



Little River Band of Ottawa Indians

375 River Street
Manistee, MI 49660
(231) 723-8288

Resolution # 04-0324-135

Adoption of Domestic Violence Ordinance and Repeal of Section 15.04 of the Law and Order - Criminal Offenses - Ordinance

WHEREAS, the status of the *Gaá Čhíng Ziibi Daáwaa Aníshinaábek* (Little River Band of Ottawa Indians) as a sovereign and Treaty-making power is confirmed in numerous treaties, from agreements with the initial colonial powers on this land, to various treaties with the United States; and

WHEREAS, the Little River Band of Ottawa Indians (Tribe) is descended from, and is the political successor to, the Grand River Ottawa Bands, signatories of the 1836 Treaty of Washington (7 Stat. 491) with the United States, as reaffirmed by federal law in P.L. 103-324, enacted in 1994; and

WHEREAS, the Tribe adopted a new Constitution, pursuant to a vote of the membership on May 27, 1998, which Constitution became effective upon its approval by the Assistant Secretary-Indian Affairs on July 10, 1998; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(a) to provide for the public health, peace, morals, education and general welfare of the Little River Band and its members; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(a) to take exercise the inherent powers of the Tribe through the enactment of ordinances; and

WHEREAS, the Tribal Council adopted the Law and Order - Criminal Offenses - Ordinance which identified criminal actions and which included section 15.04, Domestic Abuse and the penalties related to the commission of this crime; and

WHEREAS, the Tribal Council has accepted a grant intended to review the crime of domestic violence and propose ordinances and other actions that more clearly address the surrounding effects of domestic violence; and

WHEREAS, the Tribal Council reviewed in a work session, on March 11th, a proposed Domestic Violence Ordinance which addresses the crime of domestic violence and the effects of this crime on the family and community; and

WHEREAS, the Tribal Council has determined that adoption of the Domestic Violence Ordinance is in the best interests of the members of this Tribe, the community, and the Tribe itself;

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby adopts the Domestic Violence Ordinance, 04-400-04, and directs the implementation date of this ordinance as April 15, 2004.

IT IS FURTHER RESOLVED THAT the Tribal Council hereby repeals section 15.04 of the Law and Order - Criminal Offenses - Ordinance effective April 15, 2004.


IT IS FURTHER RESOLVED THAT the Tribal Council hereby directs the Prosecutor to review the Domestic Violence Ordinance with the Tribe's Public Safety Department, the Family Services Department, and prepare a notice for presentation in the Tribal newsletter regarding the new ordinance.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 6 FOR, 0 AGAINST, 1 ABSTAINING, and 2 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on March 24, 2004, at the Little River Band's Dome Room in Manistee, Michigan, with a quorum being present for such vote.



Janine M. Sam, Council Recorder



Stephen Parsons, Council Speaker

Attest:

Distribution: Council Records
Tribal Ogema
Tribal Court

DOMESTIC VIOLENCE ORDINANCE
Ordinance # 04-400-04

Article I. Policy and Purpose

1.01. *Policy.* This statute intends to promulgate responsible Tribal response to domestic violence which communicates the intent of the Tribe that domestic violence represents an aberration and danger to the mental, physical and cultural well being of the Tribal community and members. It is also the intent of the Tribe that victims of domestic violence receive the maximum assistance and protection under the law and that perpetrators are held accountable for their conduct. Finally, it is the hopeful intent of the Tribe that, when possible, healing of the wounds inflicted by acts of domestic violence is supported.

1.02. *Findings.* The Tribal Council of the Little River Band of Ottawa Indians finds that:

a. the Constitution of the Little River Band of Ottawa Indians delegates to the Tribal Council the responsibility to "...exercise the inherent powers of the Little River Band by establishing laws through the enactment of ordinances and adoption of resolutions not inconsistent with this Constitution:

1. to govern the conduct of members of the Little River Band and other persons within its jurisdiction;

2. to promote, protect and provide for public health, peace, morals, education and general welfare of the Little River Band and its members[.]” *Article IV, Section 7(a).*

b. domestic violence is a serious crime and a crime that is not in any way culturally sanctioned.

c. development of laws to prohibit domestic violence, punish offenders and protect families is an important governmental function.

