#### **ONEIDA INDIAN NATION**

#### PENAL CODE

#### TABLE OF CONTENTS

### CHAPTER 1 GENERAL PROVISIONS

101	Short title	1
102	Other limitations on applicability of this code	1
103	Definitions	1
	CHAPTER 2 PRINCIPLES OF CRIMINAL LIABILITY	
201	Culpability; definition of terms	3
202	Culpability; definitions of culpable mental states	3
203	Requirements for criminal liability in general and for offenses of strict liability and mental culpability	4
204	Construction of statutes with respect to culpability requirements	4
205	Effect of ignorance or mistake upon liability	4
206	Effect of intoxication upon liability	5
Parties to O	Offenses and Liability Through Accessorial Conduct	
207	Criminal liability for conduct of another	5
208	Criminal liability for conduct of another; no defense	5
209	Criminal liability for conduct of another; exemption	5
210	Convictions for different degrees of offense	5
211	Criminal liability of corporations	6
212	Criminal liability of an individual for corporate conduct	6

#### CHAPTER 3 DEFENSES

301	Defenses; burden of proof	7
302	Infancy	7
303	Justification; a defense	7
304	Justification; generally	7
305	Justification; use of physical force generally	7
306	Justification; use of physical force in defense of a person	8
307	Justification; use of physical force in defense of premises and in defense of a person in the course of burglary	9
308	Justification; use of physical force to prevent or terminate larceny or criminal mischief	10
309	Duress	10
310	Entrapment	10
311	Renunciation	10
312	Mental disease or defect	11
	CHAPTER 4 SPECIFIC OFFENSES	
401	Criminal solicitation in the fifth degree	12
402	Criminal solicitation in the fourth degree	12
403	Criminal solicitation in the third degree	12
404	Criminal solicitation in the second degree	12
405	Criminal solicitation in the first degree	12
406	Criminal solicitation; no defense	13
407	Criminal solicitation; exemption	13

# Conspiracy

408	Conspiracy in the sixth degree	13
409	Conspiracy in the fifth degree	13
410	Conspiracy in the fourth degree	13
411	Conspiracy in the third degree	14
412	Conspiracy in the second degree	14
413	Conspiracy in the first degree	14
414	Conspiracy; pleading and proof; necessity of overt act	14
415	Conspiracy; jurisdiction and venue	14
416	Conspiracy; no defense	14
417	Conspiracy; enterprise corruption; applicability	15
<u>Attempt</u>		
418	Attempt to commit a crime	15
419	Attempt to commit a crime; punishment	15
420	Attempt to commit a crime; no defense	15
421	Criminal facilitation in the fourth degree	15
422	Criminal facilitation in the third degree	15
423	Criminal facilitation in the second degree	16
424	Criminal facilitation in the first degree	16
425	Criminal facilitation; no defense	16
426	Criminal facilitation; corroboration	16
Offenses Again	nst the Person Involving Physical Injury, Sexual Conduct, Restraint and Intin	<u>nidation</u>
427	Assault in the third degree	16
428	Vehicular assault in the second degree	17
429	Vehicular assault in the first degree	17

430	Assault in the second degree	17
431	Assault in the first degree	18
432	Aggravated assault upon a police officer or a peace officer	18
433	Aggravated assault upon a person less than eleven years old	18
434	Menacing in the first degree	19
435	Menacing in the second degree	19
436	Menacing in the third degree	19
437	Hazing in the first degree	19
438	Hazing in the second degree	20
439	Reckless endangerment in the second degree	20
440	Reckless endangerment in the first degree	20
441	Promoting a suicide attempt	20
442	Promoting a suicide attempt; when punishable as attempt to commit murder	20
443	Homicide defined	20
444	Homicide, abortion and related offenses; definition of terms	20
445	Criminally negligent homicide	21
446	Vehicular manslaughter in the second degree	21
447	Vehicular manslaughter in the first degree	21
448	Manslaughter in the second degree	22
449	Manslaughter in the first degree	22
450	Murder in the second degree	22
451	Murder in the first degree	23
452	Abortion in the second degree	24
453	Abortion in the first degree	24

