

ONEIDA INDIAN NATION
RULES OF CRIMINAL PROCEDURE
CHAPTER 1
GENERAL PROVISIONS

101. DEFINITIONS

Rule 101 DEFINITIONS

"Appellate court" means the Appellate Court of the Oneida Indian Nation.

"Appearance bond" means an agreement, with or without security entered into by a person in custody by which the person is bound to comply with the conditions specified in the agreement.

"Appearance ticket" means a written request issued by a law enforcement officer that a person appear before the Nation court at a stated time and place.

"Arraignment" means the formal act of calling the defendant before the court informing the defendant of the offense with which the defendant is charged, and asking the defendant whether the defendant is guilty or not guilty.

"Arrest" means the taking of a person into custody in order that the person may be forthcoming to answer for the commission of a crime. The giving of an appearance ticket is not an arrest.

"Bail" means the security given for the purpose of insuring compliance with the terms of an appearance bond.

"Complaint" means a written statement under oath of the essential facts constituting a crime, except that an appearance ticket issued by a law enforcement officer shall be deemed a valid complaint if it is signed by the law enforcement officer.

"Court" means the Trial court of the Oneida Indian Nation.

"Custody" means the restraint of a person pursuant to an arrest or the order of the court.

"Detention" means the temporary restraint of a person by a law enforcement officer.

"Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for violation of the laws of the Nation or ordinances or with a duty to maintain or assert custody or supervision over persons accused or convicted of crime, and includes probation officers and while acting within the scope of their authority.

"Nation Prosecutor" means any attorney who is authorized by law to appear for and on behalf of the Nation in a criminal case.

"Search warrant" means a written order made by a judge directed to a law enforcement officer commanding the officer to search the premises described in the search warrant and to seize property described or identified in the search warrant.

"Summons" means a written order issued by the judge directing that a person appear before the court at a stated time and place and answer to a charge pending against the person.

"Territorial jurisdiction" means all lands possessed, occupied or held by or for the Nation in its sovereign capacity.

"Warrant" means a written order made by the judge directed to any law enforcement officer commanding the officer to arrest the person named or described in the warrant.

102. PARTIES; NATION AS PROSECUTING PARTY

Rule 102 PARTIES; NATION AS PROSECUTING PARTY

A criminal action is prosecuted in the name of the Oneida Indian Nation against the person charged with the offense.

103. PARTIES; DEFENDANT

Rule 103 PARTIES; DEFENDANT

The party prosecuted in a criminal action is designated as the defendant. The word "he" as used in these Rules shall mean both the male and female gender and includes the plural as well as the singular.

104. PUNISHMENT; IMPOSITION ONLY UPON LEGAL CONVICTION

Rule 104 PUNISHMENT; IMPOSITION ONLY UPON LEGAL CONVICTION

No person shall be punished for a criminal offense except upon a legal conviction in the Nation Court.

105. DOUBLE JEOPARDY

Rule 105 DOUBLE JEOPARDY

No person can be subjected to a second prosecution for a criminal offense for which he has once been prosecuted and convicted or acquitted in Nation Court.

106. LIMITATION OF PROSECUTION

Rule 106 LIMITATION OF PROSECUTION

- a. Every criminal proceeding shall be commenced within seven (7) years of the date of commission and diligent discovery of the offense, or prosecution for that offense shall be forever barred.
- b. If an offense is committed by actions occurring on two (2) or more separate days, the offense will be deemed to have been committed on the day the final act causing the offense to be completed occurred.
- c. The date of "diligent discovery" is the date at which, in the exercise of reasonable diligence, some person other than the defendant and his conspirator knew or should have known that an offense had been committed.
- d. Time spent outside the territorial jurisdiction of the Nation for the purpose of avoiding prosecution shall not be counted toward the limitation period.

107. NO COMMON LAW OFFENSES

Rule 107 NO COMMON LAW OFFENSES

No act or failure to act shall be subject to criminal prosecution unless made an offense by a law or ordinance of the Nation.

108. DISCHARGE OF PERSONS NOT BROUGHT PROMPTLY TO TRIAL

Rule 108 DISCHARGE OF PERSONS NOT BROUGHT PROMPTLY TO TRIAL

1. If any person charged with a crime and held in jail solely by reason of the crime and is not brought to trial within ninety (90) days after such person's arraignment on the charge, such person shall be entitled to be discharged from further liability to be tried for the crime charged, unless the delay shall happen as a result of the application or fault of the defendant, or a continuance shall be ordered by the court under subsection (3).

2. If any person charged with a crime and held to answer on an appearance bond shall not be brought to trial within one hundred eighty (180) days after arraignment on the charge, such person shall be entitled to be discharged from further liability to be tried for the crime charged, unless the delay shall happen a result of the application or fault of the defendant, or a continuance shall be ordered by the court under subsection (3).
3. The time for trial may be extended beyond the limitations of subsection (1) and (2) of this section for any of the following reasons:
 - a. The defendant is incompetent to stand trial;
 - b. A proceeding to determine the defendant's competency to stand trial is pending and a determination thereof may not be completed within the time limitation fixed for trial by this section;
 - c. There is material evidence which is unavailable; that reasonable efforts have been made to procure such evidence; and that there are reasonable grounds to believe that such evidence can be obtained and trial commenced within the next succeeding ninety (90) days. Not more than one continuance may be granted the Nation on this ground.
 - d. Because of other cases pending for trial, the court does not have sufficient time to commence the trial of the case within the time fixed for trial by this section. Not more than one continuance of not more than thirty (30) days may be ordered upon this ground.
4. In the event a mistrial is declared or a conviction is reversed on appeal the time limitations provided for herein shall commence to run from the date the mistrial is declared or the date of the decision of the Nation Appellate court.