



Apsalooke Nation

IN THE CROW TRIBAL COURT
IN AND FOR THE CROW INDIAN RESERVATION
P.O. Box 489, CROW AGENCY, Montana 59022
(406) 638 7400 Fax (406) 638 7412

CROW TRIBAL COURT RULES OF PROFESSIONAL CONDUCT

PREAMBLE

Pursuant to Crow Law & Order Code § 3-7-708, "Lawyers and lay advocates admitted to practice in the Tribal Court shall be subject to and shall abide by Rules of Professional Conduct promulgated by the Appellate Judge of the Apsalooke (Crow) Court of Appeals." The Crow Tribal Court Rules of Professional Conduct ("Rules") establish standards of ethical conduct for individuals who practice before the courts of the Crow Tribal judicial system. The purpose of these Rules is to supervise attorneys and lay advocates who practice in the Crow Tribal court system and to protect the public from professional misconduct by such individuals.

INTRODUCTION

These Rules of Professional Conduct shall govern the practice of law by attorneys and law advocates before the Crow Tribal courts. Any attorney or lay advocate admitted to practice or engaging in the practice of law in the Crow Tribal court system shall be subject to the supervision and disciplinary jurisdiction of the Crow Tribal court system and the provisions of these Rules. These Rules are intended to provide appropriate standards for attorneys and lay advocates with respect to their practice of law including, but not limited to, their relationship with their clients, the general public, other members of the legal profession, and the courts and governmental entities of the Crow Tribe.

A proceeding brought against an attorney or lay advocate under these Rules shall be an inquiry to determine the fitness of that individual to continue in that capacity. The purpose of such a proceeding is not punishment, but the protection of the public and the courts from attorneys and lay advocates, who by their conduct, have demonstrated that they are unable, or likely to be unable, to properly discharge their professional duties. Further, these Rules are intended to provide for a just determination of complaints alleging misconduct on the part of attorneys and lay advocates practicing in the Crow Tribal court system. These Rules shall be construed to provide simplicity in procedure, fairness in administration, and the elimination of unjustifiable expense, delay, and inconvenience.

CTCR 1.1 Admission to Practice

- (1) No person shall undertake legal representation of a matter within the jurisdiction of the courts of the Crow Tribe without first being admitted to practice in the Crow Tribal court system.
- (2) Title III, Chapter 7 of the Crow Law & Order Code governs the requirements and procedure for admission to practice in the Crow Tribal court system.

CTCR 1.2 Commission on Practice

- (1) Pursuant to Crow Law & Order Code § 3-7-708, the "Appellate Judge shall establish a three (3) member commission on practice consisting of two attorneys and one lay person to handle alleged violations by lawyers and lay advocates of the Rules of Professional Conduct." In accordance with § 3-7-708, the Appellate Judge shall appoint three individuals, two attorneys and one lay person, to serve on the Commission on Practice. Members of the Commission shall serve 3-year terms. A member may not

serve more than 2 consecutive 3-year terms. The members of the Commission shall elect a Chair, who will serve as the primary contact and liaison between the Commission and the Appellate Judge.

- (2) If a member of the Commission cannot or is not fulfilling his or her duties as a member of the Commission, the Appellate Judge may appoint a replacement to serve the remainder of the term.
- (3) In accordance with CTCR 1.33, the Commission on Practice shall conduct investigations into all complaints that are filed alleging violations of the Rules of Professional Conduct.

CTCR 1.3 Definitions

The following definitions shall apply to these Rules:

