



SAN CARLOS APACHE POLICE DEPARTMENT

Terry Rambler
Chairman

Alejandro Benally Sr.
Chief of Police



Po Box 157 San Carlos, AZ 85550 * Phone (928) 475-2224 * Fax (928) 475-2805

August 5, 2020

The Honorable Raúl M. Grijalva, Chairman
House Natural Resources Committee
U.S. House of Representatives
1324 Longworth House Office Building
Washington, D.C. 20515

The Honorable Rob Bishop, Ranking Member
House Natural Resources Committee
U.S. House of Representatives
1324 Longworth House Office Building
Washington, D.C. 20515

Re: Response to Questions for the Record by Republican Members

Dear Chairman Grijalva and Ranking Member Bishop:

On behalf of the San Carlos Apache Tribe and the sworn officers and staff of the San Carlos Apache Police Department ("SCAPD"), thank you for the opportunity to testify on July 22, 2020, before the Subcommittee for Indigenous Peoples of the United States, on H.R. 958, the Native Youth and Tribal Officer Protection Act ("NYTOPA"). Attached are my responses to the questions for the hearing record.

It is my hope that through my testimony, Congress will finally come to understand the challenges faced by SCAPD and all of Indian Country. For too long, police departments throughout Indian Country have not been provided the resources

needed to undertake our mission to serve and protect our people, a mission which ultimately stands within the trust responsibility of the United States.

As we say in our Apache language, Ahi'yi'é, thank you again for the opportunity.

Sincerely,

SAN CARLOS APACHE TRIBE



Alejandro Benally

Chief of Police

San Carlos Apache Police Department

Enclosures

Exhibit 1 – SCAPD Organizational Chart

Exhibit 2 – Amended Constitution

Exhibit 3 - Section 1.1 Ordinance No. 57-1

Exhibit 4 - Tribal Court Staff Chart

Exhibit 5 - The Tribe's Rules of Criminal Procedure

Exhibit 6 – Job Duties and Description of Tribal Court Judges.

Exhibit 7

Cc: Committee Staff, Ariana.Romeo@mail.house.gov

San Carlos Apache Tribe

Terry Rambler, Chairman

Tao Etpison, Vice Chairman

San Carlos Council Members

A.B. Ritchie, AG

File



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RESPONSES TO QUESTIONS FOR THE RECORD

1. According to your testimony, the San Carlos Apache law enforcement department is “understaffed, under-resourced” and that it “faces high rates of violence”. Implementing the Special Domestic Violence Jurisdiction costs a lot for tribes that opt to exercise this jurisdiction.

a. How does the San Carlos Apache tribe (sic) plan to take on the costly new responsibilities without allowing a drop-off in law enforcement quality?

The San Carlos Apache Indian Reservation (“Reservation”) is home for approximately 17,000 members of the Tribe. The San Carlos Apache Police Department (“SCAPD”) is the law enforcement agency of the Tribe responsible for patrolling the Reservation’s 1.8 million acres, to include Indian Routes 3, 6, 8 and 170 within the Reservation and along Arizona State Route 77, which crosses the Reservation from West to East, and U.S. Route 70, also known as the Old West Highway, which runs along the Western boundary of the Reservation.

Annually, SCAPD serves a population of about 17,000 residents, and responds to nearly 30,000 calls for service, or 1,000 calls per officer. Despite this volume, SCAPD remains structurally underfunded and, as a result, understaffed – so much so that public safety on the Reservation has been compromised due to response times for covering vast distances.

SCAPD employs 30 sworn officers, including the Chief of Police, Operations Lieutenant, 5 sergeants, 3 detectives, and 20 patrol officers, or .0025 sworn officers per capita.¹ By comparison, the standard for rural agencies is 2.5 officers per capita, according to the U.S. Department of Justice, Office of Justice programs (2003).² This means that SCAPD has a staffing shortfall of 20 officers (40%) in order to meet the national standard.

¹ Exhibit 1 SCAPD Organizational Chart.

² Office of Justice Programs, U.S. DOJ, Law Enforcement Management and Administrative Statistics – Local Police Departments, 2003, <https://www.bjs.gov/content/pub/pdf/lpd03.pdf>.

The SCAPD is funded under the Indian Self-Determination and Education Assistance Act (P.L. 93-638, 25 U.S.C. § 5301, *et seq.*). Pursuant to P.L. 638, the federal government has a trust responsibility to properly fund our police department at appropriate levels. We have an expectation that the Tribe will be provided necessary federal funding through our P.L. 638 contract as is our right. However, should P.L. 638 funding not be increased we are confident that implementation of H.R. 958 Native Youth and Tribal Officer Protection Act will not negatively impact the quality of the law enforcement that we provide our community.

We are the primary law enforcement agency on the Reservation. There are also Game Rangers, who are also sworn peace officers. While their mission is to patrol natural resources, they can and do make arrests. Game Rangers do not receive federal funds, but instead rely on fees from hunting and fishing permits.

When a crime occurs involving one of our youth we receive the initial call for service and provide response to the scene. Under current laws, if a criminal offense is committed against a Native youth by a non-Indian, we defer investigative jurisdiction to the Bureau of Indian Affairs or the Federal Bureau of Investigation. Those agency response times are often several hours. Depending on the nature and severity of the offense, our officers must remain on scene until that crime scene can be turned over to the federal agents. This delays investigations, inconveniences and traumatizes victims, especially children, and keeps the responding SCAPD officer on standby and out of service while waiting for the federal agents to respond. Having the authority to prosecute would provide us the ability to immediately commence the investigation and in some instances complete the investigation before federal agents would even arrive.

Implementation of the Special Domestic Violence Criminal Jurisdiction under NYTOPA would not significantly increase our current call load. We already receive the initial call for service and provide the first response. This law would provide us with the ability to more effectively address criminal offenses being perpetrated against our children and law enforcement officers, and would allow us to hold criminal offenders accountable. In effect, over time, crime and victimization would be reduced, and coextensively calls for service and call responses.

2. In your testimony, you say the Bureau of Justice Statistics reported that San Carlos suffered 318 violent crimes in 2013, the third highest in Indian Country.

a. Is this the most current data on violent crimes in the San Carlos Apache tribal community?

The 2013 statistics provided in my testimony were published by the U.S. Bureau of Justice Statistic, and these are the most current national data that that we have been able to locate. However, the SCAPD compiles yearly crime statistics. In 2019, we responded to just over 30,000 calls for service, took 3,713 criminal reports, and referred 2,123 criminal cases to the Prosecutor's office, which included 877 violent crimes.

3. Can you describe the San Carlos Apache Tribe judicial system, including how many tribal judges are employed by the tribe, what the minimum requirements to be a tribal judge are, what the tribe's caseload is like, and how the tribal appeals system works (including how tribal appeals court judges are appointed)?

The Tribe's judicial system is comprised of the San Carlos Apache Tribal Court and the San Carlos Apache Court of Appeals. The judicial system was established by the San Carlos Council ("Council"), the Tribe's governing body, pursuant to the Tribe's Amended Constitution and Bylaws of 1954. The Council has the power "[t]o enact ordinances, subject to review by the Secretary of the Interior, establishing and governing tribal courts...on the Reservation" and to "appoint judges" for the Tribal Court and the Court of Appeals.³

The Tribal Court and the Court of Appeals operate pursuant to codes and ordinances passed by the Council. These ordinances include, but are not limited to, rules of civil and criminal procedure, evidence, criminal offense and domestic violence, victim rights, extradition, exclusion, and recreation and wildlife.

The function of the Tribal Court is analogous to a state trial court or a federal district court. The Tribal Court is a court of general jurisdiction and "may exercise jurisdiction on any basis consistent with the inherent sovereignty of the Tribe and with applicable federal law."⁴ Organizationally, the Tribal Court includes the Chief Judge, Associate Judges, Court Solicitor, Court Administrator, Chief Court Clerk, Chief Probation Officer, and support staff.⁵

Anyone who practices before the Tribal Court must be admitted to the San Carlos Apache Tribal Bar Association.⁶ The Bar Association administers bar admission requirements, which includes an application and successfully passing a written test that assesses the applicant's knowledge of the Tribe's laws. The Bar Association also addresses bar complaints and provides recommendations to the Tribal Court on disciplinary measures. The standard of legal practice adhered to by practitioners are the American Bar Association ("ABA") Model Code of Judicial Code and the ABA Model Rules of Professional Conduct.⁷

Like any court that hears criminal matters, any person subject to the Tribe's criminal jurisdiction will be charged by the Tribe's prosecutors, subject to probable cause, for any offense committed in violation of the Tribe's criminal offense code, occurring within the exterior boundaries of the

³ Exhibit 2, Amended Constitution, Article V, Section 1(m) and Bylaws, Article V, Sections 1-5.

⁴ Exhibit 3, Section 1.1 Ordinance No. 57-1.

⁵ Exhibit 4, Tribal Court Staff Chart.

⁶ Exhibit 3.

⁷ *Id.*

Reservation. Once a complaint is filed, the defendant will be arraigned within forty-eight hours if in custody, or arraigned if out of custody once a summons is issued by the Court.

At the arraignment hearing, the defendant is thoroughly advised of applicable due process rights under the Tribe's laws and the Indian Civil Rights Act, including but not limited to rights to a jury, counsel at the defendant's expense, or as may be appointed if indigent, speedy trial, cross-examination of the Tribe's witnesses, and to present and review evidence. Importantly, these proceedings are recorded.

After arraignment, a trial will be scheduled, with the parties attending a pre-trial conference before trial. Like the criminal process in state and federal courts, the Tribe's evidence is disclosed to defendants. If a defendant demonstrates signs of mental incompetency, the defendant may ask the Court for an evaluation by a health physician at the Tribe's expense. Both the prosecutor and defendant, or defense counsel, may discuss and agree to non-trial disposition of the matter – again, similar to state and federal court operations.

If the matter is tried by a jury trial, any resident of the Reservation, including non-Indians, may serve as a juror. Presently, there are non-Indian residents on the Reservation, many of whom either work for the Tribe's departments, programs, or enterprises or are spouses to enrolled members.

Accordingly, a non-Indian prosecuted in the Tribal Court would receive the right to an impartial trial panel, which would reflect a fair cross-section of the Tribe's community and would not systematically exclude non-Indians.⁸

Qualifications of Tribal Court Judges

The Tribal Court is staffed by one Chief Judge, an Associate Judge, and a Juvenile Judge, each appointed by the Council,⁹ for a four-year term. Each judge must not have any prior felony convictions.¹⁰ The Judges must meet minimum job requirements and qualifications, including, but not limited to, possessing a juris doctor degree, being a member of a state bar association, being a member of the San Carlos Apache Tribal Bar Association, passing a criminal background check, and passing drug testing.¹¹

⁸ The Tribe's Rules of Criminal Procedure is attached as Exhibit 5.

⁹ Exhibit 5, Sections 1.5-1.6, Ordinance No. 1-56, Law and Order Code, Court and Procedure.

¹⁰ *Id.* at Sections 1.8-1.7.

¹¹ Exhibit 6, Job Duties and Description of Tribal Court Judges.