Article II. Adoption; Amendment; Repeal; Severability

2.01. *Adoption.* This Ordinance is adopted by resolution # _____.

2.02. *Amendment.* This Ordinance may be amended by the Tribal Council in accordance with the Constitution and any rules set forth governing amendment of laws of the Little River Band of Ottawa Indians.

2.03. *Severability Clause.* If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

Article III. Definitions.

3.01. *Definitions.* For purposes of this Ordinance, certain terms are defined in this Article. The word “shall” is always mandatory and not merely advisory.

3.02. "Abuse" means

a. intentionally or recklessly or negligently causing or attempting to cause physical harm or mental anguish to another person, or

b. threatening or placing another person in reasonable apprehension of imminent serious physical injury.

3.03. "Counseling" means services provided by any authorized agencies that provide services for, but not limited to domestic violence, alcohol and drug rehabilitation, parenting, and mental health education.

3.04. "Court" means the Tribal Court.

3.05. "Domestic Violence" means abuse, mental anguish, physical harm, bodily injury, assault, or the infliction of reasonable fear of bodily injury, between family or household members, or sexual assault of one

family or household member by another. All crimes involving threat, violence, assault and physical or sexual abuse against adults, children, elderly or others enumerated in the Law and Order - Criminal Offenses - Ordinance may be charged as domestic violence.

3.06. "Domestic Violence Shelter" means a location that provides emergency housing on a 24-hour basis for victims of sexual assault, domestic violence, or both. Confidentiality and protection of the location is encouraged.

3.07. "Family or Household Member" means frequent, intimate associations primarily characterized by the expectation of affectional involvement, which shall include but not be limited to: spouses, former spouses, common-law spouses, domestic partners, parents, "in-laws", grandparents, children, step-children, siblings, half siblings, cousins, aunts, uncles, adult persons or emancipated minors who are or have at any time resided together or who have a child in common or an individual with whom the person has had a dating relationship.

3.08. "Mandatory Arrest" means a Public Safety officer shall arrest, with or without a warrant if there is probable cause to believe the person to be arrested has committed an offense of domestic violence as defined by this Ordinance. The victim need not sign a complaint for an arrest to occur. An arrest must be made even if such arrest may be against the expressed wishes of the victim.

3.09. "Probable Cause" means the reasonable belief, based on the Public Safety officer's observations and/or statements made by any party involved and witnesses, if any, that the person arrested committed an act of domestic violence.

3.10. "Mental Anguish" means causing a person psychological abuse, physical abuse, harassment, stalking, intentionally injuring or killing an animal or family pet, or any contact that is detrimental to the psychological and mental well-being of that person or any other family or household member, characterized by behavioral change or physical symptoms.

3.11. "Order of Protection" means a court order granted for the protection of victims of domestic violence.

3.12. "Physical Harm" means the impairment or physical condition that includes, but shall not be limited to, any skin bruising, pressure sores, bleeding, failure to thrive, malnutrition, dehydration, burns, fracture of any bone, subdural hematoma, soft tissue swelling, injury to any internal organ or any physical condition which imperils health or welfare.

3.13. "Perpetrator" means a person who is alleged to have committed or has been convicted of committing an act of abuse or domestic violence on his or her family or household member.

3.14. "Public Safety Officer" means a law enforcement officer of the Tribal Public Safety Department or other law enforcement officer having legal jurisdiction.

3.15. "Primary, Physical Aggressor" means the person(s) who has caused or has threatened to cause significant physical or emotional harm to another in his or her family or household, as compared to other party(s) involved. This is regardless of which party was the first aggressor. In determining whether one person is a primary physical aggressor, consideration shall include but is not limited to:

- a. Prior history of domestic violence;
- b. The relative severity of the injuries inflicted on each person;
- c. The likelihood of future injury to each person;
- d. Whether one of the persons acted in self-defense; and
- e. Relative ability to inflict harm between the parties involved.

