PROTECTIVE
SERVICES

ARTICLE II INVOLUNTARY
COMMITMENT

CHAPTER 1. GENERAL

PROVISIONS Section 2-101. Purpose.

The purpose of this Article is to provide the following:

A. Treatment of persons who suffer serious mental disorders and who are not willing or able to make treatment decisions on their own;

B. Safety from themselves for those who suffer serious mental disorders;

C. Safety to the general public from those who suffer serious mental disorders; and

D. Due process to those who suffer serious mental disorders that are forcibly restrained, whether through medical means or physical restraints, detained, or involuntarily committed to a mental health institution.

Section 2-102.
Definitions.

A. “Appropriate facility” means a secure facility that will secure the well- being of the person taken into emergency custody. This includes, but is not limited to, detention centers, hospitals and other medical or behavioral centers.

B. "Behavior Health Specialist" means any license behavior health professional.

C. “Danger to others” means that the judgment of a person who has a mental disorder is so impaired that the person is unable to understand the person's need for treatment and as a result of the person's mental disorder the person's continued behavior can reasonably be expected, on the basis of competent medical opinion, to result in serious physical harm.

D. “Danger to self” means behavior which constitutes a danger of inflicting substantial bodily harm upon oneself, including attempted suicide. Danger to self is not present if the hazards to self are restricted to those which may arise from conditions defined under gravely disabled.

E. Detention” means the taking into custody of a person.

F. “Evaluation” means a professional analysis of a person's medical and psychological conditions

conducted by a licensed physician.

G. "Gravely disabled" means a condition in which a person is unable to provide for his basic personal needs for food, clothing and shelter as a result of a mental illness of a type which has:

1. Developed over a long period of time and has been of long duration; or
2. Developed as a manifestation of degenerative brain disease during old age; or
3. Developed a manifestation of some other degenerative physical illness of long duration.

H. "Judge" means judge of the Tribal Court of the Colorado River Indian Tribes.

I. "Legal representative" means an attorney, legal advocate or other authorized persons to practice law in the Tribal Court, in accordance the Colorado River Indian Tribes Rules of Court, Local Rules of Civil Procedures Section 20 and the Law and Order Code Section 106.

J. "Mental disorder" means for purposes of this Article, a substantial disorder of the person's emotional processes, thought condition or memory as listed in nationally recognized literature (DSM, ICD9 or 10, etc.). Mental disorders are distinguished from:

1. Conditions which are primarily those of drug abuse, alcohol abuse, unless in addition to one or more of these conditions the person has a mental disorder.

2. The declining mental abilities that directly accompany impending death.

3. Substantial character and personality disorders characterized by lifelong and deeply in-grained antisocial behavior patterns, including sexual behaviors which are abnormal and prohibited by law, unless the behavior results from a mental disorder.

K. "Officer" means CRIT law enforcement officer.

L. "Persistently or acutely disabled" means a severe mental disorder that meets all the following criteria:

1. If not treated has a significant probability of causing the person to suffer or continuing to suffer severe and abnormal mental, emotional or physical harm that significantly impairs judgment, reason, behavior or capacity to recognize reality;

2. Significant impairs the person's capacity to make an informed decision regarding treatment and this impairment causes the person to be incapable of expressing an understanding of the advantages and disadvantages of accepting treatment and understanding and expressing an understanding of the alternatives to the particular treatment offered after the advantages, disadvantages or alternative are explained to that person; and

3. Has a reasonable prospect of being treatable by outpatient, inpatient or combined inpatient and outpatient treatment.

M. "Person" means a person who is 18 years of age or older and who is a member, or eligible for membership, of an Indian tribe.

N. "Petition" means the initial written document to the Court requesting an order for involuntary mental health evaluation and involuntary mental health treatment of persons.

O. "Petitioner" means any of the following person or entities:
   1. Respondent's family members and interested relatives
   2. CRIT'S Department of Health Services
   3. Office of Social Services
   4. Other designated office(s) CRIT's Department of Health Services
   5. Guardian(s) with mental health level 1 rights

P. "Respondent" means the person that Petition identifies as in need of involuntary mental health evaluations and civil commitment.

