

KALISPEL RESOLUTION NO. 2012-06



Kalispel Tribe of Indians
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RESOLUTION

WHEREAS, the Kalispel Business Committee is the duly Constituted governing body of the Kalispel Tribe by the authority of the Constitution and By-Laws for the Kalispel Tribe; and,

WHEREAS, under the Constitution and By-Laws of the Tribe, the Kalispel Business Committee is charged with the duty of protecting the health, security and general welfare of the Kalispel Tribe and all reservation residents; and

WHEREAS, it has been recognized that the Tribe's Law & Order Code Section 2-12 EXTRADITION needs to be updated and amended; and

WHEREAS, the Tribe's Prosecutor, Court Clerk, Presiding Judge, Tribal Attorney and Senior Tribal Attorney have met and agreed to the attached amendment changing Section 2-12 of the Tribal Code.

NOW, THEREFORE, BE IT RESOLVED that the Kalispel Tribal Council amends the Tribal Law and Order Code Section 2-12 EXTRADITION by adopting the attached Code provisions, effective immediately.

CERTIFICATION

The Kalispel Business Committee adopted the foregoing RESOLUTION at a meeting held on the 17 day of November, 2011, at the Tribal office on the Kalispel Indian Reservation near Usk, Washington, with the required quorum present by a vote of 3 FOR and 0 AGAINST.

Handwritten signature of Glen Nenema in cursive script.

GLEN NENEMA, CHAIRMAN
KALISPEL BUSINESS COMMITTEE
(TERM EXPIRES JUNE 2014)

Handwritten signature of Darren Holmes in cursive script.

DARREN HOLMES, SECRETARY
KALISPEL BUSINESS COMMITTEE
(TERM EXPIRES JUNE 2013)

SECTION 2-12: EXTRADITION

2-12.01 ARREST AND/OR DETENTION

A Kalispel Tribal Officer may serve and arrest an Indian based on a foreign bench warrant or foreign arrest warrant issued by any Federal, State, Municipal, or other Tribal Court. A Kalispel Tribal Officer may detain a non-Indian based on a foreign bench warrant or foreign arrest warrant issued by any Federal, State, Municipal, or other Tribal Court for a reasonable time until the appropriate authority can arrest the person for the outstanding warrant. A Kalispel Tribal Officer must have probable cause to believe that the foreign warrant exists at the time of arrest or detention.

2-12.02 PROCEDURE FOLLOWING ARREST

The person arrested on a foreign warrant shall be transported under Kalispel Tribal authority to jail following a Kalispel Tribal Officer or a law enforcement dispatcher confirming that the foreign warrant is extraditable. If the Kalispel Tribal Officer confirms that the foreign warrant is a non-extraditable warrant, the person shall be released. If the foreign warrant is extraditable, the person shall be held in jail pending an initial hearing.

The Kalispel Tribal Judge shall be provided with a copy of the foreign warrant within twenty-four (24) hours of the person's arrest. The Kalispel Tribal Judge shall review the copy of the warrant to determine whether there is probable cause to believe that the warrant is valid. The Kalispel Tribal Judge shall order of release of the person arrested on the foreign warrant if the Judge finds that there is not probable cause to believe that there is a valid warrant.

2-12.03 HEARING ON EXTRADITION

The person arrested on a foreign warrant shall have an initial hearing on the next judicial day, or no later than 72 hours following arrest, excluding holidays and weekends. The person being detained on the foreign warrant may be represented by counsel and has a right to challenge the validity of the warrant, and/or that they are not the person named in the warrant, and/or that the arrest by the Kalispel Tribal Officer was illegal. If the person challenges the extradition based on any or all of the foregoing reasons, an evidentiary hearing shall be held within seven (7) days of the initial hearing, unless the person held on the foreign warrant requests additional time or the Court finds good cause exists to set a hearing beyond seven (7) days.

The Court may set conditions of release, including but not limited to bail, pending the hearing challenging extradition. The Kalispel Tribal Court may set bail in the amount no less than what is stated on the foreign warrant.

At the hearing challenging extradition, the Judge shall determine by a preponderance of the evidence, whether the warrant is valid, whether the person held is the person named in the warrant, and whether the arrest was legal. The rules of evidence do not apply to any of the hearings on extradition.

The person may waive their right to challenge the warrant and agree to extradition to the foreign jurisdiction. A waiver of extradition shall be executed in writing.

If the person arrested on the foreign warrant posts bail, the person must appear for all hearings on extradition. The Kalispel Tribal Court may forfeit bail, if posted, and issue

a warrant for the person's arrest if the person fails to appear for any hearing regarding extradition.

The Kalispel Tribal Judge shall order the extradition of the person arrested on the foreign warrant if the person waives extradition or if the Judge determines, after a hearing challenging the foreign warrant, that the warrant is currently valid and the person held is the person named in the warrant and the arrest by the Kalispel Tribal Officer was legal.

The requesting jurisdiction of the foreign warrant shall take custody of the person being held by the Kalispel Tribe within seven (7) days of the waiver of extradition or the order of extradition being entered, unless the person is being held on bail for Kalispel Tribal charge(s). If the person has Kalispel Tribal charge(s) and a waiver of extradition or order of extradition has been entered, the requesting jurisdiction of the foreign warrant shall take custody of the person within seven (7) days of the person posting bail on the Kalispel Tribal case(s) or disposition of the Kalispel Tribal case(s), whichever occurs first. The person shall be released from Kalispel Tribal custody if the requesting jurisdiction does not timely take custody of the person as mentioned above.