

# Resolution # 20-200

The Council of the Tobique Indian Band drawing upon its powers of self-government and its powers to make by-laws pursuant to paragraph 81(1)(c), (d), (P), (P.1), (q), and (r) of the *Indian Act*, R.S.C., 1985 c.1-5; hereby enacts the following by-law:

## 1. TITLE

- 1.1 This by-law may be cited as the “Tobique Indian Band Sexual Violence and Dangerous Persons By-Law”.

## 2. INTERPRETATION

- 2.1 In this by-law;

“Band Council Resolution” means a resolution in writing of a Council, passed by a majority of Councilors present at a duly convened meeting of Council;

“Council” means the elected Chief and Council of the Tobique Indian Band;

“dangerous person” means any person who has been designated as a “dangerous person” pursuant to this by-law;

“sexual violence” means any act designated as a sexual offense under the Criminal Code of Canada;

“officer” means any peace officer or other person charged with the duty to preserve and maintain the public peace and, includes any person appointed by the Council for the purpose of maintaining law and order on the Reserve;

“Reserve” means all lands that comprise the Tobique Indian Reserve; and

“Reserve Resident” means any member of the Tobique Band that resides on the Reserve and includes any person whether or not a Band Member that resides on the Reserve.

## 3. COMPLAINT AND INVESTIGATION

- 3.1 If Council receives a complaint from any Band Member and the Council reasonably believes that a person present on the Reserve may pose a threat to other persons on the Reserve and, may be a threat to the observance of law and order on the Reserve, the Council may, by Band Council

Resolution issue to such a person an Order to personally appear before Council to respond to the complaints to enable the Council to make a determination as to the veracity of the complaint, and to make such Orders as they deem necessary to eliminate the threat, or the perceived threat

- 3.2 The Council may require any person that is the subject of a complaint from a Band Member, and who has been Ordered to Appear before Council to provide written authorization to enable the Council to conduct Criminal Record Checks.
- 3.3 During the “investigation” stage in dealing with the complaint against any person, the Council may issue an Order to:
  - (i) prohibit or restrict that person from attending specified locations or events on the Reserve; and
  - (ii) prohibit that person from being within a prescribed distance from a particular person or persons.

#### **4. DUE PROCESS**

- 4.1 The Council shall treat the complainant and the person who is the subject of the complaint with respect;
- 4.2 The Council shall deal with complaints in an expeditious manner;
- 4.3 The Council may allow the subject of the complaint to have relatives or other representatives speak on their behalf.
- 4.4 The Council shall hold all proceedings in camera and, shall only post decisions IF a person has been designated as a dangerous person and any requirements limiting that person’s continuing access to the Reserve.
- 4.5 Any Order posted by the Council will not make reference to the substance leading to the Order.

#### **5. DANGEROUS PERSON ON RESERVE**

- 5.1 Once the Council has completed their investigation and discussions, and have concluded that the person that is the subject of the complaint poses a threat to the safety of Band Members and to the observance of Law and Order on the Reserve, then the Council may, by Band Council Resolution, designate such a person as a DANGEROUS PERSON.

