direct the Clerk to prepare the written memorialization dictated by the Court and sign and file the same on the Court's behalf.

Issuance of Writs and Orders - All writs and orders for provisional remedies, and process of every kind shall be prepared by the party or his attorney who is seeking the issuance of such writ, order, or process and shall be issued by the Clerk. Except for summons and subpoena, the Clerk shall not issue any such writ, order, or process except upon order or allowance of the Court unless specific authorization for issuing such document is found in the Tribal Code.

Writs of Assistance – The Court, if authorized by the Chief Judge, shall issue Writs of Assistance for other jurisdictions who wish to perfect service within our jurisdiction and shall be effectuated at the request of the Iowa Tribe Police Department when a request has been made by an outside jurisdiction.

FILING INSTRUCTIONS

SECTION 1: Minimum Standards: The Clerk's office accepts all documents presented for filing as long as minimum standards are met. Standards include: jurisdictional requirements according to the Constitution of the Tribe and the Law and Order Code; identification of parties to the lawsuit, proper addresses of all parties, signatures notarized and verified, and payment of the required filing fee by Money Order or Cashier's Check – **NEVER CASH**.

**IOWA TRIBE OF OKLAHOMA
TRIBAL COURTS**

SECTION 5: Color Coding: The following color codes are to be used for the following case categories:

BLUE	Civil Matters
GREEN	Juvenile Matters
RED	Criminal Matters
GOLD	Wellness Court
ORANGE	Civil Citations
MANILA	Misc. and Bar Admissions

SECTION 6: Court Fund: There is hereby authorized to be maintained by the Clerk under the supervision of the Court, a fund to be known as the “Court Program Income Fund” into which shall be deposited all fines, fees, penalties, costs, and other monies authorized or required by law to be paid to the Courts which are not to be distributed to any party to a case and for which no requirement is imposed by law for the deposit of such funds into a particular account. These funds shall be maintained by the court and used exclusively for the payment of non-judicial staff salaries and fringe benefits, purchase of supplies, materials, and personal property for the use of the Courts, the maintenance of the Court law library, and such other such applications as shall be specifically authorized by law. The Court Fund shall not be used for the payment of salaries of regular Judges or Justices of the District or Supreme Courts.

SECTION 7: Receipts: When a party pays money into court, whether for filing fees, fines, service of process, etc., the Clerk will issue a receipt and the funds shall be sent by courier to Finley & Cook on the date it is received. All receipts will be logged into the appropriate records to be maintained in order to reconcile with Finley & Cook and with the BIA in the event of an audit. The Court Clerk’s office shall be open daily, Monday through Friday, from 8:00 a.m. to 5:00 p.m., and is closed for lunch from 12:00 to 1:00 each day. In the event the Court Clerk is not available, the Human Resource Director and/or Generalist will be available for persons wanting to make a payment and/or to file documents. An Iowa Tribal Court Receipt Book will be provided to the Human Resource Director and/or Generalist in order to provide receipts for those making payments. On evenings and/or weekends and when the Human Resource Director and/or Generalist are not available, those persons are directed by a posted sign to go to the Iowa Tribe Police Department to make payment and/or file documents. The Iowa Tribe Police Department has been provided with an Iowa Tribal Court Receipt Book in order to provide receipts for those making payments through the Iowa Tribe Police Department.

Payments will not be accepted unless they are in the form of **Cashier’s Check** or **Money Order** or by **check from attorneys’ offices** for filing fees. All payments made will generate a receipt which will be provided to the payer of such fees.

If payment is made through the Director and/or Generalist of the Human Resource Department, the payment shall be submitted to the Court Clerk immediately upon her return that day or the next business day. If payment is made through the Police Department on evenings or weekends or when the Director and/or Generalist for Human Resources is not available or on evenings or weekends, the payment shall be submitted to the Court Clerk immediately upon her return that day or the next business day.

**IOWA TRIBE OF OKLAHOMA
TRIBAL COURTS**

SECTION 8: Filing Fees Not to be Charged: Filing fees will never be charged to the office of the Prosecutor or Tribal law enforcement.

SECTION 9: Money Judgment Receipts: To accept, when ordered by the Court, monies for the payment of civil judgments and to pay same by check to the party entitled to them. For the purpose of taking such action, the Clerk is authorized to maintain an account at Finley & Cook for the purpose of depositing and withdrawing funds therefrom in order to satisfy the Court's order. This account shall be subject to audit by Finley & Cook.

SECTION 10: Arraignments: An arraignment is the initial step in a criminal prosecution whereby the Defendant is brought before the Court to hear the charges and to enter a plea. The Prosecutor prepares the Criminal Complaint and files it with the Court.

Arraignments are held within seventy-two (72) hours of the arrest unless the Defendant has bonded out. If the Defendant is still incarcerated at the end of the seventy-two (72) hours, the arraignment can be held at a location convenient for all parties. The arraignment can be held telephonically if it cannot be on a regularly scheduled docket date. The Judge, Prosecutor, Public Defender, Court Clerk and Defendant shall be present.