3.16. "Victim" means family or household member(s) who has been subjected to domestic violence.

Article IV. Penalties

4.01. *Criminal Penalties (Domestic Violence and Entering/ Causing a person to enter Tribal Jurisdiction incident to Domestic Violence).* Criminal penalties should be guided by the seriousness of the offense.

4.02. *First Offense.* Any person who commits an act of domestic violence defined by this Ordinance shall be deemed guilty of the offense of domestic violence. A person convicted of a first offense of domestic violence shall be imprisoned for a term of not less than ten (10) days or more than one (1) year and shall be fined an amount not less than One Hundred Dollars (\$100.00) or more than Five Thousand Dollars (\$5000.00). Mandatory counseling shall be part of sentencing as provided in Article V, as well as restitution when appropriate.

4.03. *Suspended Sentence.* The Court may suspend imposition of fines and imprisonment for the first offense and place defendant on probation for one (1) year. When a sentence is suspended there must be complete and total compliance with the orders of the Court requiring completion of the domestic violence program and counseling as ordered.

4.04. *Second Offense.* A person convicted of a second offense of domestic violence within five (5) years shall be imprisoned for a term of not less than thirty (30) days or more than one (1) year and fined an amount not less than five hundred dollars (\$500.00) or more than Five Thousand Dollars (\$5,000.00). Mandatory counseling shall be part of sentencing as provided in Article V, as well as restitution when appropriate.

4.05. *Third and Subsequent Offenses.* A person convicted of a third or subsequent offense of domestic violence within five (5) years of the last conviction shall be imprisoned for a term of not less than ninety (90) days or more than one (1) year and fined an amount not less than one thousand dollars (\$1,000.00) or more than Five Thousand Dollars (\$5,000.00). Mandatory counseling shall be part of sentencing as provided in Article V, as well as restitution when appropriate. The Court shall impose banishment from the reservation and all tribal lands for not less than two (2) years. No Tribal benefits shall be paid to, be received by or accrue to the benefit of the individual during this time.

4.06. *Failure to Complete Counseling and Other Violations.* Failure to attend and successfully complete counseling, violation of an order for protection, commission of any crime during the order for protection period, or violation of any condition of sentencing will result in a violation of probation and upon a finding of such shall result in the imposition of a sentence no greater than the original sentence and require the perpetrator to complete the entire domestic violence program again.

4.07. *Prosecution of Other Offenses Not Precluded.* Prosecution for the offense of domestic violence shall not preclude prosecution for any other offense arising from the same circumstances.

4.08. *Temporary Release From Jail Prior to end of Sentence.* A person convicted of domestic violence shall not be released from jail for community service or to attend funeral or wake services unless said services are for a member of the person's immediate family. Immediate family as used in this section shall mean husband, wife, son, daughter, brother, sister, father, mother or grandparent.

4.09. *Other Offenses; Entering Tribal Jurisdiction and Committing Domestic Violence.*

a. A person who enters the Tribal jurisdiction and who commits an act of domestic violence and thereby causes injury to a family or household member, shall be considered to be in violation of this Ordinance and subject to the penalties in Article IV.

b. A person who causes a family or household member to enter Tribal jurisdiction as a result of domestic violence commits an act of domestic violence and shall be considered to be in violation of this Ordinance and subject to the penalties in Article IV.

4.10. *Other Conditions in Addition to Penalties.*

a. In addition to the penalties above, the Court shall impose any condition it deems necessary to prevent further domestic violence, including but not limited to restricting the defendant's ability to have contact with the victim and other family or household members and the requirement that defendant make periodic reports to the Court for the duration of the sentence and probation.

b. A Public Safety Officer may remove any weapons or firearms that are in plain view or otherwise

discovered during the domestic violence related investigation or are in the possession and control of the perpetrator. Such weapons may be subject to forfeiture proceedings.

4.11. *Pre-sentencing Evaluation.* Prior to sentencing a person convicted under this Ordinance for a domestic violence offense, the Court shall order a domestic violence evaluation or other personal evaluation deemed necessary upon motion of either party.

