

IN THE CROW TRIBAL COURT
IN AND FOR THE CROW NATION


IN THE MATTER REGARDING)	
THE ADOPTION OF THE)	ORDER ADOPTING
CROW TRIBAL COURT)	RULES OF PRACTICE
<u>RULES OF PRACTICE</u>)	

The Crow Tribal Court Rules of Practice having been reviewed, revised, and amended to provide those persons appearing before the Crow Tribal Court with fair and equitable rules governing the method and manner of their demeanor, conduct in Court, and communication with the Court, and between parties and witnesses. With obedience to these Rules, the respect for the Court and those present in Court will be ensured and order will be properly maintained.

It is hereby

ORDERED that the Crow Tribal Rules of Practice be and are hereby ADOPTED, effective immediately. Copies of this Order are to be made available to anyone making a request to the Office of the Clerk of Court and a copy shall be kept at the reception desk in the Clerk's Office for immediate reference.

DATED: this 19th day of May, 2014.



Leroy M. Not Afraid
Chief Judge
Crow Nation

CROW TRIBAL COURT RULES OF PRACTICE

RP 1

Rescission of Prior Rules. All Standing Orders issued prior to the adoption of these Rules of Practice are rescinded.

RP 2

Application and Citation of Rules. These rules are applicable in all cases, matters, proceedings or hearings before the Crow Tribal Court and may be cited as RP _____. Title and section (§) references in these rules are to the Crow Law and Order Code (the Code). Copies of the Crow Tribal Court Rules of Practice are available at the Office of the Clerk of Court.

RP 3

Definitions and Abbreviations. Definitions in these Rules apply to these Rules and to other rules, practices and procedures, pleadings and other documents filed in the Crow Tribal Court.

RP 4

Application of Rules: Representatives and Pro Se Parties. These Rules apply to all persons authorized to act as the representative of parties before the Court, except Personal Representatives in probate matters (see, RP 9), and to all pro se parties. Whenever these rules or other applicable rules require that an act be done by a representative, the same duty is required of parties appearing on their own behalf except that the Office of the Clerk of Court will provide service of process for the initial pleading in a case or matter as provided below in RP 6. An unrepresented party is not an officer of the Court but is required to abide by these Rules of Practice and the Crow Rules of Professional Conduct to the same extent as attorneys and advocates.

RP 5

Definitions: Representative, Attorney, Advocate. As used in these rules, "representative" means an attorney or advocate admitted to practice in the Crow Tribal Court or authorized by statute or an order of this Court to appear and present information to the Court on behalf of another, except Personal Representatives in probate matters (see RP 8). An "attorney" is a person licensed to practice by the highest court of a state in the United

States and therefore subject to sanction under applicable rules of professional responsibility. An "advocate" is a person admitted to practice in the Crow Tribal Court who is not an attorney. A roster of attorneys and advocates admitted to practice in the Crow Tribal Court as representatives is available at the Office of the Clerk of Court.

RP 6

Statement of Representation. When a party is represented by an attorney or an advocate, a Statement of Representation, in the form prescribed by the Crow Tribal Court, must be signed by the representative and the party and filed in the Office of the Clerk of Court before any other pleading or motion may be filed or any appearance made. The representative may not sign the Statement of Representation on behalf of the party. A Statement of Representation must be filed in every case. See, Appendix B.

RP 7

Officer of the Court. Representatives are officers of the Court and their conduct is governed by the Crow Rules of Professional Conduct which are available at the Office of the Clerk of Court. An "officer of the Court" is any person who has an obligation to promote justice and the effective operation of the judicial system of the Crow Nation, including judges, the attorneys and representatives who appear in Court, Court personnel, and any other person appointed or approved by the Court such as translators, special judges, guardians ad litem, special advocates or special masters. Officers of the Court have an absolute ethical duty to present the truth in all matters involving the judicial system.

RP 8

Appearance by Out-of-Jurisdiction Representative. Representatives duly admitted to practice in the trial courts of any other jurisdiction may appear in the Crow Tribal Court provided (a) the out-of-jurisdiction Representative seeks to be admitted pro hac vice to practice in a specific case or controversy lodged in the Crow Court;(b) such representative admitted in the Crow Tribal Court is also present with the out-of-jurisdiction Representative before the Court in chambers or in the courtroom or participates by telephone in any hearing conducted by telephone.(c)all pleadings are also signed by a representative duly admitted to practice in the Crow Tribal Court. Any representative appearing pursuant to this rule is subject to the disciplinary rules and regulations governing Crow Tribal Court representatives and by applying to appear or appearing in any action becomes subject to the jurisdiction of the courts of the Crow Nation.

