

ONEIDA NATION PUBLIC MEETING NOTICE

FRIDAY, MARCH 14, 2025, 12:15 pm

Norbert Hill Center-Business Committee Conference Room
N7210 Seminary Rd., Oneida, Wisconsin

Find Public Meeting Materials at

[Oneida-nsn.gov/government/register/public meetings](http://Oneida-nsn.gov/government/register/public%20meetings)

Send Public Comments to

LOC@oneidanation.org

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920-869-4417



ONEIDA NATION LAW ENFORCEMENT ORDINANCE AMENDMENTS

The purpose of the Oneida Nation Law Enforcement Ordinance is to regulate the conduct of the Nation's law enforcement personnel according to the highest professional standards.

The Oneida Nation Law Enforcement Ordinance amendments will:

- ◆ Change what positions in the Oneida Police Department are required to be held by enrolled members of the Nation.
- ◆ Allow for the sworn oath of a law enforcement officer to take place at a special Oneida Business Committee meeting, or at an alternative time and location as determined by the Oneida Business Committee Secretary, in addition to at a regular Oneida Business Committee meeting.
- ◆ Expand the Oneida Police Commission into the Oneida Public Safety and Security Commission, which will oversee the Internal Security Department and any other safety operation department of the Nation, in addition to the Oneida Police Department
- ◆ Revise the eligibility qualifications and responsibilities for Oneida Public Safety and Security Commission members.
- ◆ Update the disciplinary proceedings for law enforcement officers.
- ◆ And make other drafting change to the law.

Individuals may attend the public meeting for the proposed Oneida Nation Law Enforcement Ordinance amendments in person at the Norbert Hill Center, or virtually through Microsoft Teams. If you wish to attend the public meeting through Microsoft Teams please contact LOC@oneidanation.org.

PUBLIC COMMENT PERIOD CLOSSES FRIDAY, MARCH 21, 2025

During the public comment period, anyone may submit written comments, questions or input. Comments may be submitted to the Oneida Nation Secretary's Office or the Legislative Reference Office in person, by U.S. mail, interoffice mail, or e-mail.



For more information on the proposed Oneida Nation Law Enforcement Ordinance amendments please review the public meeting packet at [oneida-nsn.gov/government/register/public meetings](http://oneida-nsn.gov/government/register/public%20meetings).



ONEIDA NATION LAW ENFORCEMENT ORDINANCE AMENDMENTS LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Proposed Amendments	<ul style="list-style-type: none">▪ Include a new provision providing the policy of the Nation in regard to this law. [3 O.C. 301.1-2];▪ Provide that law enforcement operations can take place outside the Reservation when the operations occur pursuant to any other jurisdictional exception that may exist for law enforcement officers. [3 O.C. 301.4-2(c)];▪ Remove the Police Sergeant the positions in the Oneida Police Department that are required to be held by enrolled members of the Nation. [3 O.C. 301.5-1(a)];▪ Require that upon the removal of a Police Chief, in addition to the retirement or resignation, the Oneida Police Commission shall appoint an interim Police Chief. [3 O.C. 301.5-2(b)(4)];▪ Clarify that to the extent that Federal Tort Claims Act coverage does not apply, the Nation shall provide professional liability insurance for all law enforcement officers. [3 O.C. 301.5-4];▪ Allow for the sworn oath of a law enforcement officer to take place at a special Oneida Business Committee meeting, or at an alternative time and location as determined by the Oneida Business Committee Secretary, in addition to at a regular Oneida Business Committee meeting. [3 O.C. 301.5-6];▪ Expand the Oneida Police Commission into the Oneida Public Safety and Security Commission, which will oversee the Internal Security Department and any other safety operation department of the Nation, in addition to the Oneida Police Department. [3 O.C. 301.6];▪ Revise the eligibility qualifications for Oneida Public Safety and Security Commission members. [3 O.C. 301.6-3];▪ Revise the responsibilities of the Oneida Public Safety and Security Commission in regard to the Oneida Police Department. [3 O.C. 301.6-4];▪ Provide that the responsibilities of the Oneida Public Safety and Security Commission in regard to the Internal Security Department or any other safety operation department of the Nation shall be provided for in the Oneida Public Safety and Security Commission bylaws. [3 O.C. 301.6-5];▪ Revise the disciplinary proceedings for law enforcement officers. [3 O.C. 301.9];▪ Move all provisions regarding the use of firearms to section 301.11 of the Law, and provide that the Oneida Police Department may allow law enforcement use of service firearms in order to protect life, liberty,

	property, land, and premises, according to the usual and current accepted law enforcement standards. [3 O.C. 301.11-1]; and <ul style="list-style-type: none"> ▪ Make other minor drafting changes throughout the Law.
Purpose	The purpose of this law is to regulate the conduct of the Nation’s law enforcement personnel according to the highest professional standards. [3 O.C. 301.1-1].
Affected Entities	Oneida Police Department, Oneida Police Commission
Public Meeting	A public meeting will be held on March 14, 2025.
Fiscal Impact	A fiscal impact statement has not yet been requested.

1 **SECTION 2. LEGISLATIVE DEVELOPMENT**

- 2 **A. Background.** The Oneida Nation Law Enforcement Ordinance (“the Law”) was originally adopted by
3 the Oneida Business Committee in 2001 through resolution BC-10-10-01-C. The purpose of the Law
4 is to regulate the conduct of the Nation’s law enforcement personnel according to the highest
5 professional standards. [3 O.C. 301.1-1]. It is the policy of the Nation to ensure that the law
6 enforcement personnel operates at the highest level of professional standards to ensure the safety and
7 welfare of the community. [3 O.C. 301.1-2].
- 8 **B. Request for Amendments.** The request for amendments to the Law originally came before the
9 Legislative Operating Committee in 2014 from the Oneida Police Department and the Oneida Law
10 Office for clarification on whether Conservation wardens qualified as sworn officers. The Legislative
11 Operating Committee originally added this item to its Active Files List on September 17, 2014. This
12 legislative matter was then carried on the Active Files List for more than three legislative terms. The
13 Legislative Operating Committee added the Oneida Nation Law Enforcement Ordinance amendments
14 to its Active Files List this legislative term on October 4, 2023.

15
16 **SECTION 3. CONSULTATION AND OUTREACH**

- 17 **A.** Representatives from the following departments or entities participated in the development of the
18 amendments to the Law and this legislative analysis:
- 19 ▪ Oneida Police Department;
 - 20 ▪ Oneida Police Commission;
 - 21 ▪ Oneida Business Committee;
 - 22 ▪ Oneida Law Office;
 - 23 ▪ Internal Security Department;
 - 24 ▪ Oneida Gaming Commission; and the
 - 25 ▪ General Manager.
- 26 **B.** The following laws were reviewed in the drafting of this analysis:
- 27 ▪ Boards, Committees, and Commissions law; and
 - 28 ▪ Oneida Personnel Policies and Procedures.

29
30 **SECTION 4. PROCESS**

- 31 **A.** The development of the proposed amendments to the Law complies with the process set forth in the
32 Legislative Procedures Act (LPA).

- 33 ▪ On October 10, 2023, the Legislative Operating Committee added the Oneida Nation Law
- 34 Enforcement Ordinance to its Active Files List.
- 35 ▪ On September 4, 2024, the Legislative Operating Committee approved the draft of the proposed
- 36 amendments to the Law and directed that a legislative analysis be developed.
- 37 ▪ On January 15, 2025, the Legislative Operating Committee approved the updated draft and
- 38 legislative analysis for the Oneida Nation Law Enforcement Ordinance amendments.
- 39 **B.** At the time this legislative analysis was developed the following work meetings had been held
- 40 regarding the development of the amendments to the Law this legislative term:
- 41 ▪ March 6, 2024: LOC work session with the Oneida Police Department and the Oneida Law Office.
- 42 ▪ March 28, 2024: LOC work session.
- 43 ▪ April 19, 2024: LOC work session with the Oneida Police Department, Oneida Law Office, Oneida
- 44 Police Commission, and the Internal Security Department.
- 45 ▪ June 7, 2024: LOC work session with the Oneida Police Department, Oneida Law Office, Oneida
- 46 Police Commission, and the Internal Security Department.
- 47 ▪ July 26, 2024: LOC work session with the Oneida Police Department and the Oneida Police
- 48 Commission.
- 49 ▪ September 4, 2024: OBC Officers’ Meeting.
- 50 ▪ September 4, 2024: LOC work session.
- 51 ▪ October 8, 2024: LOC work session with Oneida Police Department, Oneida Law Office, Oneida
- 52 Police Commission, Internal Security Department, Oneida Gaming Commission, and the General
- 53 Manager.
- 54 ▪ October 9, 2024: Phone call with Oneida Law Office.
- 55 ▪ October 18, 2024: LOC work session.
- 56 ▪ October 24, 2024: LOC work session.

57

58 **SECTION 5. CONTENTS OF THE LEGISLATION**

- 59 **A. *Policy.*** The current Law does not include a policy statement. Amendments to the Law will include the
- 60 addition of a policy statement, which will provide that it is the policy of the Nation to ensure that law
- 61 enforcement personnel operate at the highest level of professional standards to ensure the safety and
- 62 welfare of the community. [3 O.C. 301.1-2].
- 63 ▪ *Effect.* The inclusion of a policy statement complies with the formatting requirements of section
- 64 109.11-1(a)(2) of the Legislative Procedures Act which requires that all laws of the Nation contain
- 65 a policy section which indicates the direction the law is to take, including impetus or underlying
- 66 goal of the regulation.
- 67 **B. *Jurisdictional Exception.*** Section 301.4-1 of the current Law provides that all law enforcement
- 68 operations shall take place on and within the Oneida Reservation unless there is a potential that safety
- 69 and welfare of an individual is being compromised, or the enforcement operations take place pursuant
- 70 to mutual aid agreements with local governments. The proposed amendments to the Law maintain the
- 71 current provision of the Law while also adding a provision which provides that law enforcement
- 72 operations can take place outside the Reservation when the operations occur pursuant to any other
- 73 jurisdictional exception that may exist for law enforcement officers. [3 O.C. 301.4-2(c)].
- 74 ▪ *Effect.* The proposed amendments to the Law recognize that there may be other jurisdictional
- 75 exceptions that exist for law enforcement officers in other laws, and therefore provides greater
- 76 flexibility for the Nation’s law enforcement officers when operating outside of the Reservation.

- 77 **C. *Oneida Police Department Restrictions.*** Section 301.5-3(d) of the current Law provides that the
78 positions of Police Chief, Assistant Chief, Police Lieutenant or Sergeant, Conservation Director, and
79 Assistant Conservation Director are required to be held by only members of the Nation. The proposed
80 amendments to the Law revise the requirement for what job positions in the Oneida Police Department
81 are required to be held by enrolled members of the Nation, and require that only the Police Chief,
82 Assistant Chief, and Police Lieutenant be enrolled members of the Nation. [3 *O.C. 301.5-1(a)*].
- 83 ▪ *Effect.* The proposed amendments to the Law remove the positions of Police Sergeant,
84 Conservation Director, and Assistant Conservation Director from the requirement to be held by
85 members of the Nation. The positions of Conservation Director and Assistant Conservation
86 Director were removed from the Law as they are not positions of the Oneida Police Department.
87 The position of Police Sergeant was removed because it provides the Oneida Police Department
88 greater flexibility in filling its vacant positions. Indian preference in hiring still applies to the hiring
89 of the Police Sergeant position in accordance with the Oneida Personnel Policies and Procedures.
- 90 **D. *Notification of Removal of a Police Chief.*** Section 301.6-5(d) of the current Law provides that upon
91 accepting retirement notification or the resignation of a current Police Chief, the Oneida Police
92 Commission shall appoint an interim or acting Police Chief who shall serve in said capacity until the
93 process for appointment of a new chief can be completed. The proposed amendments to the Law also
94 recognize that upon the removal of a Police Chief, the Oneida Police Commission shall appoint an
95 interim Police Chief. [3 *O.C. 301.5-2(b)(4)*].
- 96 ▪ *Effect.* The Law was amended to include the removal of a Police Chief as a circumstance in which
97 the Oneida Police Commission shall appoint an interim Police Chief to be more inclusive of all
98 circumstances that may arise in which an interim Police Chief would need to be appointed.
- 99 **E. *Liability Coverage.*** Section 301.5-4 of the current Law provides that the Nation shall provide
100 professional liability insurance for all law enforcement officers and Conservation Officers. The
101 proposed amendments to the Law clarify that to the extent that Federal Tort Claims Act coverage does
102 not apply, the Nation shall provide professional liability insurance for all law enforcement officers. [3
103 *O.C. 301.5-4*].
- 104 ▪ *Effect.* The Law was amended to recognize that the Federal Tort Claims Act does provide some
105 liability coverage for law enforcement officers, and therefore a reference to that policy was
106 included.
- 107 **F. *Law Enforcement Officers to be Sworn.*** Section 301.5-6 of the current Law provides that all law
108 enforcement officers shall be installed by sworn oath before the Oneida Business Committee at a
109 regular meeting. The proposed amendments to the Law provide that all law enforcement officers be
110 installed by sworn oath before the Oneida Business Committee during a regular or special Oneida
111 Business Committee meeting, or at an alternative time and location as determined by the Oneida
112 Business Committee Secretary. [3 *O.C. 301.5-6*]. The proposed amendments then clarify that when
113 taking an oath, the law enforcement officer shall appear in person to take their oath, except if granted
114 permission by the Oneida Business Committee Secretary to appear through video conferencing, or
115 through other telecommunications. [3 *O.C. 301.5-6(a)*]. If an oath is administered outside of an Oneida
116 Business Committee meeting, a quorum of Oneida Business Committee members are required to be
117 present to witness the oath. [3 *O.C. 301.5-6(b)*].
- 118 ▪ *Effect.* The proposed amendments provide greater flexibility for when a law enforcement officer
119 may take their sworn oath.

