

2. Information concerning a record of any communication passing over telephone or telegraph lines of any such corporation.

Unlawfully obtaining communications information is a class B misdemeanor.

806 FAILING TO REPORT CRIMINAL COMMUNICATIONS

1. It shall be the duty of a telephone or telegraph corporation, or an entity operating an electronic communications service, and of any employee, officer or representative thereof having knowledge that the facilities of such corporation or entity are being used to conduct any criminal business, traffic or transaction, to furnish or attempt to furnish to an appropriate law enforcement officer or agency all pertinent information within his possession relating to such matter, and to cooperate fully with any law enforcement officer or agency investigating such matter.
2. A Native American is guilty of failing to report criminal communications when he knowingly violates any duty prescribed in subdivision one of this section.

Failing to report criminal communications is a class B misdemeanor.

M. OFFENSES AGAINST PUBLIC SAFETY

807 DEFINITIONS

As used in this Code, the following terms shall mean and include:

1. "Machine-gun" means a weapon of any description, irrespective of size, by whatever name known, loaded or unloaded, from which a number of shots or bullets may be rapidly or automatically discharged from a magazine with one continuous pull of the trigger and includes a sub-machine gun.
2. "Firearm silencer" means any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol or other firearms to be silent, or intended to lessen or muffle the noise of the firing of any gun, revolver, pistol or other firearms.
3. "Firearm" means (a) any pistol or revolver; or (b) a shotgun having one or more barrels less than eighteen inches in length; or (c) a rifle having one or more barrels less than sixteen inches in length; or (d) any weapon made from a shotgun or rifle whether by alteration, modification, or otherwise if such weapon as altered, modified, or otherwise has an overall length of less than twenty-six inches. For the purpose of this subdivision the length of the barrel on a shotgun or rifle shall be determined by measuring the distance between the muzzle and the face of the bolt, breech, or breechlock when closed and when the shotgun or rifle is cocked; the overall length of a weapon made from a shotgun or rifle is the distance between the extreme ends of the weapon measured along a line parallel to the center line of the bore. Firearm does not include an antique firearm.
4. "Switchblade knife" means any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife.
5. "Gravity knife" means any knife which has a blade which is released from the handle or

sheath thereof by the force of gravity or the application of centrifugal force which, when released, is locked in place by means of a button, spring, lever or other device.

- a. "Pilum ballistic knife" means any knife which has a blade which can be projected from the handle by hand pressure applied to a button, lever, spring or other device in the handle of the knife.
6. "Dispose of" means to dispose of, give, give away, lease-loan, keep for sale, offer, offer for sale, sell, transfer and otherwise dispose of.
7. "Deface" means to remove, deface, cover, alter or destroy the manufacturer's serial number or any other distinguishing number or identification mark.
8. "Gunsmith" means any person, firm, partnership, corporation or company who engages in the business of repairing, altering, assembling, manufacturing, cleaning, polishing, engraving or trueing, or who performs any mechanical operation on, any firearm or machine gun.
9. "Dealer in firearms" means any person, firm, partnership, corporation or company who engages in the business of purchasing, selling, keeping for sale, loaning, leasing, or in any manner disposing of, any pistol or revolver.
10. "Licensing officer" means Oneida Indian Nation Police Department.
11. "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.
12. "Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.
13. "Cane Sword" means a cane or swagger stick having concealed within it a blade that may be used as a sword or stiletto.
14. "Chuka stick" means any device designed primarily as a weapon, consisting of two or more lengths of a rigid material joined together by a thong, rope or chain in such a manner as to allow free movement of a portion of the device while held in the hand and capable of being rotated in such a manner as to inflict serious injury upon a person by striking or choking. These devices are also known as nunchaku and centrifugal force sticks.
 - a. "Antique firearm" means: Any unloaded muzzle loading pistol or revolver with a matchlock, flintlock, percussion cap, or similar type of ignition system, or a pistol or revolver which uses fixed cartridges which are no longer available in the ordinary channels of commercial trade.
15. "Loaded firearm" means any firearm loaded with ammunition or any firearm which is possessed by one who, at the same time, possesses a quantity of ammunition which may be used to discharge such firearm.