RP 9

Application of Rules: Personal Representatives in Probate Matters. Personal Representatives in probate matters are appointed by the Court under Title 2 of the Code and are subject to its provisions.

RP 10

Modification in the Interest of Justice. A judge of the Crow Tribal Court may modify the application of these rules in any case to prevent manifest injustice upon a finding, made on the record, that modification of an identified rule is required for that purpose.

RP 11

Courtroom Ceremony.

Traditional Blessing. Any party who wishes to arrange a traditional Crow blessing at the beginning of a Court hearing may request the bailiff or clerk to advise the Judge in advance. Flags. The flags of the Apsaalooke Nation, the United States and the State of Montana shall be displayed on or in close proximity to the bench when Court is in session.

RP 12

Courtroom Conduct Generally. Court personnel will maintain order, dignity and solemnity in the courtroom. There will be no unnecessary conversation, loud whispering, newspaper or magazine reading, eating, or other distracting activity in the courtroom while Court is in session. Proper courtroom decorum will be observed throughout the proceedings by all present. There will be no activities which disrupt the hearing including audible talking except by the Court, counsel or sworn witnesses. Any individual causing a disruption or interruption in the proceedings will be escorted out of the courtroom by a bailiff. If a general outburst occurs, or if the Court otherwise deems it prudent, the courtroom will be cleared of observers.

RP 13

Prohibitions. No foods or beverages are permitted in the courtroom except as may be provided by the Court. All cell phones and lap tops must be disabled. No smoking is permitted. No photographs or recording devices are permitted unless specifically authorized by the Court prior to the hearing. No pictures or voice recordings, except the recording made as the official Court record, shall be taken in any courtroom, area of the courthouse where courtrooms are located, or other area around the Court Complex during a trial or hearing in any case or matter before the Court.

RP 14

Courtroom Conduct of Representatives and Pro Se Parties. Generally, representatives and their clients and pro se parties will conduct themselves with civility in the courtroom and in all areas of the Court Complex.

- a. Addressing Court, Jury, and Opposing Counsel. Except when making objections, a representative should rise and remain standing while addressing the Court or the jury. In addressing the Court, a representative should refer to the judge as "Your Honor" or "the Court." A representative shall not address opposing counsel. A representative shall not address or refer to jurors individually or by name or occupation except during voir dire. During trial, a representative shall not exhibit familiarity with the judge, jurors, witnesses, parties or other representatives. When addressing others (witnesses), use of first names (except for children) is not appropriate.
- b. Approaching Bench. A representative should address the Court from a position at the representatives' table. If a representative finds it necessary to discuss something out of the hearing of the jury, the representative may ask to approach the bench and, and if invited, representatives from both parties may come forward. A representative should never lean on the bench or appear to engage the Court in a familiar manner.
- c. Non-Discrimination. A representative will treat all parties, participants, other representatives, and Court personnel with respect and courtesy and without discrimination on the basis of race, color, creed, religion, national origin, sex, marital status, sexual preference, status with regard to public assistance, disability, or age.
- d. Attire. A representative shall appear in Court in appropriate courtroom attire.
- e. Punctuality. All representatives and parties will be punctual in appearing at the time appointed by the Court.

RP 15

Role of Judges. Judges are responsible to hear and decide matters in controversy and to interpret and apply the laws of the Crow Nation or other applicable law(s). Judges are governed by certain Model Rules of Judicial Conduct as provided in the Code and these Rules.

- a. Dignity. The judge will be dignified, courteous, respectful and considerate of all persons, will treat all persons fairly and without discrimination on the basis of race, color, creed, religion, national origin, sex, marital status, sexual preference, status with regard to public assistance, disability, or age.
- b. Punctuality. The judge will be punctual in convening Court and prompt in the performance of judicial duties. From time to time, other duties of the Court or emergency matters may delay the Court. If that occurs, whenever possible the Court will advise the parties of the expected length of the delay or will, if necessary, reschedule the matter.
- c. Impartiality. During the presentation of a case or matter, the judge will maintain absolute impartiality and will not indicate favor to any party or representative. A statement by the judge concerning the merits of a matter in controversy is not an indication of favor to any party or representative but an expression of the judge's duty to apply and interpret the law. The judge will be impersonal in addressing representatives and parties.

d. Intervention. The judge should generally refrain from intervening in the examination of witnesses or argument of representatives; however, the Court will intervene upon its own initiative to prevent a miscarriage of justice or obvious error of law or to maintain compliance with these Rules.

e. Decorum in Court. The judge is responsible for order and decorum in the Court and to see that at all times parties and witnesses in the case are treated with courtesy and respect.

f. Accurate Record. The judge is in complete charge of the proceedings at all times and will assure that everything possible is done to obtain a clear and accurate record of the proceedings

RP 16

Public Access. All proceedings before the Crow Tribal Court are open to the public except cases involving juveniles, involuntary commitment proceedings and any other case or matter in which the Court, on its own motion or the meritorious motion of a representative or pro se party, orders the proceedings closed in the interest of justice.

