



# Saint Regis Mohawk Tribe

Chief Beverly Cook  
Chief Michael Conners  
Chief Eric Thompson  
Sub-Chief Shelley Jacobs  
Sub-Chief Agnes Jacobs  
Sub-Chief Benjamin Herne

## TRIBAL COUNCIL RESOLUTION

2018-49

### AMEND THE SAINT REGIS MOHAWK TRIBE POLICE COMMISSION ACT OF 2014

**WHEREAS**, the Saint Regis Mohawk Tribal Council (the "Tribal" Council") is the duly recognized governing body of the Saint Regis Mohawk Tribe (the "Tribe") and is responsible for the health, safety, education and welfare of all community members; and

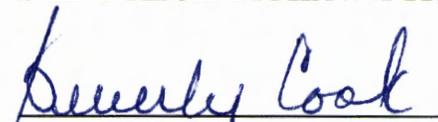
**WHEREAS**, Tribal Council adopted the Saint Mohawk Tribe Police Commission Act of 2014 (the "Act") in TCR 2014-10, which superseded the Tribal Police Commission Act of 1994 enacted in Tribal Council Resolution 1994-G. The purpose of the Act is to ensure the Police Commission remains an independent oversight body while supporting the Tribe's duty to maintain the health, safety, education and welfare of all tribal members; and

**WHEREAS**, the Tribal Council now wishes to amend the Saint Regis Mohawk Tribe Police Commission Act of 2014.

#### NOW, THEREFORE, BE IT RESOLVED:

1. The Saint Regis Mohawk Tribal Council hereby amends the Saint Regis Mohawk Tribe Police Commission Act of 2014, as annexed hereto, and shall now be referred to as the Saint Regis Mohawk Tribe Police Commission Act; and
2. The Saint Regis Mohawk Tribe Police Commission Act, as amended, is effective upon the date of this resolution and supersedes TCR 2014-10.

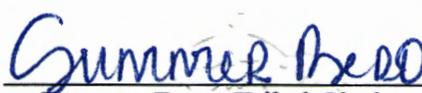
#### SAINT REGIS MOHAWK TRIBAL COUNCIL

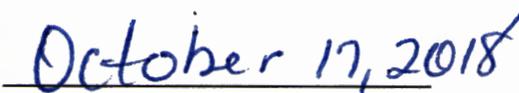
  
Beverly Cook  
Tribal Chief

  
Michael Conners  
Tribal Chief

  
Eric Thompson  
Tribal Chief

**CERTIFICATION:** This is to certify that the Saint Regis Mohawk Tribal Council pursuant to the authority vested therein duly passed the above resolution.

  
Summer Bero, Tribal Clerk

  
Date

**SAINT REGIS MOHAWK TRIBE**

**POLICE COMMISSION ACT**

As Amended by TCR 2018-49

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**SECTION 1. TITLE AND CODIFICATION**

This Act shall be known as the Saint Regis Mohawk Tribe Police Commission Act.

**SECTION 2. PRIOR LAWS**

The Police Commission Act of 2014 is hereby amended through the adoption of this Act.

**SECTION 3. PURPOSE AND GOALS**

- A. The purpose of the Police Commission Act is to provide for independent supervision of the Chief of Police of the Saint Regis Mohawk Tribal Police Department and provide oversight for the Saint Regis Mohawk Tribal Police Department, while supporting the Saint Regis Mohawk Tribe's duty to maintain the health, safety, education and welfare of all members of the Tribe.
  
- B. The goals of the Police Commission Act are to:
  - 1. Support the Saint Regis Mohawk Tribe's goal of self-sufficiency and sovereignty through the implementation and enforcement of Tribal laws, regulations and ordinances.
  - 2. Provide the community with a professional and effective law enforcement agency that is responsive and respectful while serving the community.
  - 3. Strengthen the relationship between the community and the police by providing an accessible and credible complaint review process and increasing the community's confidence in the Department.
  - 4. Provide an open and independent forum for the community to express concerns about police conduct.

**SECTION 4. DEFINITIONS**

- A. Chief of Police: The highest ranking law enforcement officer of the Saint Regis Mohawk Tribal Police Department.
  
- B. Commission: A board comprised of five (5) tribal members of the Saint Regis Mohawk Tribe.
  
- C. Commissioners: Tribal members appointed by the Tribal Council to serve as Police Commissioners of the Saint Regis Mohawk Tribe.
  
- D. Conflict of interest: A conflict of interest occurs when a Police

Commissioner has a family relationship to or financial interest in any complaint or investigation.

- E. Department: The Saint Regis Mohawk Tribal Police Department.
- F. Franklin County District Attorney: The elected district attorney for Franklin County.
- G. New York State § 114: The law granting the New York State Police Superintendent authority to appoint a tribal police officer as a police officer with the power to exercise state criminal law upon the Saint Regis Mohawk Reservation.
- H. Personnel: All civilian personnel of the Saint Regis Mohawk Tribal Police Department.
- I. Police Officers: All qualified and sworn members of the Saint Regis Mohawk Tribal Police Department.
- J. Relative: As defined in section 305 of the Employee Handbook version 2 approved February 1, 2016, or as amended.
- K. Saint Regis Mohawk Indian Reservation: All lands defined in the Treaty of 1796 and any subsequent lands over which the Saint Regis Mohawk Tribe exercises jurisdiction.
- L. Sharing of Powers Agreements: Agreements between the Saint Regis Mohawk Tribe and another government which allows the Tribal Police Department to exercise the law enforcement authority of another jurisdiction and allows another law enforcement agency to exercise the Tribe's law enforcement powers under the direction of the Tribal Police Department.
- M. Tribal Council: The legislative and executive body of the Saint Regis Mohawk Tribe.
- N. Tribal Police: The Saint Regis Mohawk Tribal Police Department.
- O. Tribe: The Saint Regis Mohawk Tribe.

## **SECTION 5. SOURCE OF AUTHORITY**

The Saint Regis Mohawk Tribe has inherent sovereign authority to govern and provide for the health and safety of its members, residents, visitors and territory, and through that authority has created the Saint Regis Mohawk Tribal Police Commission.

## **SECTION 6. SCOPE OF AUTHORITY**

The Saint Regis Mohawk Tribal Police Commission shall supervise the Chief of Police and oversee all complaints and disciplinary actions against the Chief of Police while also overseeing hearings of formal charges against Police Officers or Police Department Personnel as outlined herein and in certain instances hear appeals of personnel complaints as outlined herein. In addition, the Commission may also recommend Police Department policies and procedures or amendments thereto.

## **SECTION 7. COMPOSITION OF THE POLICE COMMISSION**

- A. The Commission shall consist of five (5) members, whose term of office shall be five (5) years staggered. Members may be reappointed for consecutive terms.
  
- B. Appointment Process
  - 1. Within sixty (60) days prior to the end of a current Commissioner's term, or upon a vacancy, the Tribal Council shall post the opening of a position in at least one (1) local newspaper and the Tribal Newsletter. The posting shall request individuals willing to serve on the Commission to submit a letter of interest to the Tribal Council.
  - 2. The applicants shall be reviewed by the Tribal Council.
  - 3. The Tribal Council shall appoint a candidate by majority vote within thirty (30) days of receipt of all applications.
  - 4. Upon appointment by the Tribal Council, the Commission member shall be sworn into office by a Tribal Court Judge.
  
- C. Police Commission Membership Requirements:
  - 1. All Commission members and candidates shall:
    - a. Be a member of the Saint Regis Mohawk Tribe;
    - b. Possess a minimum of a high school diploma or GED, with a preference for a post-secondary degree;
    - c. Pass a drug test and criminal background check;
    - d. Possess supervisory capability, with experience preferred;
    - e. Possess relevant and significant qualifications and experience. Areas of Human Resources, Law, and Policing/Public Safety are preferred;
    - f. Submit proof of supervisory training or willingness to take training within one (1) year; and
    - g. Be willing to maintain communication through technology and be accessible.
  - 2. All Commission members and candidates shall not:
    - a. Have a felony conviction.
    - b. Have been convicted of any misdemeanor offense within one (1)

- year of application and during tenure.
- c. Have been convicted of any drug or alcohol misdemeanor offense within the last five (5) years and during tenure.
- d. Have been convicted of any misdemeanor domestic violence or sexual assault convictions.
- e. Be currently employed by the Saint Regis Mohawk Tribal Police Department.
- f. Have been terminated for cause by any police department.
- g. Have resigned within the past year from a police department.
- h. Be an immediate relative, as defined by the SRMT Employee Handbook, to the Chief of Police.

D. Election of Officers

The Commission members shall nominate a Chairperson by motion and majority vote. The Chairperson shall be the presiding officer at all meetings and shall perform duties pertaining to the office. The Chairperson's term shall be for one (1) year or until a successor is nominated. Failure of the Chairperson to perform his/her duties shall result in the Commission removing the Chairperson from his/her role and responsibility. The Chairperson is a voting member of the Commission, but he/she shall abstain from voting when there is a conflict of interest.

**SECTION 8.           REMOVAL OF COMMISSIONERS**

- A. In the event a Commissioner violates any provisions contained in Section 7 C. 2. above, he or she shall be removed by Tribal Council.
- B. A Commissioner shall also be removed by Tribal Council for a failure to perform his or her duties as a Commissioner.
- C. A Commissioner shall also be removed by Tribal Council in the event that the Chairperson notifies Tribal Council that he or she missed more than three (3) consecutive meetings in any twelve (12) month time period without good cause.
- D. A Commissioner shall also be removed by Tribal Council for continual failure to remove him/herself from cases for a conflict of interest.
- E. The Commission shall meet to determine whether the Commissioner shall be recommended for removal to Tribal Council.
- F. The Commission can recommend removal of a member to Tribal Council. However, Tribal Council maintains its authority to remove any member of the Commission. Review of any recommendation by Tribal Council shall be completed within a relevant time period of no more than twenty (20) business days.

**SECTION 9. CONFLICT OF INTEREST**

In the event a Commissioner possesses a conflict of interest on a particular issue, he or she shall disqualify himself/herself from the decision-making process. If the Commissioner fails to disqualify himself or herself and the conflict of interest is apparent to the remaining Commissioners, they shall remove him or her by a majority vote. Repeated failures to recuse oneself for a conflict of interest shall result in removal from the Commission by Tribal Council, pursuant to Section 8.

**SECTION 10. CONFIDENTIALITY**

All Commissioners shall not reveal any confidential information regarding personnel matters, investigations, and disciplinary hearings. Sharing of confidential information shall result in the removal pursuant to Section 8.

**SECTION 11. DUTIES OF THE COMMISSION**

- A. The Commission shall appoint, supervise, discipline, and terminate the Chief of Police of the Saint Regis Mohawk Tribal Police Department.
- B. The Commission shall recommend to the Tribal Council officers qualified to exercise authority pursuant to New York State Article 8 § 114.
- C. The Commission shall review and recommend for approval of all policies and procedures of the Saint Regis Mohawk Tribal Police. Within 120 days of the adoption of this Act, the Commission shall conduct, or cause to be conducted, a complete review of existing Policies and Procedures, and, if necessary make recommendations to amend such Policies and Procedures for consistency with this Act. All such Policies and Procedures shall be consistent with the Saint Regis Mohawk Tribe's goal of self-sufficiency and sovereignty through the implementation and enforcement of Tribal laws, regulations and ordinances. After the adoption, the Policies and Procedures may be amended under the following circumstances:
  - 1. The Chief of Police may provide the Commission with any recommended or necessary additions or amendments to Department policies and procedures.
  - 2. The Commission may also draft changes based upon issues identified by the community or the Commission.