Cases	19	23	45	36	32	29	18	12	41	19	274
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Appeals System and Judges

As with any criminal tribunal, a criminal defendant may appeal a final judgment or final order of the Tribal Court by filing a written Notice of Appeal with the Tribal Court Clerk within fifteen days after the final judgment or final order.¹² The parties are required to file briefs and to provide the record of the lower court proceedings to the Court of Appeals. The Tribe’s Court of Appeals can decide the matter with or without oral arguments.

The Court of Appeals consists of one or more judges selected by the Council. Presently, the Court of Appeals has two appellate judges who each possess juris doctor degrees and are admitted in state bar jurisdictions. One has recently retired and will soon be replaced, but is included here for purposes of her record.

Chief Judge Paul Bender: Chief Judge Bender is an attorney who possess over twenty-years of experience as an attorney. Chief Judge Bender is a professor of law and dean emeritus with the Sandra Day O’Connor College of Law, Arizona State University.

Associate Judge Rebecca Tsosie: Associate Judge Tsosie is an attorney, also with over twenty-years of experience. Currently, Associate Judge Tsosie is a law professor at the James E. Rogers College of Law, University of Arizona.

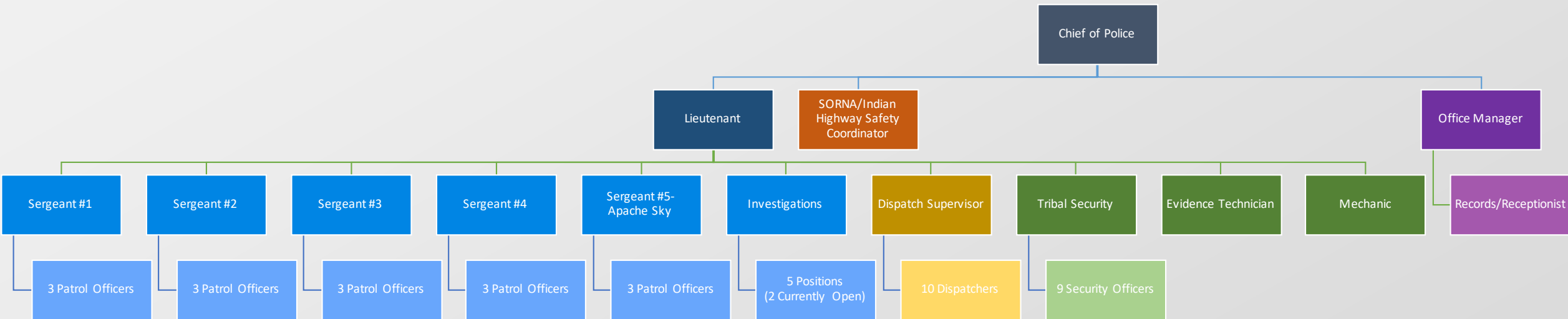
Associate Judge Violet Lui-Frank: Associate Judge Frank is an attorney who has served as a tribal court judge for tribes throughout Arizona for over twenty years, including as Chief Judge for the Pascua Yaqui Tribe, Chief Judge for the San Carlos Apache Tribal Court, and as an Associate Judge for the Tohono O’odham Judicial Court.

4. Are the tribe’s (sic) criminal laws publicly available?

Yes, the Tribe’s criminal laws are publicly available at: <https://scatcourt.demo.site/> .

¹² Exhibit 7, Rule 2 of San Carlos Apache Court of Appeals Rules of Appellate Procedure.

San Carlos Apache Police Department Organization CHART



Current as of Aug 2020

AMENDMENT TO LAW & ORDER CODE, SECTION 57-1

Establishing the San Carlos Apache Tribal Bar Association; amending Sections 1.1, 1.28, 2.1 and 2.3 of the Revised Law and Order Code of the San Carlos Apache Tribe dealing with the jurisdiction of the Tribal Courts and the practice of law; and repealing Ordinances Nos. 69-1, 80-1, 80-2, 84-04 and Resolution No. DC-93-266.

WHEREAS, the San Carlos Apache Tribe is a federally recognized Indian Tribe, organized pursuant to the provisions of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984); and

WHEREAS, the San Carlos Apache Tribe desires to aid the Tribal Courts in the administration of justice; to define and clarify the jurisdiction of the Tribal Courts; to provide for the admission of persons seeking to engage in the practice of law; to provide for the regulation and discipline of persons engaged in the practice of law; and to foster and maintain on the part of those engaged in the practice of law high standards of integrity, learning, competence and public service; and

WHEREAS, the San Carlos Apache Tribal Council is the governing body of the San Carlos Apache Tribe, endowed by the inherent sovereignty of the San Carlos Apache Tribe, and by its Constitution and Bylaws, with the duty and authority to provide for the administration of justice, the maintenance of law and order, the establishment and maintenance of tribal courts, and the establishment and maintenance of beneficial associations within the San Carlos Apache Reservation;

NOW THEREFORE BE IT ENACTED by the San Carlos Apache Tribal Council, in its meeting assembled this 7th day of December, 2001, that there is hereby created and established an organization known as the San Carlos Apache Tribal Bar Association, which shall be a non-profit association. The Association and its members shall be governed by its Articles of Association, Bylaws, and Oath of Admission, as well as by the Constitution, Bylaws, Ordinances, Resolutions, and Rules of Court of the San Carlos Apache Tribe. The Association may sue and be sued, may enter into contracts and acquire, hold, encumber, dispose of and deal in and with real and personal property. The Association shall promote and further the aims set forth herein and in its Articles of Association, Bylaws, and Oath of Admission.

BE IT FURTHER ENACTED that Section 1.1 of the Revised Law and Order Code of the San Carlos Apache Tribe is amended to read as follows:

Sec. 1.1 Jurisdiction.

The courts of the San Carlos Apache Tribe may exercise jurisdiction on any basis consistent with the inherent sovereignty of the Tribe and with applicable federal law. The San Carlos Apache Tribal Court shall be a court of general jurisdiction. Any other court heretofore or hereafter created by the Tribe shall have such jurisdiction as provided by law.

BE IT FURTHER ENACTED that Section 1.28 of the Revised Law and Order Code of the San Carlos Apache Tribe is amended to read as follows:

Sec. 1.28 Representation in the Tribal Courts and Regulation of the Practice of Law.

1. No natural person or other entity shall be entitled to have representation provided at the expense of the Tribe in any matter before any of the Tribal Courts.

2. Notwithstanding any provision to the contrary, and except as hereinafter provided in Subsections 3 through 5 of this Section, no natural person or other entity may represent any party in any matter in any of the Tribal Courts or otherwise practice law or perform any legal services whatsoever, or advertise or solicit for the provision of legal services, or hold themselves out as authorized or qualified to provide legal services, except active members in good standing of the San Carlos Apache Tribal Bar Association. The Association shall provide a list of active members in good standing to the Tribal Courts and the Secretary of the Tribal Council annually and whenever any changes are made in such list.

3. The Tribe may be represented in any matter by any natural person or other entity so appointed by the Council by resolution or ordinance.

4. Any natural person may represent themselves in any matter.

5. The Tribal Courts, in the exercise of sound discretion, may allow any natural person who is in good standing and actively practicing law in another jurisdiction to appear in any single matter pro hac vice, provided such person, or partner or associate of such person, has not so appeared in any of the Tribal Courts within the previous two years, and provided that such person associates with an active member in good standing of the Association, who shall be responsible for their conduct. The Tribal Court, in consultation with the Association, shall by order prescribe rules governing such appearances.

6. The Tribe, the Tribal Courts, and the Association shall enforce the Model Rules of Professional Conduct and the Model Code of Judicial Conduct issued by the American Bar Association, insofar as such Rules or such Code do not conflict with the Constitution, Bylaws, Ordinances, Resolutions, or Rules of Court of the Tribe or the Articles of Association or Bylaws of the Association.

7. Any person appearing in any matter pursuant to the provisions of Subsections 3 through 5 of this Section shall be held to the same standard of conduct, competence, ethics, and integrity as members of the Association.

8. The Tribal Court and the Association have the duty and authority to maintain the highest standards of professional competence, ethics, and integrity in the practice of law. The Association shall investigate and recommend appropriate action to the Tribal Court on all complaints received. The procedures for such investigations and the sanctions available shall be as set forth in the Articles of Association and Bylaws of the Association and rules promulgated by order of the Tribal Court and such other rules as may be promulgated under this authority. Any disciplinary action taken by the Tribal Court or the Association may be appealed to the San Carlos Apache Court of Appeals within 30 days.

9. The following persons, although otherwise qualified, shall not represent any other party in any matter in any of the Tribal Courts during their tenure in such office or such position:

- A. The Chairman, Vice-Chairman, Secretary, Treasurer, or Members of the Council.
- B. The actively serving judges of any of the San Carlos Apache Tribal Courts, or the courts of any other jurisdiction, whether their tenure is considered temporary or permanent, except those serving only occasionally as pro tem judges.
- C. The Clerks of the Courts, Deputy and Assistant Clerks, Bailiffs and other full time court employees.
- D. San Carlos Apache Tribal law enforcement officers, Federal law enforcement officers, or State of Arizona law enforcement officers, except those persons duly appointed to prosecute criminal matters.

BE IT FURTHER ENACTED that Section 2.1 of the Revised Law and Order Code of the San Carlos Apache Tribe is amended to read as follows:

Sec. 2.1 Personal Jurisdiction in Civil Actions.

The bases for personal jurisdiction in civil actions shall include, without limitation, the following, and any natural person, corporation, partnership, association, business, governmental or other entity so acting shall be deemed to have consented and stipulated to the jurisdiction of the courts of the San Carlos Apache Tribe:

- 1. Consent, whether express, by contract, implication or otherwise.
- 2. Membership in the Tribe, marriage to or adoption of a member of the Tribe, presence, domicile, residence or entering on the Reservation.
- 3. Appearance in a Tribal Court, other than a special appearance for the sole purpose of contesting jurisdiction.
- 4. Doing business or attempting to do business on the Reservation, including entering or attempting to enter into a contract for the sale, lease, or purchase of any property or services, or contracting or attempting to contract to insure any person, property, or risk.
- 5. Using or attempting to use, or purchasing or attempting to purchase any resource or service of the Tribe or the Reservation.
- 6. Ownership, use, or possession of real or personal property on the Reservation.
- 7. Violating any Tribal law, ordinance, resolution or regulation, or any regulation or order of any Tribal authority, commission, department, division, program or other Tribal entity or the violation on the Reservation of any applicable federal or state law or regulation.
- 8. Causing an act, event or effect to occur on the Reservation by an act or omission on the Reservation or elsewhere or engaging in any other act or omission on the Reservation giving rise to the action.

BE IT FURTHER ENACTED that Section 2.3 of the Revised Law and Order Code of the San Carlos Apache Tribe is amended to read as follows:

Sec. 2.3 Fees and Judgments in Civil Actions.

