

Subpart I Sentencing

I-1 Nature of Sentences

Except as otherwise provided hereunder, a person found guilty of violating a provision of the Criminal Code, Subpart M, may be sentenced to the penalty provided in such offense. Sentences shall be imposed without unreasonable delay and shall not exceed the maximum penalties provided by law. The penalties provided for the offense are maximum penalties and should be imposed only in extreme cases.

I-2 Sentences of Imprisonment

(a) A person sentenced to imprisonment may work for the benefit of the Pueblo. Any work performed shall reduce the sentence at the rate of two (2) days of incarceration for each day of work performed. "Days of work" shall mean at least four (4) hours of work performed and shall be under the supervision of any person authorized by the Court.

(b) Any sentence of imprisonment shall be reduced by any time spent in jail before judgment was entered.

I-3 Payment of Fines

(a) Any person sentenced to pay a fine shall pay such fine to the Court Clerk who shall issue a receipt therefore.

(b) If the full amount of the fine cannot immediately be paid, the Court may provide for the payment of such fine in installments.

I-4 Failure or Inability to Pay Fines

(a) A sentence of imprisonment shall not be imposed upon any indigent person in the form of an alternative to a fine, i.e., "dollars a day."

(b) Any person sentenced to pay a fine shall not be imprisoned to work off such fine if, by reason of indigence, he is unable to pay the fine imposed.

(c) Any person who is presently able to pay a fine or an installment of a fine and who willfully refuses to do so, may be ordered to imprisonment for, or allowed to work off the unpaid amount of the fine at the rate of five dollars (\$5.00) per day for each day of jail or ten dollars (\$10.00) for each day of work performed.

I-5 Commutation of Sentence

The Judge of the sentencing Court may at any time that one-half or more of an original sentence of imprisonment has been served, commute such sentence to a lesser period upon proof that the person sentenced served without misconduct.

I-6 Suspension of Sentence: Probation

(a) The Judge of the sentencing Court may suspend any sentence upon condition that the defendant comply with such reasonable terms and conditions as the Court deems necessary.

(b) When considering suspending any sentence, the Court shall consider the prior record of the defendant, his background, character, financial condition, family and work obligations, the circumstances of the offense and attempts at restitution.

I-7 Violation of Suspended Sentence

(a) Any person accused of violating the terms or conditions of his suspended sentence shall be afforded a hearing before the sentencing Court to determine the truth of the accusations.

(b) Where, by a preponderance of testimony, a person is found to have violated the terms or conditions of his suspended sentence, such person may be ordered to serve his original sentence or any portion thereof.

I-8 Disposition of Fines

(a) All monetary fines imposed for the commission of an offense shall be in the nature of an assessment of the payment of designated Court expenses. Such expenses may include the payment of fees to jurors, witnesses answering subpoenas, etc.

(b) All fines assessed and collected shall be paid to the Pueblo of Pojoaque bonded treasurer or his or her disbursing agent to be deposited in a special account labeled "Special Deposit, Court Funds." The disbursing agent shall withdraw such funds in accordance with existing Pueblo regulations upon the order of the Court Clerk signed by a Judge for payment of specific fees to the jurors and witnesses. The disbursing agent and the Court Clerk shall keep an accounting of all such deposits and withdrawals for the inspection of any interested person.

(c) Whenever such funds shall exceed the amount necessary for the payment of Court expenses herein before mentioned, the Governor of the Pueblo shall designate further expenses of the Court which shall be paid by these funds.

I-9 Civil Remedies not Precluded

The imposition or suspension of any penalty on condition of restitution to one whose person or property has been injured, for the commission of any offense under this Code shall not preclude any civil remedy for such injuries.

I-10 Community Service for Pueblo of Pojoaque Tribal Members

Tribal Members who are required to perform community service may serve either in maintenance or operation of the Wellness Center at the discretion of the Manager.

I-11 Cost of Incarceration Fines for Criminal Offenses

The fines for criminal offenses shall reflect the costs of incarceration and should be included as part of the punishment for a criminal offense. In all criminal convictions, the Tribal Court shall assess the entire amount of incarceration fees. The Tribal Judge shall use their discretion in approving a payment plan for the incarceration fees.

I-12 Payroll Policy for Incarcerated Pueblo of Pojoaque Tribal Members

(a) As soon as a Tribal Member is convicted of a crime in Tribal Court, or any other court of lawful jurisdiction, all payroll benefits shall cease for as long as they are incarcerated.

(b) If a Tribal Member is convicted of a crime in the Tribal Court, and the Tribal Member is then incarcerated, the Tribal Court shall send a copy of the Tribal Court Order to the Lieutenant Governor's office for further disposition.

I-13 Weatherization Funds to Pay Debts Owed to the Tribal Government/Tribal Court

(a) An enrolled Member's outstanding debts to the Tribal government or the Tribal Court must be paid prior to the issuance of a weatherization check. If the outstanding debt is not paid, the amount of the outstanding debt shall be withheld from the Member's weatherization check and applied to the outstanding debt.

(b) A Tribal Official or the Tribal Judge shall notify the accounting department prior to the issuance of the weatherization checks of any amounts to be withheld from the weatherization check and that the amount shall be applied to the outstanding debt.

(c) The cost of foster care of an enrolled Member's child shall be considered an outstanding debt.

I-14 Weatherization Checks for Incarcerated Felons

(a) Weatherization checks may be granted for the purposes of weatherizing homes. Any weatherization check granted to an enrolled Member who is a felon incarcerated in a State or Federal facility shall be placed in the enrolled Member's permanent trust fund account. The permanent trust fund may be accessed after the enrolled Member's release from incarceration.

(b) The Tribal Member, upon release from incarceration, shall report to the Tribal Court for the disposition of funds and the Tribal Court shall determine the amounts to be paid for Tribal restitution and for all other purposes.

I-15 Sex Offender Notification Registration

(a) The Pueblo of Pojoaque delegates to the State of New Mexico all sex offender registration and notification functions.

(b) The Tribal Court shall notify any sex offender convicted in the Pueblo of Pojoaque Tribal Court that they shall immediately report to the appropriate State of New Mexico or Federal agency for sex offender registration and notification.

(c) The Tribal Court shall forward a copy of the Tribal Court Order in all sex offender conviction cases to the appropriate State of New Mexico or Federal agency for sex offender registration and notification.