3. Upon receiving any amendments to policies and procedures from the Chief of Police, the Commission shall have up to sixty (60) days to review and recommend adoption to Tribal Council.
  4. After the review period, the Commission shall submit the proposed amendments to the Tribal Council for approval or request the Police Department to make further revisions.
- D. Upon submission to the Tribal Council of the policies and procedures, they shall become approved within sixty (60) days unless the Tribal Council votes to reject the new policies and procedures or request certain changes. If the Council votes to reject the policies and procedures, the Council shall give a written explanation to the Commission within fifteen (15) days of the rejection. If changes are requested then the Police Commission shall determine whether to make further changes and resubmit to Tribal Council within thirty (30) days of receiving such changes. Thereafter, Tribal Council shall approve the policies and procedures within thirty (30) days.
- E. A member of the Commission may participate in hiring and promotion decisions of the Police Department, but the Chief of Police retains the authority to select a candidate to hire or promote. The Chief of Police's actions must be consistent with departmental policies, the Tribe's current policies and procedures including the Employee Handbook or any amendments thereto. The Commission may terminate Police Department Personnel and Officers consistent with Section 16 herein.
- F. The Commission, with the input of the Chief of Police, may provide the Tribe's Human Resources Division with proposed policies for the hiring, promotion, suspension and removal of personnel and officers of the Police Department.
- G. The Commission shall oversee all complaints against the Chief of Police.
- H. The Commission may be involved in complaints against Department Personnel and Officers as outlined in the Police Manual and herein at Section 16. As outlined in Police Manual Section 1100 it may hear appeals regarding certain disciplinary decisions involving Police Personnel reporting directly to the Chief of Police. It shall not oversee any complaints involving conduct or discipline relating to the Tribe's Employee Handbook unless such a review is outlined in the Tribe's Employee Handbook.

- I. The Commission shall make complaint forms accessible to the public and ensure all tribal agencies know the complaint process and where to submit a complaint form.
- J. The Commission, along with the Tribal Council, shall oversee the entering into of sharing of powers agreements, mutual aid agreements, and cross-deputization agreements by the Police Department with non-tribal law enforcement agencies.
- K. The Commission shall review all reports and audits conducted by the Bureau of Indian Affairs, or any other entity's reports or audits that are submitted to the Chief of Police.
- L. The Commission shall review closed complaints and disciplinary cases involving conduct related to the Police Manual every six (6) months to determine whether improvements to Department policies and procedures are needed. The Commission shall not reopen closed cases, but shall only review the cases to determine needed improvements in policies and procedures.
- M. The Commission shall review the Department's annual proposed budget and shall provide recommendations to the Chief of Police regarding the Department's finances prior to its submission to the Tribal Council for approval.
- N. The Commission shall review all use of force reports, including shooting incidents, to keep track of when officers use force, which officers use force, and in what type of circumstances force is being used. The Commission shall identify patterns and trends and adjust policies and procedures and training when appropriate based on this review. The Commission shall work towards increasing public awareness of the Commission and the Police Department.
  - 1. The Commission shall provide public notice of its monthly meetings, provided that all hearings involving disciplinary matters shall be held in executive session.
  - 2. The Commission, with the assistance of the Chief of Police, shall develop programs aimed at interaction with and education of the community.
- O. The Commission, for any reason, may request that an independent police auditor be appointed by the Tribal Council to monitor a particular complaint or investigation.
- P. The Commission shall provide a report to the Tribal Council of its individual member's activities on a monthly basis. It shall also provide a monthly report to the Tribal Council to include, but not limited to, statistics on the

number of complaints and disciplinary actions it has heard, and any other issues the Commission or the Tribal Council may deem important and appropriate.

- Q. The Commission shall conduct a yearly evaluation of the Department. It shall be submitted by February fifteenth (15th) of each year. The Commission may hire an outside evaluator to assist with it. The evaluation shall include, but is not limited to:
1. Interviews with Department personnel and officers.
  2. Conduct an anonymous survey of all Department personnel and officers regarding working conditions and overall satisfaction with the Department.
  3. A review of complaints and disciplinary actions regarding Department personnel and officers.
  4. A review of policies and procedures.
  5. A review of Department statistics, including statistics on the number of Tribal summonses and State summonses.
  6. A review of the Department's strategic plan including any implementation efforts.
- R. To coincide with the Department's annual evaluation from Section 11.Q, the Commission shall submit to the Tribal Council an annual report. The annual report shall include a summary of each member's individual activities and should include, but is not limited to, the number of complaints filed and resolved by the Commission, the number of disciplinary actions it oversaw, changes in policies and procedures or recommendations for such changes, goals and needed resources for the following year.
- S. The Commission shall not respond to police scenes or calls for assistance.

## **SECTION 12. POLICE COMMISSION PERSONNEL**

- A. The Commission may have the services of its own contract attorney, separate from the Tribe's Legal Department, during all officer or personnel disciplinary hearings to avoid any conflict of interest. Payment for the services of any contract attorney shall be included in the Commission's annual budget.

- B. Administrative assistance shall be provided for the Police Commission. The assistant may be part-time or full-time, depending on the needs of the Commission.

**SECTION 13. APPOINTMENT, SUPERVISION, DISCIPLINE OF THE CHIEF OF POLICE**

- A. The Police Commission appoints, supervises, disciplines, and may terminate the Chief of Police.
- B. The Commission shall use the following process for appointing the Chief of Police:
  - 1. Upon a vacancy, the Commission shall appoint an interim Chief of Police while conducting a candidate search.
  - 2. The Police Commission shall post the position in local and national newspapers, in addition to any other places, for no longer than thirty (30) days.
  - 3. The Commission shall interview any candidates that meet the criteria for Chief of Police as per Section 13. C.
  - 4. Upon finding a qualified candidate, the Commission shall appoint a Chief of Police.
- C. The Chief of Police must meet the following requirements.
  - 1. Ten (10) years of law enforcement experience.
  - 2. Five (5) years of supervisory or management experience.
  - 3. Possess the qualifications required to be appointed pursuant to New York State Article 8 § 114.
  - 4. The Native Preference Policy of the Saint Regis Mohawk Tribe shall apply to this position.
- D. To coincide with the Department's annual evaluation from Section 11.Q, the Commission shall conduct a yearly evaluation of the Chief of Police. It shall be submitted by February fifteenth (15th) of each year. The Commission may hire an outside evaluator to assist with the evaluation. The evaluation shall include, but is not limited to:

1. Interviews with Department personnel and officers.
  2. Conduct an anonymous survey of all Police Officers and Personnel to determine the overall satisfaction with the Chief of Police with a focus on whether he or she is adhering to the job description or duties listed in the Police Manual.
  4. Conduct a review of complaints and/or disciplinary actions against the Chief of Police.
  5. A review of any updated policies and procedures that the Chief of Police may have initiated.
- E. Disciplinary charges against the Chief of Police may be filed by the Commission based upon an Internal Affairs investigation or as a result of the Commission's oversight of the Chief of Police.
1. Written notice of the charges shall be given to the Chief of Police, along with notice of a hearing to be held before the Commission. The notice shall include the right to cross examine witnesses, the right to present evidence, and the right to an attorney at his/her own expense.
  2. The disciplinary hearing shall be heard by the Commission within thirty (30) days of the filing of the disciplinary charges.
  3. The Police Commission shall determine which evidence is relevant and allowed at the hearing.
  4. The Chief of Police may cross-examine evidence and offer any evidence to refute the charges.
  5. The Commission shall decide whether the charges have been sustained based upon the evidence presented to them. The evidence may be offered by the Internal Affairs Officer or by the Commission's Chair or his/her designee. The burden of proof is preponderance of the evidence. The Commission may retire to executive session to discuss and decide the case.
  6. Upon a finding the charges have been sustained, the Commission shall impose discipline, which may include, but is not limited to counseling, training, probation, suspension, or termination. The Commission shall issue a written decision for any discipline that involves termination or suspension.
  7. Once the Commission has rendered a decision which involves a suspension or termination, the Chief of Police may appeal such decision within ten (10) business days of the decision being issued to the Saint Regis Mohawk Court of Appeals on notice to the Commission. The Court of Appeals shall determine whether the Commission's decision was arbitrary and capricious based upon the

record the Commission develops. After an appeal is filed, the Commission shall have ten (10) business days to submit a certified copy of the record with the Court of Appeals and provide a copy to the Chief of Police. If the Commission's decision involves counseling, training, probation or anything other than suspension or termination then the Commission's decision is final.

- F. The Chief of Police may be suspended with or without pay by the Commission during an investigation involving his/her conduct.
- G. Any misconduct that is criminal in nature shall be referred to the tribal prosecutor and/or Franklin County District Attorney or other law enforcement agency that is deemed appropriate.

#### **SECTION 14. OFFICERS AND PERSONNEL**

- A. The Tribal Police's officers and personnel are employees of the Saint Regis Mohawk Tribe. As such, they are subject to the Tribe's policies and procedures including the Employee Handbook with its amendments and the Whistleblower Policy. In addition, any all Officers or personnel of the Tribal Police also are subject to any ratified policies and procedures or Police Manual of the Department. For any conduct that is proscribed in the Tribe's Employee Handbook it will control any complaint or disciplinary process and this Act may only apply if those specific rights are granted under the Employee Handbook. For any conduct that is proscribed under the Tribal Police's Police Manual it will control any complaint or disciplinary process and this Act may only apply if those specific rights are granted under the Police Manual.
- B. The Human Resources Department is responsible for monitoring compliance with the Saint Regis Mohawk Tribe's Human Resource Employee Handbook, whereas the Tribal Chief of Police is responsible for maintaining compliance with the Police Manual and properly adopted Policies and Procedures while the Police Commission provides oversight. In limited circumstances, the Police Commission may be responsible for determining compliance with the Police Manual or properly adopted Policies and Procedures or as outlined in this Act.
- C. Police Officer or Personnel complaints against the Chief of Police shall be filed with the Commission. The Commission's Chair or his/her designee shall oversee the investigation. If the Chair or the Commission determines it is necessary, another investigator may be appointed to assist in the investigation. The Commission shall notify the complainant in writing of the investigation. The Chair shall ensure the complaint is investigated and reported to the Commission. The Commission shall determine whether any disciplinary action needs to be taken and notify the complainant whether the complaint was sustained or unfounded pursuant to the procedures set forth above in Section 13. E.

- D. Police Officers and Personnel may also make any complaint about working conditions to the Tribe's Human Resources Department. No disciplinary action may be taken against a Police Officer or Personnel for making such a complaint. The Tribe's Human Resource Department shall conduct the investigation. Any report shall be submitted to the Chief of Police who may share with the Police Commission, but in no way shall the Police Commission be involved in any action.