- a. "Electronic dart gun" means any device designed primarily as a weapon, the purpose of which is to momentarily stun, knock out or paralyze a person by passing an electrical shock to such person by means of a dart or projectile.
 - b. "Kung Fu star" means a disc-like object with sharpened points on the circumference thereof and is designed for use primarily as a weapon to be thrown.
 - c. "Electronic stun gun" means any device designed primarily as a weapon, the purpose of which is to stun, cause mental disorientation, knock out or paralyze a person by passing a high voltage electrical shock to such person.
- 16. "Certified not suitable to possess a rifle or shotgun" means that the director or physician in charge of any hospital or institution for mental illness, public or private, has certified to the superintendent of state police or to any organized police department of a county, city, town or village of this state, that a person who has been judicially adjudicated incompetent, or who has been confined to such institution for mental illness pursuant to judicial authority, is not suitable to possess a rifle or shotgun.
 - 17. "Serious offense" means any of the following offenses defined in the criminal law: illegally using, carrying or possessing a pistol or other dangerous weapon; making or possessing burglar's instruments; buying or receiving stolen property; unlawful entry of a building; aiding escape from prison; disorderly conduct of sodomy or rape which was designated as a misdemeanor; any violation relating to narcotic drugs, and any violation relating to depressant and stimulant drugs fraudulent accosting; loitering; endangering the welfare of a child; issuing abortional articles; permitting prostitution; promoting prostitution in the third degree;
 - 18. "Armor piercing ammunition" means any ammunition capable of being used in pistols or revolvers containing a projectile or projectile core, or a projectile or projectile core for use in such ammunition, that is constructed entirely (excluding the presence of traces of other substances) from one or a combination of any of the following: tungsten alloys, steel, iron, brass, bronze, beryllium copper, or uranium.

808 CRIMINAL POSSESSION OF A WEAPON IN THE FOURTH DEGREE

A Native American is guilty of criminal possession of a weapon in the fourth degree when:

- 1. He possesses any firearm, electronic dart gun, electronic stun gun, gravity knife, switchblade knife, pilum ballistic knife, cane sword, billy, blackjack, bludgeon, metal knuckles, chuka stick, sand bag, sand club, wrist-brace type slingshot or slingshot, shirken or "Kung Fu star"; or
- 2. He possesses any dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, or any other dangerous or deadly instrument or weapon with intent to use the same unlawfully against another; or
- 3. He knowingly has in his possession a rifle, shotgun or firearm in or upon a building or grounds used for educational purposes; or
- 4. He possesses a rifle or shotgun and has been convicted of a felony or serious offense; or

5. He possesses any dangerous or deadly weapon and is not a citizen of the United States; or
6. He is a person who has been certified not suitable to possess a rifle or shotgun, and refuses to yield possession of such rifle or shotgun upon the demand of a police officer. Whenever a person is certified not suitable to possess a rifle or shotgun, a member of the police department to which such certification is made, or of the state police, shall forthwith seize any rifle or shotgun possessed by such person. A rifle or shotgun seized as herein provided shall not be destroyed, but shall be delivered to the headquarters of such police department, or state police, and there retained until the aforesaid certificate has been rescinded by the director or physician in charge, or other disposition of such rifle or shotgun has been ordered or authorized by a court of competent jurisdiction.
7. He knowingly possesses a bullet containing an explosive substance designed to detonate upon impact.
8. He possesses any armor piercing ammunition with intent to use the same unlawfully against another.

Criminal possession of a weapon in the fourth degree is a class A misdemeanor.

809 CRIMINAL POSSESSION OF A WEAPON IN THE THIRD DEGREE

A Native American is guilty of criminal possession of a weapon in the third degree when:

1. He commits the crime of criminal possession of a weapon in the fourth degree as defined in subdivision one, two, three or five of section 807, and has been previously convicted of any crime; or
2. He possesses any explosive or incendiary bomb, bombshell, firearm silencer, machine-gun or any other firearm or weapon simulating a machine-gun and which is adaptable for such use; or
3. He knowingly has in his possession a machine-gun, firearm, rifle or shotgun which has been defaced for the purpose of concealment or prevention of the detection of a crime or misrepresenting the identity of such machine-gun, firearm, rifle or shotgun; or
4. He possesses any loaded firearm. Such possession shall not, except as provided in subdivision one, constitute a violation of this section if such possession takes place in such person's home or place of business.
5. (i) He possesses twenty or more firearms; or
(ii) he possesses a firearm and has been previously convicted of a felony or a class A misdemeanor defined in this code within the five years immediately preceding the commission of the offense and such possession did not take place in the person's home or place of business.

Criminal possession of a weapon in the third degree is a class D felony.

810 CRIMINAL POSSESSION OF A WEAPON IN THE SECOND DEGREE

A Native American is guilty of criminal possession of a weapon in the second degree when he possesses a machine-gun or loaded firearm with intent to use the same unlawfully against another.

Criminal possession of a weapon in the second degree is a class C felony.