RP 17

Public Seating. Public seating in a courtroom shall be supervised by the Court's bailiffs or other designees and shall be on a "first come, first seated" basis except that a representative may request a bailiff to seat persons to be called as witnesses unless witnesses are excluded until after their testimony. When the courtroom seats are filled, as many other individuals as can reasonably be accommodated in the opinion of the bailiff or the Court may stand quietly in the foyer if available. When the courtroom seats and the foyer have been filled, there will be no further admission. Any person leaving the courtroom during the proceedings may not be readmitted if readmission would be disruptive in the opinion of the bailiff.

RP 18

Communications with the Court. Generally, contacts with the Court should be in writing, filed with the Clerk of Court, and copies should be served on other parties on or before the date filed. Absent exigent circumstances or as otherwise permitted by this Rule, the Court shall not permit ex parte discussion of a matter pending or which may come before the Court by one party or representative without the presence of the other party or representative. No representative, party, or any other person, may make or attempt to make an ex parte contact with the judge assigned to the case, or with any other judicial officer, for the purpose of discussing with or attempting to influence the Court in connection with any matter pending before, known to be under consideration by, or expected to be brought before the Court except as provided by applicable law and these Rules.

RP 19

Ex Parte Applications, Exigent Circumstances. Ex parte relief by the Court is an extraordinary remedy which will be granted only in exigent circumstances.

a. Exigent circumstances involving the subject or merits of a case or controversy are those in which an unusual and time-sensitive emergency exists such as the reasonable belief that if notice is given evidence may be destroyed, a person may be harmed, a necessary party may flee the jurisdiction, or some other irreversible harm may occur.

b. Exigent circumstances not involving the subject or merits of a pending case are those in which an unusual or time-sensitive emergency exists such as illness, accident, death of a family member, or some other circumstance outside the reasonable control of a party or representative.

c. An application for ex parte relief involving the subject or merits of a case or controversy must be made by

written application, together with a proposed order, and must be justified upon sworn testimony, given in person or by affidavit, establishing at a minimum that irreparable harm or danger is imminent if the relief is not granted before a hearing can be scheduled. The application must include an explanation of the efforts made to notify affected parties or the reasons why such efforts were not made. The reasons supporting ex parte relief should be recited in the proposed order.

RP 20

Exception to the Prohibition of Ex Parte Contact. An ex parte contact may be made with the judge or the Court's representative in exigent circumstances not involving the subject or merits of a pending case regarding administrative matters such as a delay in appearance or a necessary change in scheduling where:

- a. the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and
- b. the judge makes provision promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond, or
- c. the judge is advised by the party or the party's representative that the opposing party or the party's representative has consented to an ex parte request.

RP 21

Public Record. All pleadings and papers filed with and docketed by the Office of the Clerk of Court are public record except in cases involving juveniles, involuntary commitment proceedings and any other case or matter in which the Court has sealed the record. Any person may request and receive a copy of any public record by completing a written request and paying the administrative fee established by the Court as provided in § 3-6-602 (8) of the Code.

RP 22

Confidentiality. Information which is not part of the public record is confidential. No employee of the Judicial Branch is authorized to disclose any conversation, information, document, or to give an opinion or observation, concerning anything which is not public information or part of the public record.

RP 23

Office of the Clerk of Court: Service to the Public. The Office of the Clerk of Court provides services to the public and to the Courts of the Judicial Branch which include the filing and docketing of pleadings, papers and other documents related to Court cases and matters; providing copies of forms and public information upon request; and accepting payment of fines, bonds, restitution, child support and other funds pursuant to orders of the Court. Clerks will perform their duties with courtesy and will be treated with courtesy by the public. Intimidation or abusive behavior will not be tolerated.

RP 24

Days and Hours of Operation. Except for holidays and emergency closures, the Court and the Office of the Clerk of Court are open Monday through Friday of each week from 8:00 AM to 5:00 PM; however, public access is available only between 9:00 AM and 4:00 PM and public services are available only during those hours.

Holidays on which the Court will be closed, if the holiday falls on a weekday, include:

- a. New Year's Day;
- b. President's Day;
- c. National Memorial Day;
- d. Labor Day;

- e. Veterans' Day;
- f. Thanksgiving Day;
- g. Friday after Thanksgiving Day;
- h. Christmas Eve Day and Christmas Day;
- i. days declared to be Tribal holidays by the Chairman of the Executive Branch unless the Chief Judge determines that the Court will remain open.