- (1) "Belief" or "believes" denotes that the person involved actually supposed the fact in question to be true. A person's belief may be inferred from the circumstances.
- (2) "Consult" or "consultation" denotes communication of information reasonably sufficient to permit the client to appreciate the significance of the matter in question.
- (3) "Firm" or "law firm" denotes a legal counsel or legal counsels in a private law firm, legal counsels employed in the legal department of a corporation or other organization and legal counsels employed in legal services organizations or for public or tribal agencies.
- (4) "Fraud" or "fraudulent" denotes conduct having the purpose to deceive, and is not merely negligent misrepresentation or failure to apprise another of relevant information.
- (5) "Knowingly," "known," or "knows" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from the circumstances.
- (6) "Legal counsel" denotes an attorney or lay advocate admitted to practice in the Crow Tribal court system.
- (7) "Reasonable" or "reasonably" when used in relation to conduct by legal counsel denotes the conduct of a reasonably prudent and competent legal counsel.
- (8) "Reasonable belief" or "reasonably believes" when used in reference to legal counsel denotes that legal counsel believes the matter in question and that the circumstances are such that the belief is reasonable.
- (9) "Reasonably should know" when used in reference to legal counsel denotes that legal counsel of reasonable prudence and competence would know the matter in question.
- (10) "Substantial" when used in reference to degree or extent denotes a matter of clear and weighty importance.

CTCR 1.4 Competence

- (1) Legal counsel shall abide by a client's decisions concerning the objectives of representation, subject to subsections (3), (4), and (5), and shall consult with the client as to the means by which they are to be pursued. Legal counsel shall abide by a client's decision whether to accept an offer of settlement of a matter. In a criminal case, legal counsel shall abide by the client's decision, after consultation, as to a plea to be entered, whether to request a jury trial, and whether the client will testify.
- (2) Legal counsel's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social, or moral view or activities.
- (3) Legal counsel may limit the objectives of the representation if the client consents after consultation.
- (4) Legal counsel shall not counsel a client to engage in or assist a client in conduct that legal counsel knows is criminal or fraudulent, but legal counsel may discuss the legal

consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

- (5) When legal counsel knows that a client expects assistance not permitted by the Rules of Professional Conduct or other law, legal counsel shall consult with the client regarding the relevant limitations on legal counsel's conduct.

CTCR 1.5 Diligence

Legal counsel shall act with reasonable diligence and promptness in representing a client.

CTCR 1.6 Communication

- (1) Legal counsel shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
- (2) Legal counsel shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

CTCR 1.7 Confidentiality of Information

- (1) Legal counsel shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are implicitly authorized in order to carry out the representation, and except as stated in subsections (2), (3), and (4).
- (2) Legal counsel shall reveal such information to the extent legal counsel reasonably believes necessary to prevent the client from committing a criminal act that legal counsel believes is likely to result in death or substantial bodily harm.
- (3) Legal counsel may reveal such information to the extent legal counsel reasonably believes necessary to:
 - (a) Prevent the client from committing a criminal act that legal counsel believes is likely to result in substantial injury to the financial property or interest or property of another;
 - (b) Rectify the consequences of a client's criminal or fraudulent act in the commission of which legal counsel's services had been used.
- (4) Legal counsel may reveal such information to establish a claim or defense on behalf of legal counsel in a controversy between legal counsel and the client, to establish a defense to a criminal charge or civil claim against legal counsel based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning legal counsel's representation of the client.

CTCR 1.8 Fees

- (1) Legal counsel's fees shall be reasonable. The factors to be considered in determining the reasonableness of fees include the following:
 - (a) the time and labor required, the novelty and difficulty of the questions involved, and the skill required to perform the legal service properly;
 - (b) the experience, reputation, and ability of the legal counsel performing the services; and
 - (c) the fee customarily charged on the Crow Reservation and surrounding communities for similar services.
- (2) A fee may be contingent on the outcome of the matter for which the service is rendered, except as prohibited by subsection (3) or other law. A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to legal counsel in the event of settlement,

trial or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, legal counsel shall provide the client with a written statement stating the outcome of the matter and if there is a recovery, showing the remittance to the client and the method of its determination.

- (3) Legal counsel shall not enter into an arrangement for, charge, or collect a contingent fee in the following situations:
 - (a) In any action affecting the family, including but not limited to: divorce, legal separation, annulment, determination of paternity, setting of support and maintenance, determining custody and physical placement, property division, termination of parental rights and adoption; however, nothing herein shall prohibit a contingent fee for the collection of past due amounts of support or maintenance.
 - (b) For representing a defendant in a criminal case or any proceeding that could result in deprivation of liberty.
- (4) Legal counsel should, when possible, render legal services to individuals who are unable to pay for such services. The legal profession encourages legal counsel to provide professional services at no fee or a reduced fee in these circumstances.

