

IN THE SAC & FOX TRIBE OF THE MISSISSIPPI IN IOWA TRIBAL COURT  
Meskwaki Settlement  
307 Meskwaki Road  
Tama, IA 52339-9629

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IN THE MATTER OF  
DISPOSAL POLICY OF PROPERTY AND EVIDENCE  
BY THE TRIAL COURT

AO-2018-002

ORDER

**ISSUED**

**JUN 22 2018**

MESKWAKI NATION TRIBAL COURT  
SAC & FOX TRIBE  
OF THE MISSISSIPPI IN IOWA

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**WHEREAS**, the Meskwaki Nation Police Department (hereinafter “MNPD”) has amassed a critical overstock of property and evidence in the Property and Evidence Unit; and

**WHEREAS**, the Sac & Fox Tribe of the Mississippi in Iowa Tribal Code is silent on the retention of evidence and property by the Meskwaki Nation Police Department;

**WHEREAS**, the Sac and Fox Tribe of the Mississippi in Iowa Tribal Court Rule G-1(c) provides that in the absence of a specific rule, the Court may adopt any suitable mode of proceeding; and

**WHEREAS**, MNPD and Office of the Tribal Prosecutor have requested the Court issue an administrative order adopting a policy to guide disposal of any overstock of property and evidence; and

**WHEREAS**, the Court finds good cause at adopt a policy for disposal of overstock property and evidence by MNPD; and

**WHEREAS**, the Court also finds certain standards and conditions must be met in the disposal of any property and evidence;

**THEREFORE**, pursuant to the authority given in the Sac and Fox Tribe of the Mississippi in Iowa Tribal Court Rule G-1(c), the Court hereby adopts the following policy regarding overstock of property and evidence in the possession of MNPD:

**DISPOSAL POLICY FOR OVERSTOCK OF PROPERTY AND EVIDENCE**

It is hereby Ordered that the Court adopts the following policy regarding overstock of property and evidence, as recommended by MNPD, and that MNPD may dispose of the overstock of property and evidence in the Property and Evidence Unit consistent with the standards and conditions set forth below. MNPD shall develop any appropriate internal procedures and/or forms

to document the request for disposition of property and/or evidence, including retention, release, or destruction.

1. To the extent reasonable and possible, MNPD shall attempt to contact the owner of any overstock property and evidence subject to disposal by this Order, except that any property or evidence that would be contrary to the laws of the Sac & Fox Tribe of the Mississippi in Iowa, the State of Iowa, or the United States of America, shall not be returned to any individuals and shall be disposed of in the manner best deemed appropriate by MNPD.
2. MNPD shall publish a notice once in the Meskwaki Nation Times and once per week for three consecutive weeks in the Tama News-Herald/Toledo Chronicle advising the public that the disposal of property and evidence will be occurring and providing notice that any individual wishing to claim any property and evidence that may be subject to disposal by this order must contact MNPD by a date to be established by MNPD, but in no case shall such date be earlier than 2 weeks following the final publication of the notice.
3. Following completion of the above 2 conditions, MNPD is permitted to dispose of overstock property and evidence pursuant to the following criteria:
  - a. Any case that is not charged or being actively investigated and meets one of the below criteria:
    - i. Class 5, Class 6, or Petty Offense cases one year old or older, whose statute of limitations is one year as defined by Sac and Fox Tribe of the Mississippi in Iowa Tribal Code Section 13-6102.
    - ii. Class 3 or Class 4 cases three years or older, whose statute of limitations is three years as defined by Sac and Fox Tribe of the Mississippi in Iowa Tribal Code Section 13-6102.
    - iii. Class 1 or Class 2 five years or older, whose statute of limitations is five years as defined by Sac and Fox Tribe of the Mississippi in Iowa Tribal Code Section 13-6102, except for criminal homicide cases.
  - b. Any case that has been adjudicated that is not a sex crime or criminal homicide case and meets one of the below criteria:
    - i. Class 5, Class 6, or Petty Offense cases one year old or older, whose statute of limitations is one year as defined by Sac and Fox Tribe of the Mississippi in Iowa Tribal Code Section 13-6102, and there are no pending appeals or the appeal period has lapsed.
    - ii. Class 3 or Class 4 Cases three years or older, whose statute of limitations is three years as defined by Sac and Fox Tribe of the Mississippi in Iowa Tribal Code Section 13-6102, and there are no pending appeals or the appeal period has lapsed.

- iii. Class 1 or Class 2 five years or older, whose statute of limitations is five years as defined by Sac and Fox Tribe of the Mississippi in Iowa Tribal Code Section 13-6102, and there are no pending appeals or the appeal period has lapsed.
- c. Any case that has been closed and meets one of the below criteria:
  - i. Case has been closed by plea agreement in the Sac and Fox Tribe of the Mississippi in Iowa Tribal Court and there are no pending appeals or the appeal period has lapsed.
  - ii. Case has been closed by conviction in the Sac and Fox Tribe of the Mississippi in Iowa Tribal Court and there are no pending appeals or the appeal period has lapsed.
  - iii. Case has been closed by charge(s) being dismissed with prejudice by the Tribal Prosecutor.
  - iv. Case has been closed by charge(s) being dismissed with prejudice by the Sac and Fox Tribe of the Mississippi in Iowa Tribal Court.
- 4. The Property and Evidence Unit Supervisor shall ensure that all items to be destroyed meet the above criteria prior to destruction. The Property and Evidence Unit Supervisor shall not interpret this order to mean that all items that fit these criteria must be destroyed and shall use their discretion when determining what items should be destroyed.

This Order shall take effect immediately upon signature of the undersigned Chief Judge.

SO ORDERED this 22<sup>nd</sup> day of June, 2018.



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Jessica R. Bear, Chief Judge  
Sac and Fox Tribe of the Mississippi in Iowa  
Tribal Court