120 **G. *Oneida Public Safety and Security Commission.*** Section 301.4-7 of the current Law establishes the
121 Oneida Police Commission to provide oversight regarding the activities and actions of the law
122 enforcement operations to provide the greatest possible professional services to the Oneida community
123 and to allow for community input regarding those law enforcement services through its representatives
124 on the Police Commission. Section 301.6 of the current Law then goes on to provide for the
125 qualifications, appointment term, responsibilities, and removal of the Oneida Police Commission. The
126 proposed amendments to the Law expand the Oneida Police Commission into the Oneida Public Safety
127 and Security Commission. [3 *O.C. 301.6*]. The purpose of the Oneida Public Safety and Security
128 Commission is much the same as the Oneida Police Commission, except that it is now expanded to
129 have oversight authority over the Internal Security Department and any other safety operation
130 department of the Nation, in addition to the Oneida Police Department. [3 *O.C. 301.6-1*]. The terms
131 of appointment for commissioners on the Oneida Public Safety and Security Commission remains the
132 same as it was for the Oneida Police Commission. [3 *O.C. 301.6-2*].

133 ▪ *Effect.* The proposed amendments to the Law expand the Oneida Police Commission into the
134 Oneida Public Safety and Security Commission in recognition that are more departments currently
135 than just the Oneida Police Department that focus on the safety and security of the Nation, and this
136 could be expanded even more in the future, and therefore the same oversight that the Oneida Police
137 Commission provides the Oneida Police Department should be provided for all safety and security
138 departments of the Nation.

139 **H. *Eligibility Qualifications.*** Section 301.6-3 of the current Law provides the eligibility requirements for
140 serving on the Oneida Police Commission, which include: be a member of the Nation, be twenty-five
141 (25) years of age or older; have a satisfactory background investigation; submit to drug testing prior to
142 appointment and on an annual basis; not be an employee of the Oneida Police Department; attend
143 applicable training; and be a person of known good standing in the community. The eligibility
144 qualifications for the Oneida Public Safety and Security Commission remain much the same as the
145 Oneida Police Commission except that the following eligibility requirements were removed from the
146 Law: that an individual submit to drug testing prior to appointment and on an annual basis; the
147 individual attend applicable training; and be a person of known good standing in the community. [3
148 *O.C. 301.6-3*]. The proposed amendments to the Law also clarify that in addition to not being an
149 employee of the Oneida Police Department, the individual cannot be an employee or terminated from
150 the Oneida Police Department, Internal Security Department, or any other public safety operation
151 overseen by the Oneida Public Safety and Security Commission. [3 *O.C. 301.6-3(d)*].

152 ▪ *Effect.* The eligibility requirement that an individual submit to drug testing prior to appointment
153 and on an annual basis was removed from the Law due to the fact that other boards, committees,
154 and commissions of the Nation do not include a similar requirement, and it was unknown why it
155 was necessary to include that requirement for the Oneida Police Commission when the Commission
156 members already have to pass a background investigation. The eligibility requirement that the
157 individual attend applicable training was removed because this was determined that it was not so
158 much of an eligibility requirement, but mores so a training requirement. The eligibility requirement
159 that a person be of known good standing in the community was removed because the notion of
160 “good standing” was too subjective and left a lot open to interpretation and would not be necessarily
161 needed because a person already has to pass a background investigation. And finally, the eligibility
162 requirement that an individual cannot be an employee or terminated from the Oneida Police
163 Department, Internal Security Department, or any other public safety operation overseen by the

164 Oneida Public Safety and Security Commission was included in recognition that the Oneida Public
165 Safety and Security Commission oversees multiple areas, and therefore employment in any of those
166 areas is forbidden to avoid any potential or actual conflicts of interest.

167 **I. Responsibilities of the Commission in regard to the Oneida Police Department.** Section 301.6-1 of
168 the current Law provides for the responsibilities of the Oneida Police Commission in regard to the
169 Oneida Police Department. In the proposed amendments to the Law, the responsibilities of the Oneida
170 Public Safety and Security Commission have been provided for in section 301.-4. Many of the
171 responsibilities the Oneida Police Commission had over the Oneida Police Department remain the same
172 through the transition to the Oneida Public Safety and Security Commission, including the following
173 the responsibilities to: appoint, suspend, or remove the Police Chief of the Oneida Police Department;
174 approve all law enforcement officer appointments made by the Police Chief including the promotion
175 of subordinates; approve an eligibility list of individuals determined to be eligible for appointment as a
176 law enforcement officer or promotion; hear charges filed against law enforcement officers or other
177 appointed personnel of the Police Department, whether filed by the Oneida Public Safety and Security
178 Commission or the Police Chief, make findings and determinations, and impose penalties, up to and
179 including termination; Hear appeals of disciplinary actions against any law enforcement personnel –
180 with the clarification added that the Oneida Public Safety and Security Commission shall not have
181 authority over disciplinary actions of non-sworn personnel; and adopt standard operating procedures
182 governing the Oneida Public Safety and Security Commission’s management of its own activities. [3
183 O.C. 301.6-4]. The following responsibilities over the Oneida Police Department were removed from
184 the Law with the proposed amendments: adopt, modify, and repeal rules governing how lists of
185 individuals, concluded to be eligible for appointment to law enforcement officer and promotion, are
186 established; approve competitive examinations used to judge suitability for appointment or promotion
187 of law enforcement officers; suspend law enforcement officers or other appointed personnel of the
188 Police Department pending the filing and hearing of charges against them, subject to the provisions of
189 301.10; initiate charges against law enforcement officers or other appointed personnel of the Police
190 Department.

191 ▪ *Effect.* The responsibilities of the Oneida Public Safety and Security Commission over the Oneida
192 Police Department were amended to reflect the current practices of the Oneida Police Commission
193 over the Oneida Police Department.

194 **J. Responsibilities of the Commission in regard to Internal Security and other Departments.** The
195 proposed amendments to the Law provide that the responsibilities of the Oneida Public Safety and
196 Security Commission in regard to the Internal Security Department or any other safety operation
197 department of the Nation shall be provided for in the Oneida Public Safety and Security Commission
198 bylaws. [3 O.C. 301.6-5].

199 ▪ *Effect.* The amendments to the Law provide that the responsibilities of the Oneida Public Safety
200 and Security Commission in regard to the Internal Security Department or any other safety
201 operation department of the Nation shall be provided for in the Oneida Public Safety and Security
202 Commission bylaws, since it would not be appropriate for those responsibilities to be included in
203 this Law because this Law governs law enforcement, and the Internal Security Department and any
204 other safety operation of the Nation are not law enforcement.

205 **K. Disciplinary Proceedings for Law Enforcement Officers.** Section 301.9 of the current Law provides
206 for the disciplinary proceedings for law enforcement officers. This section of the Law was entirely
207 rewritten with the proposed amendments to the Law to simplify and clarify the disciplinary process.

208 The proposed amendments to the law provide for the just cause standard, discipline of law enforcement
209 officers by the Chief of Police, discipline of the Chief of Police, the right to request a hearing, filing of
210 charges, procedure for responding to charges, scheduling conference, evidentiary hearing, deliberations
211 and findings, and orders from the hearing. [3 O.C. 301.9].

212 ▪ Effect. The proposed amendments to the Law simplify and clarify the disciplinary process.

213 L. **Firearms Control.** Section 301.4-6 of the current Law provides that the Oneida Police Department
214 may allow law enforcement use of service firearms in order to protect life, liberty, property, land, and
215 premises, according to the usual and minimum accepted law enforcement standards as determined by
216 the Police Chief with approval of the Oneida Police Commission. The current Law then goes on to
217 clarify that the actual use of deadly force shall be allowed solely for the protection of life or the
218 prevention of grievous bodily harm. Section 301.11-1 of the current Law provides that the Nation
219 hereby establishes regulations for the carrying of firearms issued to certified law enforcement officers
220 employed by the Nation, and then goes onto clarify that the needs and requirements for carrying
221 firearms shall be established and determined by the Police Chief subject to the review of the Oneida
222 Police Commission, and said requirements shall reflect the needs of the Nation in order to protect all
223 persons and property. The proposed amendments to the Law move all provisions regarding the use of
224 firearms to section 301.11 of the Law. The proposed amendments to the Law provide that the Oneida
225 Police Department may allow law enforcement use of service firearms in order to protect life, liberty,
226 property, land, and premises, according to the usual and current accepted law enforcement standards.
227 [3 O.C. 301.11-1]. Section 301.11-2 of the proposed amendments to the Law remain the same except
228 for minor non-substantive updates.

229 ▪ Effect. Overall, the proposed amendments to the Law referencing the usual and current accepted
230 law enforcement standards instead of including language within the Law itself ensures that the law
231 enforcement practices of the Nation stay up to date without having to amend the Law. ‘

232 M. **Other Amendments.** Overall, a variety of other amendments and revisions were made to the Law to
233 address formatting, drafting style, and organization that did not affect the substance of the Law.

234

235 SECTION 6. EXISTING LEGISLATION

236 A. **Other Related Laws of the Nation.** The following laws of the Nation are related to the proposed
237 amendments to this Law.

238 ▪ *Oneida Personnel Policies and Procedures.* The purpose of the Oneida Personnel Policies and
239 Procedures is to provide for the Nation’s employee related policies and procedures including
240 recruitment, selection, compensation and benefits, employee relations, safety and health, program
241 and enterprise rules and regulations, and record keeping.

242 ▪ Section III of the Oneida Personnel Policies and Procedures provides for the Oneida preference
243 and Indian preference in hiring statement of the Nation. Section 301.5-1(a) provides that all
244 positions and appointments of the Oneida Police Department shall be subject to Indian
245 preference in hiring, except that the following positions shall be held only by members of the
246 Nation: Police Chief; Assistant Chief; and Police Lieutenant.

247 ▪ This Law clarifies that disciplinary actions for law enforcement officers is governed by section
248 301.9 pf this Law, while disciplinary actions of non-sworn personnel of the Oneida Police
249 Department shall be governed by the Nation’s laws, policies, and rules governing employment.

250 ▪ *Boards, Committees, and Commissions Law.* The Boards, Committees, and Commissions law
251 governs boards, committees, and commissions of the Nation, including the procedures regarding

252 the appointment and election of persons to boards, committees and commissions, creation of
253 bylaws, maintenance of official records, compensation, and other items related to boards,
254 committees, and commissions [1 O.C. 105.1-1].

- 255 ▪ Section 301.6 of this Law establishes the Oneida Public Safety and Security Commission.
- 256 ▪ The Oneida Public Safety and Security Commission is required to comply with all
- 257 provisions of the Boards, Committees, and Commissions law.
- 258

259 **SECTION 7. OTHER CONSIDERATIONS**

260 **A. *Bylaws of the Oneida Public Safety and Security Commission.*** With the expansion of the Oneida
261 Police Commission into the Oneida Public Safety and Security Commission provided through the
262 proposed amendments to this Law, the bylaws of the Commission will need to be updated. Specifically,
263 section 301.6-5 of the Law states that the responsibilities of the Oneida Public Safety and Security
264 Commission in regard to the Internal Security Department or any other safety operation department of
265 the Nation shall be provided for in the Oneida Public Safety and Security Commission bylaws. The
266 Boards, Committees, and Commissions law provides the requirements that must be followed for bylaws
267 of a board, committee, or commission. [1 O.C. 105.10]. In May of 2024, the Legislative Operating
268 Committee collaborated with the Oneida Law Office and the Government Administrative Office to
269 discuss how to improve the process for amending bylaws for boards, committees, and commissions of
270 the Nation. The Legislative Operating Committee no longer processes amendments to bylaws for
271 boards, committees, and commissions of the Nation, as it was determined that the Government
272 Administrative Office and the board, committee, or commission’s assigned attorney from the Oneida
273 Law Office will instead assist in developing amendments to bylaws. This change in process will allow
274 bylaw amendments to be directly placed on an Oneida Business Committee meeting agenda for
275 approval which streamlines the process.

