

WYANDOTTE NATION
TITLE 12
TRIBAL COURT PROSECUTOR CODE
(APPROVED BY THE BOARD OF DIRECTORS 7-11-2023)

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**WYANDOTTE NATION
TITLE 12
TRIBAL COURT PROSECUTOR CODE**

Section 101. Citation.

This Title may be cited as the "Tribal Prosecutor Code."

Section 102. Establishment.

There is hereby established the office of Tribal Court Prosecutor of the Wyandotte Nation.

Section 103. Appointment.

The Tribal Court Prosecutor shall be appointed by the Board of Directors of the Wyandotte Nation for a term of one year, with eligibility for renewable appointment. The Board of Directors may also appoint special Tribal Court prosecutors to serve on a case-by-case basis in the event of conflict or unavailability of the Tribal Prosecutor. The rate of compensation for the Tribal Court Prosecutor and any special prosecutors shall be set by the Board of Directors. The position of Tribal Court Prosecutor shall be a contractual agreement unless otherwise specified by the Board of Directors.

Section 104. Qualifications.

A person shall be eligible to serve as Tribal Court Prosecutor only if he/she:

(a) is a graduate of an ABA accredited law school and an attorney in good standing licensed to practice law in the state of Oklahoma;

(b) admitted to practice in the Federal District Court for the Northern District of Oklahoma;

(c) has at least two (2) years experience prosecuting or defending criminal actions in Tribal, state and/or federal court and can demonstrate an adequate knowledge of criminal laws, policies, procedures and practices;

(d) has demonstrated moral integrity and fairness in his or her business, public and private life;

(e) does not currently hold an appointed or elected position within the Wyandotte Nation.

Section 105. Duties.

(a) The Tribal Court Prosecutor shall have the following duties:

(1) to represent the Wyandotte Nation in prosecuting violations of the Nation's criminal and civil codes in the Wyandotte Nation Tribal Court and to charge offenders as appropriate and ethical;

(2) to participate in criminal investigations and allegations of child deprivation and neglect within the jurisdiction of the Wyandotte Nation, and to charge as appropriate and ethical;

(3) to review requests for arrest warrants and search warrants to determine if all constitutional and legal requirements are satisfied prior to approval or authorization; and

(4) to work closely with the Tribal Court Administrator and Tribal Judges to improve the delivery of services within the Nation's Court system.

(b) The Tribal Court Prosecutor shall not represent the Wyandotte Nation in any claim against the United States of America in the U.S. Court of Claims, unless specifically employed by the Wyandotte Nation for the purpose, by contract duly approved by the Secretary of the Interior. Nothing in this Title shall be construed to employ any attorney as a claims attorney.

Section 106. Removal From Office.

The Board of Directors may, by an affirmative vote of a majority of its members, remove the Tribal Court Prosecutor from office during the term of any appointment for any of the following reasons:

(a) official misconduct;

(b) willful neglect of duty;

(c) gross misconduct;

(d) abusing the authority of the office of Tribal Court Prosecutor by failing to bring or prosecute cases in a fair or impartial manner;

(e) conviction of a felony;

(f) disbarment from any court of competent jurisdiction;

(g) mental or physical incapacity;

(h) unethical conduct as defined by the Oklahoma Bar Association; and/or

(i) any other cause the Board of Directors finds just and reasonable to terminate the appointment.

Section 107. Special Responsibilities of the Tribal Court Prosecutor.

The Tribal Court Prosecutor represents the sovereign Wyandotte Nation and therefore has responsibilities above and beyond those required of an attorney in private practice. Therefore, the Tribal Court Prosecutor should use restraint in the discretionary exercise of governmental powers, and in the performance of the duties of the office shall exercise the following special responsibilities:

(a) refrain from prosecuting a charge which the Tribal Court Prosecutor knows, or should know, is not supported by probable cause;

(b) refrain from seeking a waiver or important rights from an unrepresented person;

(c) make timely disclosure to the defense of all evidence or information known to the Tribal Court Prosecutor that tends to negate the guilt of the accused or mitigates the degree of the offense or any information which mitigates the term of sentencing of the accused;

(d) comprehensively study the applicable law and facts of each case in order to make prosecutorial decisions based only on the facts and not be dissuaded from making difficult or unpopular decisions;

(e) avoid financial and business dealings that tend to reflect adversely on his or her impartiality, interfere with the performance of his or her prosecutorial duties or exploit the Tribal Court Prosecutor's position; and

(f) disqualify himself or herself from acting as prosecutor in any proceeding in which his or her impartiality may be reasonably questioned, including instances where the prosecutor has:

(i) a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts;

(ii) where the Tribal Court Prosecutor served as lawyer, advocate, or personal representative in the matter before the Court; or

(iv) where the Tribal Court Prosecutor knows that he or she individually, or a member of their family or household, has a financial interest in the subject matter or controversy or is a party to the proceeding, or has any other interest that could be substantially affected by the proceedings.