

RESOLUTION OF THE GOVERNING BODY
OF THE THREE AFFILIATED TRIBES OF
THE FORT BERTHOLD RESERVATION

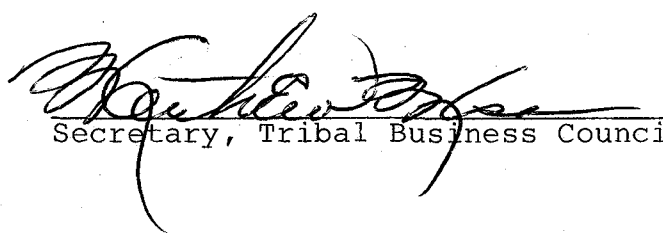
- WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and
- WHEREAS, The Constitution of the Three Affiliated Tribes authorizes and empowers the Tribal Business Council to enact laws in the interest of the welfare and benefit of the Three Affiliated Tribes and their members; and
- WHEREAS, The Code of Laws of the Three Affiliated Tribes of the Fort Berthold Reservation does not currently include any provisions, formally adopted by the Tribal Business Council, setting forth procedures to be followed by the Fort Berthold Tribal Court relative to judicial commitment proceedings; and
- WHEREAS, The Tribal Business Council acknowledges that the problems of alcoholism, drug addiction, and mental illness do exist on the Fort Berthold Reservation, and that, in the interest of the health and welfare of the members of the Three Affiliated Tribes, the implementation of a specific and workable judicial commitment procedure is advisable and necessary, whereby appropriate treatment and/or counseling can be secured for an individual deemed by the Court to be in need thereof, while, at the same time, the Constitutional rights of that individual are adequately protected;
- NOW, THEREFORE, BE IT RESOLVED, That the Tribal Business Council, pursuant to its Constitutional power and authority, hereby formally approves adoption of the attached provisions entitled "Commitment Procedure," which provisions shall forthwith be designated as Section 14 of Chapter II of the Code of Laws of the Three Affiliated Tribes of the Fort Berthold Reservation.
- BE IT FURTHER RESOLVED, That said attached provisions entitled "Commitment Procedure" shall take effect immediately.

CERTIFICATION

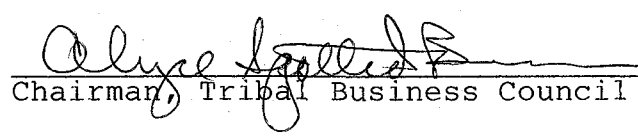
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 11 members of whom 11 constituting a quorum were present at a Regular meeting thereof duly called, noticed, convened and held on the 13 day of January, 1983; that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 9 members, 1 members opposed, — members abstained, 2 members not voting and that the said Resolution has not been rescinded or amended in any way.

Chairman (Voting) (~~Not Voting~~)

Dated this 13 day of January, 1983.


Secretary, Tribal Business Council

ATTEST:


Chairman, Tribal Business Council

COMMITMENT PROCEDURE

SECTION 1.

DEFINITIONS

A. "Alcoholic" means an individual who has lost the power of self-control or exhibits cognitive deficiencies, general confused thinking, or other manifestations of disorientation, which show an inability to make judgments about areas of behavior that do not directly relate to his or her drinking.

B. "Drug addict" means an individual who has a physiological or psychological dependence on a drug or drugs which he or she uses in a manner not prescribed by a physician.

C. "Mentally ill individual" means an individual with an organic, mental, or emotional disorder which substantially impairs the capacity to use self-control, judgment, and discretion in the conduct of personal affairs and social relations. This term is not intended to include a mentally retarded or mentally deficient individual of significantly subaverage general intellectual functioning which originates during the developmental period and is associated with impairment in adaptive behavior." (Note: Drug addiction and alcoholism do not per se constitute mental illness, although individuals suffering from these conditions may also be suffering from mental illness.)

D. "Individual requiring treatment" means either

- (1) an individual who is mentally ill, an alcoholic, or a drug addict and who, as a result of such condition, can reasonably be expected within the near future to intentionally or unintentionally seriously physically harm himself, others, or property, and who has engaged in an act or acts or has made significant threats that are substantially supportive of this expectation, or
- (2) an individual who is mentally ill, an alcoholic, or a drug addict and who, as a result of such condition, is unable to attend to his or her basic physical needs, such as food, clothing, or shelter, that must be attended to for him or her to avoid serious harm in the near future, and who has demonstrated that inability by failing to meet those basic physical needs.