454	Self-abortion in the second degree	24
455	Self-abortion in the first degree	25
456	Issuing abortional articles	25
457	Sex offenses; definitions of terms	25
458	Sex offenses; lack of consent	26
459	Sex offenses; defense	27
460	Sex offenses; corroboration	27
461	Sexual misconduct	27
462	Rape in the third degree	27
463	Rape in the second degree	27
464	Rape in the first degree	28
466	Sodomy in the third degree	28
467	Sodomy in the second degree	28
468	Sodomy in the first degree	28
469	Sexual abuse in the third degree	29
470	Sexual abuse in the second degree	29
471	Sexual abuse in the first degree	29
472	Aggravated sexual abuse in the second degree	29
473	Aggravated sexual abuse in the first degree	30
474	Unlawful imprisonment, kidnapping and custodial interference; definitions of terms	30
475	Unlawful imprisonment in the second degree	30
476	Unlawful imprisonment in the first degree	31
477	Unlawful imprisonment; defense	31
478	Kidnapping in the second degree	31

479	Kidnapping in the first degree	31
480	Kidnapping; defense	32
481	Custodial interference in the second degree	32
482	Custodial interference in the first degree	32
483	Coercion in the second degree	32
484	Coercion in the first degree	33
485	Coercion; no defense	33
486	Coercion; defense	33
Offenses In	nvolving Damages to and Intrusion Upon Property	
487	Criminal trespass and burglary; definition of terms	34
488	Trespass	34
489	Criminal trespass in the third degree	34
490	Criminal trespass in the second degree	35
491	Criminal trespass in the first degree	35
492	Burglary in the third degree	35
493	Burglary in the second degree	35
494	Burglary in the first degree	36
495	Possession of burglar's tools	36
496	Unlawful possession of radio devices	36
497	Criminal mischief in the fourth degree	37
498	Criminal mischief in the third degree	37
499	Criminal mischief in the second degree	37
500	Criminal mischief in the first degree	37
501	Criminal tampering in the third degree	37

502	Criminal tampering in the second degree	38
503	Criminal tampering in the first degree	38
504	Reckless endangerment of property	38
505	Unlawfully posting advertisements	38
506	Tampering with a consumer product; consumer product defined	38
507	Tampering with a consumer product in the second degree	39
508	Tampering with a consumer product in the first degree	39
509	Penalties for littering on railroad tracks and rights-of-way	39
510	Making graffiti	39
511	Arson; definitions	40
512	Arson in the fourth degree	40
513	Arson in the third degree	40
514	Arson in the second degree	40
515	Arson in the first degree	41
Offenses Invol	ving Theft	
516	Larceny, definitions of terms	41
517	Larceny; defined	42
518	Larceny; no defense	44
519	Larceny; defenses	44
520	Larceny; value of stolen property	44
521	Petit Larceny	45
522	Grand larceny in the fourth degree	45
523	Grand larceny in the third degree	46
524	Grand larceny in the second degree	46
525	Grand larceny in the first degree	46

526	Larceny; pleading and proof	46
527	Offenses involving computers; definition of terms	47
528	Unauthorized use of a computer	48
529	Computer trespass	48
530	Computer tampering in the second degree	48
531	Computer tampering in the first degree	49
532	Unlawful duplication of computer related material	49
533	Criminal possession of computer related material	49
534	Offenses involving computers; defenses	49
535	Robbery; defined	50
536	Robbery in the third degree	50
537	Robbery in the second degree	50
538	Robbery in the first degree	50
539	Misapplication of property	51
540	Unauthorized use of a vehicle in the third degree	51
541	Unauthorized use of a vehicle in the second degree	52
542	Unlawful use of secret scientific materials	52
543	Unauthorized use of a vehicle in the first degree	52
544	Auto-stripping in the second degree	52
545	Auto-stripping in the first degree	53
546	Theft of services	53
547	Unlawful use of credit card, debit card or medical assistance card	55
548	Fraudulently obtaining a signature	55
549	Jostling	56

550	Fraudulent accosting	56
551	Fortune telling	56
552	Criminal possession of stolen property in the fifth degree	56
553	Criminal possession of stolen property in the fourth degree	57
554	Criminal possession of stolen property in the third degree	57
555	Criminal possession of stolen property in the second degree	57
556	Criminal possession of stolen property in the first degree	57
557	Criminal possession of stolen property; presumptions	58
558	Criminal possession of stolen property; no defense	58
559	Criminal possession of stolen property; corroboration	58
560	Definitions	58
561	Trademark counterfeiting in the third degree	59
562	Trademark counterfeiting in the second degree	59
563	Trademark counterfeiting in the first degree	59
564	Seizure and destruction of goods bearing counterfeit trademarks	60
Offenses Invo	lving Fraud	
565	Forgery; definition of terms	60
566	Forgery in the third degree	61
567	Forgery in the second degree	61
568	Forgery in the first degree	61
569	Criminal possession of a forged instrument in the third degree	62
570	Criminal possession of a forged instrument in the second degree	62
571	Criminal possession of a forged instrument in the	62

