

**TITLE 2 – GOVERNMENT ADMINISTRATION
PART II – DEPARTMENTS; DIVISIONS
CHAPTER 2-17- OFFICE OF THE PROSECUTOR**

TABLE OF CONTENTS

SUBCHAPTER A	GENERAL PROVISIONS	
Section 10	Purpose	1
Section 20	Short Title; Codification	1
Section 30	Establishment of the Office of the Prosecutor.....	1
Section 40	Purpose of the Department.....	1
Section 50	Mission	2
Section 60	Power and Duties	2
SUBCHAPTER B	CHIEF PROSECUTOR; DIRECTOR	
Section 70	Creation and Appointment	3
Section 80	General Duties of Director	3
Section 90	Supervisory Duties and Authorities of Director	4
SUBCHAPTER C	ORGANIZATION	
Section 100	Organization.....	4
SUBCHAPTER D	AUTHORIZED PROGRAMS AND LIMITATIONS OF AUTHORITY	
Section 110	Authorized Programs and Limitations of Authority	5
SUBCHAPTER E	PROGRAM EVALUATION AND MONITORING	
Section 120	Program Evaluation and Monitoring	6
Section 130	Reporting	6

**TITLE 2 – GOVERNMENT ADMINISTRATION
PART II – DEPARTMENTS; DIVISIONS
CHAPTER 2-17- OFFICE OF THE PROSECUTOR**

Legislative History: Enacted on January 6, 2016 by Resolution No. C01-03-16 and Ordinance No. 02-16.

SUBCHAPTER A GENERAL PROVISIONS

Section 10 Purpose (2 PYTC § 2-17-10)

- (A) The purpose of this subchapter is to establish the Pascua Yaqui Tribe Office of the Prosecutor and to provide authorization and guidance for its operation.
- (B) This Ordinance is not intended to:
 - (1) Determine whether a prosecutor committed error or engaged in improper conduct;
 - (2) Create statutory obligations;
 - (3) Interfere with prosecutorial discretion;
 - (4) Be used by disciplinary agencies when considering allegations of violations of rules of ethical conduct;
 - (5) Create any right of action in any person; or
 - (6) Alter existing law in any respect.

Section 20 Short Title; Codification (2 PYTC § 2-17-20)

This ordinance shall be known as the “Pascua Yaqui Tribe Office of the Prosecutor Ordinance 2016.”

Section 30 Establishment of the Office of the Prosecutor (2 PYTC § 2-17-30)

- (A) The organizational division to be known as the Pascua Yaqui Tribe Office of the Prosecutor is hereby created as a department in the Executive Branch of the Pascua Yaqui Government.
- (B) If any section or part of this Chapter is later determined to be void or unenforceable, the remainder of this Chapter shall nevertheless remain in full force and effect, unless this Chapter, without said void or unenforceable section or part, fails in its purpose.

Section 40 Purpose of Department (2 PYTC § 2-17-40)

The purpose of the Pascua Yaqui Tribe Office of the Prosecutor is to be vested with the discretionary authority to prosecute in the name of the Tribe all actions necessary to enforce the provisions of the Pascua Yaqui Constitution, Pascua Yaqui Tribal Code, United States Constitution and other applicable laws. The Office of the Prosecutor shall seek justice by the fair representation and presentation of the facts. This responsibility includes, but is not limited to, ensuring that the guilty are held accountable, that the innocent are protected from unwarranted harm or neglect, and that the rights of all participants, particularly victims of crime, are respected. The Office of the Prosecutor is charged with the responsibility to prosecute cases on the Pascua Yaqui Reservation by filing and pursuing authorized civil and criminal actions against persons who break the Tribe’s laws.

Section 50 Mission (2 PYTC § 2-17-50)

- (A) It is the mission of the Pascua Yaqui Tribe Office of the Prosecutor to represent the interests of the Pascua Yaqui Tribe and its community in the criminal justice system, and authorized civil system, as mandated by law. The Pascua Yaqui Tribe Office of the Prosecutor shall uphold the Law of the Pascua Yaqui Tribe, the State of Arizona, United States Constitution and other applicable laws. The Pascua Yaqui Tribe Office of the Prosecutor serves the residents of Pascua Yaqui Tribe by protecting the innocent; safeguarding the community by demanding accountability for those who commit crimes; respecting and advocating for the rights of victims; promoting the safety and security of the Pascua Yaqui Tribe and its culture; seeking the truth; and ensuring that justice is done while always maintaining the highest ethical standards.