CTCR 1.9 Conflict of Interest: General Rule

- (1) Legal counsel shall not represent a client if the representation of that client will be directly adverse to a previous or existing client, unless:
 - (a) Legal counsel reasonably believes the representation will not adversely affect the relationship with the other client; and
 - (b) Each client consents after consultation.
- (2) Legal Counsel shall not represent a client if the representation of that client may be materially limited by legal counsel's responsibilities to another client or to a third person, or by legal counsel's own interests, unless:
 - (a) Legal counsel reasonably believes the representation will not be adversely affected; and
 - (b) The client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

CTCR 1.10 Conflict of Interest: Prohibited Transactions

- (1) Legal counsel shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless:
 - (a) The transaction and terms on which legal counsel acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in a manner which can be reasonably understood by the client.
 - (b) The client is given a reasonable opportunity to seek the advice of independent counsel in the transaction; and
 - (c) The client consents in writing.
- (2) Legal counsel shall not use information relating to representation of a client to the disadvantage of the client unless the client consents after consultation.
- (3) Legal counsel shall not prepare an instrument giving legal counsel or a person related to legal counsel as parent, child, sibling, or spouse any substantial gift from a client, including a testamentary gift, except where the client is related to the donor.

- (4) Prior to the conclusion of representation of a client, legal counsel shall not make or negotiate an agreement giving legal counsel literary or media rights to a portrayal or account based in substantial part on information relating to the representation.
- (5) Legal counsel shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:
 - (a) Legal counsel may advance court costs and expenses of litigation, provided the client remains ultimately responsible for such expenses;
 - (b) Legal counsel representing an indigent client may pay court costs and expenses of litigation on behalf of the client.
- (6) Legal counsel shall not accept compensation for representing a client from someone other than the client unless:
 - (a) The client consents in writing after consultation;
 - (b) There is no interference with legal counsel's independence of professional judgment or with the attorney-client relationship; and
 - (c) Information relating to representation of a client is protected as required by CTCR 1.7.
- (7) Legal counsel who represents two or more clients shall not participate in making an aggregate settlement of the claims of or against the clients, or in a criminal case an aggregated agreement as to guilty or nolo contendere pleas, unless each client consents in writing after consultation, including disclosure of the existence and nature of all the claims or pleas involved and of the participation of each person in the settlement.
- (8) Legal counsel shall not make an agreement prospectively limiting legal counsel's liability to a client for malpractice unless permitted by law and the client is independently represented in making the agreement. Legal counsel shall not settle a claim for such liability with an unrepresented client or former client without first advising that person in writing that independent representation is appropriate.
- (9) Legal counsel related to another legal counsel as a parent, child, sibling or spouse shall not represent a client in a representation directly adverse to a person who legal counsel knows is represented by his or her relation, except upon written consent by the client after consultation regarding the relationship.
- (10) Legal counsel shall not acquire a proprietary interest in the cause of action or subject matter of litigation, except that legal counsel may:
 - (a) Acquire a lien granted by law to secure legal counsel's fee or expenses; and
 - (b) Contract with a client for a reasonable contingent fee in a civil case.

CTCR 1.11 Client under a Disability

- (1) When a client's ability to adequately make decisions in connection with legal representation is impaired, legal counsel shall, as far as practicable, maintain a normal attorney-client relationship.
- (2) Legal counsel may seek the appointment of a guardian or take other protective action with respect to a client, only when the legal counsel reasonably believes that the client cannot adequately act in the client's own interest.

CTCR 1.12 Safekeeping Property

Legal counsel shall hold in trust, separate from the legal counsel's own property, that property of clients and third persons that is in the legal counsel's possession in connection with a representation or when acting in a fiduciary capacity.