RP 25

Filing in the Office of the Clerk of Court.

- a. Personal filing of pleadings or other documents or information related to the business of the Crow Tribal Court may be made in the Office of the Clerk of Court between the hours of 9:00 AM and 4:00 PM.
- b. Material for filing. Following the filing of the initial pleading and payment of the filing fee, material for filing may be sent by regular mail or by electronic transmission (fax or email). As provided in Rule 5A(f), Crow Rules of Civil Procedure (CRCivP), filings by fax or email or other electronic transmission may be made.
- c. The date and time of filing in the Office of the Clerk of Court will be: a) the date and time the original document is presented personally delivered to and processed by the Deputy Clerk; or b) the date and time of processing by the Deputy Clerk of filings received by mail; or c) the date and time of delivery to the Office of the Clerk of Court indicated on the electronic transmission. If no date or time of delivery is indicated on the electronic transmission, the document will bear the date and time the document is received and processed by the Deputy Clerk.

RP 26

Administration of Oaths and Notarization of Documents. The Clerk of Court and Deputy Clerks are authorized under these Rules to administer oaths in the same manner as notaries public for the purpose of compliance with these Rules and provisions of the Code requiring sworn statements. At least one Deputy Clerk at all times will be a Notary Public under the laws of the State of Montana. Members of the public may request an appointment with a member of the Clerk's staff who is an authorized Notary Public to notarize documents, free of charge, for recording in other jurisdictions.

RP 27

Emergency Contact. If an emergency occurs requiring action by a judge when the Court is closed to the public, the Crow Tribal Police Department should be contacted. Emergency contact numbers will be provided to the Police Department by the Clerk of Court.

RP 28

Advice by Court Staff. No employee of the Judicial Branch may give legal advice to any person outside of the Judicial Branch at any time. The Clerk of Court or a Deputy Clerk may provide public information as contained in the Crow Law and Order Code, these Rules of Practice, the Crow Rules of Professional Conduct, other duly enacted and published rules of the Judicial Branch, or other written materials (forms) prepared for the guidance of the public by the Chief Judge of the Tribal Court, the Appellate Judge of the Crow Court of Appeals, or the Clerk of Court.

RP 29

- Fees. a. The Clerk will maintain and publish a current schedule of filing and administrative fees. The Clerk will collect any required fee before filing any pleading.
- b. No filing fee, process serving fee, photocopying costs, or bonds shall be charged to a petitioner or filing party seeking a protective order in a case involving domestic violence under §8E.5.06 of the

Code.

- c. If a pleading is accompanied by a written request for waiver of fees because of indigence on the form required by the Court, the Clerk will accept the pleading for filing and submit the waiver request to the Chief Judge. If the Chief Judge determines that the filing fee should not be waived, the Clerk will notify the party that the filing fee must be paid before any other pleading or motion may be filed.
- d. No filing fee, process serving fee, photocopying costs, or bonds shall be charged to a petitioner seeking a protective order in a case involving domestic violence under §8E.5.06 of the Code.

RP 30

Methods of Payment. The Clerk's Office accepts cash, personal checks, cashier's checks and money orders. Credit and debit cards are not accepted. The Clerk accepting payment will always provide a written receipt to the person making the payment and will retain a copy of the receipt for the permanent ledger. When the Clerk's Office is required to return funds previously deposited, the return will be made by official check made payable only to the person who deposited the funds.

RP 31

Forms. The Clerk of Court maintains a library of forms approved by the Court which are available free of charge in the Clerk's Office. Parties are not usually required to use the Court's forms but all self-created pleadings or documents must contain all the information contained in the approved forms. The OCC will maintain and publish a current list of all available forms and all forms which are required to be used for a particular purpose.

RP 32

Supervision and Assignment of Cases by Chief Judge. The Chief Judge supervises the assignment and administration of all cases. Any judge may be assigned to hear any case or matter pending before the Crow Tribal Court. Cases may be assigned randomly or to a particular judge who has experience or expertise in a particular area.

RP 33

Automatic Consolidation. Where more than one matter involving the same parties and the same or closely-related subject matter is before the Court, the cases will be assigned to the same Judge and only one case file will be maintained by the Clerk of Court. The original file number assigned to the earliest matter will be used throughout the proceedings. For example, if a party files a petition seeking an order of protection and subsequently files a petition for dissolution of marriage or for determination of custody, the case number assigned to the petition for an order of protection will be assigned and all pleadings will be docketed and maintained as part of the same file. The case name or caption will be modified as needed to reflect the nature of the proceedings. This rule will apply without regard to which of the parties is the petitioner/ respondent or plaintiff/defendant in the related proceedings.