- (B) To accomplish this mission, the following goals have been adopted to provide a framework for success:
 - (1) To strive for just disposition of criminal cases and to promote public safety and order through timely, efficient, and effective prosecution;
 - (2) To ensure that victims and witnesses of crimes are treated with respect, courtesy, and sensitivity in their cooperation with criminal prosecution;
 - (3) To improve the criminal justice system by identifying areas of need, improving data collection and analysis, working collaboratively, and sharing information with other criminal justice agencies and the community, where legally permissible;
 - (4) To encourage and promote crime prevention and early intervention initiatives to improve the quality of life on the Pascua Yaqui Reservation;
 - (5) To identify, promote, and implement new and innovative approaches to solving crime problems and to ensure that decision-making is driven by data;
 - (6) To elevate public trust in the criminal justice system by promoting public awareness regarding the role of law enforcement, crime prevention, public safety, and victims' rights through relevant educational, community outreach, and public information programs and policies; and
 - (7) To take a community leadership role by forming partnerships with schools, community groups, public officials, courts and business leaders to spearhead coordinated efforts to eliminate conditions that precipitate crime and to reduce the incidence of crime.

Section 60 Powers and Duties (2 PYTC § 2-17-60)

- (A) The Pascua Yaqui Tribe Office of the Prosecutor is the public prosecutor of the Pascua Yaqui Tribe and shall have the authority to:
 - (1) Attend Tribal Court, Appellate Court, and other authorized courts, on behalf of the Tribe, in all prosecutions for public offenses and may appear in civil matters where permitted and delegated by the Pascua Yaqui Tribe Attorney General.
 - (2) Institute proceedings before authorized judges and/or authorized magistrates for the arrest of persons charged with or reasonably suspected of public offenses when the Office of the Prosecutor has information that the offenses have been committed and within an authorized jurisdiction of the Pascua Yaqui Tribe.
 - (3) Draw complaints, indictments, and/or other charging documents, prosecute actions to recover recognizances forfeited in courts of record and actions for recovery of debts, fines, penalties, and forfeitures accruing to the Tribe.

- (B) The Office of the Prosecutor may provide criminal legal services to another tribe or other political subdivision of the United States or an officer, employee or agency of a political subdivision of another tribe or political subdivision of the United States at the request of the Chief Prosecutor. The Chief Prosecutor may also obtain criminal or civil legal services for the Pascua Yaqui Tribe or for an officer, employee or agency of the Pascua Yaqui Tribe, from the elected or appointed attorney of another tribe or other political subdivision of the United States.
- (C) The Office of the Prosecutor shall operate in conformity with, and licensed attorneys shall be bound by, the Arizona Rules of Professional Conduct as promulgated by the State Bar of Arizona and with the local governing agency that applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys.
 - (1) No person shall appear on behalf of the Office of the Prosecutor in the Pascua Yaqui Tribal Court without Tribal Court Certification or other Court authorization.

SUBCHAPTER B CHIEF PROSECUTOR; DIRECTOR

Section 70 Creation and Appointment (2 PYTC § 2-17-70)

- (A) The position of Chief Prosecutor is hereby created. The Pascua Yaqui Tribe Office of the Prosecutor shall consist of a “Chief Prosecutor” and such offices necessary for the execution of its mission, performance of its mandated functions, and to achieve its annual goals and objectives.
- (B) The Chief Prosecutor shall not be deemed to be a “tribal officer” as defined in Article VII of the Constitution of the Pascua Yaqui Tribe; and
- (C) The Chief Prosecutor shall be nominated by the Chairperson and must be approved by the Tribal Council by majority vote of the entire Council. Approval by the Tribal Council will constitute appointment to the position of the Chief Prosecutor.
- (D) The Chief Prosecutor will be a full-time employee of the Tribe and will be paid compensation commensurate with his or her skills, education, experience, and responsibilities within the standards of compensation, if any, established by the Tribe.
- (E) The Chief Prosecutor must report to, and will be directly supervised by, the Chairperson.
- (F) The Chief Prosecutor serves at the pleasure of the Tribal Council and may be removed from that position only by a majority vote of the entire elected Tribal Council.

Section 80 General Duties of Director (2 PYTC § 2-17-80)

- (A) The Chief Prosecutor shall be a licensed attorney to practice law in any jurisdiction in the United States that applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys.
- (B) The Chief Prosecutor will administer, supervise and direct the activities of the Department.
- (C) The Chief Prosecutor will advise the Chairperson regarding;
 - (1) Establishment of policies and procedures for case acceptance or rejection.
 - (2) Statistical data regarding Tribal Members served.

- (D) Employ and prescribe the duties and powers of administrative, professional, technical, secretarial, clerical and other persons as may be necessary in the performance of the Department's duties and contract for the services of outside advisors, consultants and aides as may be reasonably necessary to provide legal services to clients in a manner consistent with Pascua Yaqui Tribal Bar, State Bar of Arizona and American Bar Association Standards.
- (E) Assure that the personnel policies and procedures are accurately and fairly applied in all matters as it pertains to personnel management and administration.
- (F) Delegate any functions, powers, or authorities to department employees.
- (G) Develop and implement internal policies for the efficient and effective administration of the Department.
- (H) Formulate policies, plans and programs to effectuate the missions and purposes of the Department.
- (I) Advise and make recommendations to the Chairperson and Tribal Council on all matters concerning the Department's purposes, objectives and programs.

