



WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Authorizing the WMAT Parole Board to Implement 2015 Policies and Procedures)

WHEREAS, the Tribal Council enacted Ordinance No. 277 on August 4, 2015, which revised the White Mountain Apache Rules of Criminal Procedure and instituted a Parole Board, under the direction of the WMAT Department of Corrections, to hear and adjudicate all post-sentencing motions pursuant to Rule 7.3 of said Ordinance; and

WHEREAS, on this day, the newly appointed Chairman of the Parole Board, Ronnie Peaches, presented the Tribal Council with the Parole Board's Policies and Procedures, which were developed, with the assistance of the Office of the Attorney General, to provide a standard process, establish guidelines, promote ethical practices, ensure efficiency and effectiveness; and

WHEREAS, the Policies and Procedures of the Parole Board include, but are not limited to, the following: the Parole Board's authority, composition, addressing conflicts of interest, removal of a Parole Board Member for cause, meetings, hearings, parole motions, written submissions, notification, decisions of the Parole Board, consideration of the totality of the circumstances, reconsideration of parole prior to release, parole rescission hearings, and appeals; and

WHEREAS, the Tribal Council has reviewed and accepted the submission of the White Mountain Apache Tribal Parole Board and finds it in the best interest of the White Mountain Apache people that such policies and procedures be implemented, effective immediately.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Policies and Procedures of the WMAT Parole Board, as attached and incorporated by this reference, are hereby approved and adopted.

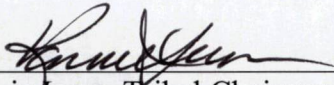
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes the WMAT Parole Board to edit its Policies and Procedures as it deems necessary, with consultation with the WMAT Office of the Attorney General.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances, or any material facts concerning the issues presented are later found to be false, this Resolution shall be deemed null and void and have no legal effect.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Vice-Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

Resolution No. 10-2015-216

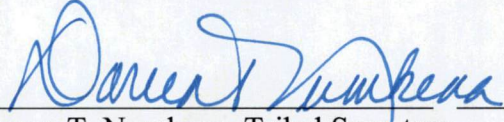
The foregoing resolution was on **OCTOBER 21, 2015** duly adopted by a vote of **NINE** for, **ZERO** against, and **TWO** abstentions by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it under the enumerated powers listed in Article IV, Section 1 of the WMAT Constitution, so ratified on September 30, 1993, and federally recognized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984).



Ronnie Lupe, Tribal Chairman

3/30/16

Date



Doreen T. Numkena, Tribal Secretary

3/31/2016

Date

WMAT PAROLE BOARD

1. Authority, Composition.

- A. The Parole Board of the White Mountain Apache Tribe shall hear and adjudicate all post-sentencing motions of inmates sentenced by the White Mountain Apache Tribal Court pursuant to Rule 7.3 of the White Mountain Apache Rules of Criminal Procedure.
- B. Motions to be heard by the Parole Board include, but are not limited to, the following: early release; release on completion of 2/3 of sentence; suspension of sentence; and temporary release.
- C. The Parole Board shall consist of the DOC Director, DOC Supervisor, and a detention officer appointed by the Director and Supervisor.
- D. The DOC Director shall serve as the Chairman of the Parole Board.
- E. The Parole Board shall appoint two (2) detention officers to serve as alternates when a board member is conflicted.
- F. The Parole Board shall appoint a secretary to keep meeting and parole hearing minutes and other duties as assigned. The meeting minutes and parole hearing minutes shall become a part of the Parole Board's records.

