

RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION

WHEREAS, the Tribal Council on this date has reviewed the proposed Rules of Procedure of the Tribal Court which include Rules of Civil Procedure, Rules of Criminal Procedure and Rules of Appellate Procedure; and

WHEREAS, the Tribal Council has posted the proposed Rules for public comment as required by the Tribal Constitution; and

WHEREAS, the Tribal Council wishes to amend portions of the proposed Rules of Procedure of the Tribal Court as follows:

RULE I-6 COMMENCEMENT OF A LAWSUIT; COMPLAINTS; PROOF
OF SERVICE; FILING FEE; SUMMONS

I-6C. Within ~~30~~ 90 days after plaintiff files a civil complaint, plaintiff shall cause a copy of the complaint, together with the summons, to be served upon (delivered to) each defendant named in the complaint. The complaint and summons must be served by a person of the age of eighteen (18) or more years who has no stake in the outcome of the lawsuit. It may be served either by giving it to the defendant directly or by leaving it at defendant's residence or place of employment with a person at least 14 years old who lives or works there.

RULE I-14H. A witness who responds to a civil subpoena shall be entitled to a fee of twenty dollars (\$20) for each day or partial day that he or she must appear in Court. The Judge may, in addition, order that the witness be paid reasonable and necessary travel and living expenses incurred in responding to the subpoena. Witnesses shall be offered full payment of their fees for one day's service at the time they are served with the subpoena. The party requesting the issuance of a subpoena shall tender the fees to the witness upon service of the subpoena.

RULE I-15 JURY TRIALS

I-15A. Jury request; fee. A jury trial shall be held if requested by either party to the case at least ten (10) days before the trial. The party who requests a jury trial shall pay to the Court a jury fee established by Rule of Court. Payment of the jury fee may be waived by the Chief Judge upon the request of a party if payment of the fee would result in severe hardship to

the party. The party who requests a jury trial or a visiting judge who fails to provide at least five days notice by a written motion to continue shall be liable for the payment of jury fees and fees payable to the visiting judge at the discretion of the Judge presiding over the trial.

1-15B. Eligibility; non-members; jury list.

(3) The Tribal Council Secretary shall prepare each year a list of persons eligible to serve as jurors, and shall provide the jury list to the Clerk of the Court. The Clerk shall prepare a ballot in the name of each eligible person and protect the ballots from access by unauthorized persons by placing the ballots in a master ballot box and securing the master ballot box in a safe place.

I-20B. The Judge may grant a new hearing or reconsider and any change in the judgment if he or she finds at least one of the following to be true:

RULES OF CRIMINAL PROCEDURE

RULE 2.3 EXECUTION AND RETURN OF SEARCH WARRANT

Search warrants shall only be executed by tribal law enforcement officers. The executing officer shall return the warrant to the Tribal Court within the time limit shown ~~of~~ on the face of the warrant. Warrants not returned within such time limit shall be void.

RULE 3.3 ARREST WARRANTS AND SUMMONS

D. A list of warrants shall be prepared daily and any served or quashed warrants shall be struck from the warrant list daily.

RULE 4.7 FAILURE TO OBEY SUBPOENA

A. Upon determining that any person has failed to obey a subpoena without a justification satisfactory to the Court, the Court may issue an Order to Show Cause why that person should not be held in contempt of court, and a bench warrant for his or her arrest, and direct that the Order and warrant be served upon the person. Willful evasion of service of a subpoena shall be considered failure to obey a subpoena.

RULE 6.1 TRIAL PROCEDURE; EVIDENCE

B. Whenever due process or the court requires, the Federal Rules of Evidence shall be adopted in any trial proceeding or evidentiary hearing, unless otherwise found by the Court to have been voluntarily and intelligently waived by the defendant.

RULE 7.1 SENTENCING

A. (1) Imprisonment for a period permitted by the Tribal Code provision specifying the punishment for the offense, and in no case greater than ~~six-months~~ one year for each offense.

(2) A money fine in an amount permitted by the Tribal Code provision specifying the punishment for the offense, and in no case greater than five ~~hundred~~ thousand dollars ~~+\$500.00~~ (\$5000.00) for each offense.

;and

WHEREAS, the Tribal Council hereby approves the amendments to the Rules of Procedure for the Tribal Court as set forth herein.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby approves the proposed amendments to the Rules of Procedure of the Tribal Court as set forth herein.

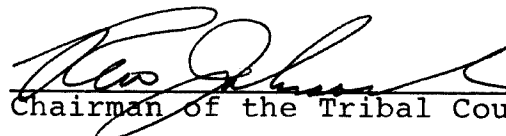
BE IT FURTHER RESOLVED by the Tribal Council that it hereby directs the Tribal Council Secretary to post for public comment the proposed amendments to the White Mountain Apache Rules of Procedure of the Tribal Court.

The foregoing resolution was on January 22, 1987, duly adopted by a vote of SEVEN for and ZERO against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (i,q) of the Amended Constitution and Bylaws of the Tribe, ratified by the Tribe June 27, 1958, and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

RECEIVED

FEB - 0 1987

Fort Apache Indian Agency
Whiteriver, Arizona


Chairman of the Tribal Council


Secretary of the Tribal Council