Q. "Tribal court" means the court of the Colorado River Indian Tribes.

R. "Work days" means all days except Saturday, Sunday, Tribal holidays and days the Chairman or his designee declares administrative leave for tribal employees.

CHAPTER 2. EMERGENCY

APPREHENSION Section 2-201. Emergency

Detention.

A. A CRIT law enforcement officer ("Officer") may apprehend and take into custodial detention without a warrant or order, a person whom the police officer has reasonable cause to believe poses an immediate danger to self or to others due to an apparent mental disorder, who is incapable or unwilling to accept mental health treatment voluntarily, and who appears in need of immediate mental health care and treatment. A CRIT Law Enforcement officer cannot be held civilly liable for any acts committed by a person whom the officer has not taken into custody pursuant to this Article.

B. The Officer may transport the detained person to an appropriate facility.

C. The Court may order continued custodial detention of a person detained under this Section, pending an emergency hearing.

D. The Court shall hold an emergency hearing within 72 hours of the detention of person by the Officer:

1. The person detained shall be informed by the Court of the reason why the person is being held to determine whether a formal petition for involuntary mental health evaluation and involuntary mental health treatment is warranted.

2. The Court shall promptly notify the CRIT Attorney General's Office, CRIT DHS designated representative(s) which shall include a behavioral health specialist, and CRIT Legal Aid to represent persons in civil proceedings, to appear at the emergency hearing.

3. Emergency hearings shall be confidential and conducted in an informal and non-adversarial manner.

4. At the emergency hearing, preliminary evidence shall be presented to support whether the person has a mental disorder that poses a danger to self, danger to others, persistently or acutely disabled, or gravely disabled and in need of immediate mental health treatment. At the

   recommendation of CRIT DHS' behavioral health specialist, a petition for involuntary mental health evaluation and involuntary mental health treatment shall be initiated by Petitioner.

E. In no event may a person be detained under this Section beyond the time necessary for filing of a petition for involuntary mental health evaluation.

F. The CRIT Attorney General's Office is responsible for filing all petitions on behalf of CRIT's Petitioners.

G. The Court shall order an appropriate entity to make a safe transport of Respondent. Appropriate entities include, but are not limited to, law enforcement and CRIT DHS.

H. CRIT DHS shall be financially responsible the initial evaluation costs for cases which CRIT departments stand as Petitioner. For all other petitioners, in order for CRIT DHS to pay for the initial evaluation, CRIT DHS must be notified of within 24 hours of the filing of the petition. Failure of a non- CRIT petitioner to give timely notice may result in CRIT DHS' refusal of payment for the initial evaluation.

CHAPTER 3. EVALUATION FOR INCARCERATED DEFENDANTS

Section 2-301. Mental Health Evaluations for Incarcerated Criminal Defendants.

A. Petitioner may file a petition for involuntary mental health evaluation and involuntary mental health treatment of an incarcerated criminal defendant who is alleged as a result of a mental disorder to be a danger to self, danger to others, persistently or acutely disabled, or gravely disabled, who is in need of immediate mental health treatment, and who is incapable or unwilling to accept mental health treatment voluntarily.

B. A mental health evaluation, or the results thereof, shall not be used to determine competency of an individual for the purposes of a criminal proceeding.

CHAPTER 4. PETITIONS FOR INVOLUNTARY MENTAL HEALTH EVALUATIONS AND INVOLUNTARY MENTAL HEALTH TREATMENT

Section 2-401. Content of Petition for Involuntary Mental Health Evaluations and Civil Commitment.

A. The Petition shall contain the following information:

1. The name and address of the person making the petition.

2. The name of the person to be evaluated ("Respondent") and, if known or readily discoverable, the address, age, marital status and occupation of the person, and the name and address of the person's nearest relative(s) and the present whereabouts of Respondent, if known.

