

**TITLE 3 – COURTS AND RULES OF COURT  
PART I – COURTS  
CHAPTER 1-6 – PRETRIAL SERVICES**

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**TITLE 3- COURTS AND RULES OF THE COURT**  
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**CHAPTER 1-6- PRETRAIL SERVICES**

*Legislative History:           Established July 11, 2012 by Resolution No. C07-110-12 and Ordinance No. 09-12*  
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**Section 10           Establishment of Pretrial Services (3 PYTC § 1-6-10)**

- (A)     The Chief Judge, as used in this Chapter meaning the Chief Judge of the Pascua Yaqui Tribal Court, shall provide directly for the establishment of Pretrial Services Division. Pretrial Services established under this Section shall be supervised by a Pretrial Services Supervisor appointed under this Chapter.
- (B)     Policies and Procedures for Pretrial Services and any subsequent amendments thereto shall be approved by the Chief Judge.

**Section 20           Organization and Administration of Pretrial Services (3 PYTC § 1-6-20)**

- (A)     With the approval of the Chief Judge, the Pretrial shall hire such other personnel as may be required. The position requirements and rate of compensation of such other personnel shall be established by the Pretrial Services Supervisor with the approval of the Chief Judge.
- (B)     Except as provided in this Section, information obtained in the course of performing pretrial services functions in relation to a particular accused shall be used only for the purposes of a bond determination and shall otherwise be confidential.
- (C)     The Pretrial Services Supervisor shall issue regulations establishing the policy for release of information made confidential by paragraph (B) of this Section. Such regulations shall provide exceptions to the confidentiality requirements under paragraph (B) of this Section to allow access to such information
  - (1)     By qualified persons for purposes of research relations to the administration of criminal justice;
  - (2)     By Probation Officers for the purpose of compiling presentence reports;
  - (3)     Insofar as such information is a pretrial diversion report to the attorney for the accused and the attorney for the Tribe; and
  - (4)     In certain limited cases, to law enforcement agencies for law enforcement purposes.
- (D)     Information made confidential under Section is not admissible on the issue of guilt in a criminal judicial proceeding unless such proceeding is a prosecution for a crime committed in the course of obtaining pretrial release or a prosecution for failure to appear for the criminal judicial proceeding with respect to which pretrial services were provided.

**Section 30      Functions and Powers Relating to Pretrial Services (3 PYTC § 1-6-30)**

Pretrial Services functions shall include the following:

- (A) Collect, verify, and report to the Court prior to the individual's initial appearance, information pertaining to the pretrial release of each individual charged with an offense, including information relating to any danger that the release of such person may pose to any other persons or the community, and where appropriate, include a recommendation as to whether such individual should be released or detained. The Pretrial Officer should assign the least restrictive conditions of release that will reasonably ensure a defendant's attendance at court proceedings and protect the community. Prior to the Initial Hearing, each Pretrial Services report shall be made available to the attorney for the accused and the attorney for the Tribe.
- (B) Immediately inform the court and the Tribe of all apparent violations of pretrial release conditions, including arrests of persons released under the supervision of Pretrial Services; and request, by filling a verified petition with the court, modifications to pretrial release including, but not limited to, requests for issuing a summons directing the defendant to appear or for an arrest warrant for a defendant who is not in compliance with release conditions.
- (C) Review the status of pre-adjudicated detained defendants on an ongoing basis for any changes in eligibility for release options and make release recommendations to the court as soon as feasible and appropriate by filling a verified petition with the court.
- (D) Conduct criminal background checks on defendants using automated databases including, but not limited to, Spillman and ACJIS and to contract with other jurisdictions to gain access to needed databases if necessary.
- (E) Interview defendants in detention and supervise persons released into custody of the Pascua Yaqui Detention Center to obtain personal information that would give the judge the ability to make an informed decision regarding both the release and release conditions of defendant
- (F) Assist persons released under this chapter in securing any necessary employment, medical, legal or social services. (G) Develop and implement a system to monitor and evaluate bonds activities, provide information to judicial officers on the results of bond decisions and prepare periodic reports to assist in the improvement of the bond process.
- (H) As directed by the court and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of this chapter and report such person's conduct and condition to the court ordering release and the Tribe (1) Any violation of the conditions of release shall immediately be reported to the court and the Tribe.
- (I) As directed by the court provide and monitor pre-adjudicated defendants released by the court and ordered to comply with one or all of the following events:
  - (1) In-house arrest;
  - (2) Ankle monitoring
  - (3) GPS monitoring
  - (4) Alcohol monitoring; and/or
  - (5) Other monitoring ordered by the court

- (J) Perform such other functions as deemed necessary by the Chief Judge to further the intent of this Chapter. specified under this chapter

**Section 40        Reports (3 PYTC § 1-6-40)**

At the request of the Chief Judge, the Pretrial Services Supervisor shall prepare a report to the Tribal Council concerning the administration and operation of Pretrial Services, which shall be included in any reports that the Chief Judge submits to the Tribal Chairperson in compliance with federal funding contracts.