

ORIGINAL FILED

SEP 02 2021

KALISPEL TRIBAL COURT
CUSICK, WA

KALISPEL TRIBAL COURT

IN THE MATTER OF KALISPEL TRIBAL
COURT'S RESPONSE TO THE COVID-19
PUBLIC HEALTH EMERGENCY

ADMINISTRATIVE ORDER
REGARDING COURT OPERATIONS.

NO. 2021-3

WHEREAS, the Kalispel Tribe of Indians issued a Public Health Emergency Declaration adopted by council Resolution dated March 18th, 2020 declaring a state of emergency due to the Coronavirus/COVID-19 in response to the public health emergency that affects its Tribal government and enterprise operations; and

WHEREAS, by Resolution of the Kalispel Tribal Council, emergency authority has been granted to this Court to adopt, modify, and suspend court rules and orders, and to take further action concerning court operations as warranted to address the current state of emergency and the health and safety of the public; and

WHEREAS, pursuant to this Court's prior orders, the Court had taken important steps to protect public health while ensuring continued access to justice and essential court services, including by strictly observing social distancing measures, holding proceedings remotely, suspending many in-building operations, and promulgating emergency rules as necessary; and

ADMINISTRATIVE ORDER

Kalispel Tribal Court
P.O. Box 96
Usk, Washington 99180
(509) 445-1664/(877) 700-7072
Fax: (509) 445-4039

1 **NOW, THEREFORE**, Court operations are essential, as recognized by the Kalispel
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3 Indian Community of the Kalispel Reservation's Law and Order Code to conduct essential court
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5 operations, to include not only trials and other hearings, but also clerk's office operations,
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7 facilities planning, technology improvements, and the general administration of justice, and
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9 hereby confirms the need for further direction from this Court by issuing an order that revises
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11 and supersedes its prior orders;
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14 **IT IS HEREBY ORDERED:** The previous Administrative Orders (No. 2020-1, 2020-
15
16 2, and 2021-2) suspending all in-person hearings, and civil and criminal jury trials, and limited
17
18 court operations is lifted effective **September 7, 2021**.
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20 This Administrative Order shall apply to all persons who are required to appear before
21
22 Kalispel Tribal Court for any and all hearings, pre-trials or trials, and shall include, but is not
23
24 limited to, attorneys, spokespersons, parties, witnesses, and jurors.
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26 All persons entering either Kalispel Tribal Courtrooms and all Kalispel Tribal Court staff
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28 entering all courtrooms or administrative areas, shall be required to wear a mask. Individuals
29
30 actively participating in a court proceeding may remove their masks if they wish. The Court may
31
32 also direct the removal of masks worn by active participants to facilitate clear communication
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34 and due process. Active participants include those seated at counsel tables, witnesses, and judge.
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37 The following individuals do not need to wear a facial covering:
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40 a) Any child aged two or less;
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42 b) Any individual who has a physical disability that prevents easily wearing or removing a
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44 facial covering;
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- 1 c) Any individual who is hearing impaired and uses facial and mouth movements as part of
2 communication or an individual who is communicating with a person who is hearing
3 impaired and used facial and mouth movements as part of communication;
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8 d) Any individual who has been advised by a medical professional that wearing a face
9 covering may pose a risk to that individual for health related reasons;
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12 e) Any individual who has trouble breathing or is unconscious, incapacitated, or otherwise
13 unable to remove the face covering without assistance.
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16 The Judge, upon proper filing of a Motion/Declaration to appear telephonically or
17 virtually, shall use his/her discretion as to whether counsel, petitioner, defendant, or respondent
18 may appear telephonically or virtually at a scheduled in-person hearing.
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23 The Court shall provide notice of in-person hearing dates to the prosecutor, defense
24 counsel and unrepresented defendants. Further, defense counsel shall provide notice to
25 defendants and respondents that any hearing scheduled to be heard from and after September 20,
26 2021 will be required to appear in person to all court hearings. Any hearings currently scheduled
27 virtually will be held virtually. Parties have the option to request an in-person hearing by
28 motion. The Judge may exercise discretion in deciding whether a bench warrant should issue for
29 failure to appear for criminal or juvenile offender court hearings, pretrials, or violations of
30 conditions of release. However, in exercising such discretion, courts shall consider the following
31 before issuing a warrant: a) Is a warrant necessary for the immediate preservation of public or
32 individual safety? b) Is there a record that the subject of the warrant has received actual notice of
33 the previously scheduled court hearing or reporting requirement? c) Is there a viable alternative
34 for securing appearance such as the re-issuance of a summons or another means of notifying the
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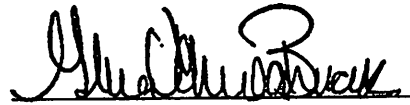
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1 subject that an appearance is required and re-setting the hearing date? Judicial officers shall give
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3 serious consideration to the risk of COVID-19 transmission whenever a person is arrested and
4
5 placed in detention, including whether the subject of the warrant is in a high-risk category for
6
7 exposure to COVID-19.
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10 In all court operations, the court shall follow the most protective public health guidance
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12 applicable and should continue operating policies and procedures used for public health and
13
14 safety whenever appropriate to prevent the further spread of COVID-19.
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16 **DATED this 2nd day of September 2021.**

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20 **Gloria Ochoa-Bruck, Judge**
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22 **KALISPEL TRIBAL COURT**
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