3. The facts which caused Respondent to be evaluated, and brought to the attention of Petitioner, including a summary of facts which support the allegations that Respondent is a danger to self and/or to others in the imminent future, persistently or acutely disabled or gravely disabled, and is unwilling or unable to undergo voluntary evaluation.

4. A statement alleging there is reasonable cause to believe that the proposed patient has a mental disorder and is as a result a danger to self or others, is persistently or acutely disabled or is gravely disabled and is unwilling or unable to undergo voluntary evaluation.

5. The following relief requested:

a. An initial hearing to be set within 72 hours, of the filing of Petition.

b. A second hearing date to be set for involuntary mental health treatment as soon as practicable, but no longer than ten (10) work days from the date of the initial hearing under sub-section (a) of this Section.

c. At least one (1) evaluation by a licensed physician, as soon as practicable, but no longer than ten (10) business days from the date of the initial hearing on the Petition.

d. If applicable, emergency or continued detention of Respondent if it is shown by a preponderance of evidence that Respondent is likely to present a danger to himself/herself
or others pending the involuntary mental health treatment hearing set in sub-section 2-504 of this Article.

B. There shall be no filing fees for petitions or motions filed under this chapter.

CHAPTER 5. COURT PROCEEDINGS

Section 2-501. Confidential and Closed Hearings.

A. All hearings conducted under this Article are confidential and closed to the public. Only Petitioner, Respondent, their respective legal representatives, and relevant witnesses may be present at these hearings.

B. All court filings, information and records obtained in the course of evaluation, examination or treatment shall be kept confidential and not as public records, except as the requirements of a hearing pursuant to this chapter may necessitate a different procedure and for which said procedure shall be issued by written order of the Court.

Section 2-501. Disclosure of Information.

Information and records may only be disclosed to:

1. Physicians, health practitioners and providers of health, mental health or social and welfare services involved in evaluating, treating or rehabilitating Respondent;

2. Individual(s) to whom Respondent has given written consent to have information disclosed;
3. The judge to whom the case is assigned, necessary Tribal court employees, legal representatives of parties directly involved in the case;

4. Facilities where Respondent is being detained during the proceedings under this Article; and/or

5. Individuals authorized by a court order.

Section 2-502. Respondent's Rights to Legal Representation.

As soon as practicable, no later than 72 hours after the initial filing of the Petition, the Court shall refer Respondent to CRIT Legal Aid for legal representation on Respondent's behalf.

Section 2-503. Initial Hearing.

A. The initial hearing shall occur within 72 hours of the filing of Petition. The Court shall make the following determinations:

1. Whether there are sufficient facts in the Petition to warrant an involuntary mental health evaluation by at least one (1) licensed physician;

2. If applicable, whether emergency or continued detention of Respondent is necessary if Respondent is likely to present a danger to himself/herself or others pending the involuntary mental health treatment hearing;

3. If applicable, an involuntary mental health treatment hearing set as soon as practicable, but no longer than ten (10) work days from the date of the initial hearing in this Section.

B. Formal rules of evidence are not applicable in the initial hearing.

C. Petitioner and Respondent or their legal representatives may put on witnesses to support or dispute the facts stated in the Petition, and each may cross-examine the other's witnesses.

Section 2-504. Involuntary Mental Health Treatment Hearing.

A. An involuntary mental health treatment hearing shall be set as soon as practicable, but no longer than ten (10) work days from the date of the initial hearing in this Section 2-503.

B. The involuntary mental health treatment hearing may be continued once but no longer than (10) work days from the date of the first involuntary mental health treatment hearing.

C. One (1) evaluation and/or sworn affidavit by a licensed physicians; other behavioral health specialist witnesses are admissible in support of the case; however, the Court may not make its determination on involuntary mental health treatment of Respondent based solely on behavioral health specialist witnesses, and not licensed physicians. No involuntary commitment may be ordered in the absence of a diagnosis from a licensed physician that Respondent suffers from a mental disorder which renders Respondent a danger to self, a danger to others, persistently or acutely disabled and/or gravely disabled.

