

TITLE 5. SPECIAL PROCEEDINGS

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Chapter 5.1

(RESERVED)

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EXTRADITION

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5.2.1. Definitions. For the purpose of this chapter, the following words and phrases have the following meanings:

(a) "Demanding jurisdiction" means the jurisdiction making an extradition request, including the federal government of the United States of America or any of its agencies; the State of Washington through the offices of its governor; a municipality or county within the state of Washington; a state of the United States other than the State of Washington; or a federally recognized Indian tribe or an Alaska Native Village as defined in section 43 USC 1602(c).

(b) "Nonreciprocating jurisdiction" means a demanding jurisdiction which has failed to honor a valid extradition request of the Suquamish Indian Tribe.

(c) "Extradition request" means a warrant of arrest signed by a duly elected or appointed judge, magistrate, justice of the peace, governor, tribal chief, or chair of a tribal council of a demanding jurisdiction that accuses the suspect of committing a crime or that asserts that the suspect was convicted of a crime and has escaped from confinement or has broken the terms of his or her bail, probation, or parole. The term "extradition request" does not include or apply to pleadings or orders arising out of civil proceedings.

(d) "Evidence of an extradition request" includes but is not limited to an entry in an electronic or other database which is regularly relied upon by law enforcement agencies, such as NCIC and DISCUS, indicating the existence of an extradition request from a demanding jurisdiction or a hard copy of a written extradition request. (Res. 97-014 (part), passed Apr. 21, 1997)

5.2.2. Authority of Suquamish Tribal Court Judges to Issue Extradition Requests. Judges of the Suquamish Tribal Court shall have the power to issue extradition requests on behalf of the Suquamish Tribe. (Res. 97-014 (part), passed Apr. 21, 1997)

5.2.3. Duty of Suquamish Chief of Police to Compile a List of Nonreciprocating Jurisdictions. The Suquamish Chief of Police shall determine whether a demanding jurisdiction qualifies as a nonreciprocating jurisdiction. The Suquamish Chief of Police shall compile and regularly update a list of nonreciprocating jurisdictions. (Res. 97-014 (part), passed Apr. 21, 1997)

5.2.4. Authority to Arrest Pursuant to Evidence of an Extradition Request. A Suquamish law enforcement officer or a Suquamish fisheries officer may arrest and detain any person located or found within the exterior boundaries of the Port Madison Indian Reservation who the officer has probable cause to believe is the object of an extradition request from a demanding jurisdiction. An officer may rely on evidence of an extradition request to support probable cause to believe that the suspect is the object of an extradition request from a demanding jurisdiction. This section does not affect the

requirements for a search warrant contained in §6.1.9 and §6.1.10. (Res. 97-014 (part), passed Apr. 21, 1997)

5.2.5. Duty of Arresting Officer to Determine Whether the Demanding Jurisdiction Is a Nonreciprocating Jurisdiction. Upon detaining a suspect pursuant to §5.2.4, the officer shall immediately determine whether the demanding jurisdiction is a nonreciprocating jurisdiction by referring to the list of nonreciprocating jurisdictions compiled by the Suquamish Chief of Police. If the demanding jurisdiction is a nonreciprocating jurisdiction, the suspect shall be released. (Res. 97-014 (part), passed Apr. 21, 1997)

5.2.6. Duty of Arresting Officer to Determine Whether the Suspect Is an Indian or a Non-Indian. An officer who detains a suspect pursuant to §5.2.4 shall immediately determine whether the suspect is an Indian or a non-Indian. If the suspect is a non-Indian, the officer shall follow the procedures set forth in §6.1.7. If the suspect is an Indian, the officer shall follow the procedures set forth in this chapter. (Res. 97-014 (part), passed Apr. 21, 1997)

5.2.7. Duty of Arresting Officer When the Suspect Is an Indian. If the suspect is an Indian, the officer shall immediately confirm that the demanding jurisdiction desires the suspect to be held by the Suquamish Tribe for extradition. If the officer determines the demanding jurisdiction desires the suspect to be extradited, the officer shall adhere to the procedures set forth in this chapter. If the officer determines the demanding jurisdiction does not wish the suspect to be extradited, the officer shall release the suspect. (Res. 97-014 (part), passed Apr. 21, 1997)