CTCR 1.13 Declining or Terminating Representation

- (1) Except as stated in subsection (3), legal counsel shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:
 - (a) The representation will result in violation of the Rules of Professional Conduct or other law;
 - (b) Legal counsel's physical or mental condition materially impairs legal counsel's ability to represent the client; or
 - (c) Legal counsel is discharged.
- (2) Except as stated in subsection (3), legal counsel may withdraw from representing a client if withdrawal can be accomplished without material adverse effect to the interest of the client or if:
 - (a) The client persists in a course of action involving legal counsel's services that legal counsel reasonably believes is criminal or fraudulent;
 - (b) The client has used legal counsel's services to perpetrate a crime or fraud;
 - (c) The client substantially fails to fulfill an obligation to legal counsel regarding legal counsel's services and has been given reasonable warning that legal counsel will withdraw unless the obligation is fulfilled;
 - (d) The representation will result in an unreasonable financial burden on legal counsel or has been rendered unreasonably difficult by the client; or
 - (e) Other good cause.
- (3) When ordered to do so by the court, legal counsel shall continue representation notwithstanding good cause for terminating the representation.
- (4) Upon termination of representation, legal counsel shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned. Legal counsel may retain papers relating to the client to the extent permitted by law.

CTCR 1.14 Advisor

In representing a client, legal counsel shall exercise independent professional judgment and render candid advice. In rendering advice, legal counsel may refer not only to law but to other considerations such as moral, economic, social and political factors that may be relevant to the client's situation.

CTCR 1.15 Meritorious Claims and Contentions

- (1) In representing a client, legal counsel shall not:
 - (a) Knowingly advance a claim or defense that is unwarranted under existing law, except that legal counsel may advance a claim or defense if it can be supported by good faith argument for an extension, modification or reversal of existing law;
 - (b) Knowingly advance a factual position unless there is a basis for doing so that is not frivolous; or
 - (c) File a suit, assert a position, conduct a defense, delay a trial or take other action on behalf of a client when legal counsel knows or when it is obvious that such an action would serve merely to harass or maliciously injure another.

- (2) Legal counsel for a defendant in a criminal proceeding, or the respondent in a proceeding that could result in deprivation of liberty, may nevertheless defend the proceeding as to require that every element of the case be established.

CTCR 1.16 Expediting Litigation

Legal counsel shall make reasonable efforts to expedite litigation consistent with the interests of the client. Legal counsel should not delay litigation merely for his or her convenience or for the purpose of frustrating an opposing party's attempt to obtain rightful redress. Legal counsel is considered to be making a reasonable effort to expedite litigation if a competent legal counsel acting in good faith would regard the course of action as having some substantial purpose other than delay.

CTCR 1.17 Candor Toward the Court

- (1) Legal counsel shall not knowingly:
 - (a) Make a false statement of material fact or law to a court;
 - (b) Fail to disclose a material fact to a court when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client;
 - (c) Fail to disclose to the court legal authority in the controlling jurisdiction known to legal counsel to be directly adverse to the position of the client and not disclosed by opposing counsel; or
 - (d) Offer evidence that legal counsel knows to be false. If legal counsel has offered material evidence and comes to know of its falsity, legal counsel shall take reasonable remedial measures.
- (2) The duties stated in subsection (1) continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by CTCR 1.7.
- (3) Legal counsel may refuse to offer evidence that legal counsel reasonably believes is false.
- (4) In an ex parte proceeding, legal counsel shall inform the court of all material facts known to legal counsel which will enable the court to make an informed decision, whether or not the facts are adverse.

CTCR 1.18 Fairness to Opposing Party and Counsel

Legal counsel shall not:

- (1) Unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. Legal counsel shall not counsel or assist another person to do any such act;
- (2) Falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;
- (3) Knowingly disobey an obligation under the rules of a court except for an open refusal based on an assertion that no valid obligation exists;
- (4) In pre-trial procedure, make a frivolous discovery request or fail to make a reasonably diligent effort to comply with a legally proper discovery request by an opposing party;
- (5) In trial, allude to any matter that legal counsel does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused; or
- (6) Request a person other than a client to refrain from voluntarily giving relevant information to another party unless:
 - (a) The person is a relative or an employee or other agent of a client; and

- (b) Legal counsel reasonably believes that the person's interests will not be adversely affected by refraining from giving such information.
- (7) Present, participate in presenting, or threaten to present criminal charges solely to obtain an advantage in a civil matter.