D. Respondent, Petitioner and/or their legal representatives have the right to call witnesses and cross examine all witnesses.

E. The Court may sequester any witness or witnesses, either on the Court's own motion or upon motion of any party.

F. The hearing shall be governed by rules governing civil court proceedings contained in Rules of Court, or where additional guidance is needed, the Court may apply the Federal Rules of Evidence or the Federal Rules of Civil Procedure; however, the Court shall not be bound by technical requirements in the admission of evidence.

G. The Court shall admit all relevant evidence at the hearing.

H. The Court shall take and preserve an accurate audio recording of the hearing, which shall be subject to the provisions of confidentiality under Section 2-501 of this Article.

CHAPTER 6. COURT ORDER TREATMENT Section 2-601.

Standard of Proof.

Following a hearing on the Petition for involuntary mental health treatment that the person, the Court must find by clear and convincing evidence, that Respondent, as a result of a mental disorder, is a danger to self, is a danger to others, is persistently or acutely disabled or is gravely disabled and is in need of treatment, and is either unwilling or unable to accept voluntary treatment.

Section 2-602. Treatment Plan.

A. Upon a finding under Section 2-601, the Court shall order Respondent to undergo the least restrictive treatment which meets the needs of Respondent, which shall be one or more of the following:

(1) Treatment in an outpatient treatment program, including following an outpatient treatment plan;

(2) Treatment in an inpatient treatment program including residential treatment centers; and
(3) Treatment consisting of combined inpatient and outpatient treatment.

B. Treatment under this section that involves medications can be compelled on Respondent.

Section 2-603. Treatment Time.

A. The maximum periods of inpatient treatment, which may be combined, that the Court may order as follows:

(1) 90 days for a person found to be a danger to self;
(2) 180 days for a person found to be a danger to others;
(3) 180 days for a person found to be persistently or acutely disabled; and
(4) 365 days for a person found to be gravely disabled.

B. The maximum time period of outpatient treatment the Court may order is 365 days.
C. The time of treatment shall run from the entry of the Tribal Court order for involuntary mental health treatment.
D. Respondent may be released earlier than the treatment period ordered by the Court under their advice of the treatment center and/or its agents.

Section 2-604. Enforcement of a Court Order

The Court may issue a pick up and detained order by Officer if Respondent abscond from the inpatient or outpatient treatment facility within the exterior boundaries of the Colorado River Indian Reservation.

CHAPTER 7. CONTENT OF COURT ORDER

Section 2-701. Content of Court Order.

The Tribal Court Order shall contain the all following information:

1. The title, address and county of the tribal court;

2. The date the tribal court order was entered;

3. The name, address and location of the proposed patient;

4. The names and addresses of any attorneys, guardians or other persons with legal standing to represent the proposed patient and a brief statement of their authority and relationship;

5. The tribal official authorized to receive service under these rules and the address at which service may be made;

6. The period of commitment; calculation of the period starts at the date of the issuance of the Court order;
7. The location(s) and type(s) of treatment such as in-patient or out-patient or a combination of both;
8. The legal and factual basis of the tribal court jurisdiction over the civil commitment proceedings and over the proposed patient;
9. A statement that Respondent or his/her legal representative had proper notice of the civil commitment proceeding and the allegations regarding Respondent's mental condition and had the opportunity to be heard with the assistance of a person recognized by the Tribal court as competent to represent the proposed patient;
10. A factual finding that Respondent to have a mental disorder and is a danger to self, a danger to others, persistently or acutely disabled and/or gravely disabled based upon the diagnosis of a licensed physician; and
11. The treatment ordered is the least restrictive treatment which meets the needs of Respondent, and Respondent is unable or unwilling voluntarily to receive this treatment.

CHAPTER 8. RIGHT OF APPEAL

Section 2-801. Right of Appeal.

A. All parties have a right to appeal of the Tribal Court order for involuntary mental health treatment pursuant to the Rules of Court.