- 276 ▪ *Conclusion.* Amended bylaws should be presented for adoption at the same time that the proposed
277 amendments to the Law are presented for adoption to ensure a smooth transition between the
278 Oneida Police Commission and the Oneida Public Safety and Security Commission. The
279 Legislative Operating Committee should ensure that the need for amended bylaws be
280 communicated to the Oneida Law Office and Government Administrative Office.

281 **B. *Fiscal Impact.*** Under the Legislative Procedures Act, a fiscal impact statement is required for all
282 legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-
283 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*
284 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete
285 a fiscal impact statement at various stages of the legislative process, as well as timeframes for
286 completing the fiscal impact statement.

- 287 ▪ *Conclusion.* The Legislative Operating Committee has not yet directed that a fiscal impact
288 statement be completed.

289

Title 3. Health and Public Safety – Chapter 301
~~ONEIDA NATION LAW ENFORCEMENT ORDINANCE~~

Shakotiye'nás Olihwáke
The Matters of Those Who Protect Us

LAW ENFORCEMENT

#

301.1-1 Purpose and Policy	301.7-1 Appointment of Law Enforcement Officers
301.2-1 Adoption, Amendment, Repeal	301.8-1 Promotion of Law Enforcement Officers
301.3-1 Definitions	301.9-1 Disciplinary Proceedings
301.4-1 General Principles	301.10-1 Administrative Leave
301.5-1 Oneida Police Department	301.11-1 Firearms Control
301.6-1 Oneida Police <u>Public Safety and Security</u> Commission	

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301.1. Purpose and Policy

301.1-1. Purpose.— The purpose of this ~~ordinance~~ law is to regulate the conduct of the ~~Oneida Tribe of Indians of Wisconsin~~ Nation's law enforcement personnel according to the highest professional standards.

301.1-2. Policy. It is the policy of the Nation to ensure that law enforcement personnel operate at the highest level of professional standards to ensure the safety and welfare of the community.

301.2. Adoption, Amendment, Repeal

301.2-1.— This law ~~is~~ was adopted by the Oneida Business Committee by ~~resolution BC Resolution~~ 10-10-01-C and amended by resolution BC-02-25-15-C; ~~and BC- - - - .~~

301.2-2.— This law may be amended ~~pursuant to the procedures set out in the Oneida Administrative Procedures Act~~ or repealed by the Oneida Business Committee or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

301.2-3.— Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

~~301.2-4.— All other Oneida laws, policies, regulations, rules, resolutions, motions and all other similar actions which are inconsistent with this policy are hereby repealed unless specifically re-enacted after adoption of this policy.~~

301.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

301.2-5.— This ~~ordinance shall be known as~~ law is adopted under authority of the Constitution of the Oneida ~~Law Enforcement Ordinance~~ Nation.

301.3. Definitions

301.3-1.— This section shall govern the definitions of words ~~as~~ and phrases ~~as~~ used herein within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) ~~“Certified Law Enforcement Officer shall mean~~ law enforcement officer” means a sworn officer who meets all qualifications for law enforcement officer, including accepted professional training and experience, State of Wisconsin Certification or eligibility for Certification which includes but is not limited to, satisfactory background investigation, psychological evaluation, drug testing, and police firearms certification.

(b) ~~Police Supervisors are defined as~~ “Commissioner” shall mean a member of the Oneida Public Safety and Security Commission.

(c) “Judiciary” means the Oneida Nation Judiciary, which is the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later authorized to administer the judicial authorities and responsibilities of the Nation by Oneida General Tribal Council resolution GTC-03-19-17.

(d) “Nation” means the Oneida Nation.

(e) “Non-sworn personnel” means an individual employed with the Oneida Police Department that does not meet the qualifications for a certified law enforcement officers who hold the rank of Sergeant or above officer.

~~(e) Non-sworn Personnel shall mean those persons who perform duties for the f) Oneida Police Department as directed by the Police Chief or designee.~~

~~(d) Oneida Police~~Public Safety and Security Commission shall refer to” means the entity made up of those individuals appointed by the Oneida Business Committee to ~~serve in the capacity of insuring that community input is maintained~~provide oversight regarding the activities and actions of public safety and security operations throughout the Reservation.

(g) “Police supervisor” means a law enforcement officer who holds the rank of Sergeant or above.

(h) “Reservation” means all land within the Oneida Police Department by means of policy review and enforcement exterior boundaries of the Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

~~(e) Commissioner shall mean a member of the Oneida Police Commission.~~

~~(f) Oneida Tribe means the Oneida Tribe of Indians of Wisconsin.~~

~~(g) Judiciary means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Tribe.~~

301.4. General Principles-

301.4-1.— All law enforcement operations of the Nation shall be conducted in accordance with this law.

~~301.4-2.~~ Law enforcement operations shall take place on and within ~~Oneida~~the Reservation, unless:

(a) there is a potential that the safety and welfare of an individual is being compromised. ~~In addition;~~

(b) the law enforcement operations ~~may take place~~occur pursuant to mutual aid agreements with local governments; ~~or~~

~~(c) the 301.4-2.~~ All law enforcement operations shall be conducted as set forth in this ordinance occur pursuant to any other jurisdictional exception.

301.4-3.— Law enforcement operations shall be used primarily for the purposes of providing law enforcement within the Oneida Community Nation and to supplement provide mutual assistance or aid to external law enforcement services offered by local governments within the Oneida Community community by powers set forth in section 301.4, of this law, Article IV section 1(f) of the Constitution and By-Laws of the Oneida Tribe of Indians of Wisconsin Nation, and as set forth in compacts and agreements authorized by the Oneida Business Committee or General Tribal Council.

301.4-4.— ~~The Oneida Tribe of Indians of Wisconsin~~ The Nation shall appoint and employ law enforcement personnel within its boundaries as it deems necessary for the purpose of detecting

96 and preventing crime and enforcing the laws ~~and ordinances~~ of the ~~Oneida Tribe~~Nation, in addition
97 to protection of persons, property, and premises.

98 301.4-5.—The Oneida Police Department may, as authorized and delegated by this
99 Ordinance~~law~~ and the Oneida Business Committee or General Tribal Council, enter into cross-
100 deputization and other law enforcement agreements with other jurisdictions.

101 ~~301.4-6.—The Oneida Police Department may allow law enforcement use of service firearms in~~
102 ~~order to protect life, liberty, property, land and premises, according to the usual and minimum~~
103 ~~accepted law enforcement standards as determined by the Police Chief with approval of the Oneida~~
104 ~~Police Commission. However, actual use of deadly force shall be allowed solely for the protection~~
105 ~~of life or the prevention of grievous bodily harm.~~

106 ~~301.4-7.—A Police Commission is established by this Ordinance to provide oversight regarding~~
107 ~~the activities and actions of the law enforcement operations to provide the greatest possible~~
108 ~~professional services to the Oneida community and to allow for community input regarding those~~
109 ~~law enforcement services through its representatives on the Police Commission. This entity is~~
110 ~~created as an oversight body and does not involve decision making processes on day to day~~
111 ~~activities of those law enforcement services.~~

112 **301.5. Oneida Police Department**

113 301.5-1.—There is hereby established an Oneida Police Department,~~to~~ which is delegated all
114 law enforcement authority of the ~~Oneida Tribe~~Nation. The Oneida Police Department may create
115 divisions of operation as may be deemed appropriate.

116 (a) Oneida Police Department Position Restrictions. All positions and appointments of
117 the Oneida Police Department shall be subject to Indian preference in hiring, except that
118 the following positions shall be held only by members of the Nation:

119 (1) Police Chief.~~The;~~

120 (2) Assistant Police Chief; and

121 (3) Police Lieutenant.

122 301.5-2. Oneida Police Chief. The Oneida Police Department shall be headed by a Police Chief,
123 appointed pursuant to ~~Section 6-5 of this Ordinance~~law.

124 (b) The Police Chief shall have authority over departmental personnel and operations,
125 subject to the ~~powers of the Oneida Police Commission set forth in Section 301.6-1 of this~~
126 ~~Ordinance.~~

127 (c) ~~In addition to such divisions as are specified in this Ordinance the Oneida Police~~
128 ~~Department may create divisions of operation as may be deemed appropriate.~~

129 (d) ~~The Police Chief or his/her designee shall have the right to exercise his/her police~~
130 ~~authority to deputize and use the services and manpower of the Oneida~~ Public Safety and
131 Security Department for emergencies, special events, and investigationsCommission.

132 301.5-2. ~~Conservation Department. There~~ (b) Qualifications and Process for
133 Appointment as Police Chief.

134 (1) The recruitment and hiring process for Police Chief shall be a Conservation
135 Department which is a division of conducted by the Oneida Police Department.
136 This division Public Safety and Security Commission, with assistance, as needed,
137 by the Human Resources Department.

138 (2) No person shall be responsible for the protection accepted as a candidate or be
139 eligible to serve as Police Chief who does not meet the following qualifications:

140 (A) Current certification in the State of Wisconsin as a law enforcement
141

officer or upon approval from the applicable State of ~~all fish resources, wildlife resources, and the lands~~ Wisconsin Standards Board;

(B) Member of the Nation;

(C) A minimum of five (5) years creditable service as a sworn law enforcement officer for a state, tribal, local, or federal government, with preference for:

(i) those who have at least an associate degree in police science, criminal justice or similar field, or a bachelor's degree in a related subject; and

(ii) those with successful supervisory experience;

(D) Current satisfactory background investigation completed by a law enforcement agency selected by the Oneida ~~Tribe~~ Public Safety and Security Commission with results of the investigation reported directly to the Oneida Public Safety and Security Commission;

(E) Current satisfactory psychological examination report;

(F) Current satisfactory medical examination report;

(G) Current drug test with negative results for controlled substances; and

(H) Any other minimum requirement as provided for in the job description.

(3) Examinations, interviews, further selection criteria and other processes utilized in the hiring process of a Police Chief shall be at the discretion of the Oneida Public Safety and Security Commission,

(4) Upon accepting notification of retirement, resignation, or the removal of a current Police Chief, the Oneida Public Safety and Security Commission shall appoint an interim or acting Police Chief who shall serve in said capacity until the process for appointment of a new Police Chief can be completed.

301.5-3.— Law Enforcement Officers.

(a) ~~Law Enforcement Officer: Educational Requirements.~~ All persons ~~hired after February 1, 1993,~~ shall meet the following minimum education requirements within five (5) years of ~~the~~their hire date, ~~which are as follows:~~

(1) Possess a two (2) year associate degree from ~~a Wisconsin~~ an accredited vocational, technical, ~~and/or~~ adult education district ~~or its accredited equivalent from another state;~~ or

(2) Possess documentation in the form of an official transcript showing a minimum of sixty (60) fully accredited college level credits. ~~Documentation will be required in the form of an official transcript;~~ or

(3) Possess a bachelors degree from ~~a Wisconsin~~ accredited college or university ~~or its accredited equivalent.~~

(b) Conditional Employment. ~~Persons hired after February 1, 1993.~~ Any person who ~~are~~is not a certified law enforcement ~~officers~~officer at the time of hire, ~~are~~is considered a conditional ~~employees~~employee and ~~must~~shall attain the educational requirements as specified in section 301.5-3(a), within five (5) years of their date of hire.

(1) Conditional employees are not eligible for promotion.

(2) Law enforcement officers who fail to ~~meet~~attain the ~~specified~~educational requirements ~~in section B,~~within five (5) years of their date of hire shall be subject to immediate termination.

(c) Educational Requirement: ~~for~~ Police Supervisors. Upon enactment of this

ordinance~~law~~, no law enforcement officer may be considered eligible for promotion to supervisor until the educational requirements of section 301.5-3(a) have been satisfied. Law enforcement officers promoted prior to the enactment of this ordinance~~law~~ are exempt from the educational requirements specified in section 301.5-3(a).

~~(d) Oneida Police Department Position Restrictions/Exceptions. The following positions shall be held only by members of the Oneida Tribe: Police Chief, Assistant Chief, Police Lieutenant or Sergeant, Conservation Director, and Assistant Conservation Director. All other positions and appointments shall be subject to the Indian Preference rules of the Oneida Tribe.~~

301.5-4.— *Liability Coverage.* ~~The Oneida Tribe~~To the extent the Federal Tort Claims Act coverage does not apply, the Nation shall provide professional liability insurance for all law enforcement officers~~and Conservation Officers.~~

301.5-5. *Declaration of Additional Restrictions of Employees.* All personnel of the Oneida Police Department shall be bound by ~~Standard Operating Procedures~~standard operating procedures that are required as a result of the specific and unique needs of law enforcement.

301.5-6. *Law Enforcement Officers to Be Sworn.* All law enforcement officers shall be installed by sworn oath before the Oneida Business Committee ~~at a regular meeting~~during a regular or special Oneida Business Committee meeting, or at an alternative time and location as determined by the Oneida Business Committee Secretary.

(a) When taking an oath, the law enforcement officer shall appear in person to take their oath, except if granted permission by the Oneida Business Committee Secretary to appear through video conferencing, or through other telecommunications.

