

ONEIDA INDIAN NATION

PENAL CODE

Chapter 1

101 SHORT TITLE

This code shall be known as the Oneida Indian Nation Penal Code.

102 OTHER LIMITATIONS ON APPLICABILITY OF THIS CODE

1. Except as otherwise provided, the procedure governing the accusation, prosecution, conviction and punishment of offenders and offenses is not regulated by this Code but by the Oneida Indian Nation Rules of Criminal Procedure.
2. This code does not bar, suspend, or otherwise affect any right or liability to damages, penalty, forfeiture or other remedy authorized by law to be recovered or enforced in a civil action, regardless of whether the conduct involved in such civil action constitutes an offense defined in this Code.

103 DEFINITIONS

Except where different meanings are expressly specified in subsequent provisions of this code, the following terms have the following meanings:

1. "Benefit" means any gain or advantage to the beneficiary and includes any gain or advantage to a third person pursuant to the desire or consent of the beneficiary.
2. "Court" means the Oneida Nation Court.
3. "Crime" means a felony, misdemeanor or a violation.
4. "Dangerous instrument" means any instrument, article or substance, including a "vehicle" as that term is defined in this section, which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or other serious physical injury.
5. "Deadly physical force" means physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.
6. "Deadly weapon" means any loaded weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged, or a switchable knife, gravity knife, pilum ballistic knife, dagger, billy, blackjack, or metal knuckles.

7. "Felony" means an offense for which a sentence to a term of imprisonment not to exceed three years may be imposed.
8. "He" means both the male and female gender.
9. "Juror" means any person who is a member of any jury impaneled by the court. The term juror also includes a person who has been drawn or summoned to attend as a prospective juror.
10. "Misdemeanor" means an offense for which a sentence to a term of imprisonment in excess of six months cannot be imposed.
11. "Native American" means a person who is an enrolled member of a state recognized or federally recognized Indian tribe or Indian Nation.
12. "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of the Nation.
13. "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality.
14. "Possess" means to have physical possession or otherwise to exercise dominion or control over tangible property.
15. "Physical injury" means impairment of physical condition or substantial pain.
16. "Public servant" means (a) any public officer or employee of the Nation or of any political subdivision thereof, or (b) any person exercising the functions of any such public officer or employee.
17. "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.
18. "Vehicle" means a "motor vehicle", "trailer" or semi-trailer," any snowmobile, any aircraft, or any vessel equipped for propulsion by mechanical means or by sail.
19. "Violation" means an offense for which a sentence to a term of imprisonment in excess of three months cannot be imposed.