SECTION 11: Complaints/Citations: All complaints/citations filed by the office of the Prosecutor will be reviewed by the Court Clerk before filing to insure the complaint contains the following information:

1. Name of Defendant;
2. Location where offense is alleged to have occurred;
3. Date and approximate time the offense is alleged to have occurred;
4. Particularities of the alleged facts which address and constitute each element of the offense or offenses charged; and
5. Defendant's residence and mailing address, date of birth, social security number and a physical description.

After review by the Court Clerk, the complaint/citation shall follow the procedures outlined above under SECTION 4 of GENERAL FILING.

SECTION 12: Petitions/Motions.

1. When a party wishes to petition or move the Court on any particular matter, a Petition and/or Motion or Motion and Order must be filled out and completed by the moving party.
2. After receipt of a Petition or Motion, the Clerk will assign a docket number and fill in the number assigned on the space provided when the Clerk file-stamps the document.
3. When the Clerk receives the Petition or Motion, they must check the document for certification that the other party or parties received a copy of the Petition or Motion. If the Clerk accepts the Petition or Motion without the certification, it will be the responsibility of the Clerk to mail or forward a copy of the Petition or Motion to the other party or parties involved using the certification stamp or by

**IOWA TRIBE OF OKLAHOMA
TRIBAL COURTS**

filling out the certification at the bottom of the document. The Clerk can also prepare a Certificate of Mailing for filing in the case.

4. The case file, after being file-stamped, assigned a case number, having a label attached and being forwarded to the proper parties, shall be immediately placed before the Judge for review.

SECTION 13: Dockets. The Clerk shall assure that the file is properly prepared and ready for hearing at least forty-eight (48) hours prior to the date of hearing. If pleadings or completed returns of service are not in the file, the Clerk must notify the Judge.

SECTION 14: File Locations:

Closed Cases: All closed juvenile cases shall be kept in a drawer together in chronological order according to years. *Juvenile cases are not for review by the public.* Closed civil and criminal cases shall also be kept in a drawer together in chronological order according to years.

Pending Cases: There are three (3) categories for cases that are still pending.

Docket Cases: A section shall be toward the front of the drawer for cases that are to be heard on the docket – they shall be arranged according to the month that activity is to take place. For example, if the Judge wishes to review a matter in six (6) months, the file this order pertains to shall be placed in the month preceding the 6th month after the hearing so it can be pulled the month before it is to be placed on the docket. When the file is pulled, the Clerk will send notice to all parties and then place the file in the month that case will be heard. To further illustrate, Court is held in February and the Judge wants to review the case again in six (6) months (in August). The Clerk will pull the file in July to send notice to all parties and then place it under the August tab to pull when preparing the docket.

Bench Warrants Outstanding: If the Judge has ordered that a Bench Warrant be issued, when the Bench Warrant has been issued and delivered to the appropriate agency to serve, the file is placed in the “Bench Warrants Outstanding” category. When the party has been served and is in custody, the case will be moved to the docket category and be placed on the docket to be heard.

Banishments: If the Judge has ordered that a party be banished, the file is placed in the “Banishments” category until the banishment expires. When the banishment expires, the file will be moved to the docket category and be placed on the docket to be heard, finalized and closed.

SECTION 15: Calendaring.

Each case is either closed or pending. A pending case shall always have a calendar date for it until it is in closed status; **EXCEPT** cases for which Bench Warrants have been ordered. No file shall be filed away unless it has a calendar date for it and it has been listed on the calendar to be pulled for review.

**IOWA TRIBE OF OKLAHOMA
TRIBAL COURTS**

SECTION 16: Seal of the Iowa Tribal Court.

The Court Clerk is authorized to have and use a seal which shall be circular in form and contain the words, "IOWA TRIBE OF OKLAHOMA TRIBAL COURT" around the edge thereof, and the words "SEAL" or the official Tribal emblem in its center. The seal shall be impressed upon all warrants, subpoenas, summons, certified copies of records, judgments, orders, decrees, and similar documents, as evidence of their authenticity.

SECTION 17: Certification of True Copies.

The Court Clerk is authorized to certify that a copy of any record in his office is a true and accurate copy of the record on file by signed stamp or writing placed on such copy, sealed with the seal of the Court Clerk's office, and in substantially the following form:

CERTIFICATE OF TRUE COPY

I hereby certify that the above and foregoing _____ is a true, correct and complete copy of the instrument herewith set out as it appears of record in the Court Clerk's office of the Iowa Tribe of Oklahoma, Iowa Tribal Court, Perkins, Oklahoma.

Witness my hand and seal this _____ day of _____, 200____,

(SEAL)

COURT CLERK

By _____
Deputy

Certified copies of records shall be admissible as evidence without further authentication in all judicial and administrative proceedings of this Tribe.

SECTION 18: Hours of Operation.

The office of the Court Clerk with the Clerk or a deputy in attendance shall be open during business hours on all days except Saturdays, Sundays, and legal holidays, but the Court may provide by rule or order that its Clerk's office shall be open for specified hours on Saturdays or particular legal holidays other than New Year's Day, Washington's Birthday, Native American Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.
