

## TITLE 7. PUBLIC PEACE, MORALS, AND WELFARE

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## Chapter 7.1

### APPLICATION; JURISDICTION

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**7.1.1. Title.** This title ~~sh~~awill be known as the “Suquamish Tribal Criminal Code.” (Res. 93-025 (part), passed Mar. 8, 1993)

**7.1.2. Application.** The provisions of this title ~~sh~~all apply to any offense committed after the passage of a resolution by the Suquamish Tribal Council authorizing its enactment. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.1.3. Severability.** If any part of this title ~~sh~~all be is held invalid, the remainder ~~sh~~awill remain in effect. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.1.4. Jurisdiction.** (a) Generally. A person is subject to prosecution in Tribal Court for any offense enumerated in Suquamish Tribal Code Chapter 7 or another Tribal law which is committed totally or partially within the Tribe’s territorial jurisdiction. An offense is committed partially within the Tribe’s territorial jurisdiction if any element of the offense occurs within the territorial jurisdiction. An offense based on an omission to perform a duty imposed by Tribal law is committed within the Tribe’s territorial jurisdiction, regardless of the location of the defendant at the time of the omission.

(b) Usual and Accustomed Hunting and Fishing Areas. A Tribal citizen is subject to prosecution in Tribal Court for any offense related to the exercise of treaty rights, and for any general criminal offense committed while that citizen is exercising treaty rights, which is committed totally or partially on lands reserved or obtained by the Tribe and its people for their use by any treaty or law or in any other manner, except where Federal law limits such exercise of criminal jurisdiction. An offense is committed partially on lands the Tribe has reserved or obtained if any element of the offense occurs on such lands.

(c) Special Tribal Criminal Jurisdiction. The Suquamish Tribe hereby exercises criminal jurisdiction as a participating tribe to the fullest extent possible as defined within 25 U.S.C. 1304 as presently constituted or hereafter amended. Defendants in Tribal Court will be provided with notice as required by federal law. Whether the elements of an offense are sufficient to also prove the jurisdictional requirements of special Tribal

criminal jurisdiction is a question of law for the judge to decide. The judge will include additional jurisdiction elements in the judge's instruction of the jury if necessary to prove jurisdiction.

~~The Suquamish Tribal Courts shall have jurisdiction, pursuant to Suquamish Tribal Code Chapter 3.2, over all actions arising under this title. (Res. 93-025 (part), passed Mar. 8, 1993; amended by Res. 94-156 (part), passed Nov. 21, 1994; amended by Res. 2026-XXX, passed Mmm. D, YYYY)~~

**7.1.5. Definitions.** In this title, unless a different meaning is plainly required:

(a) "Abuse" means physical, verbal, or mental mistreatment, intimidation, or injury that harms or threatens a person's well-being.

(b) "Acted" includes, where relevant, omitted to act.

(c) "Actor" includes, where relevant, a person failing to act.

(d) "Benefit" is any gain or advantage to the beneficiary, including any gain or advantage to a third person pursuant to the desire or consent of the beneficiary.

(e) "Bodily injury" or "physical injury" means physical pain, illness, or an impairment of physical condition.

(f) "Building" in addition to its ordinary meaning includes any dwelling, fenced area, vehicle, railway car, cargo container, or any other structure used for lodging of persons or for carrying on business therein or for the use, sale, or deposit of goods. Each unit of a building consisting of two or more units separately secured or occupied is a separate building.

(g) "Child abuse" means the physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child; child abuse does not include discipline administered by a parent or legal guardian to that parent or legal guardian's child, provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty.

(h) "Child violence" means neglect, physical violence, and emotional or psychological violence. Emotional and psychological violence consists of restricting a child's movements, denigration, ridicule, threats, and intimidation, discrimination, rejection, and other nonphysical forms of hostile treatment that, alone or in conjunction with physical abuse or neglect, results in emotional or psychological harm. Emotional or psychological harm is mental or emotional trauma, or undesired behavioral or emotional changes, requiring medical or psychological treatment including but not limited to depression, suicidal ideation, anxiety, or eating disorders.

(hi) "Conviction" means a judgment or sentence entered upon a plea of guilty or no contest, or upon a verdict or finding of a defendant's guilt rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. Once a conviction has been expunged, it is no longer considered a conviction under Tribal law.