2. Conflict of Interest.

- A. A Parole Board Member shall disqualify him or herself from deciding any inmate motion on the grounds of a conflict of interest, or the appearance of a potential conflict of interest.
- B. If a Parole Board Member is conflicted from hearing a particular inmate's motion, that Parole Board Member shall recuse himself or herself for that conflicted inmate motion only and may reassume duties for the remainder of the Parole Board Meeting or Parole Board Hearing. If an alternate Parole Board Member is unavailable to preside over the inmate motion, the conflicted inmate motion shall be tabled until the next Parole Board Meeting or Hearing.
- C. A conflict check shall be completed by each Parole Board Member prior to considering any inmate motions.
- D. A conflict exists in the following circumstances:
 1. A relative as defined below.
 2. Personal relationship
 3. Business Associate / Conducting business together
- E. Parole Board Members shall be disqualified or shall disqualify himself or herself from hearing any inmate motions wherein the inmate is one of the following relatives to the Parole Board Member:
 1. Spouse
 2. Uncle or aunt
 3. Niece or nephew
 4. Grandparent or grandchild
 5. Brother or sister
 6. Mother or father
 7. Son or daughter
 8. A spouse of one of the preceding.
- F. The relationships requiring disqualification in subsection D above shall apply whether based on the whole blood, half blood, adoption, or marriage.

3. Removal of Parole Board Member for Cause.

- A. A Parole Board Member may be removed from his/her position by a majority vote of the Tribal Council with consultation from the Attorney General at a validly called Tribal Council meeting for disability, inefficiency, neglect of duty, or malfeasance in office. Before removal, the Tribal Council shall inform the Parole Board Member of the charges against him or her and shall fix the time when he or she can be heard in his or her defense.

4. Meetings and Hearings.

- A. The Parole Board shall convene at least once a month for a Parole Board Meeting or a Parole Board Hearing, but bimonthly meetings/hearings are preferred.
- B. Parole Board Meetings and Parole Board Hearings require a quorum before the Parole Board can officially conduct business. A quorum shall be declared once the attendance of all three (3) Parole Board Members, or alternates as previously designated, are present for the Parole Board Hearing or Parole Board Meeting.
- C. At a Parole Board Meeting, the Parole Board may decide inmate motions without a hearing if there are no written opposition to the inmate's motion, releasing the inmate does not violate Tribal Law, or if the inmate has no infractions, lock downs, or other disciplinary actions while incarcerated.
- D. At a Parole Hearing, the Parole Board shall review and consider the inmate's motions as well as the comments from interested parties as outlined in section 9 below.
- E. Two (2) of the three (3) members of the Parole Board shall agree on a decision when deciding inmate motions.

5. Parole Motions.

- A. All Parole Motions shall be considered by the Parole Board.
- B. A motion filed by an inmate convicted of domestic violence offenses shall not be granted release at a Parole Board Meeting, but shall automatically be scheduled for a Parole Hearing. The Parole Board shall then notify Tribal Prosecution's Domestic Violence Victim Advocate of the hearing.
- C. The Secretary of the Parole Board shall forward copies of all motions filed by inmates serving a sentence for a domestic violence offense to Tribal Prosecution's Domestic Violence Victim Advocate for recommendation and an opportunity to notify victims.

6. Written Submission to Parole Board.

- A. Any interested person may submit written information concerning a Motion to the Parole Board. Such information shall remain confidential.
- B. Victims may send impact statements directly to the Parole Board. A Victim may submit written information or oral testimony at a hearing. Any written or oral testimony from the Victim or a representative shall remain confidential.
- C. Individuals who wish to demonstrate support of an inmate may submit letters to that effect. Support Letters submitted by those in support of the inmate's release shall be sent to the Chairman of the Parole Board. A copy of the letter will be kept in the inmate's file. The Chairman of the Parole Board will present the letters to the Parole Board at the hearing.

7. Notification of Parole Board Hearing.

- A. Should the Parole Board determine that a Parole Hearing is necessary, notice of the Parole Hearing, including date and time, shall be promptly given to the inmate motioning the Parole Board.

- B. The Parole Board shall notify the White Mountain Apache Tribe's Prosecution Unit and the Victim Advocate of the Parole Hearing.
- C. If requested by the Victim, the Victim Advocate shall provide the Victim notification of the Parole Hearing pursuant to Section 7.1 of the White Mountain Apache Criminal Code.

