

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

- WHEREAS,** the White Mountain Apache Tribe has jurisdiction over all persons and activities within the boundaries of the Fort Apache Indian Reservation; and
- WHEREAS,** neither the State of Arizona, nor any other state or Indian tribe, other than the White Mountain Apache Tribe has authority to enforce its criminal laws upon member or non-member Indians within the Reservation; and
- WHEREAS,** except by compliance with Tribal law, no state or other Indian tribe may pursue, arrest or remove from the Fort Apache Indian Reservation any Indian suspected of committing a crime off the Reservation; and
- WHEREAS,** local off-Reservation Arizona law enforcement officials have conducted "close pursuit" arrests of Tribal members, removing them from the Reservation without notifying the Tribal Police or the Tribal Court, or following any other steps required by Tribal law; and
- WHEREAS,** the courts of Arizona recently upheld such illegal arrests of Tribal members because the courts were unaware of the Tribe's laws which govern extradition from the Reservation; and
- WHEREAS,** the Tribe, for many years, has had laws in effect governing the extradition of Indian fugitives suspected of committing an offense off the Reservation; and
- WHEREAS,** the State of Arizona has repeatedly disregarded the Tribe's invitation to enter into an extradition agreement with the Tribe; nevertheless, the Tribe's extradition procedures are the sole means by which any state or other Indian tribe may seek to extradite or remove an Indian fugitive from the Reservation, even if such fugitive is closely pursued onto the Reservation from outside the Tribal jurisdiction; and
- WHEREAS,** to further enforce the jurisdiction of its criminal laws within its own land, and to remove any doubt concerning the Tribe's authority to govern every aspect of criminal jurisdiction within its boundaries, the Tribe has prepared additional procedures to govern the extradition or removal of Indian defendants who have been taken into custody within the Reservation by officers of jurisdictions outside the Reservation, pursuant to a close pursuit arrest; and

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WHEREAS, the failure to abide by the laws of the Tribe in the arrest and removal of any Indian fugitive from the Fort Apache Indian Reservation would make such actions illegal and would constitute a trespass by those doing so.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby asserts and reaffirms its jurisdiction to the exclusion of all state and other tribal law enforcement agencies from enforcing their criminal laws over Indians found within the exterior boundaries of the Fort Apache Indian Reservation.

BE IT FURTHER RESOLVED by the Tribal Council that any state officer or officer from any other tribal law enforcement agency seeking to arrest and remove an Indian from the Reservation must comply with Tribal law.

BE IT FURTHER RESOLVED by the Tribal Council that to further enforce the jurisdiction of its criminal laws within its own lands, and to remove any doubt that Tribal law applies in all aspects of criminal law enforcement within the Reservation, it hereby amends Chapter Three of the Criminal Code as attached hereto and incorporated by reference herein to include provisions governing the close pursuit of criminal suspects onto the Fort Apache Indian Reservation.

BE IT FURTHER RESOLVED by the Tribal Council that it hereby directs the Tribal Council Secretary to post the proposed amendment to the Criminal Code in the form and content attached hereto in each District for a minimum of ten (10) days as required by the Tribal Constitution.

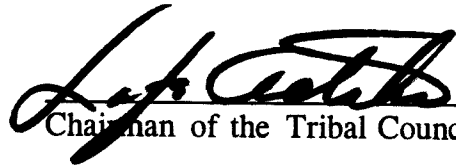
BE IT FURTHER RESOLVED by the Tribal Council that the Tribal Council Secretary is directed to send copies of the Criminal Code Chapter Three, as amended, to all tribal, state, county, and municipal law enforcement agencies and departments within a thirty mile radius of the Reservation boundaries and to any other agencies or departments that coordinate law enforcement activities with the Whiteriver Police Department, after said amended Code is posted and finally approved by the Tribal Council as required by the Constitution of the White Mountain Apache Tribe.

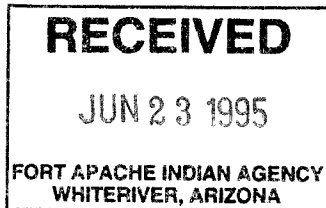
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the acts and deeds of the members of the Tribal Council necessary to carry out the intent and purpose of this Resolution be, and the same are hereby ratified, confirmed and adopted as the acts and deeds of the Tribe.