(hj) "Covered crime" means the criminal conduct defined by 25 USC § 1304(a)(5).

(ik) "Deadly weapon" means any explosive or loaded or unloaded firearm and shall will include any other weapon, device, instrument, article, or substance, including a "vehicle" as defined in this section, which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or great or serious bodily injury.

(kl) "Dependent person" means a person who, because of physical or mental disability, or because of extreme advanced age, is dependent upon another person to provide the basic necessities of life. A resident of a nursing home, a resident of an adult family home, or an elder or vulnerable adult, as defined in STC 8.7.2(f) is presumed to be a dependent person for purposes of this chapter.

(lm) "Deprive" means to withhold the property interest of another either permanently or for so long a time period that a substantial portion of its economic value or usefulness or enjoyment is lost, or to withhold with the intent to restore it only on payment of any reward or other compensation or to transfer or dispose of it so that it is unlikely to be recovered.

(nmg) "Dwelling" means any building or structure, though movable or temporary, or a portion thereof, which is used or ordinarily used by a person for lodging.

(no h) "Government" includes any branch, subdivision, or agency of the Suquamish tribal government or the United States government.

(opi) "Government function" includes any activity which a public servant is legally authorized or permitted to undertake on behalf of a government.

(pq) "Grievous bodily harm" means serious bodily injury. It includes fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other severe bodily injuries. It does not include minor injuries such as a black eye or a bloody nose.

(qj) "Indicted" and "indictment" include "informed against" and "information," and "informed against" and "information" include "indicted" and "indictment."

(rsk) "Judge" includes every judicial officer or court officer authorized alone or with others to hold or preside over a court.

(s) “Law enforcement officer” means any person who by virtue of his or her office of public or Tribal employment is vested by law with a duty to maintain public order or to make arrests for offenses while acting within the scope of his or her authority. Law enforcement officer does not include a probation officer employed by either the Suquamish Police Department or the Suquamish Tribal Court.

(t) “Malice” and “maliciously” shall import an evil intent, wish, or design to vex, annoy, or injure another person. Malice may be inferred from an act done in willful disregard of the rights of another or an act wrongfully done without just cause or excuse or an act or omission of duty betraying a willful disregard of social duty.

(u) “Mental mistreatment” means an injury to a child's or dependent person’s mental condition or welfare that is not necessarily permanent but results in visibly demonstrable manifestations of a substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(v) “Neglect” means, in regards to the care of a child, that a child is without proper parental care and control of subsistence, education, medical or other care or control necessary for the child's well-being because of the faults or habits of the child's parents, guardian or custodian or their neglect or refusal, when able to do so, to provide them.

(w) “Officer” and “public officer” means a person holding office under tribal government or the federal government who performs a public function and in so doing is vested with the exercise of some sovereign power of government and includes all assistants, deputies, clerks, and employees of any public officer and all persons lawfully exercising or assuming to exercise any of the powers or functions of a public officer.

(x) “Omission” means a failure to act.

(y) “Order of protection” means a temporary or permanent court order, injunction or other order granted for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with, or physical proximity to another person; and includes any temporary or final order issued by a civil or criminal court.

(z) “Peace officer” means a duly appointed or authorized tribal or federal law enforcement officer. A peace officer includes any Suquamish Police Department officer certified by the Washington Criminal Justice Training Commission.

(aa) “Pecuniary benefit” means any gain or advantage in the form of money, property, commercial interest, or anything else the primary significance of which is economic gain.

(bbaabbq) "Person," "he," "she," or "actor" include any natural person and, where relevant, a corporation, joint stock association, or an unincorporated association.

(ccbbr) "Place of work" includes but is not limited to all the lands and other real property of a farm or ranch in the case of an actor who owns, operates, or is employed to work on such a farm or ranch.

(ddees) "Prison" means any place designated by law for the keeping of persons held in custody under process of law or under lawful arrest, including but not limited to any state correctional institution or any county or city jail.

(eeddt) "Prisoner" includes any person held in custody under process of law or under lawful arrest.

(ffeeu) "Property" means anything of value, whether tangible or intangible, real or personal.

