

Poarch Band of Creek Indians Code  
As Amended: June 7, 1997  
[Includes some revisions dated 1999.]

## 9-2 EXTRADITION

### 9-2-1 General Provisions

(a) Subject to the constitution of the United States and all applicable federal law it shall be the duty of the Tribal Chairman to have arrested and delivered to the executive authority of any state or other Indian tribe upon written demand any person charged in that jurisdiction with treason, or any felony, or any offense committed within the jurisdiction of any other Indian tribe, who has fled from justice and is found in and subject to the jurisdiction of the Tribal Court of the Poarch Band of Creek Indians. No demand for extradition of any person subject to the jurisdiction of the Tribal court shall be recognized by the Tribal Chairman unless the demand for extradition is made in conformity with the law of the requesting state or other tribal jurisdiction. All extraditions must state that the accused was present in the demanding jurisdiction at the time of the commission of the alleged crime, that the accused thereafter fled from that jurisdiction. The demand must be accompanied by a copy of an affidavit or indictment substantially charging that person with a crime or crimes against the demanding jurisdiction, together with a copy of any warrant which was issued for the arrest of the accused, or a copy of a judgment of conviction or of a sentence imposed together with an authenticated statement by the executive authority of the demanding jurisdiction that the person sought has escaped from confinement or has broken the terms of bail, probation or parole.

### 9-2-2 Investigation Upon Extradition Demand

(a) When a demand for extradition has been made upon the Tribal Chairman, the Tribal Chairman may in his discretion call upon the Director of the Department of Public Safety to investigate or assist in investigating the extradition demand and report to the Tribal Chairman all facts and circumstances surrounding the extradition request.

### 9-2-3 Warrant of Arrest

(a) If the Tribal Chairman determines that the extradition request should be complied with, he shall sign a warrant of arrest directed to the Tribal Police. The warrant must substantially comply with the requirements of warrants as set out in the Tribal Code.

#### 9-2-4 Hearing

(a) No person arrested upon such warrants shall be delivered over to the demanding jurisdiction until he has been taken before the Tribal Court. The Tribal Court shall inform the accused of the demand made for his surrender. The accused must also be advised of the crime or crimes for which he is charged, and his right to demand and procure legal counsel. If the accused desires to test the legality of his arrest or any part of the extradition process it shall be done by filing a writ of habeus corpus. All writs of habeus corpus filed pursuant to this section shall be the paramount in continuing order of business of the Tribal Court until the same has been disposed of. The Tribal Court shall hear the writ of habeus corpus and determine whether or not all rights of the accused have been complied with and whether the accused should be delivered to the requesting jurisdiction. Neither the Tribal Chairman nor the Tribal Court may inquire into the guilt or innocence of the accused in any proceeding connected with the extradition demand except to identify the accused as the person sought to be extradited.

#### 9-2-5 Extradition By The Tribe

(a) When extradition of persons from other states or Indian tribes is fought by the Poarch Band of Creek Indians or a person charged with a crime or with escaping from confinement for breaking the terms of bail, probation or parole in the jurisdiction of the Tribal Court, the Tribal Chairman shall demand from the executive authority of the appropriate jurisdiction the delivery of the person sought to the custody of the Tribe.

(b) Extradition requests to bring persons into the jurisdiction of the tribe shall state the name of the person sought, the crime charged against the same, the approximate time, place and circumstances of its commission, the jurisdiction in which the person is believed to be and location therein and a verified statement that at the time the extradition request is being made in the opinion of the Tribal Chairman and the Tribal Court Judge the ends of justice require i arrest and return of the accused to the jurisdiction l of the tribe for trial and that the extradition proceeding is not being instituted to enforce a private claim.

(c) All applications for extradition shall be verified by affidavit, executed in duplicate and accompanied by two (2) certified copies of the affidavit, warrant of arrest, minute entry of conviction or other document which is the basis of seeking return of the person to the tribal jurisdiction.

#### 9-2-6 Waiver of Extradition

(a) Any person who is within the jurisdiction of the tribe who is sought to be extradited by another jurisdiction may waive all rights and proceedings and voluntarily return to the jurisdiction in which he is sought.

(b) Waiver of extradition shall be accomplished by the accused signing in the presence of the Tribal Court Judge an affidavit which states substantially that the accused consents to return to the demanding jurisdiction, that he has been informed of all his rights available to him with respect to challenging the extradition and that being informed of his rights understands the same and now wishes to make an intelligent waiver thereof.

#### 9-2-7 Sovereign Immunity Not Waived

(a) No provision of the section of this code pertaining to extradition shall be deemed or construed to constitute a waiver by the tribe of its sovereign immunity, sovereignty rights, powers and privileges.

#### 9-2-8 Limitations of Extradition

(a) The Tribe shall enter into extradition proceedings at the request of only those jurisdictions who have, prior to or at the time of seeking extradition recognized the authority of the Tribe to extradite fugitives from the applying jurisdiction.