(b) If an oath is administered outside of an Oneida Business Committee meeting, a quorum of Oneida Business Committee members shall be present to witness the oath.

301.6.— Oneida ~~Police~~Public Safety and Security Commission

301.6-1.—~~Oneida Police Commission.~~ *Establishment.* There is hereby established an Oneida ~~Police~~ Public Safety and Security Commission to provide oversight regarding the activities and actions of public safety and security operations throughout the Reservation to provide the greatest possible professional services to the Nation and to allow for community input regarding those public safety and security services through its representatives on the Oneida Public Safety and Security Commission. The Oneida Public Safety and Security Commission is an oversight body of the following departments of the Nation, but its oversight authority does not involve decision making processes on day-to-day activities of those public safety services:

(a) Oneida Police Department;

(b) Internal Security Department; and

(c) Any other safety operation department of the Nation as identified in the bylaws of the Oneida Public Safety and Security Commission.

301.6-2. *Appointment of Commissioners.* The Oneida Business Committee shall appoint five (5) members to the Oneida Public Safety and Security Commission for a term of five (5) years. Commissioners may serve more than one (1) term, but not more than three (3) consecutive terms.

301.6-3. *Commissioner Eligibility Qualifications.* In order to be eligible for membership on the Oneida Public Safety and Security Commission an individual shall:

(a) Be a member of the Nation;

(b) Be twenty-five (25) years of age or older;

(c) Have a background investigation result in none of the following:

(1) A felony conviction in the State of Wisconsin, or any conviction of a crime in another state that would be considered a felony conviction if the offense and adjudication occurred in the State of Wisconsin;

(2) A felony arrest which results in a misdemeanor conviction due to a plea arrangement;

(3) A conviction of any law violation that could bring discredit to the Oneida Public Safety and Security Commission; or

(4) Any pardon issued by the Nation or the governor of any State, for an offense specified in sections 301.6-4(c)(1)-(3), shall not deem a person as “exonerated” for the purposes of membership on the Oneida Public Safety and Security Commission;

(d) Not be employed with or terminated from the Oneida Police Department, Internal Security Department, or any other public safety operation overseen by the Oneida Public Safety and Security Commission;

301.6-4. Responsibilities in Regard to the Oneida Police Department. The Oneida Public Safety and Security Commission shall be responsible for and empowered to do the following in regard to the Oneida Police Department:

(a) Appoint, suspend, or remove the Police Chief of the Oneida Police Department.

(b) Approve all law enforcement officer appointments made by the Police Chief including the promotion of subordinates.

~~(c) Adopt, modify, and repeal rules governing how lists of individuals, concluded to be eligible for appointment to law enforcement officer and promotion, are established.~~

~~(d) Approve competitive examinations used to judge suitability for appointment or promotion of law enforcement officers.~~

~~(c)~~ Approve an eligibility list of individuals determined to be eligible for appointment as a law enforcement officer or promotion.

~~(f) Suspend law enforcement officers or other appointed personnel of the Police Department pending the filing and hearing of charges against them, subject to the provisions of 301.10.~~

~~(g) Initiate charges against law enforcement officers or other appointed personnel of the Police Department.~~

~~(d)~~ Hear charges filed against law enforcement officers or other appointed personnel of the Police Department, whether filed by the Oneida Public Safety and Security Commission or the Police Chief, make findings and determinations, and impose penalties, up to and including termination.

~~(e)~~ Hear appeals of disciplinary actions against any sworn law enforcement ~~personnel or officers.~~

(1) The Oneida Public Safety and Security Commission shall not have authority over disciplinary actions of non-sworn personnel.

~~(f)~~ Adopt ~~rules~~standard operating procedures governing the Oneida ~~Police~~Public Safety and Security Commission’s management of its own activities.

301.6-5. Responsibilities in Regard to the Internal Security and Other Departments. The responsibilities of the Oneida Public Safety and Security Commission in regard to the Internal Security Department or any other safety operation department of the Nation shall be provided for in the Oneida Public Safety and Security Commission bylaws.

301.6-6. Removal From Office. ~~(k) Review contracts, and forward to the Oneida Business Committee for approval, concerning cross-deputization, dispatch function and~~

~~mutual aid pacts which are made between the Oneida Police Department and a non-tribal agency.~~

~~(1) Approve Standard Operating Procedures of the Oneida Police Department.~~

A member of the Oneida Public Safety and Security Commission may have their appointment terminated by the Oneida Business Committee for:

~~(a) Misconduct 301.6-2. ~~Appointment of Commissioners.~~ The Oneida Business Committee shall appoint five members to the Oneida Police Commission for a term of five years. Commissioners may serve more than one term, but not more than three consecutive terms.~~

~~301.6-3. Commissioner Requirements and Qualifications. The following are membership requirements for serving on the Oneida Police Commission:~~

~~(a) Shall be a member of the Oneida Tribe.~~

~~(b) Must be 25 years of age or older.~~

~~(c) Satisfactory background investigation. The following would prohibit any person from serving on the Oneida Police Commission:~~

~~(1) A felony conviction in the State of Wisconsin, or any conviction of a crime in another state that would be considered a felony conviction if the offense and adjudication occurred in the State of Wisconsin.~~

~~(2) A felony arrest which results in a misdemeanor conviction due to a plea arrangement.~~

~~(3) A conviction of any ordinance violation that could bring discredit to the Commission.~~

~~(4) Any pardon issued by the Oneida Tribe or the governor of any State, for an offense specified in sections 301.6-3(e)(1)-(3), shall not deem a person as "exonerated" for the purposes of membership on the Oneida Police Commission.~~

~~(d) Must submit to drug testing prior to appointment and on an annual basis.~~

~~(e) Must not be an employee of the Oneida Police Department~~

~~(f) Shall attend applicable training.~~

~~(g) Must be a person of known good standing in the community.~~

~~301.6-4. Removal From Office. In addition to the Removal Law standards, a Commissioner may be removed for:~~

~~(a) Malfeasance in office;~~

~~(b) Conduct which could jeopardize the reputation of the Oneida Tribe Nation, the Oneida Police Public Safety and Security Commission, or the law enforcement public safety system;~~

~~(c) Any change in status which would place the Commissioner in conflict with the qualifications specified in section 301.6-3(c) above; or~~

~~(d) Violation of the confidentiality of closed hearings or any other information declared "confidential" by the Oneida Police Commission.~~

~~301.6-5. Qualifications Public Safety and Security Commission.~~

301.6-7. Appointment as Police Chief.

~~(a) The recruitment and hiring process for Police Chief shall be conducted by the Oneida Police Commission, with assistance, as needed, by the Human Resources Department.~~

~~(b) No person shall be accepted as a candidate or be eligible to serve as Police Chief who does not meet the following qualifications:~~

~~(1) Current certification in the State of Wisconsin as a law enforcement officer or~~

~~upon approval from State of Wisconsin Standards Board.~~

~~(2) Member of the Oneida Tribe.~~

~~(3) A minimum of five (5) years creditable service as a sworn law enforcement officer for a state, tribal, local or federal government, with preference for (i) those who have at least an associate degree in police science, criminal justice or similar field, or a bachelor's degree in a related subject; and (ii) those with successful supervisory experience.~~

~~(4) Current satisfactory background investigation completed by the Security Department or a law enforcement agency selected by the Oneida Police Commission with results of the investigation reported directly to the Oneida Police Commission.~~

~~(5) Current satisfactory psychological examination report.~~

~~(6) Current satisfactory medical examination report.~~

~~(7) Current drug test with negative results for controlled substances.~~

~~(e) Examinations, interviews, further selection criteria and other processes utilized in the hiring process of a Police Chief shall be at the discretion of the Oneida Police Commission;~~

~~(d) Upon accepting retirement notification or the resignation of a current Police Chief, the Oneida Police Commission shall appoint an interim or acting Police Chief who shall serve in said capacity until the process for appointment of a new chief can be completed.~~

301.7. — Appointment of Law Enforcement Officers

301.7-1.— *Job Task Analysis.* The Police Chief shall develop a ~~Job Task Analysis~~job task analysis (job description) for law enforcement officers and submit ~~the job task analysis~~ to the Oneida ~~Police~~Public Safety and Security Commission for approval.

301.7-2.— *Hiring Criteria.* Hiring criteria for law enforcement officers, shall be developed by the Oneida ~~Police~~Public Safety and Security Commission and implemented by the Police Chief; ~~and must.~~ The hiring criteria shall include, but ~~is not~~ be limited to, the following:

- ~~(a)~~ (a) educational requirements;
- ~~(b)~~ (b) satisfactory background investigation;
- ~~(c)~~ (c) psychological examination; and
- ~~(d)~~ (d) medical certification.

301.7-3.— *Hiring Process Outline.* ~~A Hiring Process Outline~~A hiring process outline shall be developed by ~~the~~ Oneida ~~Police~~Public Safety and Security Commission and implemented by the Police Chief. The ~~Hiring Process Outline will~~hiring process outline shall detail specific steps involved in the hiring process for law enforcement officers, and steps in the process involving scoring, rank scoring, or grading shall be specified, as well as passing grades or scores. The ~~Hiring Process Outline~~hiring process outline shall include all pertinent steps involved in the hiring process including, but not limited to, the following:

- ~~(a)~~ (a) application process;
- ~~(b)~~ (b) application screening;
- ~~(c)~~ (c) written test procedures;
- ~~(d)~~ (d) oral interviews;
- ~~(e)~~ (e) physical agility testing;
- ~~(f)~~ (f) background investigation;
- ~~(g)~~ (g) conditional offer of employment; and
- ~~(h)~~ (h) psychological and medical testing.

372 301.7-4.— *Approval of Additional Law Enforcement Personnel.*

373 (a) The Police Chief shall make a request for the hiring of additional law enforcement
374 personnel through the Human Resources Department processes.

375 (b) Upon receiving approval, the Police Chief shall make a formal request to the Human
376 Resources Department for posting the position(s) available. The current ~~Job-Task~~
377 ~~Analysis, Hiring Criteria~~ job task analysis, hiring criteria and ~~Hiring Process Outline~~ hiring
378 process outline shall be submitted to the Human Resources Department by the Police Chief.

379 301.7-5.— *Process.* All phases of the hiring process shall be conducted in accordance with the
380 ~~Hiring Process Outline~~ hiring process outline. Duties and responsibilities of persons involved in
381 the process shall be specified in the outline.

382 301.7-6.— *Eligibility List.*

383 (a) Upon completion of all screening steps of the ~~Hiring Process Outline~~ hiring process
384 outline, a list shall be compiled of all candidates based on cumulative scores earned by
385 each applicant in all graded or scored steps of the current hiring process.

386 (b) Candidates shall be ranked in inverse numerical order, that is the candidate with the
387 highest cumulative score is ranked “1”, the candidate with the second highest cumulative
388 score is ranked “2”, etc.

389 (c) The list shall be reviewed and approved by the Oneida ~~Police~~ Public Safety and
390 Security Commission and submitted to the Police Chief.

391 (d) The eligibility list will be valid for one (1) year from the date it was compiled.

392 (e) The order of appointment of applicants to the position of law enforcement officers
393 shall follow the order of the eligibility list contingent upon satisfactory background
394 investigation, psychological testing, and medical testing.

395 301.7-7.— *Commencement of Background Investigation.*

396 (a) Upon receiving the approved eligibility list, the Police Chief shall direct a subordinate
397 to commence a background investigation upon candidates based on their numerical ranking
398 on the eligibility list, starting with the top candidate.

399 (b) Results of the background investigation shall be forwarded to the Police Chief and the
400 Oneida ~~Police~~ Public Safety and Security Commission.

401 (c) A candidate may be deemed as having an unsatisfactory background investigation
402 report by either the Police Chief or the Oneida ~~Police~~ Public Safety and Security
403 Commission, ~~such~~ Such determinations ~~to be~~ by the Police Chief of the Oneida Public Safety
404 and Security Commission shall be made in writing.

405 301.7-8.— *Conditional Offer of Employment.* Provided a candidate has satisfactory results in a
406 background investigation, an offer of employment shall be sent to the candidate. -The offer shall
407 specify the candidate’s appointment to the position of law enforcement officer contingent upon
408 satisfactory psychological and medical testing.

409 301.7-9.— *Appointment.* Provided a candidate has passed psychological and medical testing, a
410 formal offer of employment shall be extended to the candidate by the Police Chief. -In the event
411 the candidate lacks the minimum educational requirements as specified in Section 301.5-3(a), the
412 contingency of employment shall be specified in the offer.

413
414 **301.8.— *Promotion of Law Enforcement Officers***

415 301.8-1.— *Criteria for Promotion.* The Oneida ~~Police~~ Public Safety and Security Commission
416 and the Police Chief shall establish specific criteria for the promotion of law enforcement officers.
417 The criteria shall be placed on the -notice or position posting for the promotion.

4 18 301.8-2.— *Process*. The process for promotion shall be developed by the Police Chief and
 4 19 approved by the Oneida ~~Police~~Public Safety and Security Commission.— The specifics of the
 4 20 process shall be placed on the notice or position posting for said promotion.