RP 34

Divisions of Court. The Court is organized in Divisions. There is an Appellate Division and a Trial Division. The Trial Division has separate departments: civil, criminal, juvenile, probate, domestic relations, traffic. References to the Probate Court, the Juvenile Court, or any other denominated Court, are to the subject matter of a particular case pending before the Crow Tribal Trial Court. From time to time the Chief Judge may determine that additional Departments be designated.

RP 35

Application of Rules in Divisions. These Rules of Practice are applicable in all Divisions and Departments of the Judicial Branch. Additional rules, however, may be adopted to recognize special procedures which may be appropriate in a specific Division or Department.

RP 36

Recusal and Disqualification.

a. Recusal. Any Judge assigned a case in which the relationships, history, or the disposition of the Judge require recusal will immediately notify the Chief Judge for reassignment of the case. A judge is not required to state her reasons for recusal on the record. Recusal is required for the reasons set forth in Canon 3(E)(1).1

b. Disqualification. Disqualification of a judge by a party is governed by § 3-3-307, CLOC, and Canon 3(E)(1). Parties will act promptly to seek disqualification in order to permit the expeditious assignment of a replacement judge.

c. Waiver. Possible grounds for disqualification may be waived by the parties. At the initial hearing in a case or matter, or at a hearing scheduled for the purpose of considering disqualification, the judge will disclose on the record any matter known to be a potentially disqualifying factor and give the parties sufficient time to consider the disclosure outside the presence of the judge to determine whether the parties wish to assert or waive the potential conflict. Once waived, a potentially disqualifying factor may not be reconsidered solely on the basis of an adverse decision or ruling.

d. Conduct of the Judges of the Crow Tribe is governed by the primary Canons of Judicial Conduct (1990) adopted by the American Bar Association. Canon(3)(E)(1) provides that a judge should recuse herself or may be disqualified when "the judge's impartiality might reasonably be questioned" as where (a) a judge has a personal bias or prejudice concerning a party or a party's lawyer, (b) the judge has personal knowledge of disputed evidentiary facts, (c) the judge previously served as a lawyer in the matter in controversy,

(d) The judge or the judge's immediate family has an economic interest in the matter, (e) the judge or the judge's spouse is related within the third degree to a party, a party's representative, a material witness in the matter, or their spouse. The third degree of relationship is defined as a person's parents, siblings, children, and first cousins (first degree), grandparents, grandchildren, and second cousins (second degree), and aunts, uncles, nieces, nephews, and third cousins (third degree), whether by blood or marriage.

RP 37

Motion for Disqualification. If a potential conflict has not been waived, a party who believes in good faith that disqualification is warranted will file a motion in the case or matter which complies with this Rule. The motion must:

a. state with particularity the alleged grounds for disqualification based either on personal knowledge supported by admissible evidence or specifically stated grounds for a reasonable good faith belief that the allegations are true;

b. be verified;

c. be served on opposing parties.

An opposing party may but is not required to file a statement concurring with or opposing the motion within five (5) business days after receipt of service of the motion.

RP 38

Judge's Response to Motion for Disqualification. The Judge against whom the motion to disqualify is filed may, in her discretion:

a. rule on the motion on the basis of the motion's contents;

- b. order additional briefing and/or an evidentiary hearing on the allegations in the motion;
- c. request another Judge of the Crow Tribal Court to decide the motion.

An order denying a motion for disqualification will be in writing and state with particularity the basis of the Judge's decision.

RP 39

Appeal of Denial of Motion for Disqualification. After entry of the final order or decision in the case or matter, a decision to deny a motion for disqualification may be appealed. The standard of review on appeal is whether the decision was an abuse of the Court's discretion.

RP 40

Permanent Injunctions. A complaint or petition for permanent injunction must be verified. A verified pleading is one which is sworn to under penalty of perjury before a person authorized to administer oaths. The following is a sample of verification language which meets the requirement of this Rule and applicable statutes:

I, being first duly sworn under penalty of perjury, state that I am the plaintiff or petitioner in this action, that I have read the allegations of the complaint or petition and they are true and correct to the best of my knowledge, information and belief.

RP 41

Temporary Restraining Orders and Preliminary Injunctions.