(ggffv) "Public servant" means any person other than a witness who presently occupies the position of or has been elected, appointed, or designated to become any officer or employee of government, including a legislator, judge, judicial officer, juror, and any person participating as an advisor, consultant, or otherwise in performing a governmental function.

(hhggw) "Signature" includes any memorandum, mark, or sign made with intent to authenticate any instrument or writing or the subscription of any person thereto.

(ijhhx) "Statute" means the Tribal Constitution or an act of the Tribal Council or General Council.

(jjii) "Strangulation" means to compress a person's neck, thereby obstructing the person's blood flow or ability to breathe, or doing so with the intent to obstruct the person's blood flow or ability to breathe.

(kkjj) "Substantial bodily harm" means bodily injury that involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

(llkk) "Suffocation" means to block or impair a person's intake of air at the nose and mouth, whether by smothering or other means, with the intent to obstruct the person's ability to breathe.

(mmlly) "Threat" means to communicate, directly or indirectly, the intent:

(1) To cause bodily injury in the future to the person threatened or to any other person;

(2) To cause physical damage to the property of a person other than the actor;

(3) To subject the person threatened or any other person to physical confinement or restraint;

(4) To accuse any person of a crime or cause criminal charges to be instituted against any person;

(5) To expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule;

(6) To reveal any information sought to be concealed by the person threatened;

(7) To testify or provide information or withhold testimony or information with respect to another's legal claim or defense;

(8) To take wrongful action as an official against anyone or anything or wrongfully withhold official action or cause such action or withholding;

(9) To bring about or continue a strike, boycott, or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or

(10) To do any other act ~~which-that~~ is intended to harm substantially the person threatened or another with respect to his or her health, safety, business, financial condition, or personal relationships.

(nnmmz) "Torture" means the intentional infliction of extreme mental anguish, or extreme psychological or physical injury.

(oorn) "Tribal justice personnel" means any individual authorized to act for, or on behalf of, the Suquamish Tribe, or serving the Suquamish Tribe and whose performance or duties include:

(1) preventing, detecting, investigating, making arrests relating to, making apprehensions for, or prosecuting a covered crime

(2) adjudicating, participating in the adjudication of, or supporting the adjudication of a covered crime; or

(3) detaining, providing supervision for, or providing services for persons charged with a covered crime; or

(4) incarcerating, supervising, providing treatment for, providing rehabilitation services for, or providing reentry services for persons convicted of a covered crime.

Tribal justice personnel may include individuals such as, but not limited to, Tribal Court Staff, Tribal Child Welfare Caseworkers, Human Service Caseworkers, and jurors.

(pppe) “Vehicle” means a “motor vehicle” as defined in the vehicle and traffic laws, any aircraft, or any vessel equipped for propulsion by mechanical means or by sail.

(qqqq) “Violence” means the use, attempted use, or threatened use of physical force against the person or property of another, or an action that by its nature involves a substantial risk that physical force will be used against the person or property of another.

(rrrraa) Words in the present tense shall include the future tense; and in the masculine shall include the feminine and neuter genders; and in the singular shall include the plural; and in the plural shall include the singular. (Res. 93-025 (part), passed Mar. 8, 1993; amended by Res. 2026-XXX, passed Mmm. D, YYYY))

**7.1.6. Proof beyond a Reasonable Doubt.** (a) Every person charged with the commission of a crime is presumed innocent unless proved guilty. No person may be convicted of a crime unless each element of such crime is proved by competent evidence beyond a reasonable doubt.

(b) When a crime has been proven against a person and there exists a reasonable doubt as to which of two or more degrees ~~he or she that person~~ is guilty, ~~he or she that person shall~~ will be convicted only of the lowest degree. (Res. 93-025 (part), passed Mar. 8, 1993)

**7.1.7. Peace Officers — Immunity.** No peace officer may be held criminally or civilly liable for actions under this title if the police officer acts in good faith and without malice. (Res. 93-025 (part), passed Mar. 8, 1993)

Note: The following subsections renumbered for consistency. (Res. 2016-090, Jun. 20, 2016)

7.1.5(1)-(27) changed to 7.1.5(a)-(aa); 7.1.5(25)(a)-(j) changed to 7.1.5(y)(1)-(10)  
7.1.6(1)-(2) changed to 7.1.6(a)-(b)