E. "Respondent" means the individual alleged to be mentally ill, an alcoholic, or a drug addict in the proceedings.

SECTION 2.

PETITION

A. The petition for commitment shall be filed with the Court by a Public Health Service/Indian Health Service physician, registered nurse, mental health official, or social services official, the Three Affiliated Tribes Human Resources Administrator, or a Three Affiliated Tribes Alcoholism Treatment Center Counselor. Any such petitioner must have reason to believe that the respondent is mentally ill, an alcoholic, or a drug addict.

B. Upon filing, the Petition shall be accompanied by separate supporting affidavits completed and executed by two (2) individuals, other than the petitioner, who have actual personal knowledge of the mental, alcohol, or drug problem of the respondent. Such affidavits shall set forth the reason or reasons for the proposed treatment and/or hospitalization. In the case wherein the respondent is alleged to be a harm only to himself or herself, one (1) of the supporting affidavits shall be completed and executed by a licensed physician, psychiatrist, or clinical psychologist.

C. Upon receipt and review of the petition and supporting affidavits, the Chief Judge (or Acting Chief Judge) of the Court may, within his discretion, order law enforcement personnel to apprehend and place the respondent in protective custody until such time as a hearing on the matter can be held. Should such Chief Judge deem an emergency to exist, he shall order the detention or hospitalization of the respondent in an available facility in which the freedom of the respondent is least restricted and yet the respondent, other persons, and/or property are adequately protected. In the event that the respondent should be detained (as opposed to hospitalized), a probable cause hearing shall be held within a period of thirty-six (36) hours from the time of the commencement of the detention for the purpose of determining whether probable cause exists to continue detention of the respon-

dent until such time as a full hearing on the petition can be held. In the event that such probable cause hearing is not held within the prescribed thirty-six (36)-hour period, the respondent shall be forthwith released from detention.

D. The respondent shall be served with, not later than seventy-two (72) hours before the full hearing, copies of the petition and the two (2) supporting affidavits, and a notice of hearing and statement of rights. However, the respondent has the right to waive, in writing, the seventy-two (72)-hour service requirement, provided that such waiver is made knowingly and voluntarily by the respondent himself or herself.

SECTION 3.

HEARING

A. The full hearing on the petition shall be held no later than five (5) days from the date of the commencement of any detention or hospitalization, or no later than ten (10) days from the date of service of the petition made in lieu of detention or hospitalization.

B. The Chief Judge or Associate Judge who presides over the full hearing shall

- (1) hold the hearing in the presence of the respondent himself or herself,
- (2) ensure that a complete record of the hearing, including a transcript, is made and placed in the Court file,
- (3) admit as evidence into the record any sworn affidavits of physicians, psychiatrists, and clinical psychologists and any verbal testimony introduced by interested parties either in support of or in opposition to the proposed treatment and/or hospitalization, and
- (4) in support of any Court-ordered disposition involving commitment to a facility for the purpose of inpatient treatment and/or hospitalization, ensure that the quantum of proof admitted and supportive of any such disposition is constituted by clear and convincing evidence that the respondent is a mentally ill individual, an alcoholic, or a drug addict and is an individual requiring treatment, as respectively defined in Section 1 hereinabove.

SECTION 4.

DISPOSITION

A. Upon completion of the full hearing, the Court, based upon the evidence admitted into the record, may order any one or combination of the following dispositions:

- (1) Dismissal of the petition.
- (2) Commitment of the respondent to a facility, located outside of the exterior boundaries of the Fort Berthold Reservation, for the purpose of securing appropriate inpatient treatment and/or hospitalization.
- (3) Commitment of the respondent to a treatment facility, located within the exterior boundaries of the Fort Berthold Reservation, for the purpose of securing appropriate inpatient treatment.
- (4) Participation by the respondent in the periodic outpatient alcoholism meetings administered by the Three Affiliated Tribes Alcohol Rehabilitation Program, with the extent and term of such participation to be determined by the Three Affiliated Tribes Alcoholism Treatment Center Supervisor.

B. In the case wherein the Court-ordered disposition involves inpatient treatment and/or hospitalization, or participation in periodic outpatient alcoholism meetings, any such Court order shall be enforced by the contempt authority of the Court, should the respondent fail to comply with such order.