CTCR 1.19 Impartiality and Decorum of the Court

Legal counsel shall not:

- (1) Seek to influence a judge, juror, prospective juror or other official by means prohibited by law;
- (2) Communicate ex parte with such a person except as permitted by law; or
- (3) Engage in conduct intended to disrupt the court.

CTCR 1.20 Trial Publicity

- (1) Legal counsel shall not make any extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if legal counsel knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding.
- (2) A statement referred to in subsection (1) ordinarily is likely to have such an effect when it refers to a matter triable to a jury and the statement relates to:
 - (a) The character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness;
 - (b) In a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement;
 - (c) The performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;
 - (d) Any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration;
 - (e) Information legal counsel knows or reasonably should know is likely to be inadmissible as evidence in a trial and would, if disclosed, create a substantial risk of prejudicing an impartial trial; or
 - (f) The fact that a defendant has been charged with a crime, unless a statement is included explaining that the charge is merely an accusation and that the defendant is presumed innocent until proven guilty.
- (3) Notwithstanding subsections (1) and (2), legal counsel involved in the investigation or litigation of a matter may state without elaboration:
 - (a) The general nature of the claim or defense;
 - (b) Information contained in a public record;
 - (c) That an investigation of the matter is in progress, including the general scope of the investigation, the offense or claim or defense involved and, except when prohibited by law, the identity of the persons involved;
 - (d) The scheduling or result of any step in litigation;
 - (e) A request for assistance in obtaining evidence and information;
 - (f) A warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and

- (g) In a criminal case: (i) Identity, residence, occupation and family status of the accused; (ii) If the accused has not been apprehended, information necessary to aid in apprehension of that person; (iii) The fact, time and place of arrest; and (iv) The identity of investigating and arresting officers or agencies and the length of the investigation.

CTCR 1.21 Legal Counsel as Witness

Legal counsel shall not act as an advocate at a trial in which legal counsel is likely to be a necessary witness except where:

- (1) The testimony relates to an uncontested issue;
- (2) The testimony relates to the nature and value of legal services rendered in the case; or
- (3) Disqualification of legal counsel would be a substantial hardship to the client.

CTCR 1.22 Special Responsibilities of a Tribal Prosecutor

The tribal prosecutor in a criminal case shall:

- (1) Refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause;
- (2) Make reasonable efforts to assure that the accused has been advised of the right to and the procedure for obtaining counsel and has been given reasonable opportunity to obtain counsel;
- (3) Not seek to obtain from an unrepresented accused person acceptance of a plea until the accused has been advised of the right to representation and important pre-trial rights, such as the right to a probable cause determination by the court; and
- (4) Make timely disclosures to the defense of all evidence known to the prosecutor that tends to negate the guilt of the accused.

CTCR 1.23 Truthfulness in Statements to Others

In the course of representing a client, legal counsel shall not knowingly;

- (1) Make a false statement of material fact or law to a third person; or
- (2) Fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting in a criminal or fraudulent act by a client, unless disclosure is prohibited by CTCR 1.7.

CTCR 1.24 Communication with Person Represented by Counsel

In representing a client, legal counsel shall not communicate about the subject of the representation with an individual that legal counsel knows to be represented by another legal counsel in the matter, unless legal counsel has the written consent of the other legal counsel or is authorized by law to do so.

CTCR 1.25 Dealing with Unrepresented Persons

In dealing on behalf of a client with a person who is not represented by counsel, legal counsel shall not state or imply that he or she is disinterested. When legal counsel knows or reasonably should know that the unrepresented person misunderstands his or her role in the matter, legal counsel shall make reasonable efforts to correct the misunderstanding.