In all civil suits the complainant may be required to deposit with the Clerk of the Court a fee or other security in a reasonable amount to cover costs and disbursements in the case. No judgment shall be given on any suit unless the defendant has actually received notice of such suit and ample opportunity to appear in court in his defense. Evidence of the receipt of the notice shall be kept as part of the record in the case. In all civil cases, judgments may consist of an order of the court awarding money-damages to be paid to the injured party, or directing the surrender of certain property to the injured party, or performance of some other act for the benefit of the injured party.

BE IT FURTHER ENACTED that Ordinance No. 69-1 as adopted by the Tribal Council on January 15, 1969; Ordinance No. 80-1 as adopted by the Tribal Council on August 5, 1980; Ordinance No. 80-2 as adopted by the Tribal Council on September 5, 1980; Ordinance No. 84-04 as adopted by the Tribal Council on April 3, 1984; and Resolution No. DC-93-226 as adopted by the Tribal Council on December 7, 1993; and any other heretofore adopted enactment not consistent herewith are hereby repealed.

CERTIFICATION

I, the undersigned Secretary of the San Carlos Apache Tribal Council hereby certify that the San Carlos Tribal Council is presently composed of eleven (11) members of whom eight (8), constituting a quorum, were present at a Special Council meeting hereto held on the 7th day of December 2001. The foregoing Amendment to the Law and Order Code Section 57-1 was duly adopted by a vote of 8 FOR, 0 OPPOSED, 0 ABSTAINED. Pursuant the Provisions of Article V, Section 1(a), Amended Constitution and Bylaws of the San Carlos Apache Tribe effective February 24, 1954.

/s/ Evelyn Hudson; Tribal Secretary, San Carlos Apache Tribal Council.

BUREAU OF INDIAN AFFAIRS /s/ Janice Staudte, Superintendent, Date: Dec 20, 2001

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS



AMENDED
CONSTITUTION AND BYLAWS
OF THE
SAN CARLOS APACHE TRIBE.
OF ARIZONA



EFFECTIVE FEBRUARY 24, 1954



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1957

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Office
Indian Tribes
San Carlos
Apache Tribe,
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AMENDED
CONSTITUTION AND BYLAWS

OF THE

SAN CARLOS APACHE TRIBE OF ARIZONA

The Constitution and Bylaws of the San Carlos Apache Tribe of the San Carlos Reservation, Arizona, is amended as follows:

PREAMBLE

We, the people of the San Carlos Apache Tribe of the San Carlos Reservation, Arizona, in order to exercise the duties and responsibilities of a representative tribal government, do ordain this Constitution and Bylaws.

ARTICLE I—STATEMENT OF PURPOSE

SECTION 1. In our relation to the United States Government, a relation similar to that which a town or a county has to State and Federal governments, our own internal affairs shall be managed, insofar as such management does not conflict with the laws of the United States, by a governing body which shall be known as the San Carlos Council.

ARTICLE II—TERRITORY

SECTION 1. The authority of the San Carlos Apache Tribe shall extend to all of the territory within the boundaries of the San Carlos Reservation and to all lands which may be acquired for the Tribe or which the Tribe may acquire for itself.

ARTICLE III—MEMBERSHIP

SECTION 1. The membership of the San Carlos Apache Tribe shall consist of:

(a) All persons who are members of the Tribe on the date when this revised constitution is finally approved.

(b) All children of one-fourth or more San Carlos Apache Indian blood who are born to resident members, and all children of one-fourth or more San Carlos Apache blood born to non-resident members if such non-resident members declare their intention of maintaining membership in the Tribe. The method of declaring intention of membership shall be determined by ordinance of the Council.

(c) The Council shall have the power to pass ordinances, subject to review by the Secretary of the Interior or his authorized representative, governing future membership, loss of membership, and the adoption of members by the San Carlos Apache Tribe.

ARTICLE IV—GOVERNING BODY

SECTION 1. The governing body of the San Carlos Apache Tribe shall be known as the San Carlos Council and shall consist of a chairman, vice-chairman and nine members to be chosen as follows:

Chairman, by popular vote of the Tribe;

Vice-Chairman, by popular vote of the Tribe;

Three members, by popular vote of the Bylas District;

Two members, by popular vote of the Gilson District;

Two members, by popular vote of the Peridot District;

Two members, by popular vote of the Seven Mile District.

SEC. 2. *Districts Defined.* For purposes of voting and representation on the Council, the districts shall be defined as follows:

BYLAS DISTRICT shall include all members living in the entire Bylas Community;

GILSON DISTRICT shall include all members living on Gilson Wash west and south of Quarry Wash and north of the Farm Station;

PERIDOT DISTRICT shall include all members living in the community south of the Farm Station and on both sides of the San Carlos River;

SEVEN MILE DISTRICT shall include all members living within the area east of the Quarry Wash and north of the point where the Quarry Wash runs into the San Carlos River.

SEC. 3. *Organization of Council.* The Council shall choose, either from within its own membership or from the outside, a secretary, a treasurer, and such other officers as it may consider necessary.

SEC. 4. The Council, from time to time, may by ordinance change the foregoing number and distribution according to the growth of population.

SEC. 5. *First Election.* The first election of councilmen under this amended constitution and bylaws shall be held on the next regular election date following the adoption and ratification of the amended constitution and bylaws. In the first election the candidate in each district receiving the highest number of votes shall hold office for four years. The other candidates elected shall hold office for two years. In each regular election thereafter one candidate shall be elected from each district and shall hold office for a term of four years, except in the Bylaws District which shall elect two candidates at every other election, such candidates to hold office for four years.

SEC. 6. *Term of Council Members.* Members of the Council shall

take office on the first Tuesday of the first month after their election.

SEC. 7. Council Chairman and Vice-Chairman. The Chairman and Vice-Chairman of the Tribal Council shall be elected for a term of four years by popular vote of the Tribe. Candidates for such office shall possess the qualifications required of candidates for Council membership, as set forth in Article II of the Bylaws, except as to residence. The candidates for Chairman and Vice-Chairman need only be residents of the San Carlos Reservation. Such elections shall be held under the same rules as the election for council members and the Chairman and Vice-Chairman of the Tribal Council shall take office on the same day that the council members take office.

ARTICLE V—POWERS OF THE COUNCIL

SECTION 1. The San Carlos Council shall have the following powers:

(a) To represent the Tribe and act in all matters that concern the welfare of the Tribe, and to make decisions not inconsistent with or contrary to this Constitution and Bylaws or the Constitution and Statutes of the United States;

(b) To negotiate and make contracts with the Federal, State and local governments;

(c) To advise the Secretary of the Interior or his representative on all activities that may affect the San Carlos Reservation, and on all appropriation estimates and Federal projects for the benefit of the Tribe before such estimates and projects are submitted to the Bureau of the Budget and to Congress;

(d) To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior, so long as such approval is required by Federal law;

(e) To veto the sale, disposition, lease or encumbrance of tribal lands, interest in lands, tribal funds or other tribal assets that may be authorized by any agency or employee of the government;

(f) To protect and preserve the wildlife and natural resources of the Tribe; to regulate hunting and fishing on the reservation;

(g) To cultivate Indian arts, crafts and cultures;

(h) To administer charity;

(i) To regulate the uses and disposition of tribal property and funds, provided, that any grant or lease of any portion of the Reservation for grazing purposes or relinquishment of any water rights on the Reservation must be authorized by a two-thirds majority of tribal votes cast in an election called by the tribal council for that purpose and, provided further, that the total vote cast shall be not less than three-fifths of the total eligible voters;

(j) To manage all tribal economic affairs and enterprises in accordance with the terms of the Corporate Charter of the Tribe;

(k) To levy and collect taxes;

(l) To appropriate tribal funds for public purposes;

(m) To enact ordinances, subject to review by the Secretary of the Interior, establishing and governing tribal courts and law enforcement on the Reservation; regulating domestic relations of members of the Tribe, but all marriages shall be in accordance with State laws; providing for appointment of guardians for minors and mental incompetents; regulating the inheritance of real and personal property of members of the Tribe within the Reservation; and providing for the removal or exclusion from the Reservation of any non-member of the Tribe whose presence may be injurious to the people of the Reservation;

(n) To enact ordinances governing the activities of voluntary associations consisting of members of the Tribe organized for purposes of cooperation or other purposes;

(o) To regulate its own procedures; to appoint subordinate committees, commissions, boards, tribal officials and employees not otherwise provided for in this Constitution and Bylaws, and to prescribe their salaries, tenure and duties; to charter and to regulate subordinate organizations for economic and other purposes;

(p) The Council may exercise such further powers as may be delegated to the San Carlos Apache Tribe by the Secretary of the Interior or by any other qualified official or agency of the Government;

(q) The foregoing enumeration of powers shall not be construed to limit the powers of the San Carlos Apache Tribe, and such powers may be exercised through the adoption of bylaws or constitutional amendments.

ARTICLE VI—REVIEW BY THE SECRETARY

SECTION 1. Any resolution or ordinance which, by the terms of this constitution, is subject to review by the Secretary of the Interior, shall be presented to the Superintendent of the Reservation within six days after the passage by the Council. The Superintendent shall, within six days after its receipt, approve or disapprove the same.

If the Superintendent shall approve any ordinance or resolution, it shall thereupon become effective, but the Superintendent shall transmit a copy of the same, bearing his endorsement and the date his signature was affixed thereto, to the Secretary of the Interior, who may, within 90 days from the date of enactment, rescind the said ordinance or resolution for any cause, by notifying the council of such rescission. If the Secretary shall fail to act within the 90-day period, the ordi-

nance or resolution shall remain in effect as of the date of the Superintendent's approval.

If the Superintendent shall refuse to approve any resolution or ordinance submitted to him, within six days after its receipt, he shall advise the Council of his reasons therefor. If these reasons appear to the tribal council insufficient, it may, by a majority vote, refer the ordinance or resolution to the Secretary of the Interior, who may, within 90 days from the reenactment date approve the same in writing, whereupon the said ordinance or resolution shall become effective.

ARTICLE VII—RIGHTS OF MEMBERS

SECTION. 1. All members of the San Carlos Apache Reservation shall be accorded equal political rights and equal opportunities to participate in the economic resources and activities of the tribe, and no person shall be denied freedom of conscience, speech, association or assembly or the right to petition for the redress of grievances.

ARTICLE VIII—ELECTIONS

SECTION 1. *Regular Elections.* Regular elections to vote for councilmen shall be held every two years on the first Tuesday in April. Regular elections to vote for Chairman and Vice-Chairman shall be held every four years on the first Tuesday in April.

SEC. 2. *Special Elections.* Special elections shall be held upon call by the Tribal Council as provided in Article IX, and notice of them shall be given as in the case of general or regular elections.

SEC. 3. *Notice.* All elections shall be announced by special notice posted at least thirty days before the election at the voting places and other convenient public places.

SEC. 4. The voting places shall be: one at San Carlos Agency and another at Bylas and others as may be established by the Council.

SEC. 5. *Candidates.* Names of candidates nominated by the districts for their councilmen shall be posted for a period of at least twenty days prior to election.

SEC. 6. *Nomination of Chairman and Vice-Chairman.* At least twenty days before nominations of candidates for council membership are made at district meetings, not more than four candidates nor less than two for each office of Chairman and Vice-Chairman shall be nominated at a general mass meeting called for that purpose.