## **SECTION 15. COMPLAINTS FROM THE PUBLIC**

- A. All public complaints involving officers and personnel shall be filed in writing with the Office of Professional Standards at the Tribal Police Department. Once a complaint is received it will be classified as either Internal Affairs, Office of Professional Standards or Human Resources matter. The classification will determine the type of investigation.
- B. The Commission shall be notified of any Internal Affairs matter. The notification shall contain the name of the officer and/or employee but shall not include the details of the complaint. For any complaint investigated under the Office of Professional Standards, the Commission shall be notified only if there is a formal investigation. The notification shall contain the name of the officer or personnel, but shall not include the details of the complaint.
- C. The Chief shall provide a monthly report to the Commission with the number of complaints filed, the number of complaints in each category and the status of the complaints. The report shall not discuss the details of any complaint.
- D. Investigations involving excessive use of force shall be immediately reported to the Chairperson of the Police Commission. The Chairperson of the Police Commission, or his/her designee, shall oversee investigations involving excessive use of force
- E. Any investigation involving criminal activities shall be referred to the tribal prosecutor and/or Franklin County District Attorney or other law enforcement agency that is deemed appropriate.
- F. The Chief of Police shall not discuss any ongoing investigation, except investigations involving excessive use of force, with the Commission. Ongoing investigations of excessive use of force shall be discussed only with the Chairperson or his/her designee.
- G. Complaints against the Chief of Police shall be filed with the Commission who shall forward them to Internal Affairs to investigate, if warranted. If an investigation is warranted, the Commission's Chair or his/her designee shall oversee the investigation. If the Commission determines it is necessary, they may appoint another investigator. The Commission shall notify the complainant in writing of the investigation. Once an investigation is complete, the Commission shall determine whether any disciplinary action needs to be taken and notify the

complainant whether the complaint was sustained or unfounded. The process outlined in Section 13 E shall apply to disciplinary actions against the Chief of Police.

**SECTION 16. DISCIPLINARY HEARING PROCEDURES INVOLVING OFFICERS AND PERSONNEL, OTHER THAN CHIEF OF POLICE**

- A. For Employee Handbook complaints, if discipline is imposed only those positions who directly report to the Chief of Police are entitled to appeal to the Police Commission. The Commission's review shall be limited to the record from the Tribe's Human Resources department unless the Commission determines it needs to meet with the Officer or Personnel.
- B. For Personnel Complaints, if after a formal investigation discipline is imposed only those positions outlined in the Police Manual Section 1100.12 are entitled to appeal to the Police Commission. The Police Commission's review shall be limited to the record from the disciplinary process unless the Commission determines it needs to meet with the Officer or Personnel.
- C. Following an Internal Affairs investigation, the Chief of Police may do the following:
  - 1. Invite the Police Officer or Personnel to agree to an informal resolution to the investigation;
  - 2. If an informal resolution is reached it must be reduced to writing whereby any appeal is waived and the discipline outlined; and
  - 3. If an informal resolution is not reached or the Chief of Police decides an informal resolution is not appropriate, the Chief of Police shall bring formal disciplinary charges against the Police Officer or Personnel.
  - 4. For formal charges before the Police Commission the following shall apply:
    - a. The Commission shall be notified when formal disciplinary charges are filed. The notification shall contain the name of the Police Officer and/or Personnel but shall not include the details of the complaint.
    - b. Upon the filing of formal disciplinary charges, the Police Officer or Personnel shall receive a copy of the charges in writing, along with notice of a hearing before the Police Commission. The notice shall include the right to cross-

examine witnesses, the right to present evidence and the right to an attorney at his/her own expense.

- c. The disciplinary hearing shall be heard by the Commission within thirty (30) days of the filing of the formal disciplinary charges.
- d. The hearing shall not be open to the public.
- e. The Chairperson shall not be involved in hearings involving an investigation overseen by him/her, unless it is a disciplinary action involving the Chief of Police.
- f. The Police Commission shall determine which evidence is relevant and allowed at the hearing.
- g. At the hearing, the Internal Affairs Officer shall present evidence to prove the charges. The Police Department may be represented by the Tribe's General Counsel. The burden of proof shall be a preponderance of the evidence. Past conduct may be offered if relevant to the current case.
- h. The Police Officer or Personnel may make a motion to disqualify a Commissioner for a conflict of interest. The challenged Commissioner may step down from the hearing or the Commission shall decide by majority vote whether to grant the motion.
- i. The Commission may question witnesses and request additional evidence.
- j. The Officer or Personnel may cross examine evidence and offer any evidence to refute the charges.
- k. The Commission shall decide whether the charges have been sustained based upon the evidence presented to them. They may retire to executive session to discuss and decide the case.
- l. Upon a finding the charges have been sustained, the Commission shall impose discipline based upon Department policies and procedures. The Commission shall review the personnel file for prior conduct and the officer or personnel may offer evidence of prior good conduct. Discipline may include, but is not limited to counseling, training, probation, suspension, and termination from the Department. The Commission shall ensure that any discipline is fair and

commensurate with the violation and that all officers and personnel are disciplined equally.

- m. A Police Officer or Personnel may petition for a rehearing within sixty (60) days of the Commission's decision upon discovery of new evidence. The Commission shall grant a new hearing if the evidence is relevant to the charges and was not available at the initial hearing.
- n. If a Police Officer or Personnel is terminated or suspended without pay he/she shall have the ability to appeal the Commission's decision to the Saint Regis Mohawk Tribal Court of Appeals. Such an appeal must be filed within ten (10) days of the decision being issued on notice to the Commission. The Court of Appeals shall determine whether the Commission's decision was arbitrary and capricious based upon the record the Commission develops. Once an appeal is filed, the Commission shall file within ten (10) business days a certified copy of the record with the Court of Appeals on notice to the Officer or Personnel. If the Commission's decision involves counseling, training, probation or anything other than suspension or termination the Commission's decision is final.

D. Any Commission findings shall remain in the employee's personnel files.

E. Commission files, including notes, regarding formal disciplinary hearings shall be kept in an organized manner and secured in a locked filing cabinet that is only accessible by Commission members and its administrative assistant.

## **SECTION 17. NON-TRIBAL LAW ENFORCEMENT AGENCIES**

- A. The Tribe exercises a government-to-government relationship with all other governments. Due to this relationship, the Commission along with the Tribal Council, shall oversee all sharing of powers, mutual aid arrangements, and cross-deputation agreements by the Police Department with non-tribal law enforcement agencies.
- B. A member of the Commission, and a designee of the Tribal Council, shall attend all meetings with non-tribal law enforcement agencies involving sharing of powers, mutual aid arrangement, cross-deputation agreements and any other cooperative agreements with outside law enforcement agencies.
- C. The Commission shall review any sharing of power agreements, mutual aid agreements, and cross-deputization agreements which are made between the Police Department and non-tribal law enforcement agencies or departments.

- D. Upon the Commission's approval, these agreements shall be forwarded to the Tribal Council for approval.

## **SECTION 18. COMMISSION MEETINGS**

- A. The Commission shall meet monthly. A minimum of twenty (20) minutes of each monthly meeting shall be open to the public. The Commission may vote to extend the time period or shorten the time period if no community members attend. The public portion of the meeting may include, but is not limited to, the following:
  - 1. A report by the Chief of Police including statistics of the number of incidents responded to in the last month, types of calls, convictions, any public service by the Police Department, and the number of complaints filed and investigated.
  - 2. Review of any policies and procedures.
  - 3. Public comment period.
- B. At the end of the public portion, the Commission shall retire to executive session confidential matters.
- C. Meetings dates and times shall be advertised in the tribal monthly newsletter, social media, tribal website and the tribal reader board.
- D. The Commission Chair may also call special meetings to attend to urgent business. Minutes shall be kept by the Commission's Administrative Assistant, of every meeting which may be reviewed by the Commission and Tribal Council.

## **SECTION 19. FUNDING**

- A. The Commissioners shall receive a monthly stipend, set by Tribal Council Resolution.
- B. The Commission shall receive an annual budget every year from the Tribal General Fund, which may include funding for stipends, meetings, training, travel, an administrative assistant, supplies, and a contract attorney or any other reasonable and necessary expense.
- C. The Commission shall submit a budget proposal for Commission's funding to the Tribal Council by June 1<sup>st</sup> of every year, unless requested at a different time by the Tribal Council.

**SECTION 20. ADOPTION AND AMENDMENT OF ACT**

Pursuant to the Saint Regis Mohawk Tribal Procedures Act (TCR 2013-32) Section IX, this Act may be amended by Tribal Council.<sup>1</sup>

**SECTION 21. SEVERABILITY**

If any word, clause, phrase, sentence, subsection, section, or other provision of this Code is held invalid by a court of competent jurisdiction, the invalidity shall not affect any other provisions or applications of this law that can be given effect without the invalid provision.

**SECTION 22. SOVEREIGN IMMUNITY**

Nothing in this Act shall be deemed as a waiver of the Tribe's sovereignty immunity.

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<sup>1</sup> Section IX of the Tribal Procedures Act references TCR 2011-50, which permits the amendment of prior resolutions.



# St. Regis Mohawk Tribe

## Tribal Council Resolution

2014- 10

Chief Ron LaFrance Jr.  
Chief Paul O. Thompson  
Chief Beverly Cook  
Sub-Chief Michael L. Conners  
Sub-Chief Eric Thompson  
Sub-Chief Shelley Jacobs

### RESOLUTION OF THE SAINT REGIS MOHAWK TRIBE TO ADOPT THE SAINT REGIS MOHAWK TRIBAL POLICE COMMISSION ACT OF 2014

**WHEREAS,** The Saint Regis Mohawk Tribal Council (the "Tribal Council") is the duly recognized governing body of the Saint Regis Mohawk Tribe ( the "Tribe") and is responsible for the health, safety, education and welfare of all community members; and

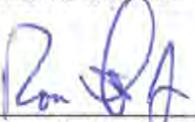
**WHEREAS,** In Tribal Council Act 1994-G, the Tribe ratified the Tribal Police Commission Act of 1994 (the "Act") to enact tribal requirements for establishing a Police Commission and Police Department Policies for the Saint Regis Mohawk Tribe; and

**WHEREAS,** The Tribal Council, working in conjunction with the Police Commission, an outside Consultant and its Legal Department, have drafted proposed amendments to better reflect the current police department and to ensure that the Police Commission remains an independent oversight body for the Chief of Police, Officers and Employees of the Saint Regis Mohawk Tribal Police Department; and

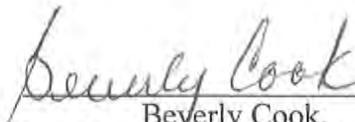
**WHEREAS,** Pursuant to Section X.3. of the Tribal Procedures Act, all of the requirements necessary for public review and comments by Tribal Members on the proposed amendments to the Act have been met and Tribal Council now wishes to adopt the Saint Regis Mohawk Tribal Police Commission Act of 2014; now, therefore, be it

**RESOLVED,** That the Saint Regis Mohawk Tribal Council hereby adopts the Saint Regis Mohawk Tribal Police Commission Act of 2014, as attached hereto, which will supersede and replace the Tribal Council Act 1994-G: Act Relating to Police Commission, in its entirety.