CTCR 1.26 Respect for the Rights of Third Persons

In representing a client, legal counsel shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

CTCR 1.27 Communications Concerning Services

Legal counsel shall not make any false or misleading statements about him or herself or about his or her services. A communication is false or misleading if it:

- (1) Contains a material misrepresentation of fact or law, or omits a fact that makes the statement materially misleading;
- (2) Is likely to create an unjustified expectation about the results legal counsel can achieve, or states or implies that legal counsel can achieve results by means that violate these Rules or other law; or
- (3) Compares legal counsel's services with other legal counsel's services, unless the comparison can be factually substantiated.

CTCR 1.28 Advertising and Solicitation of Clients

(1) Legal counsel shall not initiate personal or live telephone contact, including telemarketing contact, with a prospective client for the purpose of obtaining professional employment, except in the following circumstances:

- (a) If the prospective client is a close friend, relative, former client or one whom legal counsel reasonably believes to be a client;
- (b) Under the auspices of a public or charitable legal services organization;
- (c) If the prospective client is a business organization, a not-for-profit organization or governmental body and the lawyer seeks to provide services related to the organization;

(2) Legal counsel shall not contact, or send written communication to, a prospective client for the purpose of obtaining professional employment if:

- (a) Legal counsel knows or reasonably should know that the physical, emotional or mental health of the person is such that the person could not exercise reasonable judgment in employing legal counsel,
- (b) It has been made known to legal counsel that the person does not want to receive communications from legal counsel,
- (c) The communication involves coercion, duress, or harassment, or
- (d) The written communication concerns a specific matter and legal counsel knows or reasonably should know that the person to whom the communication is directed is already represented by legal counsel in the matter.

CTCR 1.29 Statements

Legal counsel shall not make a statement that legal counsel knows to be false or with reckless disregard as to its truth or falsity concerning the qualification or integrity of a judge, adjudicatory officer, or of a candidate for appointment to judicial office.

CTCR 1.30 Reporting Professional Misconduct

- (1) Legal counsel having knowledge that another legal counsel has committed a violation of these Rules that raises a substantial question as to that legal counsel's honesty, trustworthiness or fitness as legal counsel, shall request a grievance form from the Clerk of the Crow Court of Appeals. Upon receipt of a completed grievance form, the Appellate Judge of the Crow Court of Appeals shall refer the matter to the Commission on Practice.
- (2) Any individual who believes that a legal counsel has committed a violation of these Rules that raises a substantial question as to that legal counsel's honesty, trustworthiness or fitness as legal counsel, may request a grievance form from the Clerk

of the Crow Court of Appeals. Upon receipt of a completed grievance form, the Appellate Judge of the Crow Court of Appeals shall refer the matter to the Commission on Practice.

- (3) Legal counsel having knowledge that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the chief executive officer, as the representative contact of the judicial ethics board, in accordance with the procedure outlined in Crow Law & Order Code § 3-3-306.
- (4) This rule does not require disclosure of information otherwise protected by CTCR 1.7.

CTCR 1.31 Misconduct

It is misconduct for legal counsel to:

- (1) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (2) Commit a criminal act that reflects adversely on legal counsel's honesty, trustworthiness or fitness to serve as legal counsel in other respects;
- (3) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (4) Engage in conduct that is prejudicial to the administration of justice;
- (5) State or imply an ability to improperly influence a government agency or official; or
- (6) Knowingly assist a judge or judicial officer in conduct that violates the rules of judicial conduct under § 3-3-306 of the Crow Law and Order Code or other applicable law.

CTCR 1.32 Jurisdiction

Legal counsel who are admitted to practice in this jurisdiction are subject to the disciplinary authority of this jurisdiction, even if they are licensed to practice in other jurisdictions.