## second degree; presumption

572	Criminal possession of a forged instrument in the first degree	62
573	Criminal possession of a forged instrument; no defense	62
574	Criminal possession of forgery devices	62
575	Criminal simulation	63
576	Criminal possession of an anti-security item	63
577	Unlawfully using slugs; definition of terms	63
578	Unlawfully using slugs in the second degree	63
579	Unlawfully using slugs in the first degree	64
580	Forgery of a vehicle identification number	64
581	Illegal possession of a vehicle identification number	64
582	Illegal possession of a vehicle identification number; presumptions	65
583	Definition of terms	65
584	Falsifying business records in the second degree	65
585	Falsifying business records in the first degree	66
586	Falsifying business records; defense	66
587	Tampering with public records in the second degree	66
588	Tampering with public records in the first degree	66
589	Offering a false instrument for filing in the second degree	66
590	Offering a false instrument for filing in the first degree	67
591	Issuing a false certificate	67
592	Issuing a false financial statement	67
593	Insurance fraud; definition of terms	67
594	Insurance fraud; defined	68

595	Insurance fraud in the fifth degree	68
596	Insurance fraud in the fourth degree	68
597	Insurance fraud in the third degree	69
598	Insurance fraud in the second degree	69
599	Insurance fraud in the first degree	69
600	Commercial bribing in the second degree	69
601	Commercial bribing in the first degree	69
602	Commercial bribe receiving in the second degree	69
603	Commercial bribe receiving in the first degree	70
604	Bribery of labor official; definition of term	70
605	Bribing a labor official	70
606	Bribing a labor official; defense	70
607	Bribe receiving by a labor official	70
608	Bribe receiving by a labor official; no defense	70
609	Sports bribery and tampering; definitions of terms	71
610	Sports bribing	71
611	Sports bribe receiving	71
612	Tampering with a sports contest in the second degree	71
613	Tampering with a sports contest in the first degree	72
614	Impairing the integrity of a pari-mutuel betting system in the second degree	72
615	Impairing the integrity of a pari-mutuel betting system in the first degree	72
616	Rent gouging in the third degree	73
617	Rent gouging in the second degree	73
618	Rent gouging in the first degree	73

619	Fraud in insolvency	73
620	Fraud involving a security interest	74
621	Fraudulent disposition of mortgaged property	74
622	Fraudulent disposition of property subject to a conditional sale contract	75
623	Issuing a bad check; definitions of terms	75
624	Issuing a bad check	75
625	Issuing a back check; presumptions	76
626	Issuing a bad check; defenses	76
627	False advertising	76
628	Criminal impersonation in the second degree	77
629	Criminal impersonation in the first degree	77
630	Unlawfully concealing a will	77
631	Criminal usury in the second degree	77
632	Criminal usury in the first degree	78
633	Possession of usurious loan records	78
634	Unlawful collection practices	78
635	Scheme to defraud in the first degree	78
636	Scheme to defraud in the second degree	79
637	Scheme to defraud in the first degree	79
638	Scheme to defraud the state by unlawfully selling prescriptions	79
Bribery I	nvolving Public Servants and Related Offenses	
639	Bribery in the third degree	80
640	Bribery in the second degree	80
641	Bribery in the first degree	80

642	Bribery; defense	80
643	Bribe receiving in the third degree	80
644	Bribe receiving in the second degree	80
645	Bribe receiving in the first degree	81
646	Bribe receiving; no defense	81
647	Rewarding official misconduct in the second degree	81
648	Rewarding official misconduct in the first degree	81
649	Receiving reward for official misconduct in the second degree	81
650	Receiving reward for official misconduct in the first degree	82
651	Giving unlawful gratuities	82
652	Receiving unlawful gratuities	82
653	Bribe giving for public office	82
654	Bribe receiving for public office	82
655	Escape and other offenses relating to custody; definitions of terms	83
656	Escape in the third degree	83
657	Escape in the second degree	83
658	Escape in the first degree	83
659	Promoting prison contraband in the second degree	84
660	Promoting prison contraband in the first degree	84
661	Resisting arrest	84
662	Hindering prosecution; definition of terms	84
663	Hindering prosecution in the third degree	85
664	Hindering prosecution in the second degree	85
665	Hindering prosecution in the first degree	85