4 21 301.8-3.— *Psychological Testing Required*.— All candidates for promotion shall undergo
 4 22 psychological testing and have a satisfactory report prior to promotion. —The results of such test
 4 23 shall be made available to the Police Chief and the Oneida ~~Police~~Public Safety and Security
 4 24 Commission ~~President~~chairperson.

4 25 301.8-4.— *Promotion*. Upon completion of all steps in the promotion process, a law enforcement
 4 26 officer may be promoted upon review and recommendation of Oneida ~~Police~~Public Safety and
 4 27 Security Commission to the Police Chief.

4 28 **301.9.— Disciplinary Proceedings: for Law Enforcement Officers.**

4 29 301.9-1.— ~~*Purpose*~~

4 30
 4 31 ~~(a) Disciplinary actions may be commenced against a law enforcement officer by the~~
 4 32 ~~Police Chief for violations of departmental Standard Operating Procedures or laws of the~~
 4 33 ~~Oneida Tribe or other government. Such actions are independent of and exempt from the~~
 4 34 ~~Oneida Blue Book. Discipline may range from a verbal warning to termination.~~

4 35 ~~(b) In serious matters, an internal investigation is conducted by the Oneida Police~~
 4 36 ~~Department and the law enforcement officer under investigation may be placed on~~
 4 37 ~~administrative leave pursuant to 301.10.~~

4 38 ~~(c) In order to insure due process to for law enforcement officers, an law enforcement~~
 4 39 ~~officer has the right to appeal a disciplinary action to the Oneida Police Commission.~~

4 40 ~~(d) shall be governed by this provision of the Law. Disciplinary actions may be ordered~~
 4 41 ~~by the Police Chief. The officer may appeal a disciplinary action to the Oneida Police~~
 4 42 ~~Commission. Upon filing of an appeal, the Police Chief shall submit formal charges~~
 4 43 ~~against the officer to the Oneida Police Commission.~~

4 44 ~~(e) Any citizen may file charges or a complaint against an officer with the Police Chief.~~
 4 45 ~~The Oneida Police Commission can proceed with a hearing after an investigation by the~~
 4 46 ~~Police Chief.~~

4 47 ~~(f) ——— If a citizen wishes to file a complaint with the Oneida Police Commission, the Oneida~~
 4 48 ~~Police Commission will refer the complaint to the Police Chief to begin an investigation. Upon~~
 4 49 ~~completion of the investigation the Police Chief of non-sworn personnel of the Oneida Police~~
 4 50 ~~Department shall submit his written report to the Commission be governed by the Nation's laws,~~
 4 51 ~~policies, and rules governing employment.~~

4 52 301.9-2.— *Commencement of Disciplinary Hearings*.— A request for an appeal of a decision of the
 4 53 ~~Police Chief must be submitted in writing to the Oneida Police Commission within 30 calendar~~
 4 54 ~~days.~~

4 55 ~~(a) If the request is by a law enforcement officer or a citizen against a law enforcement~~
 4 56 ~~officer, the President must without delay, notify the Police Chief that a hearing has been~~
 4 57 ~~requested.~~

4 58 ~~(b) The Oneida Police Commission must meet within ten calendar days and set a hearing~~
 4 59 ~~date.~~

4 60 ~~(c) The Oneida Police Commission has the right to extend hearing dates for Just Cause~~
 4 61 ~~Standard. Just cause.~~

4 62 301.9-3.— *Rights and Responsibilities of the Oneida Police Commission at Hearings.*

4 63 ~~(a) The Oneida Police Commission shall have legal counsel and a court reporter present at~~

4 64 all formal proceedings.

4 65 (b) The Oneida Police Commission has the authority to subpoena witnesses.

4 66 (c) Hearing procedures that may be unique to a particular hearing shall be established prior
4 67 to the hearing.

4 68 (d) Disciplinary hearings shall be open, except where:

4 69 (1) the person subject to discipline requests in writing that the hearing be closed;
4 70 or

4 71 (2) the Police Chief requests in writing that the hearing be closed and indicates that
4 72 confidential police matters are involved.

4 73 (e) Commissioners shall not discuss the disciplinary matter with anyone outside the
4 74 Commission until the hearing is completed and a decision is filed.

4 75 301.9 4. Rights of the Accused Law Enforcement Officer at Hearings.

4 76 (a) Notice of charges that have been made, or will be made, as well as actions that will or
4 77 may be taken against the individual.

4 78 (b) The right to a hearing to respond to the charges.

4 79 (c) The right to representation at the individual's expense.

4 80 (d) The right to confront and cross-examine his/her accusers.

4 81 (e) The right to present evidence and argue his/her view of the facts.

4 82 301.9 5. Pre-Hearing Conference.

4 83 (a) A pre-hearing conference shall be scheduled at least five (5) working days before the
4 84 hearing. The law enforcement officer and the complainant shall be notified in writing of
4 85 the pre-hearing conference and both may be represented.

4 86 (b) The is determined using the following matters shall be accomplished at the conference.

4 87 (1) Witness lists and any prior written or recorded statements or reports of
4 88 witnesses will be exchanged between the parties or their representatives.

4 89 (2) Exhibit lists will also be exchanged between the parties or their representatives,
4 90 and each party and/or their representative shall be permitted to physically inspect
4 91 all exhibits of the other party.

4 92 (3) Witnesses or exhibits not on the pre-hearing conference lists may not be
4 93 introduced at the hearing unless the Oneida Police Commission determines that the
4 94 party or their representative can demonstrate a satisfactory reason for the inclusion
4 95 of such witness or exhibit on the list(s) submitted at the pre-hearing conference.

4 96 (4) In the absence of the party or representative at the pre-hearing conference, the
4 97 Oneida Police Commission shall dismiss the charges unless the party or
4 98 representative can demonstrate a satisfactory reason for non-appearance.

4 99 301.9 6. Hearing Procedure.

5 00 (a) ——— The nature of a law enforcement agency requires the highest level of public trust, As a
5 01 result, hearings will be open to the public to allow the public to be reassured that hearings are
5 02 conducted under the highest standards of objectiveness and reason, to the extent possible:

5 03 (b) The President of the Oneida Police Commission has the duties of:

5 04 (1) Presiding over the hearing.

5 05 (2) Maintaining order.

5 06 (3) Insuring that the hearing is fair and impartial.

5 07 (c) The President may elect to use an attorney or experienced hearing examiner to assist in
5 08 conducting the hearing.

5 09 (d) Order of Business.

- ~~(1) The President calls the meeting to order and:

 - ~~(A) Explains that the Oneida Police Commission is not an investigative body.~~
 - ~~(B) Describes the hearing as a formal inquiry into the facts of the matter in front of them as an original hearing body.~~~~
- ~~(2) The President reads the charges, as filed with the Oneida Police Commission, and cites the rule(s) and/or policy(s) that were alleged to be violated.~~
- ~~(3) Testimony begins with the person(s) who filed the charges.

 - ~~(A) Witnesses, evidence, documents, and other related reports will be submitted by the Police Chief or complainant.~~
 - ~~(B) Witnesses testify under oath which can be administered by the President or any other Commissioner.~~
 - ~~(C) Any Commissioner may ask questions but they must be relevant to the issues at hand. It is the President's responsibility to insure that the questions are germane.~~
 - ~~(D) The law enforcement officer or representative may challenge the testimony or evidence presented.~~~~
- ~~(4) The law enforcement officer or representative is given an opportunity to present facts, introduce evidence, and call witnesses to prove:

 - ~~(A) That the law enforcement officer was wrongly charged.~~
 - ~~(B) The penalty is not appropriate for the violation.~~~~
- ~~(5) The complainant may challenge any testimony offered by the accused.~~
- ~~(6) Both sides are allowed to present closing summaries of their position.~~
- ~~(7) The President then adjourns the hearing.~~
- ~~(8) The Oneida Police Commission retires to executive session to deliberate upon the matter.~~

~~301.9 7. — Just Cause Standard Applied to Commission Deliberations. The Commissioners shall base their decisions regarding a disciplinary action upon the "just cause" standard.~~

- ~~(a) (a) Whether the law enforcement officer could reasonably be expected to have had knowledge of the probable consequences of the alleged misconduct.~~
- ~~(b) Whether the procedure the law enforcement officer allegedly violated is reasonable.~~
- ~~(c) Whether the Police Chief, before filing charges against the law enforcement officer, made a reasonable effort to discover whether the law enforcement officer did, in fact, violate a procedure.~~
- ~~(d) Whether the investigation was fair and objective.~~
- ~~(e) Whether the Police Chief discovered substantial evidence that the law enforcement officer violated the procedure as described in the charges filed against the law enforcement officer.~~
- ~~(f) Whether the Police Chief is applying the rule or order fairly and without discrimination against the law enforcement officer.~~
- ~~(g) Whether the proposed discipline is reasonable as it relates to the seriousness of the alleged violation and to the law enforcement officer's record of service with the Oneida Police Department.~~

~~301.9 8. — Commission Actions.~~

- ~~(a) The Oneida Police Commission may on appeals, review a disciplinary action taken by the Police Chief, and:~~

~~(1) Approve the action taken by the Police Chief without change.~~

301.9-3. Discipline of Employees by the Chief of Police. The Chief of Police may reprimand or suspend a law enforcement officer for just cause without prior approval of the Oneida Public Safety and Security Commission. The Chief of Police shall report this action to the chairperson of the Oneida Public Safety and Security Commission immediately in writing and explain the cause(s) of the action. A law enforcement officer shall not be entitled to a hearing on the suspension unless the subordinate requests that the Police Chief file charges, which then triggers the hearing process.

(a) For any reductions in rank or terminations of a law enforcement officer, the Police Chief shall first file charges with the Oneida Public Safety and Security Commission.

301.9-4. Discipline of the Chief of Police. The Oneida Public Safety and Security Commission has the sole authority to suspend or terminate the Chief of Police, for cause, upon its own initiative. It may suspend the Chief of Police pending the investigation of written charges received.

301.9-5. Right to Request Hearing. If a law enforcement officer against whom a disciplinary action of suspension, demotion, or termination has been taken requests a hearing on the matter, the Oneida Public Safety and Security Commission shall proceed with such a hearing. Charges shall then be filed with the Oneida Public Safety and Security Commission by the party initially taking the disciplinary action.

301.9-6. Filing of Charges.

(a) Standing to File Charges. Charges may be filed with the Oneida Public Safety and Security Commission by:

(1) the Chief of Police;

~~(2) Dismiss or modify~~ a member of the Oneida Public Safety and Security Commission;

(3) the Oneida Public Safety and Security Commission as a body; or

(4) any aggrieved party.

(b) Content of Charges. The charges shall be in writing and shall be signed by the charging party. The sources of all information contained in the charges shall be stated in the charges or in accompanying documents. Information regarding the names and addresses of witnesses having relevant knowledge relating to the charges may be embodied in a separate statement accompanying the charges. The charges shall identify the person who is charged and specify, if possible, the date(s) and place(s) of the alleged offense(s).

(c) Filing of Charges. The charges shall be filed with the chairperson of the Oneida Public Safety and Security Commission. Pending disposition of such charges, the Oneida Public Safety and Security Commission or Police Chief may suspend the employee.

(d) Service of Charges. Following service upon the Oneida Public Safety and Security Commission chairperson, a copy of the charge(s) ~~made by the Police Chief~~ shall be served upon the person charged. A copy of the charge shall be issued to the person charged within five (5) business days after charges are sent to the Commission.

301.9-7. Procedure for Responding to Charges.

(a) Participation of the Commission. If the Oneida Public Safety and Security Commission as a body files charges, it shall retain special counsel to prosecute such charges on the Commission's behalf and the Oneida Public Safety and Security Commission shall refrain from any active involvement in the prosecution of such charges. If any member of the Oneida Public Safety and Security Commission files and actively prosecutes such charges, such member shall not participate in deliberating the charges or determining whether they are sustained.

602 (b) *Docket List.* All charges filed with the Oneida Public Safety and Security Commission
 603 shall be recorded on a docket list and assigned a number in sequence of filing with the date
 604 of filing added in parentheses.

605 (c) *Preliminary Investigation.* Upon the filing of charges, the Oneida Public Safety and
 606 Security Commission may have a preliminary investigation conducted to determine if it
 607 has jurisdiction in the matter. If the Oneida Public Safety and Security Commission judges
 608 that it does not have jurisdiction over the charges, it may dismiss the charges. In the event
 609 of such dismissal, the Oneida Public Safety and Security Commission shall notify the
 610 complainant in writing of its action.

611 (d) *Scheduling of Hearing.* Following the filing of charges or a request for a hearing, a
 612 copy of the charges shall be served upon the person charged. The Oneida Public Safety and
 613 Security Commission shall set a date for a hearing not less than ten (10) days or more than
 614 thirty (30) days following receipt of the charges. This timeframe may be waived if mutually
 615 agreed.