#### THE SAINT REGIS MOHAWK TRIBAL COUNCIL

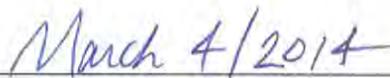
  
\_\_\_\_\_  
Ron LaFrance, Jr.,  
Tribal Chief

  
\_\_\_\_\_  
Paul O. Thompson,  
Tribal Chief

  
\_\_\_\_\_  
Beverly Cook,  
Tribal Chief

**CERTIFICATION:** This is to certify that the Saint Regis Mohawk Tribal Council pursuant to the authority vested therein duly passed the above resolution.

  
\_\_\_\_\_  
Corleen Jacco, Tribal Clerk

  
\_\_\_\_\_  
Date

**SAINT REGIS MOHAWK TRIBE**  
**POLICE COMMISSION ACT OF 2014**

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**SECTION 1. TITLE AND CODIFICATION**

This Act shall be known as the Saint Regis Mohawk Tribal Police Commission Act of 2014.

**SECTION 2. PRIOR LAWS**

The Tribal Council Act 94-G is hereby completely amended through the adoption of this code.

**SECTION 3. PURPOSE AND GOALS**

- A. The purpose of the Police Commission Act is to provide for independent supervision of the Chief of Police of the Saint Regis Mohawk Tribal Police Department and provide oversight for the Saint Regis Mohawk Tribal Police Department, while supporting the Saint Regis Mohawk Tribe's duty to maintain the health, safety, education and welfare of all members of the Tribe.
  
- B. The goals of the Police Commission Act are to:
  - 1. Support the Saint Regis Mohawk Tribe's goal of self-sufficiency and sovereignty through the implementation and enforcement of Tribal laws, regulations and ordinances.
  - 2. Provide the Community with a professional and effective law enforcement agency that is responsive and respectful while serving the community
  - 3. Strengthen the relationship between the community and the police by providing an accessible and credible complaint review process and increasing the community's confidence in the Department.
  - 4. Reduce police misconduct by:
    - a. identifying improper behavior and imposing appropriate discipline;
    - b. identifying any patterns or trends of misconduct or improper behavior;
    - c. identifying potentially problematic behavior where training is needed.
  - 5. Provide an open and independent forum for the community to express concerns about police conduct.

**SECTION 4. DEFINITIONS**

- A. Chief of Police: The highest ranking law enforcement officer of the Saint Regis Mohawk Tribal Police Department.
  
- B. Commission: The Police Commission comprised of five (5) tribal members of the Saint Regis Mohawk Tribe.

- C. Commissioners: Tribal members appointed by the Tribal Council to serve as Police Commissioners of the Saint Regis Mohawk Tribe.
- D. Conflict of interest: A conflict of interest occurs when a Police Commissioner has a family relationship to or financial interest in any complaint or investigation.
- E. Department: The Saint Regis Mohawk Tribal Police Department.
- F. Franklin County District Attorney: The elected district attorney for Franklin County.
- G. New York State § 114: The law granting the New York State Police Superintendent authority to appoint a tribal police officer as a police officer with the power to exercise state criminal law upon the St. Regis Mohawk Reservation.
- H. Personnel: All civilian personnel of the Saint Regis Mohawk Tribal Police Department.
- I. Police Officers: All qualified and sworn members of the Saint Regis Mohawk Tribal Police Department.
- J. Relative: A mother, father, sister, brother, child, spouse, member of the same household, in-law or grandparents.
- K. Saint Regis Mohawk Indian Reservation: All lands defined in the Treaty of 1796 and any subsequent lands over which the Saint Regis Mohawk Tribe exercises jurisdiction.
- L. Sharing of Powers Agreements: Agreements between the Saint Regis Mohawk Tribe and another government which allows the Tribal Police Department to exercise the law enforcement authority of another jurisdiction and allows another law enforcement agency to exercise the Tribe's law enforcement powers under the direction of the Tribal Police Department.
- M. Tribal Council: The legislative and executive body of the Saint Regis Mohawk Tribe.
- N. Tribal Police: The Saint Regis Mohawk Tribal Police Department.
- O. Tribe: The Saint Regis Mohawk Tribe.

## **SECTION 5. SOURCE OF AUTHORITY**

The Saint Regis Mohawk Tribe has inherent sovereign authority to govern and provide for the health and safety of its members, residents, visitors and territory, and through that authority has created the Saint Regis Mohawk Tribal Police Commission.

## **SECTION 6. SCOPE OF AUTHORITY**

The Saint Regis Mohawk Tribal Police Commission shall oversee the Saint Regis Mohawk Tribal Police Department by supervising the Chief of Police, recommending for approval all Police Department policies and procedures, and overseeing all complaints and disciplinary actions of Department Chief, officers, and personnel. All criminal investigations against officers and personnel shall be referred to the Tribal Prosecutor and/or Franklin County District Attorney or other law enforcement agency that is deemed appropriate.

## **SECTION 7. COMPOSITION OF THE POLICE COMMISSION**

A. The Commission shall consist of five (5) members whose term of office shall be five (5) years or until their respective successors are appointed and have qualified. Members may be reappointed for consecutive terms. Members' terms are staggered.

B. Appointment Process.

1. Sixty (60) days prior to the end of a current Commissioner's term, or upon a vacancy, the Tribal Council shall post the opening of a position in at least one (1) local newspaper and the Tribal Newsletter. The posting shall request individuals willing to serve on the Commission to submit a letter of interest to the Tribal Council.
2. The letters of interest shall be reviewed by the Tribal Council.
3. The Tribal Council shall appoint a candidate by majority vote within thirty (30) days.
4. Upon appointment by the Tribal Council, the Commission member shall be sworn into office by a Tribal Court Judge.

C. Police Commission Membership Requirements.

1. All Commission members and candidates shall:
  - a. Be member of the Saint Regis Mohawk Tribe;
  - b. Have a high school degree or GED;
  - c. Pass a drug test and criminal background check.
  - d. Attend yearly trainings conducted by the Tribal Police Department as well as national trainings focused on law enforcement and civilian oversight.
2. All Commission members and candidates shall not:
  - a. Have a felony conviction.
  - b. Have been convicted of any misdemeanor offense within one (1) year of application and during tenure.
  - c. Have been convicted of any drug or alcohol misdemeanor offense within the last five (5) years and during tenure.
  - d. Have been convicted of any misdemeanor domestic violence or sexual assault convictions.
  - e. Be currently employed by the Saint Regis Mohawk Tribal Police Department.
  - f. Have been terminated for cause by any police department.

- g. Have resigned within the past five (5) years from a police department.
- h. Be a relative of an employee of the Saint Regis Mohawk Tribal Police Department.

D. Election of Officers.

The Commission members shall designate the Chairperson of the Police Commission by motion and majority vote. The Chairperson shall be the presiding officer at all meetings and shall attend to all the duties ordinarily pertaining to such office. The Chairperson shall serve a one (1) year term. The Chairperson shall coordinate all meetings with the Chief of Police. The Chairperson is a voting member of the Commission.

**SECTION 8. REMOVAL OF COMMISSIONERS**

- A. In the event a Commissioner violates any provisions contained in Section 7 C. 2. above, he or she shall be removed.
- B. A Commissioner shall also be removed for a failure to perform his or her duties as a Commissioner.
- C. A Commissioner shall also be removed in the event that he or she misses more than three (3) consecutive meeting in any twelve (12) month time period without good cause.
- D. A Commissioner shall also be removed for continual failure to remove him/herself from cases for a conflict of interest.
- E. When a violation occurs or the Commission receives information a violation has occurred, the Commission shall provide written notice of the alleged violation in writing to the Commissioner. The notice shall include the right to have a hearing and present evidence on his or her behalf.
- F. If requested, the Commission shall hold a hearing and at the close of the hearing enter into executive session to determine by majority vote whether the Commissioner shall be removed.
- G. If the Commission recommends removal, the Commission shall forward their recommendation to the Tribal Council. The Tribal Council shall accept or reject the recommendation for removal within ten (10) working days or the recommendation of the Commission shall take effect.

**SECTION 9. CONFLICT OF INTEREST**

In the event a Commissioner possesses a conflict of interest on a particular issue, he or she shall disqualify himself/herself from the decision-making process. If the Commissioner fails to disqualify himself or herself and the conflict of interest is apparent to the remaining Commissioners, they shall remove him or her from the case by a simple majority vote. Repeated

failures to recuse oneself for a conflict of interest shall result in removal from the Commission pursuant to Section 8.

#### **SECTION 10. CONFIDENTIALITY**

All Commissioners shall not reveal any confidential information regarding personnel matters, investigations, and disciplinary hearings. Sharing of confidential information shall result in the removal pursuant to Section 8.

#### **SECTION 11. DUTIES OF THE COMMISSION**

- A. The Commission shall appoint, supervise, discipline, and terminate the Chief of Police of the Saint Regis Mohawk Tribal Police Department.
- B. The Commission shall recommend to the Tribal Council officers qualified to exercise authority pursuant to New York State Article 8 § 114.
- C. The Commission shall review and recommend for approval of all policies and procedures of the Saint Regis Mohawk Tribal Police. Within 120 days of the adoption of this Act, the Commission shall conduct, or cause to be conducted, a complete review of existing Policies and Procedures, and, if necessary make recommendations to amend such Policies and Procedures for consistency with this Act. All such Policies and Procedures shall be consistent with the Saint Regis Mohawk Tribe's goal of self-sufficiency and sovereignty through the implementation and enforcement of Tribal laws, regulations and ordinances.
  1. The Chief of Police shall provide the Commission with any recommended or necessary additions or amendments to Department policies and procedures.
  2. The Commission may also draft changes based upon a problem identified by the community or the Commission.
  3. Upon receiving any amendments to policies and procedures from the Chief of Police, the Commission shall have up to sixty (60) days to review and recommend to Council.
  4. After the review period, Commission shall submit the amendments to the policies and procedures to the Tribal Council for approval or request the Police Department make further revisions to the policies and procedures.
  5. Upon submission of the policies and procedures to the Tribal Council, they shall become approved within sixty (60) days unless the Council votes to reject the new policies and procedures. If the Council votes to reject the policies and procedures, the Council shall give a written explanation to the Commission within fifteen (15) days of the rejection.

- D. The Commission shall oversee all hiring, promotion, and termination of Police Department Personnel and Officers.
1. The Commission, with the input of the Chief of Police, shall make such rules and regulations as may be necessary to provide for the promotion, suspension and removal of personnel and officers of the Police Department.
  2. The Commission, with the input of the Chief of Police, shall develop and publish standard hiring procedures for new police officers and personnel.
  3. The Commission shall develop and implement procedures for recommending Tribal Police Officers to the Tribal Council to be certified by the State of New York as New York State Police Officers.
- E. The Commission shall oversee all complaints against the Chief of Police, Department Personnel and Officers.
- F. The Commission shall make complaint forms accessible to the public and ensure all tribal agencies know the complaint process and a contact person and phone number for the Commission.
- G. The Commission shall oversee all disciplinary actions of the Chief of Police, Officers and Department Personnel.
- H. The Commission, along with the Tribal Council, shall oversee the entering into of sharing of powers agreements, mutual aid agreements, and cross-deputization agreements by the Police Department with non-tribal law enforcement agencies.
- I. The Commission shall submit an annual report to the Tribal Council which includes, but is not limited to, the number of complaints filed and resolved, the number of disciplinary actions, changes in policies and procedures, and goals and needed resources for the following year.
- J. The Commission shall review all reports and audits conducted by the Bureau of Indian Affairs, or anything other entity that are submitted to the Chief of Police.
- K. The Commission shall review closed complaints and disciplinary cases every six months to determine whether improvements to Department policies and procedures are needed. The Commission shall not reopen closed cases, but shall only review the cases to determine needed improvements in policies and procedures.
- L. The Commission shall review the Department's annual proposed budget and shall provide recommendations to the Chief of Police regarding the Department's finances prior to its submission to the Tribal Council for approval.
- M. The Commission shall review all use of force reports, including shooting incidents, to keep track of when officers use force, which officers use force, and in what type of circumstances force is being used. The Commission shall identify patterns and trends and adjust policies and procedures and training when appropriate based on this review.