CTCR 1.33 Disciplinary Process

- (1) Any claimed violation of the Rules of Professional Conduct as set forth herein may be reported in writing to the Appellate Judge of the Crow Court of Appeals. An individual wishing to file a complaint may obtain a grievance form from the Clerk of the Crow Court of Appeals. Upon receiving a completed grievance form, the Appellate Judge shall refer the complaint to the Commission on Practice. The Commission shall investigate every complaint within thirty (30) days of receiving the grievance form from the Appellate Judge.
- (2) Written notice of such complaint shall be provided to legal counsel against whom the complaint is filed. Legal counsel shall have a period of thirty (30) days from the date of the notice within which to respond to the complaint.
- (3) Based on the information obtained from the grievance form, legal counsel's response and the investigation of the Commission on Practice, the Appellate Judge, in consultation with two other judges of the Crow Tribal court system, shall determine whether or not there is probable cause to believe that there has been a violation of the Rules of Professional Conduct. Such determination shall be made within forty-five (45) days of the date the legal counsel's response is filed or is due, whichever occurs first. Both the complainant and legal counsel shall receive written notice of such determination by the court, and the reasons therefore.
- (4) When a determination has been made that there is no probable cause that a violation of the Rules of Professional Conduct has been committed, the matter shall be closed, and shall be sealed until further order of the court.
- (5) When a determination has been made that there is probable cause that a violation of the Rules of Professional Conduct has been committed, the Crow Tribal Court shall

conduct a hearing with a panel to consist of three judges of the court, including the judges having made the determination of probable cause. The Commission on Practice shall present the case against the legal counsel. The court shall provide notice of such hearing to all parties, setting forth the date, time, and place at which the hearing will be conducted. Such hearing shall be closed to the public and subject to the following:

- (a) Continuances may be granted in the discretion of the court for good cause;
 - (b) Any motions filed in the matter shall be filed no later than seven (7) days in advance of the date upon which the complaint is to be heard;
 - (c) Any oral or documentary evidence may be received by the court that is consistent with the Crow Rules of Civil Procedure, but the court shall exclude irrelevant, immaterial, or unduly repetitious evidence;
 - (d) If the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form;
 - (e) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon reasonable and timely requests, the parties may be given an opportunity to compare the copy to the original.
 - (f) Parties may be represented by legal counsel.
 - (g) Any of the parties or their legal counsel may conduct direct and cross-examination of witnesses.
- (6) After the close of the hearing, the court shall render a written decision within thirty (30) business days. Upon completion of the hearing and rendering of a decision, the matter shall be deemed conclusively determined.
- (7) The court shall have the power to take any of the following actions with respect to legal counsel determined to have violated the Rules of Professional Conduct:
- (a) Privately reprimand such legal counsel;
 - (b) Publicly reprimand such legal counsel;
 - (c) Impose monetary fines against such legal counsel;
 - (d) Suspend legal counsel from practice before the courts of the Crow Tribe for a definite period of time; or
 - (e) Order the disbarment of legal counsel.
- (8) For any violation of these Rules occurring before the Crow Tribal Court or before the Crow Court of Appeals, the judge observing such violation may take immediate action concerning such violation and shall refer such matter to the Commission on Practice in accordance with the procedures set forth herein.

CTCR 1.34 Conviction of Crimes

- (1) Upon notice of a legal counsel's conviction of a crime by any jurisdiction, the Appellate Judge of the Crow Court of Appeals shall refer the matter to the Commission on Practice to investigate the circumstances of the conviction. Upon reviewing the information from the Commission's investigation, if the Appellate Judge is satisfied that the crime demonstrates unfitness to practice law, the Appellate Judge shall do one of the following:
 - (a) Enter an order to show cause why legal counsel should not be immediately suspended from the practice of law, pending appeal of the conviction; or
 - (b) Order suspension of legal counsel as may be advisable in the interest of the tribal community and/or the public, the tribal bar, and the Crow Tribal court system.

- (2) If legal counsel is suspended hereunder, he or she will be reinstated immediately upon the filing of a certificate that the criminal conviction has been reversed or set aside.

CTCR 1.35 Other Provisions and Interpretation of Rules

- (1) Nothing contained in these Rules shall be construed to repeal or limit any provisions contained in the Crow Law & Order Code regarding the conduct of legal counsel and disciplinary measures applicable thereto.
- (2) These Rules shall be read in such a manner as to achieve uniformity in interpretation with applicable tribal law.

CTCR 1.36 Effective Date

The effective date of these Rules shall be July 1, 2005.

Donald E. Laverdure

Donald E. Laverdure, Appellate Judge