5.2.8. Warrants Signed by the Governor of the State of Washington Pursuant to RCW 10.88.260. A warrant of arrest signed by the Governor of the State of Washington pursuant to RCW 10.88.260 shall constitute, per se, confirmation that the demanding jurisdiction desires the suspect to be held by the Suquamish Tribe for extradition. (Res. 97-014 (part), passed Apr. 21, 1997)

5.2.9. Rights of Persons Arrested. An Indian who is arrested pursuant to this chapter shall be advised by the arresting officer of the following:

(a) The identity of the demanding jurisdiction and the nature of the extradition request;

(b) That the suspect has a right to an extradition hearing before a Suquamish Tribal Court judge in which the judge will determine whether the suspect is the person named in the demand for extradition and whether the demand for extradition is supported by a complaint, indictment, or information that substantially charges the suspect with a crime against the laws of the demanding jurisdiction;

(c) That the suspect has a right to have an attorney represent him or her at the extradition hearing and if the suspect is determined to be indigent, the Court may

appoint an attorney for the suspect at the Tribe's expense pursuant to §3.8.15(b)(1); and

(d) That pending the extradition hearing the suspect will be held in a detention facility. (Res. 97-014 (part), passed Apr. 21, 1997)

5.2.10. Waiver of Extradition Hearing at Time of Arrest. Upon arrest, a suspect may waive his or her right to an extradition hearing and consent to being delivered up to the demanding jurisdiction, provided that the waiver is in writing, signed by the suspect, recites all the rights contained in §5.2.9, and indicates that the suspect is aware of his or her rights under §5.2.9 and knowingly and voluntarily waives those rights. (Res. 97-014 (part), passed Apr. 21, 1997)

5.2.11. Detention Prior to Extradition Hearing. Prior to an extradition hearing, a suspect shall be detained in any jail that is used to house persons who must serve sentences under a judgment and sentence order issued by the Suquamish Tribal Court. (Res. 97-014 (part), passed Apr. 21, 1997)

5.2.12. Preliminary Hearing. Within seventy-two (72) hours of arrest, excluding weekends and holidays, a suspect shall be brought before a judge of the Suquamish Tribal Court who shall inform him or her of his or her rights under §5.2.9. The suspect may waive his or her right to an extradition hearing at this time. Should the suspect choose to proceed with an extradition hearing, the judge shall determine whether the suspect desires to have an attorney represent him or her. If the suspect desires an attorney, the Court shall determine whether the suspect qualifies for a Court-appointed attorney. The judge shall then schedule a date and time for the extradition hearing to be held. (Res. 97-014 (part), passed Apr. 21, 1997)

5.2.13. Extradition Hearing. An extradition hearing shall be held within thirty (30) days of the preliminary hearing. The Court shall issue an order of extradition if the Tribe establishes:

(a) That a complaint, indictment, or information exists that substantially charges the suspect with a crime in the demanding jurisdiction or that the suspect has been convicted of a crime in the demanding jurisdiction and the demanding jurisdiction asserts that the suspect has escaped from confinement or has broken the terms of his or her bail, probation, or parole; and

(b) That the suspect is the object of the extradition request from the demanding jurisdiction. (Res. 97-014 (part), passed Apr. 21, 1997)

5.2.14. Rights, Power, Privileges, or Jurisdiction of the Tribe Not Waived. Nothing in this chapter shall be deemed to constitute a waiver of the Tribe's sovereign right, power, or privilege to try the suspect for a crime committed within the exterior boundaries of the Port Madison Indian Reservation or of its right, power, or privilege to regain custody of the suspect by extradition proceedings or otherwise for the purpose of trial, sentence, or

punishment for any crime committed within the Port Madison Indian Reservation. No proceedings had under this chapter which result in, or fail to result in, extradition shall be deemed a waiver by this tribe of any of its rights, privileges, or jurisdiction. (Res. 97-014 (part), passed Apr. 21, 1997)

5.2.15. Trial for Other Crimes. In those cases in which a person has been extradited from and then brought back to the Port Madison Indian Reservation or a designated detention facility or after waiver of extradition proceedings, he or she may be tried by this tribe for other crimes which he or she may be charged with having committed within the Port Madison Indian Reservation as well as any crimes specified in the request for extradition from this tribe. (Res. 97-014 (part), passed Apr. 21, 1997)

5.2.16. Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable. (Res. 97-014 (part), passed Apr. 21, 1997)