- N. The Commission shall work towards increasing public awareness of the Commission and the Police Department.
1. The Commission shall provide public notice of its monthly meetings, provided that all hearings involving disciplinary matters shall be held in executive session.
  2. The Commission, with the help and advice of the Chief of Police, shall develop programs aimed at interaction with and education of the community.
- O. The Commission, for any reason, may request that an independent police auditor be appointed by the Tribal Council to monitor a particular complaint or investigation.
- P. The Commission shall conduct a yearly evaluation of the Chief of Police and the Department. The Commission may hire an outside evaluator to assist with the evaluation. The evaluation shall include, but is not limited to:
1. At least one community focus group.
  2. Interviews with Department personnel and officers.
  3. A review of complaints and disciplinary actions.
  4. A review of policies and procedures.
  5. A review of St. Regis Mohawk Tribal Court opinions, particularly Traffic Court opinions.
  6. A review of Department statistics, including statistics on the issuance of Tribal summons' and State summons'.
- Q. The Commission shall provide a monthly report to the Tribal Council, including statistics on the number of complaints and disciplinary actions, and any other issues the Commission and Council deem important and appropriate.
- R. The Commission shall work with the Chief of Police to ensure St. Regis Mohawk Tribal Police Officers are receiving leadership training to prepare them for promotions within the Department, including training that will prepare them to become a Chief of Police.
- S. The Commission shall be available to any police officers and personnel who may wish to meet with them to discuss issues relating to the Police Department.
- T. The Commission shall not respond to police scenes or calls for assistance.

**SECTION 12. POLICE COMMISSION PERSONNEL**

- A. The Commission may have the services of its own contract attorney, separate from the Tribe's Legal Department, during all officer or personnel disciplinary hearings to avoid any conflict of interest. Payment for the services of any contract attorney shall be included in the Commission's annual budget.
- B. Administrative assistance shall be provided for the Police Commission. The assistant may be part-time or full-time, depending on the needs of the Commission.

**SECTION 13. APPOINTMENT, SUPERVISION, DISCIPLINE OF THE CHIEF OF POLICE**

- A. The Police Commission appoints, supervises, disciplines, and may terminate the Chief of Police.
- B. The Commission shall use the following process for appointing the Chief of Police:
  - 1. Upon a vacancy, the Commission shall appoint an interim Chief of Police while conducting a candidate search.
  - 2. The Police Commission shall post the position in local and national newspapers, in addition to any other places, for no longer than thirty (30) days.
  - 3. The Commission shall interview any candidates that meet the criteria for Chief of Police as per Section 13 C.
  - 4. Upon finding a qualified candidate, the Commission shall appoint a Chief of Police.
- C. The Chief of Police must meet the following requirements. The Chief of Police in office as of October 2012 shall be exempt from these requirements.
  - 1. Ten years of law enforcement experience.
  - 2. Five years of supervisory or management experience.
  - 3. Possess the qualifications required to be certified as a peace officer under the Tribe's law enforcement agreement with the State of New York.
  - 4. The Native Preference Policy of the Saint Regis Mohawk Tribe shall apply to this position.
- D. Disciplinary charges against the Chief of Police may be filed by the Commission based upon an Internal Affairs investigation or as a result of the Commission's oversight of the Chief of Police.

1. Written notice of the charges shall be given to the Chief of Police, along with notice of a hearing in front of the Commission. The notice shall include the right to cross examine witnesses, the right to present evidence, and the right to an attorney at his/her own expense.
2. The disciplinary hearing shall be heard by the Commission within thirty (30) days of the filing of the disciplinary charges.
3. The Police Commission shall determine which evidence is relevant and allowed at the hearing.
4. The Chief may cross examine evidence and offer any evidence to refute the charges.
5. The Commission shall decide whether the charges have been sustained based upon the evidence presented to them. The evidence may be offered by the Internal Affairs Officer or by the Commission's Chair or his/her designee. The burden of proof is preponderance of the evidence. They may retire to executive session to discuss and decide the case.
6. Upon a finding the charges have been sustained, the Commission shall impose discipline which may include, but is not limited to counseling, training, probation, suspension, or termination.
7. The decision of the Commission is final.
8. The Chief may be suspended with or without pay by the Commission during an investigation involving his/her conduct.
9. Any misconduct that is criminal in nature shall be referred to the tribal prosecutor and/or Franklin County District Attorney or other law enforcement agency that is deemed appropriate.

#### **SECTION 14. GRIEVANCES BY OFFICERS AND PERSONNEL**

- A. Pursuant to Section 11 S, the Commissioners shall be available to meet with Officers and personnel prior to their monthly meetings to discuss general issues, and concerns of the Officers and personnel.
- B. All Officers and personnel are employees of the Saint Regis Mohawk Tribe and therefore, subject to the Saint Regis Mohawk Tribe's Human Resource Personnel Policies, including the Whistleblower Policy. In the event that this Code, or properly adopted Policies and Procedures are inconsistent with the Saint Regis Mohawk Tribe's Personnel Policy, this Code shall supersede.
- C. The Human Resources Department is responsible for monitoring compliance with both the Saint Regis Mohawk Tribe's Human Resource Personnel Policy and properly adopted Policies and Procedures regarding personnel matter, for notifying the Commission of any known, or suspected violations of such Policies and Procedures, and for investigating and

documenting complaints filed by Officers or Personnel of the Saint Regis Mohawk Police Department and providing the results of any investigation to the Saint Regis Mohawk Tribal Police Commission.

- D. Officer or personnel complaints against the Chief of Police shall be filed with the Commission. The Commission's Chair or his designee shall oversee the investigation. If the Chair or the Commission determines it is necessary, they may appoint another investigator or request assistance of the Saint Regis Mohawk Tribe's Human Resource department to assist in the investigation. The Commission shall notify the complainant in writing of the investigation. The Chair shall ensure the complaint is investigated and reported to the Commission. The Commission shall determine whether any disciplinary action needs to be taken and notify the complainant whether the complaint was sustained or unfounded pursuant to the procedures set forth above in Section 13 D. The Commission's decision is final.
- E. Police Officers and Personnel may also make any complaint about working conditions to the Saint Regis Mohawk Tribe's Human Resources Department. No disciplinary action may be taken against a Police Officer or Personnel of the Police Department for making such a complaint. The Saint Regis Mohawk Tribe's Human Resource Department shall conduct an investigation into the complaint, and report any findings to the Commission who shall be responsible for taking action upon the complaint.

#### **SECTION 15. COMPLAINTS FROM THE PUBLIC**

- A. All complaints involving officers and personnel shall be filed in writing with the Chief of Police and Internal Affairs. Commissioners and all Tribal Police Department officers and personnel must accept all complaints and notify the Chief immediately.
- B. The Commission shall be notified when a complaint is filed. The notification shall contain the name of the officer and/or employee but shall not include the details of the complaint.
- C. The Chief of Police shall ensure all complaints are investigated and determine whether any disciplinary action shall be taken. Internal Affairs shall investigate all complaints, except for complaints involving the Internal Affairs Officer. Upon filing of a complaint involving the Internal Affairs Officer, the Chief of Police shall appoint another Investigator.
- D. The Chief of Police shall notify each complainant, in writing, that the complaint is being investigated. If the complaint involves an officer exercising authority under section 114 of New York State Indian Law, the Superintendent of State Police shall receive a copy of the notification.
- E. The Chief of Police shall notify the officer or personnel, in writing that a complaint has been filed against him/her and is being investigated. The subject of complaint shall be provided with an opportunity to be interviewed. But the officer or personnel is not required to provide a statement.

- F. Upon Internal Affairs' completion of the investigation, the Chief shall notify in writing the subject of the complaint whether the complaint will result in disciplinary charges being filed.
- G. All complaints shall remain in personnel files.
- H. Upon Internal Affairs' completion of the investigation and any subsequent disciplinary hearing, the Chief shall notify the complainant whether the complaint was sustained or unfounded and the complainant's right to a meeting with the Commission.
- I. The Chief shall report monthly to the Commission on the number of complaints filed and the status of the complaints, but shall not discuss the details of the complaints until the investigation is closed.
- J. The complainant may meet with the Commission once an investigation is complete and the case is closed.
- K. If the complainant wishes to meet with the Commission, he or she must notify the Commission within thirty (30) days from the receipt of the letter notification notifying him/her the complaint was resolved and request a meeting.
- L. Prior to meeting with a complainant regarding a closed complaint, the Commission shall review the investigation. The Commission shall not reveal any confidential information during the meeting.
- M. After meeting with the complainant, the Commission may concur with the Chief of Police's decision, refer the complaint back for further investigation, or reverse or modify the Chief of Police's decision.
- N. The Commission's decision shall be final.
- O. Complaints against the Chief of Police shall be filed with the Commission and Internal Affairs. The Commission's Chair or his designee shall oversee the investigation. If the Commission determines it is necessary, they may appoint another investigator. The Commission shall notify the complainant in writing of the investigation. If the Chief of Police is authorized to exercise state jurisdiction pursuant to New York State Indian Law § 114, the Superintendent of State Police shall receive a copy of the notification. The Chair shall ensure the complaint is investigated and report to the Commission. The Commission shall determine whether any disciplinary action needs to be taken and notify the complainant whether the complaint was sustained or unfounded. SECTION 13 D shall apply to disciplinary actions against the Chief of Police. The Commission's decision is final.
- P. All Commission files, including notes, involving complaints shall be kept in an organized manner and secured in a locked filing cabinet that is only accessible by Commission members and their administrative assistant.

**SECTION 16. DISCIPLINARY HEARING PROCEDURES INVOLVING OFFICERS AND PERSONNEL, OTHER THAN CHIEF OF POLICE**

- A. All disciplinary actions taken against Officers and Personnel (“charges”) shall be put in writing, and filed with Internal Affairs. Any disciplinary action against an Officer or other Personnel of the Police Department that results in suspension, demotion, or termination may be appealed to the Police Commission.
- B. The Chief of Police shall decide whether a violation of Department Police and Procedures is serious enough to result in a formal disciplinary charge to be brought before the Police Commission.
  - 1. Prior to filing a formal disciplinary charges with the Police Commission, the Chief of Police may invite the officer or personnel to agree to informal resolution of the alleged violation of Department policies and procedures.
  - 2. The officer or personnel may agree in writing to an informal resolution of the matter by the Chief of Police, upon which the Chief of Police shall discipline the officer or personnel according to Department policy.
  - 3. If the officer or personnel declines an informal resolution, or the Chief of Police decides an informal resolution is not appropriate, the Chief of Police shall bring formal disciplinary charges against the officer or personnel.
- C. The Commission shall be notified when formal disciplinary charges are filed. The notification shall contain the name of the officer and/or employee but shall not include the details of the complaint.
- D. Investigations involving excessive use of force shall be immediately reported to the Chairperson of the Police Commission. The Chairperson of the Police Commission, or his designee, shall oversee investigations involving excessive use of force.
- E. Any misconduct that is criminal in nature shall be referred to the tribal prosecutor and/or Franklin County District Attorney or other law enforcement agency that is deemed appropriate.
- F. Upon filing of formal disciplinary charges, the officer or personnel shall receive a copy of the charges in writing, along with notice of a hearing in front of the Police Commission. The notice shall include the right to cross examine witnesses, the right to present evidence, and the right to an attorney at his/her own expense.
- G. The disciplinary hearing shall be heard by the Commission within thirty (30) days of the filing of the disciplinary charges.
- H. The hearing shall not be open to the public.
- I. The Chairperson shall not be involved in hearings involving an investigation overseen by him/her, unless it is a disciplinary action involving the Chief of Police.

