

**IN THE COURTS OF THE PUYALLUP TRIBE OF INDIANS
FOR THE PUYALLUP INDIAN RESERVATION
TACOMA, WASHINGTON**

IN RE:

Probable Cause for Warrants & Summons

General Order No. 2026-0001

Introduction

At first glance Puyallup Tribal Code (PTC) 4.04.070 Rule 3 – Complaint (“the Complaint Rule”) and 4.04.080 Rule 4 – Arrest by warrant or summons upon complaint (“AWSUC Rule”) seem to be at odds with one another. The Complaint Rule states that the Court Clerk shall issue a summons when the judge does not issue a warrant. Yet the AWSUC Rule states that neither an arrest warrant or a summons may be issued without probable cause.

In more detail, Section (f) of the Complaint Rule states that “[u]nless the Judge orders a warrant, the Court Clerk shall issue a summons if a sworn complaint has been filed.” Section (a)(1) of the AWSUC Rule, however, states that “[o]nly upon such a determination as to probable cause can an arrest warrant or a summons be issued. If the Judge determines that probable cause does not exist, they shall dismiss the complaint without prejudice and refuse to issue a warrant or summons.” These statutes appear to be in conflict because the first provision mandates the Clerk issue a summons without a prior determination of probable cause, yet the latter section prohibits issuance of a summons without a judge first finding probable cause. To provide clarity, the Court will assess whether a finding of probable cause must be established before it issues a summons.

Puyallup Rules of Statutory Interpretation

When interpreting statutes, the Puyallup Tribal Court has looked to the context of the statute, including surrounding words and structure of the statute, and its legislative history.¹ The surrounding words of the statute have been applied using the ordinary meaning of the words, and legislative documents are used to support textual interpretation of the laws.²

¹ See, e.g., Puyallup Tribe v. VanEvery 8 NICS App. 85, 87–88 (Dec. 2008) (assessing the definitions and surrounding history of the Puyallup Administrative Procedure Act).

² See *id.*

Federal Rules of Statutory Interpretation

Because the Court is one of general jurisdiction, it may apply reasoning from other jurisdictions. Tribal, Federal, and state courts use similar mechanisms to interpret legal text. In relevant part, statutes may be interpreted using the following instruments: (1) the provisions of a statute are generally interpreted to yield harmony among the provisions;³ (2) statutes are interpreted using the ordinary language of the text in full context, including the surrounding statutory phrases and overall structure of the law;⁴ (3) information about statutory implementation may be considered.⁵

Discussion

The conflict between the Complaint Rule and the ASWUC Rule is resolved by looking to the full context of the PTC. There are three reasons for maintaining that probable cause must be established before a summons is issued. First, the purpose of the PTC is to advance the customs and traditions of the Tribe in accordance with the concept of substantial fairness and due process, and PTC is to be construed “strictly in favor of the defendant.”⁶ Automatic issuance of a warrant without probable cause is not favorable to defendants. There is hardly a distinction between the issuance of a warrant or a summons.⁷ In either circumstance, the defendant’s movement is restricted, and the defendant risks being required to post bail or submit to arrest.⁸ Therefore, the inconsistency in the Code is interpreted to leave the defendant in peace without a finding of probable cause. This protects the rights of the accused by imposing the least restrictive measures before probable cause is established.

Second, the Complaint Rule focuses on submission of a complaint. The AWSUC Rule is more specific and expands on requirements from the complaint rule by describing exactly when and how an arrest warrant or summons may be issued, clearly stating that a summons shall not be issued unless the Court finds probable cause.

Finally, implementation of the Complaint Rule without following the ASWUC Rule’s directive would nullify the latter. However, implementation of the ASWUC Rule does not nullify the Complaint Rule because the Clerk may still issue a summons if the judge finds that probable cause was established in the complaint.

³ ANTONIN SCALIA & BRYAN GARDNER, [READING THE LAW: INTERPRETATION OF LEGAL TEXTS](#) Ch. 27. (Thompson/West 1st ed. 2012) (discussing application of two probated criminal sentence statutes. First stating “probation begins the day it is imposed or designated by the Court.” Second stating probationary period “must begin without delay.” Court could assign two consecutive probationary terms to defendant despite the later start date. Second statute could not be read to invalidate the first.)

⁴ Valerie Brannon Cong. Rsch. Serv., R45153, STATUTORY INTERPRETATION: THEORIES, TOOLS AND TRENDS 21 (2023).

⁵ *Id.* at 45.

⁶ PTC 4.04.020 Rule 2 – Purpose and construction.

⁷ *United States v. Greenberg*, 320 F.2d 467, 471-72 (1963) (holding issuance of summons unsupported because complaint could not establish probable cause with only third-party knowledge).

⁸ *Id.*

While not controlling, it is persuasive to look to other jurisdictions. The Muckleshoot Indian Tribe,⁹ Nez Perce Tribe,¹⁰ the 9th Circuit,¹¹ and Washington State require a judge to find probable cause before issuing a summons or arrest warrant.¹²

The Puyallup Tribal Court does not interpret the Complaint Rule and the ASWUC Rule to require a summons to be issued when the low bar of probable cause is not met. To do so would unnecessarily restrict defendants right to substantial fairness and due process.

ORDER

Given the above-referenced discussion, the Court order effective immediately:

In all criminal cases, the Court shall issue a probable cause finding prior to or at the same time as the issuance of a summons.

SO ORDERED on April 3, 2026



Darwin Long Fox
Chief Judge of the Puyallup Tribal Court

⁹ Muckleshoot Indian Tribal Code [3.05.30](#) Arrest Warrants; [3.05.050](#) Summons in Lieu of a Warrant.

¹⁰ [Nez Perce Tribal Code](#) Section 2.10.026 Arrest Warrant or Summons on a Complaint Rule.

¹¹ *Greenberg*, 320 F.2d at 471–72.

¹² Washington Court Rule 2.2 Warrant of Arrest or Summons Upon Complaint (when probable cause is established, the court is required to issue a summons *instead of* a warrant unless one the judge finds reasonable cause to believe one of three exceptions applies: “(i) will not appear in response to a summons, (ii) will commit a violent offense, (iii) will interfere with witnesses or the administration of justice, or (iv) is in custody.”)