

McKinney's Indian Law § 114

McKinney's Consolidated Laws of New York Annotated [Currentness](#)

Indian Law ([Refs & Annos](#))

Chapter 26. Of the Consolidated Laws

Article 8. The Saint Regis Tribe

▶§ 114. **St. Regis Mohawk tribal police**

1. By notifying the superintendent of state police, the St. Regis Mohawk tribal council may establish a St. Regis Mohawk Tribe police department employing police officers appointed in accordance with this section.

a. At the time of the establishment of the tribal police department, and together with each application under subdivision two of this section, the tribal council must provide to the superintendent of state police, and at all times during the existence of such police department and during the tenure of any police officer appointed under subdivision two of this section, the tribal council must maintain in full force and effect, a waiver of sovereign immunity providing as follows: "The St. Regis Mohawk Tribe hereby waives its sovereign immunity from liability and action in New York state and federal courts, and hereby assumes liability and consents to have the same determined in accordance with the same rules of law as applied to actions against municipalities of the state of New York; provided that this waiver applies to liability for acts or omissions of officers appointed under subdivision two of this section and other police department employees occurring while the officer or employee was acting within the scope of his or her employment or duties, and to the provision of a defense for such officer or employee accused of such acts or omissions. This waiver shall apply to each such act or omission, whether or not legal action based on the act or omission is brought after a revocation of this waiver."

b. The St. Regis Mohawk Tribe shall provide for the defense of officers appointed under subdivision two of this section and other employees of the police department in any civil action or proceeding, state or federal, arising out of any alleged act or omission that occurred or allegedly occurred while the officer or employee was acting within the scope of his or her employment or duties. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or at the behest of the St. Regis Mohawk Tribe.

(i) The St. Regis Mohawk Tribe shall indemnify and save harmless officers appointed under subdivision two of this section and other police department employees in the amount of any judgment obtained against such officers or employees in a state or federal court, or in the amount of any settlement of a claim, provided that the act or omission from which such judgment or claim arose occurred while the officer or employee was acting within the scope of his or her employment or duties.

(ii) The duty to indemnify and save harmless prescribed by this subdivision shall be conditioned upon the timely notification to the St. Regis Mohawk Tribe of the commencement of the action or proceeding and upon the full cooperation of the officer or employee in the defense of such action or proceeding and in defense of any action or proceeding against the St. Regis Mohawk Tribe based upon the same act or omission, and in the prosecution of any appeal.

(iii) At the time of the establishment of the tribal police department, and together with each application under subdivision two of this section, the tribal council must provide to the superintendent of state police evidence of procurement of, and at all times during the existence of such police department the tribal council and during the tenure of any police officer appointed under subdivision two of this section, must maintain in full force and effect at its own cost and expense, a liability insurance policy from any insurance company authorized by law to transact business in this state, against liability imposed by the provisions of this section. The minimum liability limits of such policy shall be five million dollars (\$5,000,000) for any one occurrence.

(iv) The St. Regis Mohawk Tribe shall indemnify and save harmless the state of New York and employees of the state of New York as defined in section seventeen of the public officers law in the amount of any judgment obtained against the state or such employees in a state or federal court, or in the amount of any settlement of a claim approved by the tribal council, provided that the act or omission from which such judgment or claim arose was committed by any police officer appointed under subdivision two of this section or other employee of the tribal police department and occurred while the officer or employee was acting within the scope of his or her employment or duties.

2. Upon the application of the St. Regis Mohawk tribal council, the superintendent of state police may appoint any person as a police officer with all powers provided for in the criminal procedure law, except for those powers specifically excepted by this section, for the preservation of order and of the public peace, and the arrest of all persons committing offenses upon the St. Regis Mohawk tribal reservation. The total number of appointments shall be determined by the superintendent in his or her discretion.

3. Such application shall be in writing, specifying the name, age, and address of each person for whom an appointment is sought.

4. The superintendent shall cause an investigation to be conducted of the character, qualifications and fitness of each proposed appointee and no person whom such investigation shows to be, in the opinion of the superintendent, other than of good moral character shall receive an appointment under this section.

5. The superintendent shall obtain two sets of the applicant's fingerprints for purposes of determining the criminal history of the applicant. One set of fingerprints shall be sent to the division of criminal justice services to identify the applicant and to conduct a criminal history records search of the division's New York state files to determine whether or not such applicant has a criminal history in this state. The other set of such applicant's fingerprints shall be forwarded to the federal bureau of investigation for the purpose of a nationwide criminal history record check to determine whether such applicant has a criminal history in any state or federal jurisdiction. The division of criminal justice services shall promptly transmit the reports of the New York state criminal record search to the superintendent. The federal bureau of investigation reports of nationwide criminal records searches shall be transmitted to the superintendent by the most direct means authorized by federal law, rules and regulations.

6. No person shall commence duties as a police officer under this section unless and until

the St. Regis Mohawk tribal council shall certify to the superintendent of state police, and the superintendent is so satisfied, that the proposed appointee has met the minimum police training standards as determined by the superintendent.

7. The superintendent of state police shall file the certificate of appointment of any such person in the office of the department of state, and shall forthwith notify the person appointed, by mail, at the address specified in the application, that the certificate has been so filed. Each such person shall, within fifteen days after such certificate shall have been filed, and before entering upon the duties of the office, take and subscribe the constitutional oath of office, and file it in the office of the department of state. The home address of the person appointed shall appear in the certificate of appointment, and whenever such address is changed the St. Regis Mohawk tribal council shall file with the superintendent of state police a statement of the new address.

8. A person appointed a police officer under this section shall only be permitted to exercise the duties or functions of a police officer within the county of Franklin, and within that county, only within the boundary of the St. Regis reservation; except that such officer may follow a person for whom he or she has the authority to arrest on the reservation in continuous close pursuit, commencing on the reservation, in and through any county of the state, and may arrest such person in any county in which the officer apprehends him or her.

9. A person appointed a police officer under this section shall be an employee of the St. Regis Mohawk Tribe and shall not be an officer, agent, servant or employee of the state or any subdivision thereof. The compensation of every such police officer shall be such as may be agreed upon between the officer and the St. Regis Mohawk tribal council and shall be paid by the St. Regis Mohawk tribal council.

10. When the St. Regis Mohawk tribal council no longer employs a police officer appointed under this section it shall file notice to that effect with the superintendent of state police and in the office of the department of state, and thereupon such appointment shall be terminated.

11. The superintendent of state police may also at pleasure revoke or suspend the appointment of any such police officer by filing a notice of suspension or revocation thereof in the office of the department of state and mailing a notice of such filing to the St. Regis Mohawk tribal council, and also to the person whose appointment is suspended or revoked, at the officer's address as it appears in the certificate of appointment or the latest statement thereof on file. An appointment may be restored by the superintendent upon the filing of a restoration notice to the department of state, the person suspended, and the St. Regis Mohawk tribal council.

12. If such person thereafter, knowing of such revocation or having in any manner received notice thereof, exercises or attempts to exercise any of the powers of a police officer, under this section, such person shall be guilty of a misdemeanor. The filing and mailing of such notice, as above provided, shall be presumptive evidence that such person knew of the revocation.

13. The superintendent shall revoke the appointments of all such police officers, by the

process provided in subdivision eleven of this section, if the tribal council fails to maintain in full force and effect the waiver of sovereign immunity and the policy of insurance specified in subdivision one of this section.

14. The superintendent is authorized to promulgate rules and regulations to effectuate the provisions of this section.

CREDIT(S)

(Added [L.2005, c. 558, § 1, eff. Aug. 23, 2005.](#))