Article V. Court Ordered Treatment and Counseling

5.01. *Alcohol and Substance Abuse.* If alcohol, drugs, or other substance abuse by the perpetrator is a primary factor in the domestic violence arrest, a mandatory chemical dependency evaluation shall be conducted and complete cooperation with recommendations for treatment shall be considered by the Court.

5.02. *Mandatory Counseling.*

a. A person convicted of domestic violence shall be ordered to participate in appropriate counseling, which may include domestic abuse, substance abuse, mental health, or family counseling.

b. The Court shall provide that the probation officer will talk with the victim and discuss the availability of domestic violence services and groups.

c. Persons may seek a spiritual advisement and/or specialized behavioral counseling.

5.03. *Report to Family Services.*

a. The Public Safety officer shall report the circumstances of the incident when there are children present to the Indian Child Welfare Worker within 24 hours.

b. Once the Family Services Department receives a report as provided in section 4.10, the Department shall coordinate an investigation of the home environment of the victim and the child(ren) within 72 hours and shall take appropriate action as provided in the Children's Code.

5.04. *Cost for Counseling or Other Treatment.* The Court may order the person convicted of domestic violence to pay any cost for counseling or other treatment ordered pursuant to this Ordinance.

5.05. *Follow-up Assessment.*

a. A follow-up assessment shall be done at the completion of the mandated counseling.

b. A treatment provider shall do the assessment and shall forward a written copy of the findings and recommendations to the Court.

c. All treatment records will be sealed by the Court and may be reviewed only with written permission of the Judge.

Article VI. Procedures for Arrest and Disposition

6.01. *Public Safety Department.*

a. If probable cause exists the Public Safety officer shall arrest the perpetrator of domestic violence whether or not the victim signs a complaint and whether or not the arrest is against the expressed wishes of the victim.

b. Whenever a Public Safety officer investigates an allegation of domestic violence, whether or not an arrest is made, the Public Safety officer shall make a written incident report of the alleged abuse and submit that report to the office of the Tribal Prosecutor within 24 hours.

c. If a Public Safety officer receives complaints of domestic violence circumstances shall be evaluated to determine if there was a primary physical aggressor. If the Public Safety officer determines that one person was a primary physical aggressor, the Public Safety officer may arrest the person who has committed domestic violence. Public Safety officers shall investigate all complaints of domestic violence, provided that the incident took place within 28 days of reporting the occurrence to the Public Safety officer. Reports made after the 28 day period must be reported

by the victim in person at the public safety offices and will be evaluated in accordance with departmental policies. In no case will public safety officers refuse to open an investigation based merely upon the fact that 28 days or more have passed.

6.02. *Office of the Tribal Prosecutor.*

- a. The Office of the Tribal Prosecutor shall evaluate the complaint based upon all available facts. A case shall not be dismissed solely on the grounds that the victim may be an uncooperative witness.
- b. The Office of the Tribal Prosecutor shall make reasonable efforts to notify a victim of an alleged crime involving domestic violence when the prosecutor has decided to decline prosecution of the crime, or dismiss the criminal charges filed against the defendant.

6.03. *Court.*

- a. When a defendant is arrested, the court may grant orders of protection.
- b. Anyone immediately arrested under this Ordinance shall be held in the custody of the Public Safety Department for a period not less than 20 hours as a mandatory "cooling off" period, unless arraigned sooner.
- c. Prior to release of the defendant, the Court shall provide for information to the victim regarding the availability of domestic violence services and groups, or refer the victim to appropriate service providers.
- d. Because of the serious nature of domestic violence:
 1. Disposition of cases shall not be delayed or dismissed because of concurrent dissolution of marriage proceedings or other civil actions
 2. Any requirement that the victim's location be disclosed shall be waived and communication to victim regarding the domestic violence case shall be conducted through the victim's advocate or the Court;
 3. Docket sheets of criminal actions arising from acts of domestic violence shall be identified by any reasonable means.¹

Article VII. Duties of Public Safety Officers

7.01. *Primary Duty of Officers.* The primary duty of Public Safety officers when responding to a domestic violence situation is to enforce the law and ensure victim safety.