- a. A temporary restraining order is issued ex parte for not to exceed ten (10) business days or until a hearing on the matter is held.
- b. A preliminary injunction is issued after notice and opportunity for hearing and is effective until a full hearing on the matter can be held or for such period as the Court determines.
- c. A temporary restraining order extended by the Court after notice and hearing has the same effect as a preliminary injunction.
- d. A written application or motion for a temporary restraining order or an order for preliminary injunction is required and may be included in a verified complaint or petition or submitted by separate pleading.
- e. The Court may require the applicant to appear and give testimony before granting an application for a temporary restraining order.
- f. As required by Rule 22, CRCivP, every temporary restraining order must set forth the name of the Court, the names of the parties involved, the time and date of the issuance of the order, state the injury to be incurred and why it is irreparable, and state why the order was granted without notice to the adverse party.
- g. A temporary restraining order is effective for no longer than ten (10) business days, and may be for a shorter time. The order will expire by its own terms without further action by the Court. The Court may extend the time within which the order will be effective for good cause.
- h. If the Court finds reasonable grounds to support the request for a temporary restraining order, the Court may enter a temporary ex parte order and shall set a hearing on the matter within ten (10) business days. The Clerk of Court will serve the respondent with notice of the hearing as provided in CRCivP Rule 7.02.
- i. Upon a request for preliminary injunction, whether by pleading or motion, the Court shall set a hearing on the matter within not less than thirty (30) days or more than forty five (45) days, exclusive of weekends and holidays, from the date the request is filed.

RP 42

When Security Required for Preliminary or Permanent Injunction.

- a. Unless the Court finds after notice and hearing that there is no reasonable likelihood of compensable injury or harm to the party restrained, the Court shall require the applicant to post security in the form of cash, commercial bond or surety for the payment of costs and damages which may be incurred or suffered by a party who is later found to have been wrongfully restrained.
- b. If no security is required upon the issuance of a temporary restraining order, a further determination of the need for security will be considered at the hearing on a preliminary injunction or hearing to consider extension of the temporary order.
- c. In matters filed by the Executive Branch or the Legislative Branch to determine the constitutionality of legislation, no security is required.

RP 43

Emergency Protection Orders: Children.

- a. Within 72 hours of removal of a child by social services or law enforcement, exclusive of weekends and holidays, the child must be brought before the Court for an emergency hearing to determine further placement or the child must be returned to a parent or guardian as required under § 9-3-106. Unless the testimony of the child is required, the child need not be physically present but shall be deemed to be before the Court by appearance of an authorized representative of social services.
- b. At the emergency hearing, the Court shall take sworn testimony concerning the welfare of the child and shall enter an order determining further placement or return to a parent or guardian. The Court may appoint a temporary guardian for the child. The term of further placement outside the child's home shall be only for such time as may be required for social services to prepare and file a petition under § 9-3-107. Except for good cause requiring a longer time, established by motion and hearing, social services will have five (5) days (exclusive of weekends and holidays) within which to file the petition.

RP 44

Emergency Protection Orders: Domestic Violence.

- a. Persons seeking emergency protection orders under Title 8E of the Code shall file a Petition for an Order of Protection alleging that there is an immediate danger of domestic violence to the petitioner, based on an allegation that an act of domestic violence has occurred or is about to occur.
- b. The petition must also include information concerning any other civil or criminal litigation involving the parties in any jurisdiction, including the issuance of orders by any other court. If another court has issued an Order of Protection or any other order dealing with the conduct of the parties, the petitioner shall include a copy of the order with the Petition. If the Court finds after the hearing that the petition was filed in bad faith, the Court may require the petitioner to pay the costs of the proceedings.

RP 45

Protection Orders: Criminal Cases. In a criminal case, the Court may on its own motion or at the request of the Tribal Prosecutor issue an order for the protection of victims or witnesses before, during or after the criminal trial.

RP 46

Form of Pleadings.

- a. All pleadings or other papers required to be filed must be double spaced and legibly handwritten, typewritten or printed, on one side of plain unglazed paper of good texture. Every page shall have a top margin of not less than two inches and side and bottom margins of not less than one inch. Margins

must be free from all typewritten, printed, or other written matter.

b. Paper Size. All papers served or filed by any party shall be on standard size 8 ½" X 11" inch paper. "Legal" size paper, which is 8 ½" X 14" is not accepted.

c. Backings and Stapling Not Allowed. No pleading, motion, order, or other paper offered to the Clerk for filing shall be backed or otherwise enclosed in a covering. Papers and other materials submitted for filing shall be securely clipped, not stapled, in the upper left corner.

d. Signatures Required. Every pleading, motion, or other paper presented for filing must be signed personally by the party's representative or the party, in his or her individual name and shall include the name, address, and telephone number, typed or printed under the signature. If available, the email address of the representative or pro se party should be included.

e. Each representative or pro se party has a continuing obligation to advise the Court of any change in address or telephone number by written notice filed with the Clerk and served on the other parties.

f. If a party is an enrolled member of the Crow Nation, the party's enrollment number should be included. If the proceeding involves a child who is an enrolled member, the child's enrollment number should also be included.