616 301.9-8.(3) — Modify any penalty imposed by the Police Chief.

617 (4) Void the action taken by the Police Chief.

618 (b) — The Oneida Police Commission *Scheduling Conference.*

619 (a) *Scheduling Conference.* A scheduling conference between the parties and/or their legal
 620 counsel is appropriate to establish the procedural timeline leading up to, and the process
 621 for, the evidentiary hearing.

622 (b) *Purpose of the Scheduling Conference.* The following matters shall be accomplished
 623 at the scheduling conference, and the resolution of these issues shall be memorialized in a
 624 scheduling order distributed to the parties:

625 (1) Establishing the date(s) of the evidentiary hearing;

626 (2) Setting up deadlines to exchange witness lists and any prior written or recorded
 627 statements or reports of witnesses;

628 (3) Setting up deadlines to identify and exchange exhibits;

629 (4) Setting up any discovery deadline. Prehearing discovery is permitted.

630 (5) Establishing the process and deadlines to request the Oneida Public Safety and
 631 Security Commission to issue subpoenas. The Oneida Public Safety and Security
 632 Commission chairperson has the power to issue subpoenas to compel the attendance
 633 of witnesses;

634 (6) Arranging for the recording of the testimony. The hearing shall be transcribed
 635 by a court reporter or otherwise recorded to preserve the evidence in case of an
 636 appeal to the Trial Court; and

637 (7) Determining if there are any objections to any Oneida Public Safety and
 638 Security Commission member participating in the hearing, deliberations, or
 639 decision and the basis for such objections.

640 301.9-9. *Evidentiary Hearing.*

641 (a) *Hearing Procedures.*

642 (1) The evidentiary hearing shall be conducted in open session.

643 (2) Following the evidentiary hearing, the deliberations of the Oneida Public Safety
 644 and Security Commission may be conducted in closed session at the discretion of
 645 the Commission.

646 (3) The Commission's vote following deliberations may take place in closed
 647 session, unless the charged party demands that the vote take place in open session.

648 (4) A record of the proceedings shall be created by the Commission. Exhibits
 649 introduced shall be marked with a docket number and exhibit number in sequence
 650 of introduction.

651 (5) Either or both of the parties may be represented by counsel and may compel
 652 the attendance of the witnesses by subpoenas, which shall be issued by the
 653 chairperson of the Commission.

654 (6) All testimony of witnesses at hearings shall be given under oath, administered
 655 by a member of the Commission.

656 (b) Order of Proceedings. At the hearing, the order of proceedings shall be as follows:

657 (1) Reading of the charges by the president.

658 (2) Opening statement by the parties, if any;

659 (3) Testimony and introduction of evidence by the charging party to substantiate
 660 the charges, with cross-examination by the accused;

661 (4) Testimony and introduction of evidence by the accused with cross-examination
 662 by the charging party; and

663 (5) Closing arguments.

664 301.9-10. Deliberations, Findings, Conclusions, Orders from Hearing.

665 (a) Finding of Fact.

666 (1) At the conclusion of the hearing, the Oneida Public Safety and Security
 667 Commission shall prepare written findings of fact based upon the testimony and
 668 evidence presented and shall prepare conclusions which are based on the findings
 669 and an order consistent with such findings and conclusions within three (3) days
 670 after the conclusion of the hearing and file it with the Oneida Public Safety and
 671 Security Commission Secretary.

672 (2) For purposes of deliberation after the hearing, the Oneida Public Safety and
 673 Security Commission shall adjourn into closed session. During the deliberation
 674 only Oneida Public Safety and Security Commission members and the
 675 commission's attorney shall be present.

676 (b) Just Cause Standard. In determining whether there is just cause for discipline, the
 677 Oneida Public Safety and Security Commission shall apply the standards set forth in
 678 section 301.9-2.

679 (c) Charges Rescinded. If the Oneida Public Safety and Security Commission determines
 680 that the charges are not sustained, the charged party shall immediately have all related
 681 disciplinary action taken to date rescinded and all lost pay or other benefits, if any, restored.

682 (d) Charges Sustained. If the Oneida Public Safety and Security Commission determines
 683 that the charges are sustained, the charged party, by order of the Commission, may impose
 684 any of the following penalties, but is not limited to the penalties listed herein:

685 (1) —_ Verbal consultation;

686 (2) —_ Written reprimand;

687 (3) —_ Suspension without pay;

688 (4) —_ Demotion in rank; or

689 (5) —_ Termination of employment.

690 (e) ~~e) Announcement of Decision.~~ The Oneida ~~Police Commission's findings shall be in~~
 691 writing ~~Public Safety~~ and ~~include:~~

692 (1) ~~A statement of all charges filed.~~

693 (2) ~~The specific rule(s), policy(s), or standard(s) of conduct violated.~~

694 ~~(3) A list of charges that the Oneida Police~~Security Commission ~~found were proven~~shall
695 announce its decision in open session.

696 ~~(4) A summary of the disciplinary actions considered~~(f) Appeal of Decision. Any
697 law enforcement officer suspended, demoted, reassigned, or removed by the
698 Oneida Police Commission.

699 ~~(5) The disciplinary action ordered by the Oneida Police Commission~~Public Safety
700 and any special actions attached to the approved disciplinary action.

701 ~~(d) In acting on a complaint including a request for termination of employment, filed with~~
702 ~~the Oneida Police Commission, the Oneida Police~~Security Commission may:

703 ~~(1) Dismiss~~ appeal from the complaint.

704 ~~(2) Dismiss or modify certain charges filed.~~

705 ~~(3) Conclude that~~order of the testimonyOneida Public Safety and evidence sustain
706 the charges and impose a penalty.

707 ~~(4) Allow the Oneida Police Commission the power to hire an outside agency to~~
708 conduct the investigation of allegations against the Police Chief.

709 ~~301.9-9. Appeals of Commission Findings. Appeals of Oneida Police Commission's~~
710 ruling shall be madeSecurity Commission to the Judiciary.

711
712 **301.10. — Administrative Leave: of Law Enforcement Officers.—**

713 301.10-1.— General. Administrative leave is an action commenced by the Police Chief affecting
714 the status of a law enforcement officer. ~~-A law enforcement officer is temporarily relieved of all~~
715 law enforcement powers while on administrative leave. -The law enforcement officer continues to
716 receive salary and is responsible to report to the Police Chief or perform other duties as assigned.
717 Administrative leave does not denote wrong-doing on the part of the law enforcement officer.

718 301.10-2.— Applicability. Administrative leave may only be ordered in the following
719 circumstances:

720 (a) The law enforcement officer poses a threat to themselves or others.

721 (b) The law enforcement officer is alleged to have committed a violation(s) which calls
722 for termination of ~~his or her~~their employment as a law enforcement officer and the matter
723 is under investigation.

724 (c) The law enforcement officer is alleged to have committed a violation(s) that is under
725 investigation and that would cause a loss of public trust in the Oneida Police Department.

726 (d) The law enforcement officer is under investigation for alcohol or drug abuse.

727 (e) The law enforcement officer is under investigation for insubordination, untruthfulness,
728 or commission of a crime.

729 (f) The law enforcement officer demonstrates behavior indicating the law enforcement
730 officer is unfit for duty.

731 301.10-3.— Duration of Administrative Leave.

732 (a) In cases where the law enforcement officer is under formal investigation, the law
733 enforcement officer ~~will~~shall remain on administrative leave until the investigation is
734 completed.

735 (1) If the investigation results in allegations being sustained, the law enforcement
736 officer ~~will~~shall remain on administrative leave pending issuance of discipline.

737 (2) If the investigation results in a finding that the charges were unfounded or not
738 sustained, the law enforcement officer shall be immediately returned to active duty
739 status.

(b) In cases where the law enforcement officer is placed on administrative leave for other matters not involving formal investigation, the law enforcement officer shall be returned to active duty status upon order of the Police Chief. -The period of administrative leave in incidents not involving investigation shall not exceed thirty ~~working~~(30) calendar days.

301.11. — Firearms Control.

~~301.11-1. The Oneida Tribe~~301.11-1. The Oneida Police Department may allow law enforcement use of service firearms in order to protect life, liberty, property, land, and premises, according to the usual and current accepted law enforcement standards.

301.11-2. The Nation hereby establishes regulations for the carrying of firearms issued to certified law enforcement officers employed by the ~~Oneida Tribe~~Nation.

(a) The needs and requirements for carrying firearms shall be established and determined by the Police Chief subject to the review of the Oneida ~~Police~~Public Safety and Security Commission.

(b) Said requirements shall reflect the needs of the ~~Oneida Tribe~~Nation in order to protect all persons and property.

End.

Adopted - BC -10-10-01-C
Revisor Correction 2004
Amended – BC-02-25-15-C
Amended – BC- - - -

Title 3. Health and Public Safety – Chapter 301
Shakotiye·nás Olihwáke
The Matters of Those Who Protect Us
LAW ENFORCEMENT

#

301.1-1 Purpose and Policy
301.2-1 Adoption, Amendment, Repeal
301.3-1 Definitions
301.4-1 General Principles
301.5-1 Oneida Police Department
301.6-1 Oneida Public Safety and Security Commission

301.7-1 Appointment of Law Enforcement Officers
301.8-1 Promotion of Law Enforcement Officers
301.9-1 Disciplinary Proceedings
301.10-1 Administrative Leave
301.11-1 Firearms Control

#

#

301.1. Purpose and Policy

301.1-1. *Purpose.* The purpose of this law is to regulate the conduct of the Nation’s law enforcement personnel according to the highest professional standards.

301.1-2. *Policy.* It is the policy of the Nation to ensure that law enforcement personnel operate at the highest level of professional standards to ensure the safety and welfare of the community.

301.2. Adoption, Amendment, Repeal

301.2-1. This law was adopted by the Oneida Business Committee by resolution BC-10-10-01-C and amended by resolution BC-02-25-15-C and BC-__-__-__-__.

301.2-2. This law may be amended or repealed by the Oneida Business Committee or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

301.2-3. Should a provision of this law or the application there of to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

301.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

301.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

301.3. Definitions

301.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Certified law enforcement officer” means a sworn officer who meets all qualifications for law enforcement officer, including accepted professional training and experience, State of Wisconsin Certification or eligibility for Certification which includes but is not limited to, satisfactory background investigation, psychological evaluation, drug testing, and police firearms certification.

(b) “Commissioner” shall mean a member of the Oneida Public Safety and Security Commission.

(c) “Judiciary” means the Oneida Nation Judiciary, which is the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later authorized to administer the judicial authorities and responsibilities of the Nation by Oneida General Tribal Council resolution GTC-03-19-17.

(d) “Nation” means the Oneida Nation.

(e) “Non-sworn personnel” means an individual employed with the Oneida Police Department that does not meet the qualifications for a certified law enforcement officer.

50 (f) “Oneida Public Safety and Security Commission” means the entity made up of those
51 individuals appointed by the Oneida Business Committee to provide oversight regarding
52 the activities and actions of public safety and security operations throughout the
53 Reservation.

54 (g) “Police supervisor” means a law enforcement officer who holds the rank of Sergeant
55 or above.

56 (h) “Reservation” means all land within the exterior boundaries of the Reservation of the
57 Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any
58 lands added thereto pursuant to federal law.

59
60 **301.4. General Principles**

61 301.4-1. All law enforcement operations of the Nation shall be conducted in accordance with this
62 law.

63 301.4-2. Law enforcement operations shall take place on and within the Reservation, unless:

- 64 (a) there is a potential that the safety and welfare of an individual is being compromised;
65 (b) the law enforcement operations occur pursuant to mutual aid agreements with local
66 governments; or
67 (c) the law enforcement operations occur pursuant to any other jurisdictional exception.

68 301.4-3. Law enforcement operations shall be used primarily for the purposes of providing law
69 enforcement within the Nation and to provide mutual assistance or aid to external law enforcement
70 services offered by local governments within the Oneida community by powers set forth in section
71 301.4 of this law, Article IV section 1(f) of the Constitution and By-Laws of the Oneida Nation,
72 and as set forth in compacts and agreements authorized by the Oneida Business Committee or
73 General Tribal Council.

74 301.4-4. The Nation shall appoint and employ law enforcement personnel within its boundaries
75 as it deems necessary for the purpose of detecting and preventing crime and enforcing the laws of
76 the Nation, in addition to protection of persons, property, and premises.

77 301.4-5. The Oneida Police Department may, as authorized and delegated by this law and the
78 Oneida Business Committee or General Tribal Council, enter into cross-deputization and other law
79 enforcement agreements with other jurisdictions.

80
81 **301.5. Oneida Police Department**

82 301.5-1. There is hereby established an Oneida Police Department which is delegated all law
83 enforcement authority of the Nation. The Oneida Police Department may create divisions of
84 operation as may be deemed appropriate.

85 (a) *Oneida Police Department Position Restrictions.* All positions and appointments of
86 the Oneida Police Department shall be subject to Indian preference in hiring, except that
87 the following positions shall be held only by members of the Nation:

- 88 (1) Police Chief;
89 (2) Assistant Police Chief; and
90 (3) Police Lieutenant.