7.02. *Notification to Victim.* If the victim is present when the Public Safety officer arrests a person for domestic violence, the Public Safety officer shall advise the victim of reasonable means to prevent further abuse, the availability of a shelter and other services in the community, and give the victim immediate notice of any legal rights and remedies available in accordance with policies and protocols adopted in accordance with Article VII. The victim shall be furnished with a copy of the following statement;

If you are a victim of domestic violence, the Office of the Tribal Prosecutor will be notified of the incident and they shall determine whether to file charges against your abuser. You have the right to go to Court and file a petition requesting any or all of the following orders for relief.

1. An order restraining your abuser from abusing, harassing, stalking, threatening, annoying,

¹ The following subparagraph has been deleted. The Tribal Council may choose to re-insert this subparagraph and it is recommended that it be re-inserted by the drafter.

4. *Hearsay exception.* Statements otherwise barred by section 4.700 of the *Tribal Court Rules and Procedures* as "Hearsay" will be fully admissible in all court hearings for domestic violence. In the case of a jury trial the Court will instruct the jury regarding credibility and reliability of the types of evidence presented and the jury's duty to weigh the evidence properly.

- telephoning or otherwise contacting you and committing other acts of domestic violence.
2. An order directing your abuser to stay away from you or any other designated household/family member's place of residence, school, place of employment, or any other specified place frequented by you.
3. An order preventing your abuser from removing any property from your household except for clothing and other such personal effects which may only be removed when the abuser is accompanied by a Public Safety officer.
4. An order awarding you custody or visitation of a minor child or children.
5. An order specifying arrangements for visitation by your abuser, including required supervised visitation.
6. An order restraining your abuser from harassing or interfering with minor children in your custody.
7. An order requiring your abuser to pay certain costs and fees, such as rent or mortgage payments, child support payments, medical expenses, expenses for shelter, court costs and attorney's fees. (If married or a mate with children)
8. An order prohibiting your abuser from purchasing, using, or possessing any firearm or other weapon specified by the Court.

The forms that are needed to obtain a Protection Order are available from Court. The community services available to assist you are available through the Family Services Department, local domestic violence centers or the Tribal Health Department. You also have the right to seek reimbursement for losses suffered as a result of the abuse, including medical and moving expenses, loss of earnings or support, and other expenses for injuries sustained, both physical and emotional, and damage to your property. This can be done through Court.

7.03. *Protection of the Victim.* A Public Safety officer responding to an allegation of domestic violence shall use all reasonable means to protect the victim and prevent further violence, including but not limited to:

- a. Taking action necessary to provide for the safety of the victim and any family or household member.
- b. Transporting or obtaining transportation for the victim or any minor child (or children) to temporary shelter.
- c. Assisting the victim and any minor child (children) in obtaining immediate medical treatment, including obtaining transportation to a medical facility.

7.04. *Mandatory Arrest Provisions.* When a Public Safety officer has probable cause to believe that a respondent has violated one of the following orders of the court and verifies the existence of the order, the Public Safety officer shall, without a warrant, arrest the apparent violator, whether the violation was committed in or outside the presence of the Public Safety officer if the orders are issued in accordance with this Ordinance, or in accordance with the laws of any other jurisdiction provided such laws comply with 18 U.S.C. 2265. A Public Safety officer making an arrest under this subsection shall be immune from suit provided s/he acted in good faith.

- a. An order enjoining the respondent from threatening to commit or committing acts of domestic violence against the petitioner or other family or household member.
- b. An order prohibiting the respondent from harassing, annoying, telephoning, contacting or otherwise communicating with the petitioner, either directly or indirectly through family, relations by marriage, friends, and co-workers.
- c. An order removing and excluding the respondent from the residence of the petitioner.
- d. An order requiring the respondent to stay away from the residence, school, place of employment,

or a specified place frequented regularly by the petitioner and any named family or household member.

e. An order prohibiting the respondent from using or possessing a firearm or other weapon specified by the Court.