- J. The Chief of Police shall not discuss any ongoing investigation, except investigations involving excessive use of force, with the Commission prior to the disciplinary hearing. Ongoing investigations of excessive use of force shall only be discussed with the Chairperson or his designee.
- K. The Police Commission shall determine which evidence is relevant and allowed at the hearing.
- L. At the hearing, the Internal Affairs Officer from the Department shall present evidence to prove the charges. The Police Department may be represented by the Tribe's General Counsel. The burden of proof shall be a preponderance of the evidence. Past conduct may be offered if relevant to the current case.
- M. The officer or personnel may make a motion to disqualify a Commissioner for a conflict of interest. The challenged Commissioner may step down from the hearing or the Commission shall decide by majority vote whether to grant the motion.
- N. The Commission may question witnesses and request additional evidence.
- O. The officer or personnel may cross examine evidence and offer any evidence to refute the charges.
- P. The Commission shall decide whether the charges have been sustained based upon the evidence presented to them. They may retire to executive session to discuss and decide the case.
- Q. Upon a finding the charges have been sustained, the Commission shall impose discipline based upon Department policies and procedures. The Commission shall review the personnel file for prior conduct and the officer or personnel may offer evidence of prior good conduct. Discipline may include, but is not limited to counseling, training, probation, suspension, and termination from the Department. The Commission shall ensure that any discipline is fair and commensurate with the violation and that all officers and personnel are disciplined equally.
- R. All findings of the Commission are final. An officer or personnel may petition for a rehearing within 60 days of the Commission's decision upon discovery of new evidence. The Commission shall grant a new hearing if the evidence is relevant to the charges and was not available at the initial hearing.
- S. All Commission findings shall remain in the officer's or personnel's employee file.
- T. All Commission files, including notes, regarding disciplinary matters shall be kept in an organized manner and secured in a locked filing cabinet that is only accessible by Commission members and their administrative assistant.
- U. The Chief of Police shall provide a report monthly to the Commission including the number and status of investigations, informal resolutions and disciplinary charges

involving Department members, but not discussing the facts of the individual investigations. Discussions of closed cases may occur.

#### **SECTION 17. NON-TRIBAL LAW ENFORCEMENT AGENCIES**

- A. The Tribe exercises a government-to-government relationship with all other governments. Due to this relationship, the Commission along with the Tribal Council, shall oversee all sharing of powers, mutual aid arrangements, and cross-deputation agreements by the Police Department with non-tribal law enforcement agencies.
- B. A member of the Commission, and a designee of the Tribal Council, shall attend all meetings with non-tribal law enforcement agencies involving sharing of powers, , mutual aid arrangement, cross-deputation agreements and any other cooperative agreements with outside law enforcement agencies.
- C. The Commission shall review powers agreements, mutual aid agreements, and cross-deputation agreements which are made between the Police Department and non-tribal law enforcement agencies or departments.
- D. Upon the Commission's approval, these agreements shall be forwarded to the Tribal Council for approval.

#### **SECTION 18. COMMISSION MEETINGS**

- A. The Commission shall meet monthly. The first 20 minutes of each monthly meeting shall be open to the public. The Commission may vote to extend the time period or shorten the time period if no community members attend. The public portion of the meeting may include, but is not limited to, the following:
  1. A report by the Chief of Police including statistics of the number of incidents responded to in the last month, types of calls, convictions, any public service by the Police Department, and the number of complaints filed and investigated.
  2. Review of any policies and procedures.
  3. Public comment period.
- B. At the end of the public portion, the Commission shall retire to executive session to discuss personnel matters or any other confidential matters.
- C. Meetings dates and times shall be advertised in the tribal monthly newsletter and the tribal reader board.
- D. The Commission Chair may also call special meetings to attend to urgent business.

- E. Minutes shall be kept, by the Commission's assistant, of every meeting which may be reviewed by the Commission and Tribal Council.

**SECTION 19. FUNDING**

- A. The Commissioners shall receive a monthly stipend, set by Tribal Council.
- B. The Commission shall receive an annual budget every year from the Tribal General Fund which may include funding for stipends, meetings, training, travel, an administrative assistant, supplies, and a contract attorney or any other reasonable and necessary expense.
- C. The Commission shall submit a budget proposal for Commission's funding to the Tribal Council by October 1<sup>st</sup> of every year, unless requested at a different time by the Tribal Council.

**SECTION 20. ADOPTION AND AMENDMENT OF ACT**

Pursuant to Section 4 of Tribal Council Act 94-G, this Act may be amended by the Tribal Council.

**SECTION 21. SEVERABILITY**

If any word, clause, phrase, sentence, subsection, section, or other provision of this Code is held invalid by a court of competent jurisdiction, the invalidity shall not affect any other provisions or applications of this law that can be given effect without the invalid provision.

**SECTION 22. SOVEREIGN IMMUNITY**

Nothing in this Code shall be deemed as a waiver of the Tribe's sovereignty immunity.

**SAINT REGIS MOHAWK TRIBE**  
**POLICE COMMISSION ACT OF 2014**

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**SECTION 1. TITLE AND CODIFICATION**

This Act shall be known as the Saint Regis Mohawk Tribal Police Commission Act of 2014.

**SECTION 2. PRIOR LAWS**

The Tribal Council Act 94-G is hereby completely amended through the adoption of this code.

**SECTION 3. PURPOSE AND GOALS**

- A. The purpose of the Police Commission Act is to provide for independent supervision of the Chief of Police of the Saint Regis Mohawk Tribal Police Department and provide oversight for the Saint Regis Mohawk Tribal Police Department, while supporting the Saint Regis Mohawk Tribe's duty to maintain the health, safety, education and welfare of all members of the Tribe.
  
- B. The goals of the Police Commission Act are to:
  - 1. Support the Saint Regis Mohawk Tribe's goal of self-sufficiency and sovereignty through the implementation and enforcement of Tribal laws, regulations and ordinances.
  - 2. Provide the Community with a professional and effective law enforcement agency that is responsive and respectful while serving the community
  - 3. Strengthen the relationship between the community and the police by providing an accessible and credible complaint review process and increasing the community's confidence in the Department.
  - 4. Reduce police misconduct by:
    - a. identifying improper behavior and imposing appropriate discipline;
    - b. identifying any patterns or trends of misconduct or improper behavior;
    - c. identifying potentially problematic behavior where training is needed.
  - 5. Provide an open and independent forum for the community to express concerns about police conduct.

**SECTION 4. DEFINITIONS**

- A. Chief of Police: The highest ranking law enforcement officer of the Saint Regis Mohawk Tribal Police Department.
  
- B. Commission: The Police Commission comprised of five (5) tribal members of the Saint Regis Mohawk Tribe.

- C. Commissioners: Tribal members appointed by the Tribal Council to serve as Police Commissioners of the Saint Regis Mohawk Tribe.
- D. Conflict of interest: A conflict of interest occurs when a Police Commissioner has a family relationship to or financial interest in any complaint or investigation.
- E. Department: The Saint Regis Mohawk Tribal Police Department.
- F. Franklin County District Attorney: The elected district attorney for Franklin County.
- G. New York State § 114: The law granting the New York State Police Superintendent authority to appoint a tribal police officer as a police officer with the power to exercise state criminal law upon the St. Regis Mohawk Reservation.
- H. Personnel: All civilian personnel of the Saint Regis Mohawk Tribal Police Department.
- I. Police Officers: All qualified and sworn members of the Saint Regis Mohawk Tribal Police Department.
- J. Relative: A mother, father, sister, brother, child, spouse, member of the same household, in-law or grandparents.
- K. Saint Regis Mohawk Indian Reservation: All lands defined in the Treaty of 1796 and any subsequent lands over which the Saint Regis Mohawk Tribe exercises jurisdiction.
- L. Sharing of Powers Agreements: Agreements between the Saint Regis Mohawk Tribe and another government which allows the Tribal Police Department to exercise the law enforcement authority of another jurisdiction and allows another law enforcement agency to exercise the Tribe's law enforcement powers under the direction of the Tribal Police Department.
- M. Tribal Council: The legislative and executive body of the Saint Regis Mohawk Tribe.
- N. Tribal Police: The Saint Regis Mohawk Tribal Police Department.
- O. Tribe: The Saint Regis Mohawk Tribe.

## **SECTION 5. SOURCE OF AUTHORITY**

The Saint Regis Mohawk Tribe has inherent sovereign authority to govern and provide for the health and safety of its members, residents, visitors and territory, and through that authority has created the Saint Regis Mohawk Tribal Police Commission.

## **SECTION 6. SCOPE OF AUTHORITY**

The Saint Regis Mohawk Tribal Police Commission shall oversee the Saint Regis Mohawk Tribal Police Department by supervising the Chief of Police, recommending for approval all Police Department policies and procedures, and overseeing all complaints and disciplinary actions of Department Chief, officers, and personnel. All criminal investigations against officers and personnel shall be referred to the Tribal Prosecutor and/or Franklin County District Attorney or other law enforcement agency that is deemed appropriate.

## **SECTION 7. COMPOSITION OF THE POLICE COMMISSION**

- A. The Commission shall consist of five (5) members whose term of office shall be five (5) years or until their respective successors are appointed and have qualified. Members may be reappointed for consecutive terms. Members' terms are staggered.
- B. Appointment Process.
  1. Sixty (60) days prior to the end of a current Commissioner's term, or upon a vacancy, the Tribal Council shall post the opening of a position in at least one (1) local newspaper and the Tribal Newsletter. The posting shall request individuals willing to serve on the Commission to submit a letter of interest to the Tribal Council.
  2. The letters of interest shall be reviewed by the Tribal Council.
  3. The Tribal Council shall appoint a candidate by majority vote within thirty (30) days.
  4. Upon appointment by the Tribal Council, the Commission member shall be sworn into office by a Tribal Court Judge.
- C. Police Commission Membership Requirements.
  1. All Commission members and candidates shall:
    - a. Be member of the Saint Regis Mohawk Tribe;
    - b. Have a high school degree or GED;
    - c. Pass a drug test and criminal background check.
    - d. Attend yearly trainings conducted by the Tribal Police Department as well as national trainings focused on law enforcement and civilian oversight.
  2. All Commission members and candidates shall not:
    - a. Have a felony conviction.
    - b. Have been convicted of any misdemeanor offense within one (1) year of application and during tenure.
    - c. Have been convicted of any drug or alcohol misdemeanor offense within the last five (5) years and during tenure.
    - d. Have been convicted of any misdemeanor domestic violence or sexual assault convictions.
    - e. Be currently employed by the Saint Regis Mohawk Tribal Police Department.
    - f. Have been terminated for cause by any police department.