SEC. 7. *Nomination of Council Members.* Nominations shall be made at mass meetings of the respective districts for the office of councilman. Each district shall nominate at least four candidates for each position of councilman.

SEC. 8. *Manner of Voting.* All elections shall be by written ballot.

The council shall have power to prescribe ordinances governing the casting and canvassing of ballots, the manner of conducting district meetings for nomination, and other necessary details of election procedures covering elections of councilmen and officers and referendum elections.

ARTICLE IX—REMOVAL FROM OFFICE

SECTION 1. *Forfeiture of Office.* If a Chairman or Vice-Chairman or member of the Council fails or refuses to attend two regular meetings in succession unless excused due to illness or other causes for which he cannot be held responsible, or shall be convicted of a felony or of a misdemeanor involving moral integrity, his office shall be forfeited, and a special election called by the Council shall be held to replace him.

SEC. 2. *Removal from Office.* If a Chairman or Vice-Chairman or member of the Council shall fail in the performance of the duties assigned to him, he may be subject to recall. The Council may by a two-thirds vote, after affording the accused member a fair opportunity to be heard in his own defense, require such member to stand for reelection of the district which he represents.

SEC. 3. *Resignation and Replacement.* Any councilman resigning or by death taken out of his office shall be replaced only by a special election in the respective district.

ARTICLE X—RESERVATION LAND

SECTION. 1. The reservation land shall as a whole remain tribal property and shall not be divided by allotment of any parts to individuals or groups of individuals as private property that could be sold at will; but assignment of land for private use may be made by the council in conformity with ordinances which may be adopted on this subject, provided, that the rights of all members of the tribe be not violated.

ARTICLE XI—REFERENDUM

SECTION 1. Upon a petition of at least fifty percent of the eligible voters of the Tribe, or upon the request of the majority of the members of the Tribal Council, any enacted or proposed ordinance or resolution of the Tribal Council shall be submitted by the Council to a popular referendum and the vote of the majority of the qualified voters in such referendum shall decide whether the ordinance or resolution shall thereafter be in effect and subject to Secretarial review where such review is required: Provided, that one-half or more of the eligible voters shall vote in such referendum.

ARTICLE XII—AMENDMENTS

SECTION 1. This Constitution and Bylaws may be amended by a majority vote of the qualified voters of the Tribe voting at an election called for that purpose by the Secretary of the Interior, provided, that at least thirty percent of those entitled to vote shall vote in such election; but no amendment shall become effective until it shall have been approved by the Secretary of the Interior.

It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment at the request of the Council, or upon receipt of a petition signed by one-third of the qualified voters of the Tribe.

BYLAWS OF THE SAN CARLOS APACHE TRIBE OF ARIZONA

ARTICLE I—DUTIES OF OFFICERS

SECTION 1. *Chairman of the Council.* The Chairman of the Council shall preside over all meetings of the Council, shall perform all duties of a Chairman and exercise any authority given him specifically by the Council or by a general meeting of the Tribe. The Chairman shall have power to vote.

SEC. 2. *Vice-Chairman.* In the absence of the regular Chairman the Vice-Chairman shall preside and shall have all powers, privileges and duties of the Chairman. He shall have power to vote at any meeting.

SEC. 3. *Secretary.* The secretary shall conduct all tribal correspondence and it shall be his duty to submit promptly to the Superintendent of the jurisdiction and other appropriate offices of the Bureau of Indian Affairs, copies of all minutes of regular and special meetings of the Council.

SEC. 4. *Treasurer.* (a) The Treasurer shall accept, receipt for, keep and safeguard all funds in the custody of the Council. He shall deposit all such funds as directed by the San Carlos Council and shall keep an accurate record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his custody to the Council at regular meetings and at such other times as requested by the Council. He shall not pay or otherwise disburse any funds in custody of the Council except when properly authorized to do so by the Council.

(b) The books and records of the treasurer shall be audited at least once a year by a competent auditor employed by the Council, and at such other times as the Council may direct.

(c) The treasurer shall be required to give a surety bond satisfactory to the Council and the Commissioner of Indian Affairs or his authorized representative.

(d) The treasurer shall be present at all meetings of the Council unless prevented by circumstances beyond his control.

(e) All checks shall be signed by the treasurer and shall be countersigned by the Chairman of the Council, or in his absence by some other officer designated by the Council.

ARTICLE II—QUALIFICATIONS OF COUNCILMEN

SECTION 1. Any member of the Tribe who is not employed by the Federal or State government, who has reached the age of twenty-five years, who is a resident of the district which he is to represent, and who is able to read and write, shall be qualified to be a candidate for election to the Council. No person who has been convicted of a felony, or who within the last year preceding the election has been convicted of a misdemeanor involving moral integrity shall be eligible to hold office in the Council. The following misdemeanors and no others shall be considered misdemeanors involving moral integrity: adultery, bribery, embezzlement, extortion, fraud, forgery, misbranding, perjury and theft.

ARTICLE III—MEETINGS OF THE COUNCIL

SECTION 1. *First Meeting.* At the first meeting of the Council after a regular election, the Council shall see that all members have a correct and clear understanding of the Constitution and Bylaws and the management of the tribal and reservation affairs, as well as the rules for the conduct of their own body.

SEC. 2. *Regular Meeting.* The Council shall meet officially on regular meeting dates which shall be on the first Tuesday in each month at nine o'clock a. m. In case the time of the regular Council meeting on the first Tuesday of each month should conflict with a national, state or tribal election, or shall fall on a holiday, the meeting shall be held on the following Wednesday.

SEC. 3. *Special Meetings.* Special meetings of the Council may be called by the Chairman, or the Chairman shall call a special meeting upon written request of three or more members of the Council.

SEC. 4. *Conduct of Business.* In the conduct of business, recognized rules of order shall apply. Voting at the Council meeting may be by voice, but at the discretion of the Chairman or upon the request of any two members of the Council a secret vote shall be taken.

SEC. 5. *Quorum.* Matters of business for the Council shall be decided by a majority vote. A quorum (a number competent to transact

business) of the Council shall be constituted if six or more members are present.

SEC. 6. *Restriction of voting in the Council.* In any matter coming before the Council which involves the Indian Bureau or any person or company, no member of the Council that may be permanently connected with the party so involved shall be permitted to vote without the special consent of the remaining members of the Council.

ARTICLE IV—MEETINGS OF THE TRIBE

SECTION 1. The Council shall from time to time call meetings of all voters of the Tribe to lay before them such matters as may come before such a general meeting. A general meeting of the Tribe shall be called upon request of a majority of the qualified voters of any district.

ARTICLE V—LAW AND ORDER

SECTION 1. It shall be the duty of the Council to provide through the necessary bylaws or ordinances for the establishment of a tribal court upon the reservation.

SEC. 2. This court shall have jurisdiction of such petty offenses, not falling within the exclusive jurisdiction of the Federal or State courts, as may be enumerated in the ordinances or bylaws of the Tribe.

SEC. 3. This court shall have jurisdiction over all disputes between Indians on the reservation, and over such disputes between Indians and non-Indians as may be brought before the court by stipulation.

SEC. 4. The duties, jurisdiction, and procedure of this court shall be more fully set forth by bylaws or ordinances.

SEC. 5. The judges of this court shall be appointed by the Tribal Council.

SEC. 6. It shall be the duty of the Council to establish by ordinances a tribal police force. Such ordinances shall outline in detail the authority and duties of such tribal police force and the manner in which such police force shall be selected by the Council.

ARTICLE VI—FEDERAL EMPLOYEES

SECTION 1. The Council shall request the Superintendent to furnish it with the names of all civil service probationers or temporary employees under civil service regulations on the San Carlos Reservation that are nearing the end of their probationary periods, and shall advise with the Superintendent in the matter of their being given permanent positions as civil service employees on the Reservation.

ARTICLE VII—ADOPTION

SECTION 1. This revised Constitution and Bylaws, when adopted by a majority vote of the qualified voters of the San Carlos Apache Tribe of the San Carlos Reservation, voting at a special election called by the Secretary of the Interior, in which at least thirty percent of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his approval, and shall be in force from the date of such approval.

CERTIFICATION OF ADOPTION

Pursuant to an order approved December 15, 1953, by the Assistant Secretary of the Interior, the foregoing amended Constitution and Bylaws of the San Carlos Apache Tribe was submitted for adoption to the qualified voters of the San Carlos Apache Tribe and was on February 23 and 24, 1954, duly ratified by a vote of 405 for, and 402 against, in an election in which at least 30 percent of a total of 1,606 eligible voters cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

JESS J. STEVENS

Acting Chairman, San Carlos Tribal Council

ROBERT KEY

Acting Secretary, San Carlos Tribal Council

THOMAS H. DODGE

Superintendent, San Carlos Agency

APPROVAL

I, Douglas McKay, Secretary of the Interior of the United States of America, by virtue of the authority granted me by the Act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached amended Constitution and Bylaws of the San Carlos Apache Tribe of the San Carlos Reservation, Arizona, to be effective as of February 24, 1954, the date of the ratification election.

Approval recommended:

GLENN L. EMMONS

Commissioner of Indian Affairs

DOUGLAS MCKAY

Secretary of the Interior

[SEAL]

WASHINGTON, D. C., April 19, 1954.