7.05. *Notification of Release of a Perpetrator.* When a perpetrator is scheduled to be released from custody, the Public Safety Department shall make reasonable efforts to notify the victim prior to, or upon release of, the perpetrator from custody.

Article VIII. Special Court Rules

8.01. In addition to the Rules of Court generally applicable to such proceedings, the Court is authorized to take additional actions as set forth in this Article, in any proceeding, involving alleged domestic violence offenses.

8.02. *Conditions of Release.* The Court shall, at the earliest stage of the proceedings, impose release conditions restraining the accused from committing further acts of violence against the alleged victim or any other person regardless of whether the Court orders bond release, recognizance release, or denies bond.

8.03. *Arraignment.* At the arraignment, any Victim Advocate may accompany the alleged victim to the hearing and may accompany the victim to all other subsequent hearings.

8.04. *Admissibility of Victim's Allegations.* Any written statement made by the alleged victim under oath and signed by the victim describing the alleged acts of domestic violence shall not be considered inadmissible solely because of an hearsay objection, but shall be subject to ordinary judicial analysis for admissibility of evidence in the Court.

8.05. *Victim - Impact Statement.* When offered to the court, input from the victim shall be considered when determining the sentence to be imposed.

8.06. *Conviction.* Upon conviction, the perpetrator shall be ordered to participate in an appropriate counseling program.

8.07. *Failure to Comply with Court Order.* Failure to comply with a court order requiring a perpetrator to attend and cooperate in evaluation and/or undergo treatment as described in a treatment plan shall constitute contempt of court punishable as such. The Court may also order the imposition of any sentence that has been suspended.

Article IX. Civil Orders of Protection

9.01. *Availability of Civil Petition for Orders of Protection in General.* Any person may seek relief under this Ordinance by filing a petition, as a civil action, with the Court alleging that the person has been a victim of domestic violence committed by the respondent identified in the petition. The person may petition for relief on behalf of himself or herself and on behalf of minors within the family or other household members.

a. A civil petition to obtain an Order of Protection under this Article may be filed by:

1. Any person claiming to be the victim of domestic violence;
2. Any family member or household member of a person claimed to be the victim of domestic; violence on behalf of the alleged victim;
3. A Public Safety Officer;
4. a Victim Advocate; or
5. The Tribal Prosecutor.

b. A petition shall briefly describe the incident(s) of domestic violence and shall be a verified petition or supported by an affidavit made under oath stating the specific facts and circumstances justifying the requested order.

- c. No filing fees shall be required for filing a petition nor shall a bond be required to obtain relief under this section.
 - d. The Petitioner or the victim on whose behalf a petition has been filed is not required to file for annulment, separation, or divorce as a prerequisite to obtaining an order of protection.
 - e. Standard petition forms with instructions for completion shall be available upon request from the Court Clerk.
 - f. Mutual restraining orders of protection are not permitted
 - g. An order for protection does not preclude the rights of any party or child which are to be adjudicated at subsequent hearings in the proceeding.
 - g. An order for protection may be revoked, modified, or extended.
 - h. An order for protection may be presented in a proceeding, for the modification of an existing order, judgment or decree.
- 9.02. *Procedure for Issuance of an Order of Protection in General.*
- a. The order shall include the immediate granting of an ex parte order of protection based on the specific facts stated under oath and the Court has reasonable cause to believe that the Petitioner, or the person on whose behalf the petition is filed, is the victim of an act of domestic violence committed by the Respondent.
 - b. Within fourteen (14) days of the issuance of an ex parte order the respondent may request a hearing to determine whether the order should be modified or rescinded.
 - c. If the Court does not find sufficient reasonable cause to grant an ex parte order, the Court shall serve notice to appear upon both parties and hold a hearing on the petition for an Order of Protection within five (5) days after the filing of the Petition, excluding holidays and weekends.
 - d. An Order of Protection granted pursuant to this Article shall be forwarded by the Court to the Public Safety Department within 24 hours of issuance. In the case of an emergency Order for Protection, it shall be filed immediately upon issuance. The Public Safety Department shall make available to each Public Safety officer information as to the existence and status of every Order for Protection issued under this ~~Section~~ *Article*.
- 9.03. *Contents of an Order of Protection in General.*
- a. An Order of Protection shall include provisions:
 - 1. Restraining the Respondent from committing any acts of domestic violence
 - 2. Restraining the Respondent from harassing, stalking, threatening, telephoning, e-mailing or otherwise contacting, the Petitioner, directly or indirectly, or engaging in any other conduct that would place any named family or household members in reasonable fear of bodily injury.
 - 3. Prohibiting the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily injury.
 - 4. Restraining Respondent from receiving, possessing or transporting a firearm or ammunition.
 - 5. Restraining one or both parties from transferring, removing, encumbering, mortgaging, concealing, disposing, altering or property except as authorized by the Court, and requiring that an accounting be made to the Court for all authorized transfers, encumbrances, disposition, and expenditures.
 - 6. Notifying the parties involved that the knowing violation of any provision of the order may constitute contempt of court punishable by fines, imprisonment, or both.
 - 7. Stating the expiration date of the order.