811 CRIMINAL POSSESSION OF A DANGEROUS WEAPON IN THE FIRST DEGREE

A Native American is guilty of criminal possession of a dangerous weapon in the first degree when he possesses any explosive substance with intent to use the same unlawfully against the person or property of another.

Criminal possession of a weapon in the first degree is a class B felony.

812 UNLAWFUL POSSESSION OF WEAPONS BY PERSONS UNDER SIXTEEN

It shall be unlawful for any person under the age of sixteen to possess any air-gun, spring-gun or other instrument or weapon in which the propelling force is a spring or air, or any gun or any instrument or weapon in or upon which any loaded or blank cartridges may be used, or any loaded or blank cartridges or ammunition therefor, or any dangerous knife; provided that the possession of rifle or shotgun or ammunition therefor by the holder of a hunting license or permit issued pursuant to the Nation Conservation Law and used in accordance with said law shall not be governed by this section.

A Native American who violates the provisions of this section shall be adjudged a juvenile delinquent.

813 CRIMINAL USE OF A FIREARM IN THE SECOND DEGREE

A Native American is guilty of criminal use of a firearm in the second degree when he commits any class C violent felony offense.

1. possesses a deadly weapon, if the weapon is a loaded weapon from which a shot, readily capable of producing death or other serious injury may be discharged; or
2. displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm.

Criminal use of a firearm in the second degree is a class C felony.

814 CRIMINAL USE OF A FIREARM IN THE FIRST DEGREE

A Native American is guilty of criminal use of a firearm in the first degree when he commits any class B violent felony offense and he either:

1. possesses a deadly weapon, if the weapon is a loaded weapon from which a shot, readily capable of producing death or other serious injury may be discharged; or
2. displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm.

Criminal use of a firearm in the first degree is a class B felony.

815 MANUFACTURE, TRANSPORT, DISPOSITION AND DEFACEMENT OF WEAPONS AND DANGEROUS INSTRUMENTS AND APPLIANCES

1. Any Native American who manufactures or causes to be manufactured any machine-gun is guilty of a class D felony. Any person who manufactures or causes to be manufactured any switchblade knife, gravity knife, pilum ballistic knife, billy, blackjack, bludgeon, metal knuckles, Kung Fu star, chuka stick, sandbag, sandclub or slingshot is guilty of a class A misdemeanor.
2. Any Native American who transports or ships any machine-gun or firearm silencer, or who transports or ships as merchandise five or more firearms, is guilty of a class D felony. Any person who transports or ships as merchandise any firearm, switchblade knife, gravity knife, pilum ballistic knife, billy, blackjack, bludgeon, metal knuckles, Kung Fu star, chuka stick, sandbag or slingshot is guilty of a class A misdemeanor.
3. Any Native American who disposes of any machine-gun or firearm silencer is guilty of a class D felony. Any person who knowingly buys, receives, disposes of, or conceals a machine-gun, firearm, rifle or shotgun which has been defaced for the purpose of concealment or prevention of the detection of a crime or misrepresenting the identity of such machine-gun, firearm, rifle or shotgun is guilty of a class D felony.
4. Any Native American who disposes of any of the weapons, instruments or appliances specified in subdivision one of section 808, except a firearm, is guilty of a class A misdemeanor, and he is guilty of a class D felony if he has previously been convicted of any crime.
5. Any Native American who disposes of any of the weapons, instruments, appliances or substances specified in section 812 to any other person under the age of sixteen years is guilty of a class A misdemeanor.
6. Any Native American who willfully defaces any machine-gun or firearm is guilty of a class D felony.

816 CRIMINAL SALE OF A FIREARM IN THE THIRD DEGREE

A Native American is guilty of criminal sale of a firearm in the third degree when he is not authorized pursuant to law to possess a firearm and he unlawfully either:

1. sells, exchanges, gives or disposes of a firearm to another person not authorized pursuant to law to possess a firearm; or
2. possesses a firearm with the intent to sell it.

Criminal sale of a firearm in the third degree is a class E felony.

817 CRIMINAL SALE OF A FIREARM IN THE SECOND DEGREE

A Native American is guilty of criminal sale of a firearm in the second degree when he unlawfully sells, exchanges, gives or disposes of to another ten or more firearms.

Criminal sale of a firearm in the second degree is a class D felony.

818 CRIMINAL SALE OF A FIREARM IN THE FIRST DEGREE

A Native American is guilty of a criminal sale of a firearm in the first degree when he unlawfully sells, exchanges, gives or disposes of to another twenty or more firearms.

Criminal sale of a firearm in the first degree is a class C felony.