91 301.5-2. *Oneida Police Chief.* The Oneida Police Department shall be headed by a Police Chief,
92 appointed pursuant to this law.

93 (a) The Police Chief shall have authority over departmental personnel and operations,
94 subject to the authority of the Oneida Public Safety and Security Commission.

95 (b) *Qualifications and Process for Appointment as Police Chief.*

96 (1) The recruitment and hiring process for Police Chief shall be conducted by the
97 Oneida Public Safety and Security Commission, with assistance, as needed, by the
98 Human Resources Department.

99 (2) No person shall be accepted as a candidate or be eligible to serve as Police
100 Chief who does not meet the following qualifications:

101 (A) Current certification in the State of Wisconsin as a law enforcement
102 officer or upon approval from the applicable State of Wisconsin Standards
103 Board;

104 (B) Member of the Nation;

105 (C) A minimum of five (5) years creditable service as a sworn law
106 enforcement officer for a state, tribal, local, or federal government, with
107 preference for:

108 (i) those who have at least an associate degree in police science,
109 criminal justice or similar field, or a bachelor's degree in a related
110 subject; and

111 (ii) those with successful supervisory experience;

112 (D) Current satisfactory background investigation completed by a law
113 enforcement agency selected by the Oneida Public Safety and Security
114 Commission with results of the investigation reported directly to the Oneida
115 Public Safety and Security Commission;

116 (E) Current satisfactory psychological examination report;

117 (F) Current satisfactory medical examination report;

118 (G) Current drug test with negative results for controlled substances; and

119 (H) Any other minimum requirement as provided for in the job description.

120 (3) Examinations, interviews, further selection criteria and other processes utilized
121 in the hiring process of a Police Chief shall be at the discretion of the Oneida Public
122 Safety and Security Commission,

123 (4) Upon accepting notification of retirement, resignation, or the removal of a
124 current Police Chief, the Oneida Public Safety and Security Commission shall
125 appoint an interim or acting Police Chief who shall serve in said capacity until the
126 process for appointment of a new Police Chief can be completed.

127 **301.5-3. Law Enforcement Officers.**

128 (a) *Educational Requirements.* All persons shall meet the following minimum education
129 requirements within five (5) years of their hire date:

130 (1) Possess a two (2) year associate degree from an accredited vocational,
131 technical, or adult education district; or

132 (2) Possess documentation in the form of an official transcript showing a minimum
133 of sixty (60) fully accredited college level credits; or

134 (3) Possess a bachelors degree from accredited college or university.

135 (b) *Conditional Employment.* Any person who is not a certified law enforcement officer
136 at the time of hire, is considered a conditional employee and shall attain the educational
137 requirements as specified in section 301.5-3(a), within five (5) years of their date of hire.

138 (1) Conditional employees are not eligible for promotion.

139 (2) Law enforcement officers who fail to attain the educational requirements within
140 five (5) years of their date of hire shall be subject to immediate termination.

141 (c) *Educational Requirement for Police Supervisors.* Upon enactment of this law, no law

142 enforcement officer may be considered eligible for promotion to supervisor until the
143 educational requirements of section 301.5-3(a) have been satisfied. Law enforcement
144 officers promoted prior to the enactment of this law are exempt from the educational
145 requirements specified in section 301.5-3(a).

146 301.5-4. *Liability Coverage.* To the extent the Federal Tort Claims Act coverage does not apply,
147 the Nation shall provide professional liability insurance for all law enforcement officers.

148 301.5-5. *Declaration of Additional Restrictions of Employees.* All personnel of the Oneida
149 Police Department shall be bound by standard operating procedures that are required as a result of
150 the specific and unique needs of law enforcement.

151 301.5-6. *Law Enforcement Officers to Be Sworn.* All law enforcement officers shall be installed
152 by sworn oath before the Oneida Business Committee during a regular or special Oneida Business
153 Committee meeting, or at an alternative time and location as determined by the Oneida Business
154 Committee Secretary.

155 (a) When taking an oath, the law enforcement officer shall appear in person to take their
156 oath, except if granted permission by the Oneida Business Committee Secretary to appear
157 through video conferencing, or through other telecommunications.

158 (b) If an oath is administered outside of an Oneida Business Committee meeting, a quorum
159 of Oneida Business Committee members shall be present to witness the oath.

161 **301.6. Oneida Public Safety and Security Commission**

162 301.6-1. *Establishment.* There is hereby established an Oneida Public Safety and Security
163 Commission to provide oversight regarding the activities and actions of public safety and security
164 operations throughout the Reservation to provide the greatest possible professional services to the
165 Nation and to allow for community input regarding those public safety and security services
166 through its representatives on the Oneida Public Safety and Security Commission. The Oneida
167 Public Safety and Security Commission is an oversight body of the following departments of the
168 Nation, but its oversight authority does not involve decision making processes on day-to-day
169 activities of those public safety services:

170 (a) Oneida Police Department;

171 (b) Internal Security Department; and

172 (c) Any other safety operation department of the Nation as identified in the bylaws of the
173 Oneida Public Safety and Security Commission.

174 301.6-2. *Appointment of Commissioners.* The Oneida Business Committee shall appoint five
175 (5) members to the Oneida Public Safety and Security Commission for a term of five (5) years.
176 Commissioners may serve more than one (1) term, but not more than three (3) consecutive terms.

177 301.6-3. *Commissioner Eligibility Qualifications.* In order to be eligible for membership on the
178 Oneida Public Safety and Security Commission an individual shall:

179 (a) Be a member of the Nation;

180 (b) Be twenty-five (25) years of age or older;

181 (c) Have a background investigation result in none of the following:

182 (1) A felony conviction in the State of Wisconsin, or any conviction of a crime in
183 another state that would be considered a felony conviction if the offense and
184 adjudication occurred in the State of Wisconsin;

185 (2) A felony arrest which results in a misdemeanor conviction due to a plea
186 arrangement;

187 (3) A conviction of any law violation that could bring discredit to the Oneida Public

- 188 Safety and Security Commission; or
189 (4) Any pardon issued by the Nation or the governor of any State, for an offense
190 specified in sections 301.6-4(c)(1)-(3), shall not deem a person as “exonerated” for
191 the purposes of membership on the Oneida Public Safety and Security Commission;
192 (d) Not be employed with or terminated from the Oneida Police Department, Internal
193 Security Department, or any other public safety operation overseen by the Oneida Public
194 Safety and Security Commission;

195 **301.6-4. Responsibilities in Regard to the Oneida Police Department.** The Oneida Public Safety
196 and Security Commission shall be responsible for and empowered to do the following in regard to
197 the Oneida Police Department:

- 198 (a) Appoint, suspend, or remove the Police Chief of the Oneida Police Department.
199 (b) Approve all law enforcement officer appointments made by the Police Chief including
200 the promotion of subordinates.
201 (c) Approve an eligibility list of individuals determined to be eligible for appointment as a
202 law enforcement officer or promotion.
203 (d) Hear charges filed against law enforcement officers of the Police Department, whether
204 filed by the Oneida Public Safety and Security Commission or the Police Chief, make
205 findings and determinations, and impose penalties, up to and including termination.
206 (e) Hear appeals of disciplinary actions against any sworn law enforcement officers.
207 (1) The Oneida Public Safety and Security Commission shall not have authority
208 over disciplinary actions of non-sworn personnel.
209 (f) Adopt standard operating procedures governing the Oneida Public Safety and Security
210 Commission’s management of its own activities.

211 **301.6-5. Responsibilities in Regard to the Internal Security and Other Departments.** The
212 responsibilities of the Oneida Public Safety and Security Commission in regard to the Internal
213 Security Department or any other safety operation department of the Nation shall be provided for
214 in the Oneida Public Safety and Security Commission bylaws.

215 **301.6-6. Removal From Office.** A member of the Oneida Public Safety and Security Commission
216 may have their appointment terminated by the Oneida Business Committee for:

- 217 (a) Misconduct in office;
218 (b) Conduct which could jeopardize the reputation of the Nation, the Oneida Public Safety
219 and Security Commission, or the public safety system;
220 (c) Any change in status which would place the Commissioner in conflict with the
221 qualifications specified in section 301.6-3(c) above; or
222 (d) Violation of the confidentiality of closed hearings or any other information declared
223 confidential by the Oneida Public Safety and Security Commission.
224

225 **301.7. Appointment of Law Enforcement Officers**

226 **301.7-1. Job Task Analysis.** The Police Chief shall develop a job task analysis (job description)
227 for law enforcement officers and submit the job task analysis to the Oneida Public Safety and
228 Security Commission for approval.

229 **301.7-2. Hiring Criteria.** Hiring criteria for law enforcement officers, shall be developed by the
230 Oneida Public Safety and Security Commission and implemented by the Police Chief. The hiring
231 criteria shall include, but not be limited to, the following:

- 232 (a) educational requirements;
233 (b) satisfactory background investigation;

- 234 (c) psychological examination; and
- 235 (d) medical certification.

236 301.7-3. *Hiring Process Outline.* A hiring process outline shall be developed by the Oneida Public
237 Safety and Security Commission and implemented by the Police Chief. The hiring process outline
238 shall detail specific steps involved in the hiring process for law enforcement officers, and steps in
239 the process involving scoring, rank scoring, or grading shall be specified, as well as passing grades
240 or scores. The hiring process outline shall include all pertinent steps involved in the hiring process
241 including, but not limited to, the following:

- 242 (a) application process;
- 243 (b) application screening;
- 244 (c) written test procedures;
- 245 (d) oral interviews;
- 246 (e) physical agility testing;
- 247 (f) background investigation;
- 248 (g) conditional offer of employment; and
- 249 (h) psychological and medical testing.

250 301.7-4. *Approval of Additional Law Enforcement Personnel.*

- 251 (a) The Police Chief shall make a request for the hiring of additional law enforcement
252 personnel through the Human Resources Department processes.
- 253 (b) Upon receiving approval, the Police Chief shall make a formal request to the Human
254 Resources Department for posting the position(s) available. The current job task analysis,
255 hiring criteria, and hiring process outline shall be submitted to the Human Resources
256 Department by the Police Chief.

257 301.7-5. *Process.* All phases of the hiring process shall be conducted in accordance with the
258 hiring process outline. Duties and responsibilities of persons involved in the process shall be
259 specified in the outline.

260 301.7-6. *Eligibility List.*

- 261 (a) Upon completion of all screening steps of the hiring process outline, a list shall be
262 compiled of all candidates based on cumulative scores earned by each applicant in all
263 graded or scored steps of the current hiring process.
- 264 (b) Candidates shall be ranked in inverse numerical order, that is the candidate with the
265 highest cumulative score is ranked “1”, the candidate with the second highest cumulative
266 score is ranked “2”, etc.
- 267 (c) The list shall be reviewed and approved by the Oneida Public Safety and Security
268 Commission and submitted to the Police Chief.
- 269 (d) The eligibility list will be valid for one (1) year from the date it was compiled.
- 270 (e) The order of appointment of applicants to the position of law enforcement officers
271 shall follow the order of the eligibility list contingent upon satisfactory background
272 investigation, psychological testing, and medical testing.

273 301.7-7. *Commencement of Background Investigation.*

- 274 (a) Upon receiving the approved eligibility list, the Police Chief shall direct a subordinate
275 to commence a background investigation upon candidates based on their numerical ranking
276 on the eligibility list, starting with the top candidate.
- 277 (b) Results of the background investigation shall be forwarded to the Police Chief and the
278 Oneida Public Safety and Security Commission.
- 279 (c) A candidate may be deemed as having an unsatisfactory background investigation

280 report by either the Police Chief or the Oneida Public Safety and Security Commission.
281 Such determinations by the Police Chief of the Oneida Public Safety and Security
282 Commission shall be made in writing.

283 301.7-8. *Conditional Offer of Employment.* Provided a candidate has satisfactory results in a
284 background investigation, an offer of employment shall be sent to the candidate. The offer shall
285 specify the candidate’s appointment to the position of law enforcement officer contingent upon
286 satisfactory psychological and medical testing.

287 301.7-9. *Appointment.* Provided a candidate has passed psychological and medical testing, a
288 formal offer of employment shall be extended to the candidate by the Police Chief. In the event
289 the candidate lacks the minimum educational requirements as specified in Section 301.5-3(a), the
290 contingency of employment shall be specified in the offer.

291
292 **301.8. Promotion of Law Enforcement Officers**

293 301.8-1. *Criteria for Promotion.* The Oneida Public Safety and Security Commission and the
294 Police Chief shall establish specific criteria for the promotion of law enforcement officers. The
295 criteria shall be placed on the notice or position posting for the promotion.

296 301.8-2. *Process.* The process for promotion shall be developed by the Police Chief and approved
297 by the Oneida Public Safety and Security Commission. The specifics of the process shall be placed
298 on the notice or position posting for said promotion.