8. Parole Board Hearing.

- A. Parole Board hearings shall take place at the Department of Corrections or through teleconferencing, videoconferencing or other electronic means if that inmate is detained at another detention facility.
- B. The inmate has a right to be heard at the Parole Board Hearing.
- C. The Victim has a right to be heard at the Parole Hearing pursuant to Section 7.1(A)(9) of the White Mountain Apache Criminal Code.
- D. Tribal Prosecution has a right to be heard at the Parole Hearing.

9. Parole Board Decisions.

- A. The Parole Board shall ensure the attendance of each inmate scheduled for a Parole Hearing.
- B. The Board may reach any of the following decisions at the conclusion of the Parole Board hearing:
 - 1. To deny the Motion;
 - 2. To deny the Motion conditionally;
 - 3. To grant the Motion;
 - 4. To grant the Motion conditionally;
 - 5. To take the Motion under consideration; or
 - 6. To table the motion pending the outcome of a Parole Board investigation or pending the receipt of additional information.
- C. If the Parole Board denies/grants the Motion conditionally, the Parole Board shall specify the conditions.
- D. If the Parole Board takes the Motion under consideration, the Parole Board shall issue its decision no later than ten (10) business days after the Parole Board hearing.

10. Consideration of the Totality of the Circumstances

- A. In considering inmates for release, the Parole Board shall consider the totality of the circumstances, which include, but need not be limited to, the following factors:
 - 1. The 2/3 eligibility list;
 - 2. The testimony or written statement from the Victim of the crime;
 - 3. The risk of reoffense and criminal history;
 - 4. The inmate's program or treatment participation and progress;
 - 5. The inmate's institutional conduct;
 - 6. Whether the inmate while under sentence has threatened or harassed the Victim or the Victim's family or has caused the Victim or the Victim's family to be threatened or harassed, either verbally or in writing;
 - 7. Aggravating or mitigating factors from the criminal case;
 - 8. The testimony or written statement from an employer;
 - 9. Whether the inmate had previously absconded or escaped or attempted to abscond or escape; and/or
 - 10. Other applicable records.

11. Notification of Parole Board Decisions

- A. The official notification of the Parole Board's decision referred to as Parole Board Order shall be transmitted within a reasonable time to the inmate and shall become part of the Parole Board's records. If release is granted, such notification shall indicate that release is expressly conditioned upon compliance with all pre-Release conditions imposed upon the inmate.
- B. The Parole Board shall provide a copy of the Parole Board Order to the White Mountain Apache Tribe Prosecution Unit.
- C. Prosecution's Victim Advocate shall notify victims, if requested, pursuant to Section 7.1 (A)(2) of the White Mountain Apache Criminal Code.
- D. The Parole Board shall provide a list of the inmates released and the date of release to the Tribal Probation Officer.

12. Reconsideration of Parole Prior to Release.

- A. The granting of an inmate's release shall be conditioned upon good conduct by the inmate between the date of the order and the effective release date.
- B. Upon receipt of information not previously considered by the Parole Board, the Parole Board may reconsider, for any reason, the granting of release to an inmate.
- C. The granting of release is not final until the inmate is released.
- D. When an inmate who has been granted release is unable to satisfy the conditions of release, through no fault of his/ her own, prior to release, release may be held in suspense until such time as he/she is able to satisfy the Parole conditions.
- E. The Parole Board may also suspend the previously established release date prior to release for good cause shown upon receipt of information not previously considered by the Parole Board or upon information reflecting improper conduct by the inmate including, but not limited to, acts that constitute criminal or disciplinary violations.
- F. Upon suspension of an established release date, a Rescission Hearing is held to determine whether the suspension should be made permanent.
- G. A Notice of Parole Board Action following a Rescission Hearing shall void any previously established release action.

13. Parole Rescission Hearings

- A. The Board may accept as evidence of a violation the findings of administrative or disciplinary hearings.
- B. The Rescission Hearing shall be conducted in the same manner outlined herein.

14. Appeals.

- A. Decisions resulting from post-conviction inmate motions are not subject to appeal.