819 CRIMINAL SALE OF A FIREARM WITH THE AID OF A MINOR

A Native American over the age of eighteen years of age is guilty of criminal sale of a weapon with the aid of a minor when a person under sixteen years of age knowingly and unlawfully sells, exchanges, gives or disposes of a firearm in violation of this article, and such person over the age of eighteen years of age, acting with the mental culpability required for the commission thereof, solicits, requests, commands, importunes or intentionally aids such person under sixteen years of age to engage in such conduct.

Criminal sale of a firearm with the aid of a minor is a class D felony.

820 PRESUMPTIONS OF POSSESSION, UNLAWFUL INTENT AND DEFAACEMENT

1. The presence in any room, dwelling, structure or vehicle of any machine-gun is presumptive evidence of its unlawful possession by all persons occupying the place where such machine-gun is found.
2. The presence in any stolen vehicle of any weapon, instrument, appliance or substance specified in sections 807, 808, 809, 810, and 811 is presumptive evidence of its possession by all persons occupying such vehicle at the time such weapon, instrument, appliance or substance is found.
3. The presence in an automobile, other than a stolen one or a public omnibus, of any firearm, defaced firearm, defaced rifle or shotgun, firearm silencer, explosive or incendiary bomb, bombshell, gravity knife, switchblade knife, pilum ballistic knife, dagger, dirk, stiletto, billy, blackjack, metal knuckles, chuka stick, sandbag, sand club or slingshot is presumptive evidence of its possession by all persons occupying such automobile at the time such weapon, instrument or appliance is found, except under the following circumstances: (a) if such weapon, instrument or appliance is found upon the person of one of the occupants therein; (b) if such weapon, instrument or appliance is found in an automobile which is being operated for hire by a duly licensed driver in the due, lawful and proper pursuit of his trade, then such presumption shall not apply to the driver; or (c) if the weapon so found is a pistol or revolver and one of the occupants, not present under duress, has in his possession a valid license to have and carry concealed the same.
4. The possession by any person of the substance as specified in section 810 is presumptive evidence of possessing such substance with intent to use the same unlawfully against the person or property of another if such person is not licensed or otherwise authorized to possess such substance. The possession by any person of any dagger, dirk, stiletto, dangerous knife or any other weapon, instrument, appliance or substance designed, made or adapted for use primarily as a weapon, is presumptive evidence of intent to use the same unlawfully against another.
5. The possession by any person of a defaced machine-gun, firearm, rifle or shotgun is

presumptive evidence that such person defaced the same.

6. The possession of five or more firearms by any person is presumptive evidence that such person possessed the firearms with the intent to sell same.

821 CRIMINAL SALE OF A FIREARM TO A MINOR

A Native American is guilty of criminal sale of a firearm to a minor when he is not authorized pursuant to law to possess a firearm and he unlawfully sells, exchanges, gives or disposes of a firearm to another person who is or reasonably appears to be less than nineteen years of age who is not licensed pursuant to law to possess a firearm.

Criminal sale of a firearm to a minor is a class D felony.

822 EXEMPTIONS

1. Police officers.
2. Persons in the military or other service of the United States, in pursuit of official duty or when duly authorized by federal law, regulation or order to possess the same.
3. Persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the same is necessary for manufacture, transport, installation and testing under the requirements of such contract.
4. Possession of a rifle, shotgun or longbow for use while hunting, trapping or fishing, by a person, carrying a valid Nation hunting license.
5. Possession of a switchblade or gravity knife for use while hunting, trapping or fishing by a person carrying a valid Nation hunting license.

823 OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

1. No Native American shall operate a motor vehicle while his ability to operate such motor vehicle is impaired by the consumption of alcohol. A violation of this section shall be punishable by a fine of two hundred fifty dollars, or by imprisonment in a jail for not more than fifteen days, or by both such fine and imprisonment. A person who operates a vehicle in violation of this section after having been convicted of a violation of any subdivision of this section within the preceding two years shall be punished by a fine of not less than three hundred fifty dollars nor more than five hundred dollars, or by imprisonment of not more than thirty days in a jail or by both such fine and imprisonment. A person who operates a vehicle in violation of this section after having been convicted two or more times of a violation of any subdivision of this section within the preceding five years shall be punished by a fine of not less than five hundred dollars nor more than fifteen hundred dollars, or by imprisonment of not more than ninety days in a jail or by both such fine and imprisonment.
2. No Native American shall operate a motor vehicle while he has .10 of one per centum or more by weight of alcohol in his blood as shown by chemical analysis of his blood, breath, urine or saliva pursuant to section 825.