NUMBER OF JUDGES AT TRIBAL COURT-3

- CHIEF JUDGE
- ASSOCIATE JUDGE
- JUVENILE JUDGE

NUMBER OF ADMINISTRATIVE STAFF-2

- COURT SOLICITOR
- COURT ADMINISTRATOR

NUMBER OF SUPPORT STAFF-2

- BAILIFF
- PROCESS SERVER

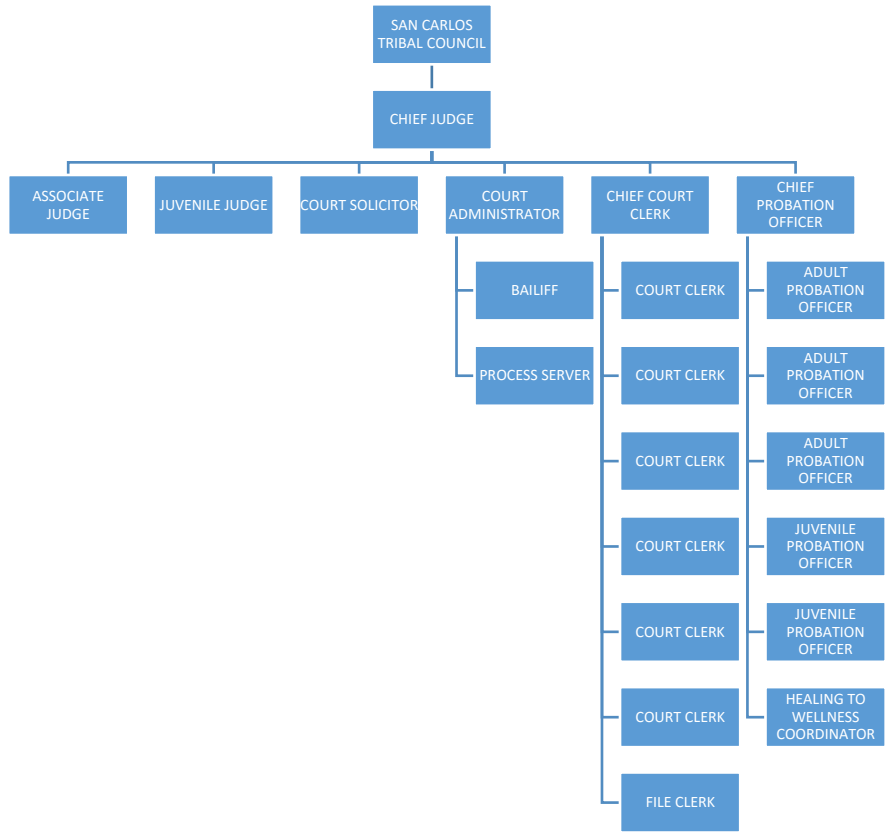
NUMBER OF CLERK STAFF-8

- CHIEF COURT CLERK
- 6 COURT CLERKS
- FILE CLERK

NUMBER OF PROBATION STAFF-7

- CHIEF PROBATION OFFICER
- 3 ADULT PROBATION OFFICERS
- 2 JUVENILE PROBATION OFFICERS
- HEALING TO WELLNESS COORDINATOR

TOTAL NUMBER OF TRIBAL COURT STAFF-22



SAN CARLOS APACHE TRIBAL COURT

RULES OF CRIMINAL COURT PROCEDURES

ADOPTED: July 14, 1987

INTRODUCTION

These Rules of Criminal Procedures are enacted to protect the constitutional rights of tribal members and to provide for the orderly process of criminal proceedings in the San Carlos Apache Tribal Court. The Tribal Council within its sovereign and legislative powers has passed by resolution the following rules.

Grateful acknowledgment is made of the assistance and planning of the members of the Chairman's Office, the Law & Order Committee, and judicial branches of the tribal government. The efforts of these people culminated in this modern and comprehensive criminal rules responsive to the political and economic requirements of a progressive and growing Apache tribe.

Buck Kitcheyan, Chairman
San Carlos Apache Tribe

**SAN CARLOS APACHE TRIBAL COURT
RULES OF CRIMINAL COURT PROCEDURES**

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SAN CARLOS APACHE TRIBAL COURT

Rules of Criminal Court Procedures

Adopted: July 14, 1987

RULE 1 SCOPE OF RULES

These rules govern the procedure in all criminal proceedings in the San Carlos Apache Tribal Court and all preliminary, appeals, supplementary and special proceedings as specified herein.

RULE 2 PURPOSE AND CONSTRUCTION

These rules are intended to provide for the just determination of every criminal proceeding. They shall be construed to secure simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay.

RULE 3 THE COMPLAINT

1. The complaint is a written statement of the essential facts constituting the offense charged. It shall be made upon oath before a Court Clerk, prosecutor or any officer of the San Carlos Apache Police Department (hereinafter law enforcement agency, e.g. officer).

2. A complaint may be filed by the prosecutor or any law enforcement officer for an offense constituting a violation of tribal law and order code, or for any other applicable law:

- a. committed in his presence;
- b. if not committed in his presence, which he has probable to believe was committed by the person charged.

3. The complaint shall contain:

- a. the name of the person accused if known, or some other name if not known, plus whatever description of the person if known;
- b. the general location where the offense was committed;
- c. the name and number of the section of the Law and Order Code or other applicable law alleged to have been violated;

- d. a short concise statement of the specific acts or commission to act complained of;
- e. the person against whom or against whose property the offense was committed, if known; otherwise no statement need be made;
- f. the date and if possible the approximate time of the commission of the offense;
- g. the signature of the person filing the complaint and witnessed by any Court Clerk, prosecutor or any officer of the law

RULE 4 ARREST WARRANT OR SUMMONS UPON COMPLAINT

1. Issuance. If it appears from the complaint, or from an affidavit filed with the complaint, that there is probable cause to believe that an offense has been committed and that the defendant has committed it, a warrant for the arrest of the defendant shall be issued to any officer authorized by law to execute it.

2. Form.

- a. Arrest Warrant. Arrest warrant authorizes and directs the police officer to take specific person into lawful custody in order to bring him or her before the Court. The warrant shall contain the name of the defendant or any name by which he can be identified with reasonable certainty. It shall describe the offense charged in the complaint. It shall command that the defendant be arrested and brought before the tribal judge.
- b. Summons. The summons shall be in the form set forth requiring the defendant to appear before the Tribal Court at the stated time and place.
- c. Execution or Service; and Return. The officer executing the warrant or the person serving the summons shall make return thereof to the Tribal Court by making a short statement of how the service was accomplished and if service is accomplished by mail of a summons, the return receipt shall be attached to the complaint.

RULE 5 ARRAIGNMENT

Arraignment shall be conducted in open Court by the presiding judge and the Clerk of the Court reading to the defendant the complaint filed with the Court. The defendant shall then be informed of his rights and asked to plead to the charge. A

defendant must be arraigned within 48 hours (excluding Saturday, Sunday or any legal holidays) as specified in the Code. If the defendant is not arraigned within that time, the case is dismissed and said defendant will be ordered released from custody.

RULE 6 PLEAS

1. Alternatives. A defendant may plead not guilty, guilty or no contest. If the defendant refuses to plea, the Court shall enter a plea of not guilty on behalf of the defendant.

2. Advice to Defendant. Before accepting a plea the Court must address the defendant in open Court and inform him and determine that he understands the following:

- a. The nature of the charge to which the plea is offered and the possible penalty should he be found guilty or plead guilty;
- b. That the defendant has a right to be represented at his own expense;
- c. That he has a right to have a trial to a jury of at least six persons with the right to the assistance of counsel at his own expense, that he has a right to be confronted by the witnesses against him and to cross-examine witnesses against him;
- d. That he has a right to testify or not to testify since he has a right not be compelled to incriminate himself;
- e. That if he pleads guilty or no contest, there will not be a formal trial and in effect, he has waived his right to a trial by such a plea, and further that any statement he makes either to the Court, to an officer or other persons concerning the violation charged can be used against him either in that proceeding or in any future prosecution.

3. Insuring That the Plea is Voluntary. The Court shall not accept a plea of guilty or no contest without first talking to the defendant personally in open Court to determine that the plea is voluntary and is not ^{the} result of force or threats or of promises apart from any plea arrangement which may have been entered into between the tribe or Tribal Prosecutor and the defendant.

4. Plea Agreement Procedure.

- a. **In General.** The representative for the tribe and the representative for the defendant, if there be representative or the defendant acting pro se may engage in discussions with a view

toward reaching an agreement that, upon entering a plea of guilty or no contest to a charged offense or to a lesser or related offense, the tribe will do any of the following:

- 1) move for dismissal of other charges; or
- 2) make a recommendation, or agree not to oppose the defendant's request, for a particular sentence, with the understanding that such recommendation or request shall not be binding on the judge; or
- 3) agree that a specific sentence is the appropriate disposition of the case.

RULE 7 RELEASE

1. Definitions and Applicability of Rule.

- a. Own Recognizance. "Own Recognizance" means release without any condition of an undertaking relating to, or deposit of, security.
- b. Appearance Bond. An "Appearance Bond" is an undertaking, on a form approved by the Tribal Court, to pay to the Clerk of the Court a specified sum of money upon failure of a person released to comply with its conditions.
- c. Signature Bond. A "Signature Bond" is release of a defendant to at least two (2) third party persons who shall ensure the appearance of defendant at further Court proceedings.
- d. Secured Appearance Bond. A "Secured Appearance Bond" is an appearance bond secured by deposit with the Clerk of security equal to the full amount thereof.
- e. Security. "Security" is cash, a surety's undertaking, or any property of value, deposited with the Clerk to secure an appearance bond. The value of such property shall be determined by the Clerk, or at his or a party's request, by the Court.
- f. Surety. A "Surety" is one, other than the person released, who executes an appearance bond and binds himself to pay its amount if the person released fails to comply with its conditions. A surety shall file with an appearance bond an affidavit that he is not an attorney or person authorized to take bail, and that he owns property in this state (or is resident of this state owning property)

worth the amount of the appearance bond, exclusive of property exempt from execution and above and over all liabilities, including the amount of all outstanding appearance bonds entered into by him, specifying such property, the exemptions and liabilities thereon, and the number and amount of such appearance bonds.

2. Right to Release.

- a. Before Conviction. Any person charged with an offense bailable as a matter of right shall be released pending or during trial on his own recognizance, unless the Court determines, in its discretion, that such a release will not reasonably assure his appearance as required. If such a determination is made, the Court may impose the least onerous condition or conditions contained in Rule 7.3(b) which will reasonably assure his appearance.
- b. After Conviction. After a person has been convicted of any offense for which he has or may suffer a sentence of imprisonment, he shall not be released on bail or on his own recognizance unless it is established that there are reasonable grounds to believe that the conviction may be set aside on a motion for new trial, reversed on appeal, or vacated in any post-conviction proceeding. The release of a person pending appeal shall be revoked if he fails to prosecute his appeal diligently.
- c. Burden Of Proof. Issues Under Rule 7.2(A) And (B) Shall Be Determined By The Preponderance Of The Evidence. The prosecutor shall bear the burden of establishing factual issues under Rule 7.2(a), the defendant under Rule 7.2(b).

3. Conditions of Release.

- a. Mandatory Conditions. Every order of release under this Rule shall contain the following conditions:
 - (1) That the person appear to answer and submit himself to the orders and process of the Court having jurisdiction of the case;
 - (2) That he refrain from committing any criminal offense;
 - (3) If released after judgment and sentence, that he diligently prosecute his appeal.

- b. Additional Conditions. An order of release may include the first one or more of the following conditions reasonably necessary to secure a person's appearance:
 - (1) Execution of an unsecured appearance bond in an amount specified by the Court;
 - (2) Placing him in the custody of a designated person or organization agreeing to supervise him;
 - (3) Restrictions on his travel, associations, or place of abode during the period of release;
 - (4) Any other condition not included in (5) or (6) which the Court deems reasonably necessary;
 - (5) Execution of a secured appearance bond; or
 - (6) Return to custody after specified hours.

4. **Review of Conditions; Revocation of Release.**

- a. Issuance of Warrant or Summons. Upon verified petition by the prosecutor stating facts or circumstances constituting a breach of the conditions of release, the Court having jurisdiction over the person released may issue, in the case of a person charged with a misdemeanor, a summons, or in the case of a person charged with a felony, a warrant or summons under Rule 3.2, to secure the person's presence in Court. A copy of the petition shall be served with the warrant or summons.
- b. Hearing; Review of Conditions; Revocation. If, after a hearing on the matters set forth in the petition, the Court finds that the person released has willfully violated the conditions of release, the Court may impose different or additional conditions upon his release.