299 301.8-3. *Psychological Testing Required.* All candidates for promotion shall undergo
300 psychological testing and have a satisfactory report prior to promotion. The results of such test
301 shall be made available to the Police Chief and the Oneida Public Safety and Security Commission
302 chairperson.

303 301.8-4. *Promotion.* Upon completion of all steps in the promotion process, a law enforcement
304 officer may be promoted upon review and recommendation of Oneida Public Safety and Security
305 Commission to the Police Chief.

306
307 **301.9 Disciplinary Proceedings for Law Enforcement Officers**

308 301.9-1. Disciplinary actions for law enforcement officers shall be governed by this provision of
309 the Law. Disciplinary actions of non-sworn personnel of the Oneida Police Department shall be
310 governed by the Nation’s laws, policies, and rules governing employment.

311 301.9-2. *Just Cause Standard.* Just cause is determined using the following standards, to the
312 extent possible:

313 (a) Whether the law enforcement officer could reasonably be expected to have had
314 knowledge of the probable consequences of the alleged misconduct.

315 (b) Whether the procedure the law enforcement officer allegedly violated is reasonable.

316 (c) Whether the Police Chief, before filing charges against the law enforcement officer,
317 made a reasonable effort to discover whether the law enforcement officer did, in fact,
318 violate a procedure.

319 (d) Whether the investigation was fair and objective.

320 (e) Whether the Police Chief discovered substantial evidence that the law enforcement
321 officer violated the procedure as described in the charges filed against the law enforcement
322 officer.

323 (f) Whether the Police Chief is applying the rule or order fairly and without discrimination
324 against the law enforcement officer.

325 (g) Whether the proposed discipline is reasonable as it relates to the seriousness of the

326 alleged violation and to the law enforcement officer’s record of service with the Oneida
327 Police Department.

328 301.9-3. *Discipline of Employees by the Chief of Police.* The Chief of Police may reprimand or
329 suspend a law enforcement officer for just cause without prior approval of the Oneida Public Safety
330 and Security Commission. The Chief of Police shall report this action to the chairperson of the
331 Oneida Public Safety and Security Commission immediately in writing and explain the cause(s)
332 of the action. A law enforcement officer shall not be entitled to a hearing on the suspension unless
333 the subordinate requests that the Police Chief file charges, which then triggers the hearing process.

334 (a) For any reductions in rank or terminations of a law enforcement officer, the Police
335 Chief shall first file charges with the Oneida Public Safety and Security Commission.

336 301.9-4. *Discipline of the Chief of Police.* The Oneida Public Safety and Security Commission
337 has the sole authority to suspend or terminate the Chief of Police, for cause, upon its own initiative.
338 It may suspend the Chief of Police pending the investigation of written charges received.

339 301.9-5. *Right to Request Hearing.* If a law enforcement officer against whom a disciplinary action
340 of suspension, demotion, or termination has been taken requests a hearing on the matter, the Oneida
341 Public Safety and Security Commission shall proceed with such a hearing. Charges shall then be
342 filed with the Oneida Public Safety and Security Commission by the party initially taking the
343 disciplinary action.

344 301.9-6. *Filing of Charges.*

345 (a) *Standing to File Charges.* Charges may be filed with the Oneida Public Safety and
346 Security Commission by:

- 347 (1) the Chief of Police;
348 (2) a member of the Oneida Public Safety and Security Commission;
349 (3) the Oneida Public Safety and Security Commission as a body; or
350 (4) any aggrieved party.

351 (b) *Content of Charges.* The charges shall be in writing and shall be signed by the charging
352 party. The sources of all information contained in the charges shall be stated in the charges
353 or in accompanying documents. Information regarding the names and addresses of
354 witnesses having relevant knowledge relating to the charges may be embodied in a separate
355 statement accompanying the charges. The charges shall identify the person who is charged
356 and specify, if possible, the date(s) and place(s) of the alleged offense(s).

357 (c) *Filing of Charges.* The charges shall be filed with the chairperson of the Oneida Public
358 Safety and Security Commission. Pending disposition of such charges, the Oneida Public
359 Safety and Security Commission or Police Chief may suspend the employee.

360 (d) *Service of Charges.* Following service upon the Oneida Public Safety and Security
361 Commission chairperson, a copy of the charge shall be served upon the person charged. A
362 copy of the charge shall be issued to the person charged within five (5) business days after
363 charges are sent to the Commission.

364 301.9-7. *Procedure for Responding to Charges.*

365 (a) *Participation of the Commission.* If the Oneida Public Safety and Security Commission
366 as a body files charges, it shall retain special counsel to prosecute such charges on the
367 Commission's behalf and the Oneida Public Safety and Security Commission shall refrain
368 from any active involvement in the prosecution of such charges. If any member of the
369 Oneida Public Safety and Security Commission files and actively prosecutes such charges,
370 such member shall not participate in deliberating the charges or determining whether they
371 are sustained.

372 (b) *Docket List*. All charges filed with the Oneida Public Safety and Security Commission
373 shall be recorded on a docket list and assigned a number in sequence of filing with the date
374 of filing added in parentheses.

375 (c) *Preliminary Investigation*. Upon the filing of charges, the Oneida Public Safety and
376 Security Commission may have a preliminary investigation conducted to determine if it
377 has jurisdiction in the matter. If the Oneida Public Safety and Security Commission judges
378 that it does not have jurisdiction over the charges, it may dismiss the charges. In the event
379 of such dismissal, the Oneida Public Safety and Security Commission shall notify the
380 complainant in writing of its action.

381 (d) *Scheduling of Hearing*. Following the filing of charges or a request for a hearing, a
382 copy of the charges shall be served upon the person charged. The Oneida Public Safety and
383 Security Commission shall set a date for a hearing not less than ten (10) days or more than
384 thirty (30) days following receipt of the charges. This timeframe may be waived if mutually
385 agreed.

386 301.9-8. *Scheduling Conference*.

387 (a) *Scheduling Conference*. A scheduling conference between the parties and/or their legal
388 counsel is appropriate to establish the procedural timeline leading up to, and the process
389 for, the evidentiary hearing.

390 (b) *Purpose of the Scheduling Conference*. The following matters shall be accomplished
391 at the scheduling conference, and the resolution of these issues shall be memorialized in a
392 scheduling order distributed to the parties:

- 393 (1) Establishing the date(s) of the evidentiary hearing;
- 394 (2) Setting up deadlines to exchange witness lists and any prior written or recorded
395 statements or reports of witnesses;
- 396 (3) Setting up deadlines to identify and exchange exhibits;
- 397 (4) Setting up any discovery deadline. Prehearing discovery is permitted.
- 398 (5) Establishing the process and deadlines to request the Oneida Public Safety and
399 Security Commission to issue subpoenas. The Oneida Public Safety and Security
400 Commission chairperson has the power to issue subpoenas to compel the attendance
401 of witnesses;
- 402 (6) Arranging for the recording of the testimony. The hearing shall be transcribed
403 by a court reporter or otherwise recorded to preserve the evidence in case of an
404 appeal to the Trial Court; and
- 405 (7) Determining if there are any objections to any Oneida Public Safety and
406 Security Commission member participating in the hearing, deliberations, or
407 decision and the basis for such objections.

408 301.9-9. *Evidentiary Hearing*.

409 (a) *Hearing Procedures*.

- 410 (1) The evidentiary hearing shall be conducted in open session.
- 411 (2) Following the evidentiary hearing, the deliberations of the Oneida Public Safety
412 and Security Commission may be conducted in closed session at the discretion of
413 the Commission.
- 414 (3) The Commission's vote following deliberations may take place in closed
415 session, unless the charged party demands that the vote take place in open session.
- 416 (4) A record of the proceedings shall be created by the Commission. Exhibits
417 introduced shall be marked with a docket number and exhibit number in sequence

418 of introduction.
419 (5) Either or both of the parties may be represented by counsel and may compel
420 the attendance of the witnesses by subpoenas, which shall be issued by the
421 chairperson of the Commission.

422 (6) All testimony of witnesses at hearings shall be given under oath, administered
423 by a member of the Commission.

424 (b) Order of Proceedings. At the hearing, the order of proceedings shall be as follows:

425 (1) Reading of the charges by the president.

426 (2) Opening statement by the parties, if any;

427 (3) Testimony and introduction of evidence by the charging party to substantiate
428 the charges, with cross-examination by the accused;

429 (4) Testimony and introduction of evidence by the accused with cross-examination
430 by the charging party; and

431 (5) Closing arguments.

432 301.9-10. *Deliberations, Findings, Conclusions, Orders from Hearing.*

433 (a) *Finding of Fact.*

434 (1) At the conclusion of the hearing, the Oneida Public Safety and Security
435 Commission shall prepare written findings of fact based upon the testimony and
436 evidence presented and shall prepare conclusions which are based on the findings
437 and an order consistent with such findings and conclusions within three (3) days
438 after the conclusion of the hearing and file it with the Oneida Public Safety and
439 Security Commission Secretary.

440 (2) For purposes of deliberation after the hearing, the Oneida Public Safety and
441 Security Commission shall adjourn into closed session. During the deliberation
442 only Oneida Public Safety and Security Commission members and the
443 commission's attorney shall be present.

444 (b) *Just Cause Standard.* In determining whether there is just cause for discipline, the
445 Oneida Public Safety and Security Commission shall apply the standards set forth in
446 section 301.9-2.

447 (c) *Charges Rescinded.* If the Oneida Public Safety and Security Commission determines
448 that the charges are not sustained, the charged party shall immediately have all related
449 disciplinary action taken to date rescinded and all lost pay or other benefits, if any, restored.

450 (d) *Charges Sustained.* If the Oneida Public Safety and Security Commission determines
451 that the charges are sustained, the charged party, by order of the Commission, may impose
452 any of the following penalties, but is not limited to the penalties listed herein:

453 (1) Verbal consultation;

454 (2) Written reprimand;

455 (3) Suspension without pay;

456 (4) Demotion in rank; or

457 (5) Termination of employment.

458 (e) *Announcement of Decision.* The Oneida Public Safety and Security Commission shall
459 announce its decision in open session.

460 (f) *Appeal of Decision.* Any law enforcement officer suspended, demoted, reassigned, or
461 removed by the Oneida Public Safety and Security Commission may appeal from the order
462 of the Oneida Public Safety and Security Commission to the Judiciary.
463

464 **301.10. Administrative Leave of Law Enforcement Officers**

465 301.10-1. *General.* Administrative leave is an action commenced by the Police Chief affecting
466 the status of a law enforcement officer. A law enforcement officer is temporarily relieved of all
467 law enforcement powers while on administrative leave. The law enforcement officer continues to
468 receive salary and is responsible to report to the Police Chief or perform other duties as assigned.
469 Administrative leave does not denote wrong-doing on the part of the law enforcement officer.

470 301.10-2. *Applicability.* Administrative leave may only be ordered in the following
471 circumstances:

- 472 (a) The law enforcement officer poses a threat to themselves or others.
- 473 (b) The law enforcement officer is alleged to have committed a violation(s) which calls
474 for termination of their employment as a law enforcement officer and the matter is under
475 investigation.
- 476 (c) The law enforcement officer is alleged to have committed a violation(s) that is under
477 investigation and that would cause a loss of public trust in the Oneida Police Department.
- 478 (d) The law enforcement officer is under investigation for alcohol or drug abuse.
- 479 (e) The law enforcement officer is under investigation for insubordination, untruthfulness,
480 or commission of a crime.
- 481 (f) The law enforcement officer demonstrates behavior indicating the law enforcement
482 officer is unfit for duty.

483 301.10-3. *Duration of Administrative Leave.*

484 (a) In cases where the law enforcement officer is under formal investigation, the law
485 enforcement officer shall remain on administrative leave until the investigation is
486 completed.

- 487 (1) If the investigation results in allegations being sustained, the law enforcement
488 officer shall remain on administrative leave pending issuance of discipline.
- 489 (2) If the investigation results in a finding that the charges were unfounded or not
490 sustained, the law enforcement officer shall be immediately returned to active duty
491 status.

492 (b) In cases where the law enforcement officer is placed on administrative leave for other
493 matters not involving formal investigation, the law enforcement officer shall be returned
494 to active duty status upon order of the Police Chief. The period of administrative leave in
495 incidents not involving investigation shall not exceed thirty (30) calendar days.

496 **301.11. Firearms Control.**

497 301.11-1. The Oneida Police Department may allow law enforcement use of service firearms in
498 order to protect life, liberty, property, land, and premises, according to the usual and current
499 accepted law enforcement standards.

500 301.11-2. The Nation hereby establishes regulations for the carrying of firearms issued to certified
501 law enforcement officers employed by the Nation.

- 502 (a) The needs and requirements for carrying firearms shall be established and determined
503 by the Police Chief subject to the review of the Oneida Public Safety and Security
504 Commission.
- 505 (b) Said requirements shall reflect the needs of the Nation in order to protect all persons
506 and property.

507
508
509 *End.*

510

512
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514 Revisor Correction 2004
515 Amended – BC-02-25-15-C
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