Section 90 Supervisory Duties and Authorities of Director (2 PYTC § 2-17-90)

- (A) The Chief Prosecutor has authority to select, appoint, and hire employees necessary to carry out the laws, regulations, policies and programs adopted by the Tribal Council including, but not limited to:
 - (1) Hiring authority, subject to the policies and procedures of the Tribe's Employee Handbook and personnel policies;
 - (2) Termination authority, subject to the policies and procedures of the Tribe's Employee Handbook and personnel policies;
 - (3) Personnel discipline;
 - (4) Personnel performance review;
 - (5) Personnel job assignments;
- (B) The Chief Prosecutor has authority to delegate any function, powers, and authorities to other employees of the Department, except as may be prohibited by Tribal law.
- (C) The Chief Prosecutor has budgetary authority for the Department.
- (D) The Chief Prosecutor has authority to develop and implement internal policies for the efficient and effective administration of the Department.
- (E) The Chief Prosecutor has signature authority for the Department, except as may be permissibly delegated.

SUBCHAPTER C ORGANIZATION

Section 100 Organization (2 PYTC § 2-17-100)

- (A) The Department consists of a Chief Prosecutor and such other divisions and offices necessary for the execution of its mission, performance of its mandated functions, and to achieve its long and short term goals and objectives.
- (B) The Department may employ staff professionals, support personnel, and/or contract with professional service firms as the Chief Prosecutor determines, consistent with the laws of the Tribe and approved budgetary authority.

- (C) The Department must maintain a current organizational chart. The organizational chart must accompany its annual budget submission and any budget modification requests during the fiscal year, in accordance with the Tribe's Fiscal Management Ordinance.

SUBCHAPTER D AUTHORIZED PROGRAMS AND LIMITATION OF AUTHORITY

Section 110 Authorized Programs and Limitation of Authority (2 PYTC § 2-17-110)

The Office of the Prosecutor will have the following authorized programs, and such other programs as the Tribal Council or the Chairperson may assign.

- (A) Criminal Prosecution Division: responsible for the initiation and resolution of Felony, Misdemeanor, Appellate, and Traffic prosecution(s) for violations of tribal law and/or collateral matters, or where otherwise permitted under Tribal, State and/or Federal law.
- (B) Civil Division: responsible for the initiation and resolution of civil causes of action that are in the interests of the community as permitted under Tribal, State and/or Federal law, and not under the authority of the Attorney General or other designated legal representative. The Office shall not be obligated to offer any requests or recommendations in any actions that it was not initially a party to, including order to show cause hearings for events in an underlying action that the Office was not initially a party to.
- (C) Administrative Support Division: responsible for providing administrative, investigative, and technical support to attorneys and advocates by receiving, preparing and processing documents, maintaining databases, files and records, and communication on behalf of the Office.
- (D) Victim/Witness Service Program(s): responsible for victim notification and compliance with the Victims' Rights Ordinance in conjunction with any other Victims Service agency. There shall be a designated Victim Advocate(s) authorized to serve as liaison to counseling or other supportive assistance to crime victims and shall be subject to the same privileged information protections authorized in subchapter C of Chapter 5, Title 4 of the Pascua Tribal Code.
- (E) Alternative Dispute and Diversion Programs: responsible for the supervision and rehabilitative efforts of qualified defendants.
- (F) Community Outreach and Education/Training Program(s): tasked with participating in the education of the community and tribal government on the criminal justice system as necessary and where funds are allocated.
- (G) Grant-funded programs, where available.
- (H) Federal Special Assistant United States Attorney (SAUSA): the office shall be committed to its partnership with the United States Attorney's Office and shall appoint attorney(s) to serve as SAUSAs.
- (I) Other programs or duties as subsequently directed by the Tribal Council or the Chairperson.
- (J) If a program is authorized by the Chairperson, it may be terminated, in whole or in part, by either the Chairperson or the Tribal Council.

SUBCHAPTER E PROGRAM EVALUATION AND MONITORING

Section 120 Program Evaluation and Monitoring (2 PYTC § 2-17-120)

- (A) The Chief Prosecutor must conduct ongoing evaluation of all programs under his or her control.
- (B) The Chief Prosecutor must monitor all programs under his or her control on a regular basis.
- (C) In the event the Chief Prosecutor discovers any substantive irregularity in a program under his or her control, he or she must report that irregularity immediately to the Chairperson.

Section 130 Reporting (2 PYTC § 2-17-130)

The Chief Prosecutor will provide reports and meet with the Chairperson and/or Tribal Council Member(s) on the Department's operations and significant activities on a monthly basis, or as otherwise directed by the Tribal Chairperson.