- g. Have resigned within the past five (5) years from a police department.
- h. Be a relative of an employee of the Saint Regis Mohawk Tribal Police Department.

D. Election of Officers.

The Commission members shall designate the Chairperson of the Police Commission by motion and majority vote. The Chairperson shall be the presiding officer at all meetings and shall attend to all the duties ordinarily pertaining to such office. The Chairperson shall serve a one (1) year term. The Chairperson shall coordinate all meetings with the Chief of Police. The Chairperson is a voting member of the Commission.

**SECTION 8. REMOVAL OF COMMISSIONERS**

- A. In the event a Commissioner violates any provisions contained in Section 7 C. 2. above, he or she shall be removed.
- B. A Commissioner shall also be removed for a failure to perform his or her duties as a Commissioner.
- C. A Commissioner shall also be removed in the event that he or she misses more than three (3) consecutive meeting in any twelve (12) month time period without good cause.
- D. A Commissioner shall also be removed for continual failure to remove him/herself from cases for a conflict of interest.
- E. When a violation occurs or the Commission receives information a violation has occurred, the Commission shall provide written notice of the alleged violation in writing to the Commissioner. The notice shall include the right to have a hearing and present evidence on his or her behalf.
- F. If requested, the Commission shall hold a hearing and at the close of the hearing enter into executive session to determine by majority vote whether the Commissioner shall be removed.
- G. If the Commission recommends removal, the Commission shall forward their recommendation to the Tribal Council. The Tribal Council shall accept or reject the recommendation for removal within ten (10) working days or the recommendation of the Commission shall take effect.

**SECTION 9. CONFLICT OF INTEREST**

In the event a Commissioner possesses a conflict of interest on a particular issue, he or she shall disqualify himself/herself from the decision-making process. If the Commissioner fails to disqualify himself or herself and the conflict of interest is apparent to the remaining Commissioners, they shall remove him or her from the case by a simple majority vote. Repeated

failures to recuse oneself for a conflict of interest shall result in removal from the Commission pursuant to Section 8.

## **SECTION 10. CONFIDENTIALITY**

All Commissioners shall not reveal any confidential information regarding personnel matters, investigations, and disciplinary hearings. Sharing of confidential information shall result in the removal pursuant to Section 8.

## **SECTION 11. DUTIES OF THE COMMISSION**

- A. The Commission shall appoint, supervise, discipline, and terminate the Chief of Police of the Saint Regis Mohawk Tribal Police Department.
- B. The Commission shall recommend to the Tribal Council officers qualified to exercise authority pursuant to New York State Article 8 § 114.
- C. The Commission shall review and recommend for approval of all policies and procedures of the Saint Regis Mohawk Tribal Police. Within 120 days of the adoption of this Act, the Commission shall conduct, or cause to be conducted, a complete review of existing Policies and Procedures, and, if necessary make recommendations to amend such Policies and Procedures for consistency with this Act. All such Policies and Procedures shall be consistent with the Saint Regis Mohawk Tribe's goal of self-sufficiency and sovereignty through the implementation and enforcement of Tribal laws, regulations and ordinances.
  1. The Chief of Police shall provide the Commission with any recommended or necessary additions or amendments to Department policies and procedures.
  2. The Commission may also draft changes based upon a problem identified by the community or the Commission.
  3. Upon receiving any amendments to policies and procedures from the Chief of Police, the Commission shall have up to sixty (60) days to review and recommend to Council.
  4. After the review period, Commission shall submit the amendments to the policies and procedures to the Tribal Council for approval or request the Police Department make further revisions to the policies and procedures.
  5. Upon submission of the policies and procedures to the Tribal Council, they shall become approved within sixty (60) days unless the Council votes to reject the new policies and procedures. If the Council votes to reject the policies and procedures, the Council shall give a written explanation to the Commission within fifteen (15) days of the rejection.

- D. The Commission shall oversee all hiring, promotion, and termination of Police Department Personnel and Officers.
  - 1. The Commission, with the input of the Chief of Police, shall make such rules and regulations as may be necessary to provide for the promotion, suspension and removal of personnel and officers of the Police Department.
  - 2. The Commission, with the input of the Chief of Police, shall develop and publish standard hiring procedures for new police officers and personnel.
  - 3. The Commission shall develop and implement procedures for recommending Tribal Police Officers to the Tribal Council to be certified by the State of New York as New York State Police Officers.
- E. The Commission shall oversee all complaints against the Chief of Police, Department Personnel and Officers.
- F. The Commission shall make complaint forms accessible to the public and ensure all tribal agencies know the complaint process and a contact person and phone number for the Commission.
- G. The Commission shall oversee all disciplinary actions of the Chief of Police, Officers and Department Personnel.
- H. The Commission, along with the Tribal Council, shall oversee the entering into of sharing of powers agreements, mutual aid agreements, and cross-deputization agreements by the Police Department with non-tribal law enforcement agencies.
- I. The Commission shall submit an annual report to the Tribal Council which includes, but is not limited to, the number of complaints filed and resolved, the number of disciplinary actions, changes in policies and procedures, and goals and needed resources for the following year.
- J. The Commission shall review all reports and audits conducted by the Bureau of Indian Affairs, or anything other entity that are submitted to the Chief of Police.
- K. The Commission shall review closed complaints and disciplinary cases every six months to determine whether improvements to Department policies and procedures are needed. The Commission shall not reopen closed cases, but shall only review the cases to determine needed improvements in policies and procedures.
- L. The Commission shall review the Department's annual proposed budget and shall provide recommendations to the Chief of Police regarding the Department's finances prior to its submission to the Tribal Council for approval.
- M. The Commission shall review all use of force reports, including shooting incidents, to keep track of when officers use force, which officers use force, and in what type of circumstances force is being used. The Commission shall identify patterns and trends and adjust policies and procedures and training when appropriate based on this review.

- N. The Commission shall work towards increasing public awareness of the Commission and the Police Department.
1. The Commission shall provide public notice of its monthly meetings, provided that all hearings involving disciplinary matters shall be held in executive session.
  2. The Commission, with the help and advice of the Chief of Police, shall develop programs aimed at interaction with and education of the community.
- O. The Commission, for any reason, may request that an independent police auditor be appointed by the Tribal Council to monitor a particular complaint or investigation.
- P. The Commission shall conduct a yearly evaluation of the Chief of Police and the Department. The Commission may hire an outside evaluator to assist with the evaluation. The evaluation shall include, but is not limited to:
1. At least one community focus group.
  2. Interviews with Department personnel and officers.
  3. A review of complaints and disciplinary actions.
  4. A review of policies and procedures.
  5. A review of St. Regis Mohawk Tribal Court opinions, particularly Traffic Court opinions.
  6. A review of Department statistics, including statistics on the issuance of Tribal summons' and State summons'.
- Q. The Commission shall provide a monthly report to the Tribal Council, including statistics on the number of complaints and disciplinary actions, and any other issues the Commission and Council deem important and appropriate.
- R. The Commission shall work with the Chief of Police to ensure St. Regis Mohawk Tribal Police Officers are receiving leadership training to prepare them for promotions within the Department, including training that will prepare them to become a Chief of Police.
- S. The Commission shall be available to any police officers and personnel who may wish to meet with them to discuss issues relating to the Police Department.
- T. The Commission shall not respond to police scenes or calls for assistance.

**SECTION 12. POLICE COMMISSION PERSONNEL**

- A. The Commission may have the services of its own contract attorney, separate from the Tribe's Legal Department, during all officer or personnel disciplinary hearings to avoid any conflict of interest. Payment for the services of any contract attorney shall be included in the Commission's annual budget.
- B. Administrative assistance shall be provided for the Police Commission. The assistant may be part-time or full-time, depending on the needs of the Commission.

**SECTION 13. APPOINTMENT, SUPERVISION, DISCIPLINE OF THE CHIEF OF POLICE**

- A. The Police Commission appoints, supervises, disciplines, and may terminate the Chief of Police.
- B. The Commission shall use the following process for appointing the Chief of Police:
  - 1. Upon a vacancy, the Commission shall appoint an interim Chief of Police while conducting a candidate search.
  - 2. The Police Commission shall post the position in local and national newspapers, in addition to any other places, for no longer than thirty (30) days.
  - 3. The Commission shall interview any candidates that meet the criteria for Chief of Police as per Section 13 C.
  - 4. Upon finding a qualified candidate, the Commission shall appoint a Chief of Police.
- C. The Chief of Police must meet the following requirements. The Chief of Police in office as of October 2012 shall be exempt from these requirements.
  - 1. Ten years of law enforcement experience.
  - 2. Five years of supervisory or management experience.
  - 3. Possess the qualifications required to be certified as a peace officer under the Tribe's law enforcement agreement with the State of New York.
  - 4. The Native Preference Policy of the Saint Regis Mohawk Tribe shall apply to this position.
- D. Disciplinary charges against the Chief of Police may be filed by the Commission based upon an Internal Affairs investigation or as a result of the Commission's oversight of the Chief of Police.

1. Written notice of the charges shall be given to the Chief of Police, along with notice of a hearing in front of the Commission. The notice shall include the right to cross examine witnesses, the right to present evidence, and the right to an attorney at his/her own expense.
2. The disciplinary hearing shall be heard by the Commission within thirty (30) days of the filing of the disciplinary charges.
3. The Police Commission shall determine which evidence is relevant and allowed at the hearing.
4. The Chief may cross examine evidence and offer any evidence to refute the charges.
5. The Commission shall decide whether the charges have been sustained based upon the evidence presented to them. The evidence may be offered by the Internal Affairs Officer or by the Commission's Chair or his/her designee. The burden of proof is preponderance of the evidence. They may retire to executive session to discuss and decide the case.
6. Upon a finding the charges have been sustained, the Commission shall impose discipline which may include, but is not limited to counseling, training, probation, suspension, or termination.
7. The decision of the Commission is final.
8. The Chief may be suspended with or without pay by the Commission during an investigation involving his/her conduct.
9. Any misconduct that is criminal in nature shall be referred to the tribal prosecutor and/or Franklin County District Attorney or other law enforcement agency that is deemed appropriate.

#### **SECTION 14. GRIEVANCES BY OFFICERS AND PERSONNEL**

- A. Pursuant to Section 11 S, the Commissioners shall be available to meet with Officers and personnel prior to their monthly meetings to discuss general issues, and concerns of the Officers and personnel.
- B. All Officers and personnel are employees of the Saint Regis Mohawk Tribe and therefore, subject to the Saint Regis Mohawk Tribe's Human Resource Personnel Policies, including the Whistleblower Policy. In the event that this Code, or properly adopted Policies and Procedures are inconsistent with the Saint Regis Mohawk Tribe's Personnel Policy, this Code shall supersede.
- C. The Human Resources Department is responsible for monitoring compliance with both the Saint Regis Mohawk Tribe's Human Resource Personnel Policy and properly adopted Policies and Procedures regarding personnel matter, for notifying the Commission of any known, or suspected violations of such Policies and Procedures, and for investigating and

documenting complaints filed by Officers or Personnel of the Saint Regis Mohawk Police Department and providing the results of any investigation to the Saint Regis Mohawk Tribal Police Commission.