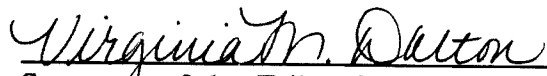
Resolution No. 06-95-198

The foregoing resolution was on June 08, 1995, duly adopted by a vote of nine for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a), (q), (s), (t) and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

A C T I N G


Chairman of the Tribal Council




Secretary of the Tribal Council

PROPOSED
ORDINANCE OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION

BE IT ENACTED by the White Mountain Apache Tribal Council in Council Assembled that Chapter Three of the Criminal Code of the White Mountain Apache Tribe shall be amended as follows:

SECTION 3.17 CLOSE PURSUIT; DEFINITIONS

In this Chapter, unless the context otherwise requires:

(1) "Close pursuit" does not necessarily imply instant pursuit, but pursuit without reasonable delay, and includes:

(a) Close pursuit as defined by the common law.

(b) Pursuit of a person who has committed a criminal offense, or who is reasonably suspected of having committed a criminal offense.

(c) Pursuit of a person suspected of having committed a supposed criminal offense, though no criminal offense has actually been committed, if there is reasonable grounds for believing that a criminal offense has been committed.

(2) "Criminal Offense" means any misdemeanor, felony, petty offense or other criminal act.

(3) "Fort Apache Indian Reservation" or "Reservation" includes all lands within the exterior boundaries of the Fort Apache Indian Reservation as defined in the Constitution of the White Mountain Apache Tribe, Article I, Section 1.

(4) "Person" means any person over whom the White Mountain Apache Tribe may assert criminal jurisdiction.

(5) "Tribal Court" or "Court" means the courts of the White Mountain Apache Tribe.

(6) "Tribal police officer" means a duly sworn officer of the Whiteriver Police Department.

**SECTION 3.18 AUTHORITY OF PEACE OFFICER ENTERING RESERVATION
IN CLOSE PURSUIT**

A member of a duly organized tribal, state, county or municipal law enforcement agency of a reservation or state who enters the Fort Apache Indian Reservation in close pursuit, and continues within the Reservation in close pursuit of a person in order to arrest him on the ground that he is believed to have committed a criminal offense in such other reservation or state shall have the same authority to arrest and hold the person in custody as has a Tribal police officer to arrest and temporarily hold a person in custody within the Reservation on the ground that he is believed to have committed a criminal offense within the Reservation.

**SECTION 3.19 ARREST AND HEARING; TRANSFER TO TRIBAL POLICE;
TRIBAL JUDGE'S DETERMINATION**

A. Upon crossing into the Reservation, the officer in pursuit shall immediately notify and maintain contact with the Whiteriver Police Department until a Tribal police officer responds to the scene, or the arresting officer transports the person arrested pursuant to paragraph B.

B. If an officer of another jurisdiction makes an arrest within the Reservation in accordance with Section 3.18, he shall immediately deliver the person arrested to the custody of the Tribal police. If no Tribal police officer responds to the scene, the arresting officer shall immediately transport the person arrested to Tribal Police headquarters.

C. Upon taking custody of an arrested person, the Tribal police officer shall within 24 hours take the person arrested before a Tribal Court judge, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest.

D. If the judge determines that the arrest was unsupported by probable cause or was otherwise unlawful, the judge shall order the person released from custody.

E. If the judge determines that the arrest was lawful, the judge shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the Tribal Chairman pursuant to this Chapter.

SECTION ~~3.17~~ 3.20 INTERPRETATION

The provisions of this procedure shall be interpreted and construed so as to effectuate its general purpose to make uniform the law of the state and Indian reservations that are involved-, provided that under no circumstances shall the provisions of this procedure be interpreted to authorize the extradition, pursuit, or arrest of any person within the exterior boundaries of the Fort Apache Indian Reservation without complying with this Chapter.

SECTION 3.18 3.21 SHORT TITLE

[text unaffected]