b. An Order of Protection may include any other relief the Court deems appropriate, including but not limited to:

1. Excluding the respondent from the residence of the victim (whether or not the Respondent and the victim share the residence), school, place of employment, or a specified place frequented by the petitioner and any named family or household member.
2. Awarding temporary child custody, temporary child support, or establishing temporary visitation rights of the minor children of the parties, with the primary consideration of the least disruption of the children, including but not limited to health, safety, education, and normal routines of the children.
3. If visitation is granted there shall be set rules for exchange of children for: visitation, including but not limited to times, places, persons, and the non-custodial parent may be required to post a bond as determined by the Court.
4. Ordering temporary possession and use of the party's property.
5. Ordering the respondent to make timely payments on existing debts of the respondent, including mortgage or rental payments and necessary utilities in order to maintain the Petitioner in their residence.
6. Ordering other lawful relief as the Court deems necessary for the protection of the victim of domestic violence, including orders or directives to the Public Safety Department or other appropriate departments and programs.

9.04. *Duration and Amendments to Orders of Protection in General.*

- a. An Order of Protection shall be enforced until further order of the Court but not to exceed one (1) year and may be subject to amendment for extension at the discretion of the Court or at the request of one of the parties.
- b. The Court may, in its discretion, conduct a review of the Order of Protection at the request of the parties.

9.05. *Emergency Orders of Protection.*

- a. During the hours that the Court is closed, the Court shall provide for the availability of a judge or other authorized personnel who shall authorize the issuance of emergency and temporary orders for protection by any appropriate and effective method.
- b. If a Public Safety officer, for any reason, cannot make an arrest under Article VI, but states there is probable cause to believe a person is in immediate and present danger of domestic violence, the judge or other person authorized to issue emergency Orders for Protection may issue an ex parte Order of Protection if such authorized person finds that the Public Safety officer's grounds are reasonable.

9.06. *Violation of Order of Protection.*

- a. In addition to any other penalties available under law or equity, a person, who knowingly violates, or a person who aides and abets another person to knowingly violate an Order of Protection is guilty of a criminal offense and shall be sentenced to a maximum of ninety (90) days imprisonment, or fined an amount not to exceed Five Thousand Dollars (\$5,000.00) or both.
- b. A person who enters Tribal jurisdiction with the intent to engage in conduct that violates the portion of a protection order shall be punished as provided in subsection (a).
- c. A person in violation of a valid protection order issued by any court who causes a family or household member to enter Tribal jurisdiction shall be punished as provided in subsection (a).

Article X. Reporting of Domestic Violence

10.01. *Reporting Requirements.* Any physician, physician's assistant, nurse, community health representative, social worker, dentist, school teacher, adult services worker, Public Safety officer, substance abuse counselor, or domestic violence program worker who has reasonable basis to believe that a person has been a victim of domestic violence shall report in accordance with section 10.02.