RULE 8 SPEEDY TRIAL

1. **Priorities in Scheduling Criminal Cases.**

- a. Priority of Criminal Trials. The trial of criminal cases shall have priority over the trial of civil cases.
- b. Preferences. The trial of defendants in custody and defendants whose pretrial liberty may present unusual risks shall be given preference over other criminal cases.

- c. Duty of Prosecutor. The prosecutor shall advise the Court of facts relevant to determining the order of cases on the calendar.
- d. Duty of Defense Counsel. The defendant's counsel shall advise the Court of the impending expiration of time limits in the defendant's case. Failure to do so may result in sanctions and should be considered by the Court in determining whether to dismiss an action with prejudice pursuant to Rule 8.5.
- e. Extraordinary Cases. Within twenty-five days after the arraignment in Tribal Court, either party may apply in writing to the Court for a hearing to establish extraordinary circumstances requiring the suspension of Rule 8 in a particular case. Within five days of the receipt of the application, the Court shall hold the hearing and make findings of fact.

2. Time Limits.

- a. All Defendants. Every person against whom complaint is filed shall be tried by the Court having jurisdiction of the offense within 150 days of the arrest or service of summons except for those excluded periods set forth in Rule 8.3 below.
- b. Defendants in Custody. Every person held in custody in this Reservation on a criminal charge shall be tried by the Court having jurisdiction of the offense within 120 days from the complaint, or within 90 days from the date of his arraignment before the trial Court, whichever is lesser.
- c. Defendants Released from Custody. Every person released under Rule 7 shall be tried by the Court having jurisdiction of the offense within 120 days from the date of his initial appearance before a judge on the complaint, indictment, or information, or within 90 days from the date of his arraignment before the trial Court, which ever is the greater.
- d. New Trial. A trial ordered after a mistrial, upon a motion for a new trial, or upon the reversal of a judgment by an Appellate Court shall commence within 60 days of the entry of the order of the Court or service of the mandate of the Appellate Court.
- e. Extension of Time Limits. These time limits may be extended pursuant to Rule 8.4. They may not be extended by stipulation or waiver except that, if the defendant is not in custody, the trial

Court may permit one 30-day extension by stipulation of all parties to a certain trial date.

3. Excluded Periods.

The following periods shall be excluded from the computation of the time limits set forth in Rules 8.2:

- a. Delays occasioned by or on behalf of the defendant, including, but not limited to, delays caused by an examination and hearing to determine competency, the defendant's absence or incompetence, or his inability to be arrested or taken into custody in Arizona.
- b. Delays necessitated by congestion of the trial calendar, but only when the congestion is attributable to extraordinary circumstances, in which case the presiding judge shall promptly make a decision for suspension of any of the Rules of Criminal Procedure.
- c. Delays resulting from continuances in accordance with Rule 8.4, but only for the time periods prescribed therein.
- d. Delays resulting from joinder for trial with another defendant as to whom the time limits have not run when there is a good cause for denying severance. In all other cases, severance should be granted to preserve the applicable time limits.

4. Continuances.

- a. Form of Motions. A continuance within the time limits of Rule 8.2(b) and (d) may be granted only upon written motion, stating with specificity the reasons justifying it, and a certificate of the signer that it is made in good faith.
- b. Grounds of Motion. A continuance shall be granted only upon a showing that extraordinary circumstances exist and that the delay is indispensable to the interest of justice. A continuance may be granted only for so long as is necessary to the interests of justice, and in no case for longer than 30 days.
- c. Other Continuances. No further continuances shall be granted except as provided in Rules 8.1(e), 8.2(e) and 8.3(c).

RULE 8.5 DENIAL OF SPEEDY TRIAL

Violations. If the Court determines after considering the exclusions of Rule 8.4, that a time limit established by Rules 8.2(a), 8.2(b), 8.2(c), 8.2(d), has been violated, it shall on motion of the defendant, or on its own initiative, to dismiss the prosecution with or without prejudice.

RULE 9 PRESENCE OF DEFENDANT, WITNESSES AND SPECTATORS

1. Defendant's Waiver of his Right to be Present. Except as otherwise provided in these rules, a defendant may waive his right to be present at any proceeding by voluntarily absenting himself from it. The Court may infer that an absence is voluntary if the defendant had personal notice of the time of the proceeding, his right to be present at it, and a warning that the proceeding would go forward in his absence should he fail to appear.

2. Defendant's Forfeiture of his Right to be Present.

- a. **Disruptive Conduct.** A defendant who engages in disruptive disorderly conduct after having been warned by the Court that such conduct will result in his expulsion from a proceeding shall forfeit his right to be present at that proceeding.
- b. **Reacquisition of Right.** The Court shall grant any defendant so excluded reasonable opportunities to return to the Court upon his personal assurance of good behavior. Any subsequent disruptive conduct on the part of the defendant may result in his exclusion without additional warning.
- c. **Continuing Duty of Court.** The Court shall employ every feasible means to enable a defendant removed from a proceeding under this rule to hear, observe or be informed of the further course of the proceeding, and to consult with counsel reasonable intervals.

3. Exclusion of Witnesses and Spectators.

- a. **Witnesses.** Prior to or during any proceeding the Court may, and at the request of either party shall exclude prospective witnesses from the Courtroom and direct them not to communicate with each other until all have testified.
- b. **Spectators.** All proceedings shall be open to the public, including representatives of the news media, unless the Court

finds, upon application of the defendant, that an open danger to the defendant's right to a fair trial by an impartial jury.

- c. Protection of Witness. The Court may, in its discretion, exclude all spectators except representatives of the press during the testimony of a witness whenever reasonably necessary to prevent embarrassment or emotional disturbance of the witness.
- d. Investigator. If an exclusion order is entered, both the defendant and the prosecutor shall nevertheless be entitled to the presence of one investigator at counsel's table.

RULE 10 CHANGE OF JUDGE OR PLACE OF TRIAL

1. Change of Judge for Cause:

- a. Grounds. In any criminal case prior to the commencement of a hearing or trial the tribe or any defendant shall be entitled to a change of judge if a fair and impartial hearing or trial cannot be had by reason of the interest or pre-assigned judge.
- b. Procedure. Within 10 days after discovery that grounds exist for change of judge, but not after commencement of a hearing or trial, a party may file a motion verified by affidavit of the moving party and alleging specifically the ground for the change. Except for the commencement of a hearing or trial, no event occurring before the discovery shall constitute a waiver of rights to change of judge for cause. Allegations of interest or prejudice which prevent a fair and impartial hearing or trial may be preserved for appeal.
- c. Hearing. Promptly after the filing of the motion, the presiding judge shall provide for a hearing on the matter before a judge other than the judge challenged. The hearing judge shall evidence at the preside the action back to the original judge or make a new assignment, depending on the findings of the hearing judge. If a new assignment is to be made, it shall be made in accordance with the provisions of this rule.

RULE 11 INCOMPETENCY AND MENTAL EXAMINATIONS

RULE 11.1 DEFINITION AND EFFECT OF INCOMPETENCY

A person shall not be tried, convicted, sentenced or punished for a public offense while, as a result of a mental illness or defect, he is unable to understand the proceedings against him or to assist in defense.

RULE 11.2 MOTION TO HAVE DEFENDANT'S MENTAL CONDITION EXAMINED

At any time after an information is filed or indictment returned, any party may move for an examination to determine whether a defendant is competent to stand trial, or to investigate his mental condition at the time of the offense. The motion shall state the facts upon which the mental examination is sought.

RULE 11.3 HEARING AND ORDERS

a. Hearing. When the examinations have been completed, the Court shall hold a hearing to determine the defendant's competency. The parties may introduce other evidence regarding the defendant's mental condition, or by written stipulation, submit the matter on the expert's reports.

b. Orders. After the hearing:

- (1) If the Court finds that the defendant is competent, proceedings shall continue without delay.
- (2) If the Court determines that the defendant is incompetent and that there is no substantial probability that he will become competent within a reasonable period of time, it shall:
 - (i) Order him civilly committed if it finds that condition warrants such commitment according to standards provided by law; or
 - (ii) Release him forthwith.
- (3) If the Court determines that the defendant is incompetent, that there is a substantial probability that he will be restored to competency within a reasonable period of time, shall order him committed to the supervision of an institution authorized to receive him for an indefinite period not to exceed six months of his earlier attainment of competency.

c. Modification of Order. The Court may modify any order under Rule 11.3(b)(3) at any time.

d. Reports. The Court may order any person responsible for a defendant's treatment under Rule 11.3(b)(2) or (3) to submit periodic reports on his status to the Court and prosecutor.

RULE 12 - SCHEDULING THE TRIAL

When a plea of not guilty or no contest, is entered by the defendant, the presiding judge checks the Court calendar with the Clerk and a date is assigned for the trial. Once the date is determined, the Clerk must enter it on the Court calendar and insure that subpoenas and other appropriate orders and notices are issued and duly served.

RULE 13 TEMPORARY COMMITMENTS

A temporary commitment is an order committing a person to custody of jail pending arraignment, trial, sentencing or an appeal.

RULE 14 PLEADINGS AND MOTIONS BEFORE TRIAL: DEFENSES AND OBJECTIONS

1. Pleadings in criminal proceedings shall consist of the complaint and the plea of either guilty, not guilty or no contest. Pleas and motions shall be made in accordance with these rules:
2. Motions raising defenses and objections may be made as follows:
 - a. any defenses or objections which are capable of determination other than at trial may be raised before trial by motion;
 - b. defenses and objections based on defects in the institution of the prosecution of the complaint other than that it fails to show jurisdiction in the Court or fails to charge an offense may be raised on motion only before trial or such shall be deemed waived, unless the Court for good cause shown grants relief from such waiver. Lack of jurisdiction or failure to charge an offense may be raised as a defense or noticed by the Court on its own motion at any stage of the proceeding;
 - c. such motions shall be made in writing and filed with the Court at least five (5) business days before the day set for trial. Such motions will be argued before trial on the date unless the Court directs otherwise. Decisions on such motions shall be made by the judge and not by the jury;
 - d. if the motion is decided against the defendant, the trial shall proceed as scheduled. If a motion is decided in favor of the defendant, the judge shall alter the proceedings or enter judgment as is appropriate in light of the decision.

RULE 14.1 MOTIONS

An application to the Court for an order shall be by motion. All motions shall be made orally before the Court unless the Court permits it to be made in writing. The person moving shall state the grounds upon which it is made and shall set forth the relief and orders sought. The oral motion may be supported by written affidavits offered to the Court at the time of the motion. If affidavits are offered by the movant, the opposite party shall have reasonable time in which to file affidavits if required and so ordered by the Court.

RULE 15 RELIEF FROM JOINDER OF CRIMES OR DEFENDANTS

If it appears that a defendant is prejudiced by a joinder of crimes or defendants, the Court may order separate trial of separate crimes stated in one complaint or separate trials of defendants who have been joined in one complaint.

RULE 16 NOTICE TO DEFENDANT OF WITNESSES

At the time of arraignment of a defendant, a list of the witnesses which the prosecution intends to use against him, with their addresses, shall be given to the defendant. No other witnesses shall be allowed to testify against him except on notice to the defendant and with permission of the Court.

