

NO. 82

DOMESTIC ABUSE LAW ORDINANCE

Section 1. TITLE

This law is to be known as the Domestic Law.

Section 2. CODIFICATION

This law is to be codified in appropriate sections of the Criminal Code and Criminal Procedure Code.

Section 3. CRIME OF DOMESTIC ABUSE

A. A person commits the offense of domestic abuse if he:

1) purposely or knowingly cause bodily injury to a family member or household member; or

2) purposely or knowingly causes apprehension of bodily injury in a family member or household member.

B. For the purpose of this section "family member or household member" shall mean a spouse, former spouse, adult person related by marriage or adult person who resides or formerly resided in the residence.

C. A person convicted of a first or second offense of domestic abuse shall be imprisoned for a term of not less than ten (10) days or more than 180 days and may be fined an amount not to exceed \$500.00. The Judge may require mandatory counseling as part of the sentence.

D. A person convicted of a third or subsequent offense of domestic abuse shall be imprisoned for a term not to exceed 365 days or fined in an amount not to exceed \$2,000.00 or both. The Judge shall require mandatory

counseling as part of the sentencing. The Counseling shall be for a period of up to 365 days unless the therapist released the offender prior to the period required.

Section 4. WRITTEN REPORT

Whenever a law enforcement officer is called to the scene of a reported incident of domestic violence, but he does not make an arrest, he shall file a written report with his supervisor setting forth the reason or reasons for his decision.

Section 5. NOTICE OF RIGHTS

Whenever a peace officer arrests a person for domestic abuse, as defined in (section 1), if the victim is present, the officer shall advise the victim of the availability of a shelter or other services in the community and give the victim immediate notice of any legal rights and remedies available. The notice must include furnishing the victim with a copy of the following statement:

"IF YOU ARE THE VICTIM OF DOMESTIC ABUSE, the Tribal prosecutors office can file criminal charges against your abuser. You have the right to go to court and file a petition requesting any of the following orders for relief:

- (1) an order restraining your abuser from abusing you;
- (2) an order directing your abuser to leave your household;
- (3) an order preventing your abuser from trans-

ferring any property except in the usual course of business;

(4) an order awarding you or the other parent custody of or visitation with a minor child or children;

(5) an order restraining your abuser from molesting or interfering with minor children in your custody; or

(6) an order directing the party not granted custody to pay support of minor children or to pay support of the other party if there is a legal obligation to do so.

Section 6. ARREST

A. A Law Enforcement Officer may arrest a person anywhere, including his place of residence, if the peace officer has probable cause to believe the person is committing or has committed domestic abuse or aggravated assault against a family member or household member even though the offense did not take place in the presence of the peace officer. A person may be arrested in his home or private dwelling at night if he is being arrested for the offense of domestic abuse or aggravated assault against a family member or household member. A summons of a officer to the home or private dwelling by a family or household member constitutes an exigent circumstance for making an arrest pursuant to this.

B. Arrest is the preferred response in domestic abuse cases which involve:

- 1) injury to the victim, or
- 2) the use or threatened use of a weapon, or
- 3) violation of a restraining order, or
- 4) imminent danger to the victim.

Section 7. BAIL

Bail for the Offense of Domestic Abuse shall not be placed in a bail schedule.

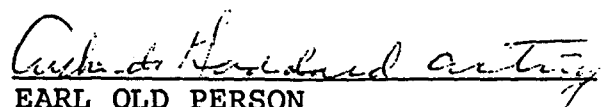
Section 8. LEGISLATIVE INTENT

It is the intent of this law to allow law enforcement officers to file domestic abuse charges when they have probable cause to believe domestic abuse has occurred. Probable cause may be based, without limit, on the officer's personal observations, the victim's statements, statements of others, the report of the examining physician or other health professionals.

ATTEST:

THE BLACKFEET TRIBE OF THE
BLACKFEET INDIAN RESERVATION


 MARVIN D. WEATHERWAX
 Secretary


 EARL OLD PERSON
 Chairman

CERTIFICATION

I hereby certify that the foregoing Ordinance No. 82 was adopted by the Blackfeet Tribal Business Council in a duly called, noticed and convened REGULAR Session, assembled for business the 1st day of OCTOBER, 1987, with SEVEN (7) members present to constitute a quorum, and with a vote of SIX (6) members FOR and NONE (0) members OPPOSED, and ONE (1) member ABSTAINING.


 MARVIN D. WEATHERWAX, SECRETARY
 BLACKFEET TRIBAL BUSINESS COUNCIL