RP 47

Proof of Service.

a. Service on Parties. When a paper is to be served on a party under these Rules, service shall be made on the party's representative of record, if represented, and otherwise on the pro se party directly.

b. Issuance of Summons. When a party files a civil complaint or petition, the Clerk of Court will issue a summons and provide the party with a conformed copy of the filed pleading. Parties are required by CRCivP 4(a) to accomplish service of the summons and conformed complaint or petition upon the defendant or respondent.

c. Service of Summons and Complaint or Petition by Clerk of Court for Pro Se Parties. When a pro se party files a civil complaint or petition, the Clerk of Court will accomplish service of the summons and conformed complaint or petition on defendants or respondents as a courtesy. Thereafter, the pro se party is responsible for service of pleadings on the opposing party.

d. Service by the Clerk of Court by Mail. The Clerk of Court will serve parties with all orders, decisions, judgments or other directives of the Court including orders setting hearings. The Clerk file a Certificate of Service by Mail when service is by mail. CRCivP 5 mail be by certified mail.

e. Personal Service by Clerk of Court. If delivery is to be made by personal service other than hand- the person making personal service will file a Return of Service promptly after service is accomplished. It is the responsibility of the Clerk to ensure that personal service is accomplished and a record filed in the Court file; if personal service cannot be accomplished within three (3) business days, the Clerk will notify the judge who issued the order who will make a determination whether to attempt personal service again or to serve the party by mail or otherwise.

f. Electronic Service by Clerk of Court. The Clerk of Court may serve the Crow Police Department, a person detained in the Crow Detention Center, the Office of the Tribal Prosecutor, and any other party consenting in writing to electronic service, by email or fax. Consent to electronic service will be filed in the record. The Clerk will file a Certificate of Service by Fax or Email in such cases. A party consenting to electronic service is responsible to ensure that the Clerk's Office has correct information for transmission.

g. No Hearing Without Proof of Service. No hearing may be held by the Court unless the record contains proof of service of notice of the hearing except in the case of emergency protection orders or similar exigent circumstances.

RP 48

Pleadings Permitted. Pleadings which may be filed include:

- a. a civil Complaint and Answer;
- b. a designated Counterclaim and Reply;
- c. a Cross-Claim and Answer;
- d. a Petition and Response;
- e. a Complaint in Intervention and Answer;
- f. a third-party Complaint and Answer;
- g. a criminal Complaint; and
- h. such other pleadings as the Court may permit on motion.

RP 49

Motions and Briefs.

- a. All motions must be in writing supported by a brief or affidavit. The motion and supporting brief may be set out in a single document. Any argument or authority offered in support of a written motion may be deemed by the Court to meet the requirement for filing a brief, so long as it is timely served on the opposing party.
- b. Except for permissible ex parte motions, the moving party shall contact the opposing party (or parties) to determine if a proposed motion will be contested and will include in the motion a statement that (i) the opposing party (or parties) have been contacted regarding their position on the motion and (ii) the motion is contested or uncontested.
- c. The moving party shall include with its motion and brief a proposed order for the Court's consideration.
- d. Unless otherwise provided by these Rules or by order of the Court, upon serving and filing a motion, or within five (5) business days thereafter, the moving party shall serve and file a brief. A reply brief may be served and filed within fifteen (15) calendar days thereafter. The moving party shall then have fifteen (15) calendar days to file a response brief.
- e. A motion without a required supporting brief filed within the time permitted will be deemed abandoned and will be summarily denied. Failure to file briefs within the prescribed time may subject any motion to summary ruling. Failure to file a brief by the moving party may be deemed an admission that the motion is without merit. Failure to file a reply brief by the adverse party may be deemed an admission that the motion is well taken and should be granted.
- f. Other parties may, but are not required to, file a reply brief supporting or opposing a motion within fifteen (15) days after the date of service of a brief supporting the motion.
- g. Upon filing and service of briefs or expiration of the time allowed for filing and service, the motion shall be deemed submitted unless a hearing or oral argument is scheduled.
- h. The Court may order a hearing or oral argument on its own motion or upon request contained in the original motion or in a separate motion filed by any party if the Court determines that a hearing will contribute to a fair and informed decision. The Court may determine whether to hold a hearing or grant oral argument
- i. In a case or matter in which a hearing is required by statute, the Clerk of Court will automatically schedule it for a time allowing for the adverse party's or parties' opportunity to respond.

RP 50

Hearing on Motions.

- a. Motions must be filed, briefed and served no less than five (5) business days before a hearing on a motion unless the Court for good cause shortens the time.
- b. Service by mail is presumed to take three days from the date of mailing; therefore, if service is

accomplished by mail sent on the date of filing, the hearing may not be scheduled until the eighth (8th) business day thereafter.