- D. Officer or personnel complaints against the Chief of Police shall be filed with the Commission. The Commission's Chair or his designee shall oversee the investigation. If the Chair or the Commission determines it is necessary, they may appoint another investigator or request assistance of the Saint Regis Mohawk Tribe's Human Resource department to assist in the investigation. The Commission shall notify the complainant in writing of the investigation. The Chair shall ensure the complaint is investigated and reported to the Commission. The Commission shall determine whether any disciplinary action needs to be taken and notify the complainant whether the complaint was sustained or unfounded pursuant to the procedures set forth above in Section 13 D. The Commission's decision is final.
- E. Police Officers and Personnel may also make any complaint about working conditions to the Saint Regis Mohawk Tribe's Human Resources Department. No disciplinary action may be taken against a Police Officer or Personnel of the Police Department for making such a complaint. The Saint Regis Mohawk Tribe's Human Resource Department shall conduct an investigation into the complaint, and report any findings to the Commission who shall be responsible for taking action upon the complaint.

## **SECTION 15. COMPLAINTS FROM THE PUBLIC**

- A. All complaints involving officers and personnel shall be filed in writing with the Chief of Police and Internal Affairs. Commissioners and all Tribal Police Department officers and personnel must accept all complaints and notify the Chief immediately.
- B. The Commission shall be notified when a complaint is filed. The notification shall contain the name of the officer and/or employee but shall not include the details of the complaint.
- C. The Chief of Police shall ensure all complaints are investigated and determine whether any disciplinary action shall be taken. Internal Affairs shall investigate all complaints, except for complaints involving the Internal Affairs Officer. Upon filing of a complaint involving the Internal Affairs Officer, the Chief of Police shall appoint another Investigator.
- D. The Chief of Police shall notify each complainant, in writing, that the complaint is being investigated. If the complaint involves an officer exercising authority under section 114 of New York State Indian Law, the Superintendent of State Police shall receive a copy of the notification.
- E. The Chief of Police shall notify the officer or personnel, in writing that a complaint has been filed against him/her and is being investigated. The subject of complaint shall be provided with an opportunity to be interviewed. But the officer or personnel is not required to provide a statement.

- F. Upon Internal Affairs' completion of the investigation, the Chief shall notify in writing the subject of the complaint whether the complaint will result in disciplinary charges being filed.
- G. All complaints shall remain in personnel files.
- H. Upon Internal Affairs' completion of the investigation and any subsequent disciplinary hearing, the Chief shall notify the complainant whether the complaint was sustained or unfounded and the complainant's right to a meeting with the Commission.
- I. The Chief shall report monthly to the Commission on the number of complaints filed and the status of the complaints, but shall not discuss the details of the complaints until the investigation is closed.
- J. The complainant may meet with the Commission once an investigation is complete and the case is closed.
- K. If the complainant wishes to meet with the Commission, he or she must notify the Commission within thirty (30) days from the receipt of the letter notification notifying him/her the complaint was resolved and request a meeting.
- L. Prior to meeting with a complainant regarding a closed complaint, the Commission shall review the investigation. The Commission shall not reveal any confidential information during the meeting.
- M. After meeting with the complainant, the Commission may concur with the Chief of Police's decision, refer the complaint back for further investigation, or reverse or modify the Chief of Police's decision.
- N. The Commission's decision shall be final.
- O. Complaints against the Chief of Police shall be filed with the Commission and Internal Affairs. The Commission's Chair or his designee shall oversee the investigation. If the Commission determines it is necessary, they may appoint another investigator. The Commission shall notify the complainant in writing of the investigation. If the Chief of Police is authorized to exercise state jurisdiction pursuant to New York State Indian Law § 114, the Superintendent of State Police shall receive a copy of the notification. The Chair shall ensure the complaint is investigated and report to the Commission. The Commission shall determine whether any disciplinary action needs to be taken and notify the complainant whether the complaint was sustained or unfounded. SECTION 13 D shall apply to disciplinary actions against the Chief of Police. The Commission's decision is final.
- P. All Commission files, including notes, involving complaints shall be kept in an organized manner and secured in a locked filing cabinet that is only accessible by Commission members and their administrative assistant.

**SECTION 16. DISCIPLINARY HEARING PROCEDURES INVOLVING OFFICERS AND PERSONNEL, OTHER THAN CHIEF OF POLICE**

- A. All disciplinary actions taken against Officers and Personnel (“charges”) shall be put in writing, and filed with Internal Affairs. Any disciplinary action against an Officer or other Personnel of the Police Department that results in suspension, demotion, or termination may be appealed to the Police Commission.
- B. The Chief of Police shall decide whether a violation of Department Police and Procedures is serious enough to result in a formal disciplinary charge to be brought before the Police Commission.
  - 1. Prior to filing a formal disciplinary charges with the Police Commission, the Chief of Police may invite the officer or personnel to agree to informal resolution of the alleged violation of Department policies and procedures.
  - 2. The officer or personnel may agree in writing to an informal resolution of the matter by the Chief of Police, upon which the Chief of Police shall discipline the officer or personnel according to Department policy.
  - 3. If the officer or personnel declines an informal resolution, or the Chief of Police decides an informal resolution is not appropriate, the Chief of Police shall bring formal disciplinary charges against the officer or personnel.
- C. The Commission shall be notified when formal disciplinary charges are filed. The notification shall contain the name of the officer and/or employee but shall not include the details of the complaint.
- D. Investigations involving excessive use of force shall be immediately reported to the Chairperson of the Police Commission. The Chairperson of the Police Commission, or his designee, shall oversee investigations involving excessive use of force.
- E. Any misconduct that is criminal in nature shall be referred to the tribal prosecutor and/or Franklin County District Attorney or other law enforcement agency that is deemed appropriate.
- F. Upon filing of formal disciplinary charges, the officer or personnel shall receive a copy of the charges in writing, along with notice of a hearing in front of the Police Commission. The notice shall include the right to cross examine witnesses, the right to present evidence, and the right to an attorney at his/her own expense.
- G. The disciplinary hearing shall be heard by the Commission within thirty (30) days of the filing of the disciplinary charges.
- H. The hearing shall not be open to the public.
- I. The Chairperson shall not be involved in hearings involving an investigation overseen by him/her, unless it is a disciplinary action involving the Chief of Police.

- J. The Chief of Police shall not discuss any ongoing investigation, except investigations involving excessive use of force, with the Commission prior to the disciplinary hearing. Ongoing investigations of excessive use of force shall only be discussed with the Chairperson or his designee.
- K. The Police Commission shall determine which evidence is relevant and allowed at the hearing.
- L. At the hearing, the Internal Affairs Officer from the Department shall present evidence to prove the charges. The Police Department may be represented by the Tribe's General Counsel. The burden of proof shall be a preponderance of the evidence. Past conduct may be offered if relevant to the current case.
- M. The officer or personnel may make a motion to disqualify a Commissioner for a conflict of interest. The challenged Commissioner may step down from the hearing or the Commission shall decide by majority vote whether to grant the motion.
- N. The Commission may question witnesses and request additional evidence.
- O. The officer or personnel may cross examine evidence and offer any evidence to refute the charges.
- P. The Commission shall decide whether the charges have been sustained based upon the evidence presented to them. They may retire to executive session to discuss and decide the case.
- Q. Upon a finding the charges have been sustained, the Commission shall impose discipline based upon Department policies and procedures. The Commission shall review the personnel file for prior conduct and the officer or personnel may offer evidence of prior good conduct. Discipline may include, but is not limited to counseling, training, probation, suspension, and termination from the Department. The Commission shall ensure that any discipline is fair and commensurate with the violation and that all officers and personnel are disciplined equally.
- R. All findings of the Commission are final. An officer or personnel may petition for a rehearing within 60 days of the Commission's decision upon discovery of new evidence. The Commission shall grant a new hearing if the evidence is relevant to the charges and was not available at the initial hearing.
- S. All Commission findings shall remain in the officer's or personnel's employee file.
- T. All Commission files, including notes, regarding disciplinary matters shall be kept in an organized manner and secured in a locked filing cabinet that is only accessible by Commission members and their administrative assistant.
- U. The Chief of Police shall provide a report monthly to the Commission including the number and status of investigations, informal resolutions and disciplinary charges

involving Department members, but not discussing the facts of the individual investigations. Discussions of closed cases may occur.

## **SECTION 17. NON-TRIBAL LAW ENFORCEMENT AGENCIES**

- A. The Tribe exercises a government-to-government relationship with all other governments. Due to this relationship, the Commission along with the Tribal Council, shall oversee all sharing of powers, mutual aid arrangements, and cross-deputation agreements by the Police Department with non-tribal law enforcement agencies.
- B. A member of the Commission, and a designee of the Tribal Council, shall attend all meetings with non-tribal law enforcement agencies involving sharing of powers, , mutual aid arrangement, cross-deputation agreements and any other cooperative agreements with outside law enforcement agencies.
- C. The Commission shall review powers agreements, mutual aid agreements, and cross-deputation agreements which are made between the Police Department and non-tribal law enforcement agencies or departments.
- D. Upon the Commission's approval, these agreements shall be forwarded to the Tribal Council for approval.

## **SECTION 18. COMMISSION MEETINGS**

- A. The Commission shall meet monthly. The first 20 minutes of each monthly meeting shall be open to the public. The Commission may vote to extend the time period or shorten the time period if no community members attend. The public portion of the meeting may include, but is not limited to, the following:
  - 1. A report by the Chief of Police including statistics of the number of incidents responded to in the last month, types of calls, convictions, any public service by the Police Department, and the number of complaints filed and investigated.
  - 2. Review of any policies and procedures.
  - 3. Public comment period.
- B. At the end of the public portion, the Commission shall retire to executive session to discuss personnel matters or any other confidential matters.
- C. Meetings dates and times shall be advertised in the tribal monthly newsletter and the tribal reader board.
- D. The Commission Chair may also call special meetings to attend to urgent business.

- E. Minutes shall be kept, by the Commission's assistant, of every meeting which may be reviewed by the Commission and Tribal Council.

**SECTION 19. FUNDING**

- A. The Commissioners shall receive a monthly stipend, set by Tribal Council.
- B. The Commission shall receive an annual budget every year from the Tribal General Fund which may include funding for stipends, meetings, training, travel, an administrative assistant, supplies, and a contract attorney or any other reasonable and necessary expense.
- C. The Commission shall submit a budget proposal for Commission's funding to the Tribal Council by October 1<sup>st</sup> of every year, unless requested at a different time by the Tribal Council.

**SECTION 20. ADOPTION AND AMENDMENT OF ACT**

Pursuant to Section 4 of Tribal Council Act 94-G, this Act may be amended by the Tribal Council.

**SECTION 21. SEVERABILITY**

If any word, clause, phrase, sentence, subsection, section, or other provision of this Code is held invalid by a court of competent jurisdiction, the invalidity shall not affect any other provisions or applications of this law that can be given effect without the invalid provision.

**SECTION 22. SOVEREIGN IMMUNITY**

Nothing in this Code shall be deemed as a waiver of the Tribe's sovereignty immunity.