PUEBLO OF LAGUNA
P.O. Box 194
LAGUNA, NEW MEXICO 87026

PUEBLO OF LAGUNA

Resolution No. 69-11

Re: Clarifying the authority of the Pueblo of Laguna Probation & Parole Officers and providing for the commissioning of Probation & Parole Officers in the Pueblo of Laguna Code.

At a duly called meeting of the Laguna Pueblo Council ("Council") held on the 3rd day December 2011, the following amendments and addition to the Pueblo of Laguna Code were adopted:

WHEREAS, the Pueblo of Laguna ("Pueblo") is a federally recognized Indian Tribe with a constitution and all the inherent governmental powers of a sovereign; and

WHEREAS, Article IV §2(e) of the Pueblo of Laguna Constitution, authorizes the Pueblo to establish and enforce ordinances governing the conduct and civil relations of residents of the Pueblo and providing for the maintenance of law and order and the administration of justice within the lands of the Pueblo; and

WHEREAS, probation services benefits the Pueblo by ensuring that those individuals who are charged with crimes and delinquent acts are compliant with the law; and

WHEREAS, the specific authority for Probation & Parole Officers to enforce Court orders is not clearly defined; and

WHEREAS, the Pueblo of Laguna Code §7-2-262 Juvenile Probation Officer(s) specifically details the duties and responsibilities of a Juvenile Probation Officer; and

WHEREAS, the Pueblo of Laguna Code §15-3-3. Probation references Adult Probation by generally stating that the Court may place an individual on probation "if he is in need of the supervision, guidance, or assistance or direction that the probation service can provide"; and

WHEREAS, there needs to be a clear definition of the authority vested in the Pueblo of Laguna Probation and Parole Officers;

WHEREAS, clarification may be achieved through amendment and addition of a new section to the Pueblo of Laguna Code.

NOW, THEREFORE, BE IT RESOLVED, that the Pueblo of Laguna Council hereby amends the Pueblo of Laguna Code §15-3-3 and establishes §15-14-21 to be placed within the Pueblo of Laguna Code to read as follows:

Section 15-3-3. Probation and Parole.

A. *Probation.* When a person has been convicted of a crime, the Court may place him or her on probation if he or she is in need of the supervision, guidance, or assistance or direction that the probation service can provide.

B. *Parole.* When a person is released early from imprisonment, the Court may place him or her on parole if he or she is in need of the supervision, guidance, or assistance or direction that the parole service can provide.

C. *Duties.* Probation and Parole Officers shall:

(1) Supervise adults convicted of criminal charges as ordered by the Pueblo Court;
(2) Supervise juveniles as ordered by the Pueblo Court, and carry out such other juvenile probation duties as described in the Pueblo of Laguna Code §7-2-262;
(3) Supervise adults and juveniles as ordered by the Pueblo Court as a condition of release prior to a criminal trial or juvenile delinquency adjudication; and
(4) Supervise adults who are placed on parole by the Pueblo Court.

D. *Commission.* All Probation & Parole Officers shall be commissioned upon successful completion of a Tribal Probation Academy. No commissioned probation officer will perform any law enforcement duties involving carrying a concealed weapon until guidelines have been submitted and approved by the Pueblo Council and implemented by the Governor of the Pueblo of Laguna and the Division Director who has supervisory authority over Probation and Parole Services.

E. *Authority.* Following commissioning, Probation & Parole Officers shall be authorized to enforce the Pueblo of Laguna Code but such authority is limited to arresting and detaining individuals who violate the laws of the Pueblo of Laguna in their presence or violate conditions of probation or parole pursuant to §15-14-21. Upon an arrest made pursuant to this provision, the arresting Probation & Parole Officer shall submit written justification showing probable cause for making the arrest to the officer in charge of the Laguna Detention Facility at the time the individual is brought to the Laguna Detention Facility. Such probable cause shall be considered sufficient to detain the individual at the Laguna Detention Facility. Upon delivery of an individual to the Laguna Detention Facility following an arrest, the Probation Officer shall immediately file a copy of their written justification for the arrest with the Pueblo Court.

F. *Jurisdictional Limits*. Probation & Parole Officers, or any employee of Probation & Parole Services, who has the duty to hold in custody or supervise any person accused or convicted of a criminal offense or placed in the legal custody or supervision of Probation & Parole Services, shall have the power to arrest and enforce the Pueblo's laws when on the premises of a Laguna Detention Facility or while transporting a person committed to or under the supervision of Probation & Parole Services; when supervising any person committed to or under the supervision of Probation & Parole Services anywhere within the Pueblo of Laguna's jurisdiction; or when engaged in any effort to pursue or apprehend any such person.

G. *Justifiable Defense to Liability.* No probation officer or other employee of Probation & Parole Services shall be convicted or held liable for any act performed pursuant to this section if a peace officer could lawfully have performed the same act in the same circumstances.

H. *Definition.* "Supervising" as used herein includes, but not limited to, the performance of the following official duties :

a. Field investigations;

b. Conducting office / home/ work/ school visits;

c. Searches and seizures conducted alone or in cooperation with a state or local law enforcement agency; and

d. Security during the course of a probation or parole revocation hearing or proceeding or any other hearing or appearance required by law.

Section 15-14-21. Probation or Parole Violation.

A. *Offense*. It shall be unlawful for any individual ordered to Probation or Parole through the Pueblo Court to violate any condition of Probation or Parole.

B. *Bond*. Any person charged with Probation or Parole Violation has the right to deny the charges and may be held without bond pending a Probation or Parole Violation / Revocation hearing.

C. *Sentence*. Any person found guilty of Probation or Parole Violation shall be sentenced to a maximum jail term not to exceed the remaining portion of their Probation/Parole period OR, one-hundred and twenty (120) days.

D. *Revocation.* Any person found guilty of Probation or Parole Violation may be subject to having their probation/parole period revoked and the remaining portion of their probation/parole period imposed as jail.

BE IT FURTHER RESOLVED, that the Pueblo Council directs and authorizes the Governor and COO to execute further actions to implement this Resolution.

Governor

Councilmember

Councilmember

ATTEST:

Actg Pueblo Secretary

CERTIFICATION

The foregoing Resolution was enacted by the Pueblo Council of the Pueblo of Laguna on the 3rd day of December 2011, by a vote of 18 in favor, 1 opposed, at a duly called meeting at which a quorum of the Pueblo Council was present.

Governor

ATTEST:

Actg Pueblo Secretary

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