RP 51

Interpreters.

a. Any party may request a translator fluent in both the Crow and English languages as provided in § 3-3-303 (2) (b) by filing a written motion or by making an oral motion at any point in the proceedings. The Court will appoint a non-interested person to serve during that portion of the proceedings in which the requesting party's participation is required. Except at trial, any cost incurred will be paid by the Court.

b. If the Court determines that an interpreter is needed for the examination of a witness at trial, whether to interpret verbal or sign language, the Court may appoint a non-interested person. The compensation for the interpreter's services will be billed to the party calling the witness and will be considered part of the costs of the proceedings which may be awarded to the prevailing party.

c. A judge may disqualify a court interpreter from a proceeding for good cause. Good cause for disqualification includes, but is not limited to, the following conduct:

- i. knowingly and willfully making a false interpretation while serving in a proceeding;
- ii. knowingly and willfully disclosing confidential or privileged information obtained while serving in an official capacity;
- iii. failing to follow applicable laws, rules of court, or the instructions of the judge.

RP 52

Orders and Judgments of Other Courts. Full faith and credit will be afforded all foreign child support judgments. All other foreign judgments and court orders will be afforded consideration and recognition under the doctrine of comity following a full hearing thereon as set forth herein below.

Orders and Judgments of foreign courts will be given effect as follows:

(a) Recognition mandated by law. Where mandated by tribal or federal statute, orders, judgments, and other judicial acts of the tribal courts of any federally recognized Indian tribe shall be recognized and enforced.

(b) Procedure. Where an applicable tribal or federal statute establishes a procedure for enforcement of another court's order or judgment, that procedure must be followed.

(c) Presumption of Validity: Violence Against Women Act. An order that is subject to the Violence Against Women Act of 2000, 18 U.S.C. § 2265 (2003), that appears to be issued by a court with subject matter jurisdiction and jurisdiction over the parties, and that appears not to have expired by its own terms is presumptively enforceable, and shall be honored by the Crow Tribal Court and law enforcement and other officials so long as it remains the judgment of the issuing court and the respondent has been given notice and an opportunity to be heard or, in the case of matters properly considered ex parte, the respondent has been given notice and an opportunity to be heard within a reasonable time. The presumptive enforceability of such a court order shall continue until terminated by order of the Crow Tribal Court but shall not affect the burdens of proof and persuasion in any proceeding.

(d) Discretionary Recognition of Orders and Judgments of Other Courts. In cases other than those governed by this Rule, enforcement of another court's order or judgment is discretionary with the Court. In exercising this discretion, the Court shall hold a hearing following a Motion for Recognition of Foreign Judgment is filed to consider the following factors:

- i. whether the party against whom the order or judgment will be used has been given notice and an opportunity to be heard or, in the case of matters properly considered ex parte, whether the respondent has been or will be given notice and an opportunity to be heard within a reasonable

time;

- ii. whether the order or judgment appears valid on its face and, if possible to determine, whether it remains in effect;
- iii. whether the issuing court possessed subject-matter jurisdiction and jurisdiction over the person of the parties;
- iv. whether the issuing court was a court of record;
- v. whether the order or judgment was obtained by fraud, duress, or coercion;
- vi. whether the order or judgment was obtained through a process that afforded fair notice, the right to appear and compel attendance of witnesses, and a fair hearing before an independent magistrate;
- vii. whether the order or judgment contravenes the public policy of the Crow Nation;
- viii. whether the order or judgment is final under the laws and procedures of the rendering court, unless the order is a non-criminal order for the protection or apprehension of an adult, juvenile or child, or another type of temporary, emergency order;
- ix. whether the issuing court reciprocally provides for recognition and implementation of orders, judgments and decrees of the Crow Tribal Court; and
- x. any other factors the Court deems appropriate in the interests of justice.

RP 53

Interlocutory Appeals. An interlocutory appeal is one taken from an order other than a final judgment resolving the entire controversy and may be taken only as specifically provided for in the Code.

- a. When an appeal is authorized prior to entry of final judgment the Crow Tribal Court will prepare and transmit to the Crow Court of Appeals a record of proceedings related to the subject matter of the appeal, retaining the original Court file in the Clerk's office.
- b. The Crow Tribal Court retains jurisdiction over all matters in the case other than the specific order from which the appeal is taken unless the Court of Appeals orders a stay of proceedings.

RP 54

Admission to Practice

No person may appear before the Crow Tribal Court as the representative of another unless the person has been admitted to practice in accordance with § 3-7-701, et seq. #####

