

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

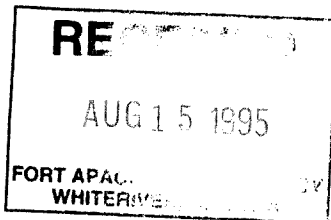
WHEREAS, the Tribal Council by Resolution No. 06-95-198 directed the Tribal Council Secretary to post the attached proposed amendments to the Criminal Code in each district for a minimum of ten (10) days as required by the Constitution; and

WHEREAS, the Council Secretary advises the Tribal Council that said proposed ordinance has been posted in accordance with that directive; and

WHEREAS, the Tribal Council having received no opposition to the proposed amendments to the Criminal Code concludes that the amendments should be enacted.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby enacts Ordinance No. 201 amending the Criminal Code of the White Mountain Apache Tribe in the form and content attached to this resolution incorporated by reference herein, to be effective immediately.

The foregoing resolution was on August 03 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).




Chairman of the Tribal Council


Secretary of the Tribal Council

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]