10.02. *Report to Law Enforcement.* The report required by section 10.01 shall be made orally and immediately by telephone or otherwise to a Public Safety officer.

10.03. *Immunity for Reporting.* Except for malicious acts as described under section 10.04, a person making a report pursuant this Article in good faith in the shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed and shall have the same immunity with respect to participation in any Court proceeding resulting from such a report.

10.04. *Penalties for Failure to Report or False Reports*

a. Any person who knowingly fails to make a report required under this Article is guilty of a criminal offense and shall be sentenced to jail for a term of not more than thirty (30) days and shall be fined an amount not less than One Hundred Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00) or both.

b. A person who knowingly and intentionally makes a false report or who coerces another person to make a false report of domestic violence is guilty of a criminal offense and shall be sentenced to jail for a term not to exceed thirty (30) days, or fined an amount not to exceed Five Hundred Dollars (\$500.00) or both.

c. A person not subject to the criminal jurisdiction of the Court, but who violates any portion of this Ordinance, is liable for a civil offense and shall be fined not more than One Thousand Dollars (\$1,000.00).

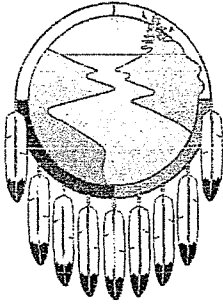
Article XI. Non-Indians

11.01. All individuals involved as the perpetrator of domestic violence against Tribal members, are subject to the mandatory arrest provisions of Article VI. If it is later determined by an official means a non-Indian person has been arrested, the non-Indian person may be released to the proper jurisdiction.

11.02. A non-Indian person may choose to accept the jurisdiction of the Court to defend a charge of domestic violence.

11.03. Upon conviction the Court may order removal and exclusion of the non-Indian perpetrator from Tribal jurisdiction with a finding that exclusion is a proper remedy to ensure the safety of the victim(s).

11.04. *Civil Penalties.* The Prosecutor may afford a non-Indian person not subject to the criminal jurisdiction of the Court the opportunity to plead guilty to a civil infraction with a maximum civil penalty not to exceed five thousand dollars (\$5,000), to be determined by the Court after a through review of the evidence and circumstances. In addition, counseling and restitution shall be required when appropriate.



S.T.O.P. Violence Against Indian Women

March 15, 2004

Steve Parsons, Speaker
Little River Band of
Ottawa Indians Council
375 River Street
Manistee, MI 49660

Dear Speaker and Council Members,

The Domestic Violence Criminal Code is being presented to the council for approval.
We, the Task Force, have worked hard this year attempting to put together a fair code with healing of families and traditions in mind. With the court policy and procedures an individualized approach will be used to ensure the well being of the community, safety for the victim and family, as well as, healing.

Although the State of Michigan 'counties' have not reported an accurate count of domestic violence cases, by neglecting to identify race, we have found that in the past year there have been 50 cases of women seeking shelter, reported by the local shelters. Nearly three quarters of these women were also victims of sexual assault. (This number does not include those who have approached the Tribe for assistance because their homes are no longer safe. This number does not include children or Native American children of non-Indian mothers. I have also known of domestic violence with casino personnel and feel that this work force needs to be included in the future.

It is of utmost importance that these families can be identified and given support and assistance, not only the victims of domestic violence but all victims. This is why I encourage Little River Band to provide a position for a Victim's Specialist. For the time being grants could handle the wages for this person but it should become a permanent position.

My work has been developing the code, providing education, creating a working relationship within the community and obtaining a tracking system. During this time it has come to light the seriousness of the problem of violence for the community. I would expect with further education and awareness of assistance the numbers will increase initially and then within a couple of years will hopefully begin to decline.

Therefore, with the New Tribal Codes addressing Domestic Violence, Sexual Assault, and Stalking, I hope that the council sees it is appropriate to hire a full time Victims Specialist.

It has been a pleasure working with the community. Miigwetch for allowing me to do so.

Sincerely,

Julie Ramsey
STOP Violence
Against Indian Women
Planning Coordinator

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