RULE 17 DISCOVERY AND INSPECTION

Upon a motion of a defendant at any time after the filing of a complaint, the Court may order the prosecution to permit the defendant to inspect and to copy or photograph any books, papers, documents, or other objects in the possession of the prosecution obtained from the defendant or elsewhere, if there is a showing that the items sought may be material to the defense that the request is reasonable. The order shall specify the time, place and manner of making the inspection and of taking the copies or photographs and may set forth such terms and conditions as are just.

RULE 18 SUBPOENA

A subpoena is an order by the Courts requiring a witness to be present at the required date and to testify if called upon at a hearing or trial or to produce material specified in the subpoena to the Court on the date and at the time stated.

RULE 19 SUPPRESSION

Evidence obtained by police officers in violation of the individual's constitutional rights or rights under the Indian Civil Rights Acts cannot be used in a criminal proceeding against him. This prohibition also applies to the fruits of illegally seized evidence.

RULE 20 SEARCH AND SEIZURE

1. **Authority to Issue Warrant.** This warrant authorizes and directs any law enforcement officer to conduct a search of a particular premises or particular property based upon probable cause.

2. **Property Which May be Seized With the Warrant.** A warrant may be issued under this rule to search for and seize any:

- a) property that constitutes evidence of the omission of a criminal offense;
- b) contraband, the fruits of crime, or things otherwise criminally possessed;
- c) property designed or intended for use or which is or has been used as the means of committing a criminal offense.

3. **Issuance and Contents.** The warrant shall be issued only on an affidavit or affidavits sworn to or before the judge and establishing the grounds for issuing the warrant. If the judge is satisfied that the grounds for the application exist or that there is probable cause to believe that they exist, he shall issue a warrant identifying the property and names or describing the person or place to be searched. The finding of probable cause may be based upon reasonably reliable hearsay evidence in whole or in part.

4. **Execution and Return of Search Warrant.** Warrants of search and seizure shall only be executed by any law enforcement officers of the San Carlos Apache Tribe. The executing officer shall return the warrant to the Tribal Court within the time limit specified in the warrant, which in no case shall be longer than ten (10) days from the date of issuance. Warrants not returned within such time limits shall be void. Warrants shall be executed during the hours of 6 AM until 10 PM, unless the judge determines that exigent circumstances exist for a different time.

5. **Search Without a Warrant.** No law enforcement officer shall conduct any search without a valid warrant, except:

- a) incident to making a lawful arrest;

- b) with consent of the person being searched;
- c) when he has probable cause to believe that the person searched may be armed and dangerous; or
- d) when the search of a moving vehicle and the officer has probable cause to believe that it contains contraband,

6. **Motion for Return of Property.** A person aggrieved by an unlawful search and seizure may move the Court for the return of the property on the grounds that he is entitled to lawful possession of the property which was illegally seized. The judge shall receive evidence on any issue of fact necessary to the decision on the motion. If the motion is granted, the property shall be returned to the owner thereof or to the place where it was seized. If the motion is denied, it shall remain available for use in the trial subject to a motion to suppress. A motion to suppress evidence may be made before the Court as provided in Rule 19 of these procedures.

RULE 21 DISMISSAL

1. **By the Tribe.** The Tribal Prosecutor may request the dismissal of case filed by a law enforcement officer of the tribe or by a private individual under such terms and conditions as the Court may require. Costs may be assessed by the Court against any private individual if there appears to have been no justification for the filing of the complaint in its first instance.

2. **By the Court.** Dismissal of actions may be made by the Court upon request of the complaining witness whether he be a peace officer or a private individual. Costs may be assessed against a private individual who has filed a complaint and then requests that it be dismissed. The amount of costs shall be determined by the judge.

RULE 22 HARMLESS ERROR AND PLAIN ERROR

1. **Harmless Error.** Any error, defect, irregularity or variance which does not affect substantial rights shall be disregarded.

2. **Plain Error.** Plain error or defects affecting substantial rights may be noticed although they were not brought to the attention of the Court.

RULE 23 REGULATION OF CONDUCT IN THE COURTROOM

The taking of photographs in the courtroom during the progress of judicial proceedings or radio broadcast of judicial proceedings from the courtroom shall not be permitted by the Court.

RULE 24 RECORDS

The Clerk of the Court shall keep such records of criminal proceedings as shall be required by the Chief Judge of the Court. Among the records required to be kept by the Clerk shall be a book known as the criminal docket in which other things shall be entered each order or judgment of the Court. The entry of an order or judgment shall show the date the try is made.

RULE 25 BUSINESS HOURS

The San Carlos Apache Tribal Court shall be open for business during business hours on all days except Saturdays, Sundays and any legal holidays, but a Court may provide by local rule or order that the Court be open for specific hours on Saturdays and Sundays.

RULE 26 RULES OF COURT

1. Rules of the San Carlos Apache Tribal Court. Rules made by the San Carlos Apache Tribal Court for the conduct of criminal proceedings shall not be inconsistent with these rules. Copies of all rules made by the Court shall upon their promulgation be furnished to the tribal council, and copies thereof shall be made available to the public.

2. Procedure Not Otherwise Specified. If no procedure is specifically prescribed by rule, the Court may proceed in any lawful manner not inconsistent with these rules or any applicable tribal ordinance or any rule of the tribe itself.

RULE 27 PRE-TRIAL CONFERENCE

Any time prior to trial, the Court may order a conference of the parties to consider issues likely to arise at the trial. Any matters agreed upon by the parties to the conference shall be produced in writing and signed by the parties.

RULE 28 TRIAL BY JURY OR BY THE COURT

Depending upon the request made by the defendant in the case after entering a plea of not guilty, the matter may be tried by the Court or by jury composed of six (6) jurors. The procedure for a jury trial in a criminal case shall be as follows:

(a) Demand for Jury. Cases will be tried without a jury unless a written demand is made for a jury trial within seven (7) days after the date of arraignment or orally at the arraignment.

(b) Instructions. The Court shall include the following instructions to the jury: That the defendant is presumed to be innocent; that the burden of proof rests on the prosecution; that the evidence must show beyond a reasonable doubt that the defendant has committed the crime charged; and that if the defendant did not testify, his failure to testify shall not be considered evidence that he is guilty.

RULE 28.1 CONDUCT OF TRIAL

A. Order of Proceedings. The trial shall proceed in the following order unless otherwise directed by the Court:

- (1) The indictment, information or complaint shall be read and the plea of the defendant stated.
- (2) The prosecutor may make an opening statement.
- (3) The defendant may then make an opening statement or may defer such opening statement until the close of the prosecution's evidence.
- (4) The prosecutor shall offer the evidence in support of the charge.
- (5) The defendant may then make an opening statement if it was deferred, and offer evidence in his defense.
- (6) Evidence in rebuttal shall then be offered unless upon a showing of good cause allows a case reopened.
- (7) The parties may present arguments, the prosecutor having the opening and closing.
- (8) The judge shall then charge the jury.

With the permission of Court, the parties may agree to any other method of proceeding.

RULE 28.2 PRESENCE OF DEFENDANT AT TRIAL

The defendant has the right to be present at every stage of the trial, including the impaneling of the jury, and the return of the verdict.

RULE 28.3 EVIDENCE

General Rule. The law of evidence relating to civil actions shall apply to criminal proceedings, except as otherwise provided.

RULE 29 TRIAL JURORS

1. **Examination.** The Court itself may conduct the examination of prospective trial jurors and thereafter may permit the attorney or prosecutor for the tribe and the attorney or advocate for the defendant to supplement the examination by the Court of each of said prospective jurors, or the Court may conduct all of the examination and ask such questions supplied by either the tribe or the defendant as it deems proper.

2. **Peremptory Challenges.** Each side shall have three peremptory challenges. If there is more than one defendant, one additional peremptory challenge may be granted to the defendants, to be exercised separately or jointly.

3. **Juror Fees.** Each juror who serves on a jury shall be paid ten (10) dollars per day plus mileage to and from the courthouse.

RULE 30 MOTION FOR JUDGMENT OF ACQUITTAL

1. **Motion Before Submission to Jury.** The Court on motion of a defendant or of its own motion shall order the entry of judgment of acquittal of one or more offenses charged in the complaint after the evidence on either side is closed if the evidence is insufficient to sustain a conviction of such offense or offenses. If a defendant's motion for judgment of acquittal at the close of evidence offered by the tribe is not granted, the defendant may proceed to offer evidence without having reserved the right to do so.

2. **Reservation of Decision on Motion.** If a motion for judgment of acquittal is made at the close of all the evidence, the Court may reserve decision on the motion, submit the case to the jury, and decide the motion either before the jury returns a verdict or after it returns a verdict of guilty or is discharged without having returned a verdict.

3. **Motion after Discharge of Jury.** If the jury returns a verdict of guilty or is discharged without having returned a verdict, a motion for judgment of acquittal may be made or renewed forthwith after the jury is discharged, or within such further time as the Court may fix. If the verdict of guilty is returned, the Court

may on such motion set aside the verdict and enter a judgment of acquittal. If no verdict is returned, the Court may enter a judgment of acquittal.

RULE 31 VERDICT

The verdict shall be by a unanimous vote of the jury. It shall be returned by the jury to the judge in open Court.

RULE 32 SENTENCE AND JUDGMENT

1. Sentence.

- a) Imposition of Sentence. Sentence shall be imposed forthwith following either conviction by the Court or jury upon a plea of guilty. Before imposing sentence, the Court shall afford counsel an opportunity to speak on behalf of the defendant and shall address the defendant personally and ask him if he wishes to make a statement in his own behalf and to present any information in mitigation of punishment. The prosecutor shall have an equal opportunity to speak to the Court if he so desires.
- b) Notification of Right of Appeal. Following imposition of judgement, the Court shall inform the defendant that he has a right to appeal providing he was found guilty either by the Court or jury. If the defendant requests, the Clerk of the Court shall prepare and file a notice of appeal on behalf of the defendant.

2. Judgment. A judgment of conviction shall set forth the plea, the verdict or findings and the adjudication and sentence. If the defendant is found not guilty or for any other reason is entitled to be discharged, judgment shall be entered accordingly. The judgment shall be signed by the judge and entered by the Clerk.

3. Presentence Investigation.

- a) When Made. If the Court deems it helpful, it may request a presentence investigation to be made by a probation officer or any other competent person whom the Court requests the service for such an investigation.
- b) Reports. The reports shall contain any prior criminal record of the defendant and such information as to his characteristics, financial condition, behavior and other factors which may be helpful in imposing a judgement and sentence or in granting probation to the defendant, and such other information as may be required by the Court.

- c) Disclosure. Before imposing sentence, if the Court has requested and received a presentence report, he shall make the same available to both parties in the case.

RULE 33 NEW TRIAL

Within ten (10) days after judgment, a defendant may make a motion for a new trial or the Court on its own motion may order a new trial if justice could be promoted thereby.

RULE 34 WITHDRAWAL OF COUNSEL

Whenever counsel has once appeared either in open Court or by motion to represent a defendant, such counsel shall be responsible to the Court for his actions and shall not be allowed to withdraw from the case except by order of the Court upon written motion naming new counsel and stating good cause.