000	Perjury and related offenses; definitions of terms	85
667	Perjury in the third degree	86
668	Perjury in the second degree	86
669	Perjury in the first degree	86
670	Perjury; pleading and proof where inconsistent statements involved	86
671	Perjury; defense	87
672	Perjury; no defense	87
673	Making an apparently sworn false statement in the second degree	87
674	Making an apparently sworn false statement in the first degree	87
675	Making a punishable false written statement	87
676	Perjury and related offenses; requirement of corroboration	88
677	Bribing a witness	88
678	Bribe receiving by a witness	88
679	Tampering with a witness in the fourth degree	88
680	Tampering with a witness in the third degree	88
681	Tampering with a witness in the second degree	89
682	Tampering with a witness in the first degree	89
683	Employer unlawfully penalizing witness	89
684	Intimidating a victim or witness in the third degree	89
685	Intimidating a victim or witness in the second degree	90
686	Intimidating a victim or witness in the first degree	90
687	Bribing a juror	91
688	Bribe receiving by a juror	91
689	Tampering with a juror in the second degree	91

690	Tampering with a juror in the first degree	91
691	Misconduct by a juror in the second degree	91
692	Misconduct by a juror in the first degree	92
693	Tampering with physical evidence; definition of terms	92
694	Tampering with physical evidence	92
695	Compounding a crime	92
696	Criminal contempt in the second degree	93
697	Criminal contempt in the first degree	93
698	Criminal contempt; prosecution and punishment	93
699	Bail jumping in the third degree	94
700	Bail jumping in the second degree	94
701	Bail jumping in the first degree	94
702	Failing to respond to an appearance ticket	94
703	Bail jumping and failing to respond to an appearance ticket; defense	95
704	Unlawful disclosure of a criminal complaint	95
705	Unlawful disposition of assets subject to forfeiture	95
Offenses Agai	inst Public Health, Morals	
706	Controlled substances; definitions	97
707	Criminal possession of a controlled substance in the seventh degree	97
708	Criminal possession of a controlled substance in the fifth degree	97
709	Criminal possession of a controlled substance in the fourth degree	98
710	Criminal possession of a controlled substance in the third degree	99

711	Criminal possession of a controlled substance in the second degree	98
712	Criminal possession of a controlled substance in the first degree	100
713	Criminal possession of a controlled substance; presumption	100
713-a	Use of a child to commit a controlled substance offense	101
714	Criminal sale of a controlled substance in the fifth degree	101
715	Criminal sale of a controlled substance in the fourth degree	101
716	Criminal sale of a controlled substance in the third degree	102
717	Criminal sale of a controlled substance in the second degree	102
718	Criminal sale of a controlled substance in the first degree	103
719	Criminal sale of a controlled substance in or near school grounds	103
720	Criminally possessing a hypodermic instrument	104
721	Criminal injection of a narcotic drug	104
721-a	Criminal sale of a controlled substance to a child	104
722	Criminally using drug paraphernalia in the second degree	104
723	Criminally using drug paraphernalia in the first degree	105
724	Criminal possession of precursors of controlled substances	105
725	Criminal sale of a prescription for a controlled substance	105
725-a	Criminal Possession of Methamphetamine Manufacturing Material in the Second Degree	106
725-b	Criminal Possession of Methamphetamine Manufacturing Material in the First Degree.	106
725-с	Criminal Possession of Precursors of Methamphetamine	106
725-d	Unlawful Manufacture of Methamphetamine in the Third Degree	106
726	Marihuana; definitions	107

121	Unlawful possession of marinuana	107
728	Criminal possession of marihuana in the fifth degree	107
729	Criminal possession of marihuana in the fourth degree	107
730	Criminal possession of marihuana in the third degree	107
731	Criminal possession of marihuana in the second degree	108
732	Criminal possession of marihuana in the first degree	108
733	Criminal sale of marihuana in the fifth degree	108
734	Criminal sale of marihuana in the fourth degree	108
735	Criminal sale of marihuana in the third degree	108
736	Criminal sale of marihuana in the second degree	108
737	Criminal sale of marihuana in the first degree	109
738	Gambling offenses; definitions of terms	109
739	Promoting gambling in the second degree	111
740	Promoting gambling in the first degree	111
741	Possession of gambling records in the second degree	111
742	Possession of gambling records in the first degree	111
743	Possession of gambling records; defense	112
744	Possession of gambling device	112
745	Possession of gambling device; defenses	112
746	Gambling offenses; presumptions	113
747	Lottery offenses; no defense	113
748	Prostitution	113
749	Patronizing a prostitute; definitions	113
750	Patronizing a prostitute in the fourth degree	114

