

Title 6 - Criminal Procedures

Chapter 1. Complaint

Sec. 101. Complaint.

(a) A complaint is the written statement of the essential facts charging that a named individual has committed a particular criminal offense. All criminal prosecutions shall be initiated by a complaint filed with the Court signed by the prosecutor and sworn to before a judge. All complaints initiated by the prosecutor shall be based on probable cause that the crime charged happened and that the defendant(s) committed the crime charged. A judge shall have the authority to demand the filing of an information by the prosecutor or to hold a preliminary hearing to determine whether lawful probable cause as to the crime exists, and whether the appropriate defendant(s) exist prior to the issuance of a summons or warrant for the arrest of the defendant(s).

(b) Complaints shall contain:

(1) A written statement of the violation describing in ordinary language the nature of the offense committed, including the time and place as nearly as may be ascertained. Statements or affidavits by persons having personal knowledge may be expressly referenced in and attached to the complaints.

(2) The name and description of the person(s) alleged to have committed the offense.

(3) A statement describing why the Court has personal jurisdiction of the defendant.

(4) A description of the offense charged.

(5) A statement of the maximum authorized penalty.

(6) The signature of the prosecutor sworn to before a judge.

(c) For purposes of crimes involving non-Indian domestic or dating violence, the complaint shall also allege, and the prosecution must prove beyond a reasonable doubt:

(1) That the defendant is a non-Indian.

(2) That the victim is Indian.

(3) That the offense occurred within the Fort Peck Tribes' Indian country.

(4) That the defendant has sufficient ties to the Fort Peck Tribes, such that:

(A) The defendant resided in the Fort Peck Tribes' Indian country at the time of the offense.

(B) The defendant was employed in the Fort Peck Tribes' Indian country at the time of the offense, or

(C) At the time of the offense, the defendant was a spouse, intimate partner, or dating partner of either

(i) A member of the Fort Peck Tribes, or

(ii) A non-member Indian who resides in the Fort Peck Tribes' Indian country.

(d) For purposes of crimes involving non-Indian protection order violations, the complaint shall also allege, and the prosecution must prove beyond a reasonable doubt:

(1) That the defendant is a non-Indian,

(2) That the protection order was issued against the defendant,

(3) That the protected person is an Indian,

(4) That the violation occurred within the Fort Peck Tribes' Indian country,

(5) That the defendant has sufficient ties to the Fort Peck Tribes, such that:

(A) The defendant resided in the Fort Peck Tribes' Indian country at the time of the offense;

(B) The defendant was employed in the Fort Peck Tribes' Indian country at the time of the offense, or

(C) At the time of the offense, the defendant was a spouse, intimate partner, or dating partner of either

(i) A member of the Fort Peck Tribes, or

(ii) A non-member Indian who resides in the Fort Peck Tribes' Indian country.

(6) That the protection order is consistent with 18 U.S.C. 2265(b), and

(7) That the violation relates to that portion of the protection order that provides protection against violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to, the protected person.

(e) The Chief Judge may designate an individual or individuals who shall be available to assist persons in drawing up complaints and who shall screen them for sufficiency. Such complaints shall then be submitted without necessary delay

to the prosecutor and, if he/she approves, to a judge to determine whether an arrest warrant or summons should be issued.

(AS PER RESOLUTION NOS. 27-201-2013-12, DATED 12/23/2013; 27-788-2014-06, DATED 6/09/2014; 27-1631-2015-03, DATED 3/9/2015.)