751	Patronizing a prostitute in the third degree	114
752	Patronizing a prostitute in the second degree	114
753	Patronizing a prostitute in the first degree	114
754	Patronizing a prostitute; defense	114
755	Prostitution and patronizing a prostitute; no defense	114
756	Promoting prostitution; definitions of terms	115
757	Promoting prostitution in the fourth degree	115
758	Promoting prostitution in the third degree	115
759	Promoting prostitution in the second degree	115
760	Promoting prostitution in the first degree	116
761	Promoting prostitution; accomplice	116
762	Permitting prostitution	116
763	Obscenity; definition of terms	116
764	Obscenity in the third degree	117
765	Obscenity in the second degree	117
766	Obscenity in the first degree	117
767	Obscenity; presumptions	117
768	Obscenity; defense	117
769	Disseminating indecent material to minors; definitions of terms	118
770	Disseminating indecent material to minors	118
771	Disseminating indecent material to minors; presumption and defense	119
Offenses A	Against Public Order, Public Sensibilities and the Right to Privacy	
772	Offenses against public order; definitions of terms	119
773	Riot in the second degree	120

774	Riot in the first degree	120
775	Inciting a Riot	120
776	Unlawful assembly	120
777	Criminal anarchy	120
778	Disorderly conduct	121
778-a	Failure to obey a lawful direction of a police officer	121
778-b	Impeding the movement of a police officer	121
778-с	Obstructing governmental administration	121
779	Disruption, or disturbance of religious service	121
780	Harassment in the first degree	122
781	Harassment in the second degree	122
782	Aggravated harassment in the second degree	122
783	Aggravated harassment in the first degree	122
784	Loitering	123
785	Loitering in the first degree	123
786	Loitering for the purpose of engaging in a prostitution offense	124
787	Appearance within the territorial jurisdiction of the Oneida Indian Nation under the influence of narcotics	124
788	Criminal nuisance in the second degree	125
789	Criminal nuisance in the first degree	125
790	Falsely reporting an incident in the third degree	125
791	Falsely reporting an incident in the second degree	125
792	Falsely reporting an incident in the first degree	126

## Offenses Against Public Sensibilities

793	Public lewdness	126
794	Exposure of a person	126
795	Promoting the exposure of a person	127
796	Offensive exhibition	127
797	Public display of offensive sexual material; definitions of terms	127
798	Public display of offensive sexual material	128
Offenses A	Against the Right of Privacy	
799	Eavesdropping; definitions of terms	128
800	Eavesdropping	129
801	Possession of eavesdropping devices	129
802	Failure to report wiretapping	129
803	Divulging an eavesdropping warrant	130
804	Tampering with private communications	130
805	Unlawfully obtaining communications information	130
806	Failing to report criminal communications	131
Offenses A	Against Public Safety	
807	Definitions	131
808	Criminal possession of a weapon in the fourth degree	133
809	Criminal possession of a weapon in the third degree	134
810	Criminal possession of a weapon in the second degree	135
811	Criminal possession of a dangerous weapon in the first degree	135
812	Unlawful possession of weapons by persons under sixteen	135
813	Criminal use of a firearm in the second degree	135

814	Criminal use of a firearm in the first degree	135
815	Manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances	136
816	Criminal sale of a firearm in the third degree	136
817	Criminal sale of a firearm in the second degree	136
818	Criminal sale of a firearm in the first degree	137
819	Criminal sale of a firearm with the aid of a minor	137
820	Presumptions of possession, unlawful intent and defacement	137
821	Criminal sale of a firearm to a minor	138
822	Exemptions	138
<b>Operating</b>	g a motor vehicle while under the influence of alcohol or drugs	
823	Operating a motor vehicle while under the influence of alcohol or drugs	138
824	Arrest for violation of Section 823	139
825	Breath tests for operators of certain motor vehicles	139
826	Chemical tests	139
827	Compulsory chemical tests	140
828	Chemical test evidence	141
<u>Offenses</u>	relating to Children	
829	Endangering the Welfare of a Child	142
830	Endangering the Welfare of a Child; Defense	142
831	Unlawfully Dealing with a Child in the First Degree	143
832	Unlawfully Dealing with a Child in the Second Degree	143

Sex Offender Registration			
901	Penalty for Failure to Register	144	
902	Affirmative Defense	144	
PROVISIONS	RELATING TO ANIMALS		
903	Cruelty to Animals	145	
904	Aggravated Cruelty to Animals	145	