RULE 35 ORDERS OF THE COURT

- a) Orders requested by the Court shall be prepared for the signature of the judge by such counsel in the case as the Court may direct.
- b) Any counsel or party presenting a notice, petition or motion to the Court shall also present a form of order on it for signature by the judge. All such notices, petitions or motions shall contain a certificate of service on the opposing party.

RULE 36 PROBATION AND PAROLE REVOCATION HEARINGS

The probation and parole officer shall notify the Court in writing of the need for a hearing to revoke probation or parole and shall state the grounds for such action. A copy of such notice shall be personally served by the officer on the defendant or mailed to him by certified mail. The hearing shall be set by the Court as soon as possible and the defendant shall be entitled to representation by counsel at his own expense.

RULE 37 COMPUTATION OF TIME

In computing any time limits required by these rules, by order of the Court, or by any applicable law, the day of the act, event or default is not be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or Court holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor Court holiday.

RULE 38 CORRECTION OR REDUCTION OF SENTENCE

The Court may correct an illegal sentence at anytime and may correct a sentence imposed in an illegal manner at any time before the same has been satisfied under said disposition. Or if upon appeal it is so ordered, it may correct said sentence forthwith upon order from the Appellate Court. The Court may also reduce a sentence upon revocation of probation as provided by law.

RULE 39 CLERICAL MISTAKES

Clerical mistakes in judgments, orders or other parts of the record and errors in the record arising from oversight or omission may be corrected by the Court at any time and after such notice, if any, as the Court orders.

RULE 40 STAY OR EXECUTION, AND RELIEF PENDING REVIEW (APPEAL)

1. **Stay of Execution.**

- a) **Imprisonment.** A sentence of imprisonment shall be stayed if an appeal is taken by the defendant and notice of appeal is filed with the Clerk or by the Clerk on behalf of the defendant within 10 days after imposition of judgment.
- b) **Fine.** A sentence to pay a fine or a fine and costs if an appeal is taken may upon defendant's request be stayed by the Court upon the filing of the notice of appeal provided that the Court may require the defendant pending appeal to deposit the whole or any part of the fine and costs in the registry of the Court, or give bond for the payment thereof.
- c) **Probation.** An order placing the defendant on probation may upon defendant's request be stayed if an appeal is taken by the filing of a notice of appeal.
- d) **Bail.** The defendant may be admitted to bail if he has been sentenced to imprisonment pending the appeal.

RULE 41 APPEALS

An appeal may be taken in the manner provided by the San Carlos Apache Tribal Law & Order Code, Section 1.22, *et seq.*

RULE 42

These Rules of Criminal Procedure are not intended and shall not change or modify any law or ordinance of the Tribe.

SAN CARLOS APACHE TRIBE

HUMAN RESOURCES DEPARTMENT
 P.O. Box 0
 San Carlos, Arizona 85550
 (928) 475-2361 ♦ Fax (928) 475-2296

Terry Rambler
 Tribal Chairman



Tao Etpison
 Tribal Vice-Chairman

JOB VACANCY

VACANCY ANNOUNCEMENT NO.	OPENING DATE	CLOSING DATE
POSITION TITLE AND DEPARTMENT		SALARY
Chief Judge San Carlos Tribal Court		DOE

APPLICATIONS ARE AVAILABLE AT THE TRIBAL HUMAN RESOURCES OFFICE
 (Applications must be received in the Human Resources Office by close of business on the closing date)

CONDITIONS OF EMPLOYMENT:

- Regular Full Time position. (exempt)
- Applicant must have a valid driver's license.
- Applicant must provide three (3) professional references.
- Applicant must be is a member or eligible for membership in the San Carlos Apache Tribal Bar Association, and must certify under oath and under penalty of perjury that the applicant has no ethical conflicts of interest which would disqualify the Chief Judge from performing the tasks and duties of this position. *NOTE: Applicant must submit a copy of all certifications.*
- Applicant must pass a criminal background investigation through local, state and federal criminal records. Must sign all applicable pre-employment certification and documents. Applicant must have no felony convictions; No felony or misdemeanor arrests and/or convictions within the past thirty-six (36) months, including any misdemeanor offenses involving crimes of violence, sexual assault, molestation, exploitation, contact or prostitution; Crimes against persons or offenses committed against children; Not have been convicted of a felony or misdemeanor crime of domestic violence; Not have been convicted of a crime involving a child, a sex crime, or a drug felony. No DUI arrests/convictions for the past thirty-six (36) months. Failure to reveal arrest records may be grounds for not hiring or termination after hiring. *If an applicant makes a false statement in any part of the application, the applicant may not be hired or may be terminated after he/she begins work.*
- In accordance with the San Carlos Apache Tribe Drug and Alcohol Policy, all potential employees will be tested for the presence of controlled substances as part of the pre-employment selection process. Applicants who fail to pass the drug test will be ineligible for employment and may not reapply for twelve (12) months thereafter. This policy has been adopted to provide drug-free work sites and to prohibit working while under the influence of alcohol.

DUTIES AND RESPONSIBILITIES:

As the chief judicial officer of the San Carlos Tribal Court, the Chief Judge is responsible for fairly and impartially hearing and deciding judicial matters within the jurisdiction of the Tribal Court pursuant to the Tribal Codes, ordinances, regulations and applicable Tribal laws. The Chief Judge is the administrative supervisor of the Associate Judges and Tribal Court staff in Adult and Juvenile Court and, as such, is responsible for the efficient and effective operation of the San Carlos Tribal judicial system and for the proper administration of justice.

The Chief Judge has no direct authority over the San Carlos Court of Appeals, which consists of contract Justices appointed by the San Carlos Council. The Chief Judge presides over arraignments, pre-trial hearings, bench and jury trials and special hearings and disposes of cases, whether criminal or civil in nature, conducts legal research and issues orders when necessary, reviews and supervises the maintenance of the court dockets, approves and signs criminal warrants and other legal documents, is responsible for the internal administration of the Court, including but not limited to records management, access and safekeeping of Court data. The Chief Judge also is expected to prepare, monitor and submit for approval annual operating plans and budget for the Tribal Court, including long and short term goals. The Chief Judge also will prepare and present reports of actions, forecast and present for approval request for educated services seminars and training programs. Performs other duties as assigned.

QUALIFICATION REQUIREMENTS:

Basic Requirements:

Successful completion of a Juris Doctorate program from a law school accredited by the American Bar Association and membership in the Arizona State Bar plus five years of general law experience. *NOTE: Applicant must submit a copy of all college transcripts and/or degree to meet positive education requirements.*

In addition to meeting the basic requirements above, candidates must have had five (5) years of specialized experience.

Specialized experience is experience in legal work in a tribal setting of which three (3) years includes trial experience as a trial judge or administrative law judge or civil hearing officer or similar position. *Examples of the type of experience that will be credited are shown above under "Duties and Responsibilities".*

EVALUATION METHOD AND RANKING FACTORS: Evaluation will be made of the extent to which experience, education, training, self-development, and/or awards demonstrate that basically qualified candidates possess the Ranking Factors-Knowledge, Skills and Abilities (KSA) described below.

1. Knowledge of San Carlos Tribal judicial practices, procedures and systems.
 2. Knowledge of Tribal, State and Federal laws, codes and ordinances in juvenile and adult proceedings.
 3. Knowledge of modern court practices, procedures in presenting oral and written arguments in court proceedings.
 4. Knowledge of legal reference resources and research techniques.
 5. Knowledge of the principals and practices of budget preparation.
 6. Ability to developing prescreening, and writing code, laws, standards, and ordinances.
 7. Ability to communicate effectively with members of the public, staff and others.
 8. Ability to establish priorities and set deadlines.
 9. Ability to plan, organize and prepare required reports.
 10. Ability to maintain professionalism and a strict standard of confidentiality.
 11. Ability to relate to the San Carlos Apache history and culture as it relates to family and community.
 12. Ability to exercise sound judgment in rendering legal reports, opinions and interpretations of facts and law.
-

OTHER IMPORTANT INFORMATION:

- Persons who submit incomplete applications will be given credit only for the information they provide and may not, therefore, receive full credit for their veteran preference determination, Indian preference, education, training and/or experience.
- All material submitted for consideration under this announcement becomes the property of the Human Resource Office and is subject to verification. Therefore, careful attention should be given to the information provided. Fraudulent statements or any form of misrepresentation in the application process could result in loss of consideration for this position and/or a determination of unsuitability for tribal employment.
- Additional or alternate selections may be made from the eligibility list within 30 days from the date the selection list was issued. The positions to be filled must have the same title and have the same qualification requirements. However, if there are no Indian preference candidates left on the certificate, the vacancy must be re-announced.
- **INDIAN PREFERENCE:** It is the goal of the San Carlos Apache Tribe to employ as many tribal members as possible in tribal positions. Therefore, all other qualifications being equal, tribal members will receive hiring preference over other Indian Preference eligible and non-Indian Preference eligible. Preference for employment will be granted to qualified individuals, in the following order:
 1. Enrolled member of the San Carlos Apache Tribe with Veteran's Preference
 2. Enrolled member of the San Carlos Apache Tribe
 3. Native American spouse of an enrolled tribal member or Native American parent of enrolled tribal member
 4. Other Native American
 5. Non-Indian spouse or Non-Indian parent of enrolled tribal member
 6. Non-Indian

It is also the goal of the San Carlos Apache Tribe to provide the best services possible to tribal members. In furthering the Tribe's efforts to insure retention of tribal members and to provide job opportunities to tribal members, non-tribal member employees upon hiring shall, as part of the hiring agreement, agree to provide training and development to tribal members to allow them to become qualified for jobs which non-tribal member

employees hold. The Indian Preference policy applies to hiring, placement, and promotion, transfer or lay off, treatment during employment, and selection for training.

- > **VETERANS PREFERENCE AND INDIAN PREFERENCE:** Preference in filling vacancies may be given to honorably discharged veterans who are enrolled members of the San Carlos Apache Tribe.
- > **EQUAL EMPLOYMENT OPPORTUNITY:** Except for Indian preference, consideration will be given without regard to any non-merit factor such as race, color, religion, sex, national origin, partisan politics, physical or mental handicap, marital status, age, membership or non-membership in any employee organization, or sexual orientation.

HUMAN RESOURCE OFFICE CLEARANCE:

Human Resources Specialist

Date

SAN CARLOS APACHE TRIBE

HUMAN RESOURCES DEPARTMENT
P.O. Box 0
San Carlos, Arizona 85550
(928) 475-1760 ❖ Fax (928) 475-2296

Terry Rambler
Tribal Chairman



Tao Etpison
Tribal Vice-Chairman

JOB VACANCY

VACANCY ANNOUNCEMENT NO.	OPENING DATE	CLOSING DATE
#18-178	September 26, 2018	Open Until Filled
POSITION TITLE AND DEPARTMENT	SALARY	
Associate Judge Tribal Court	DOE	

APPLICATIONS ARE AVAILABLE AT THE TRIBAL HUMAN RESOURCES OFFICE
(Applications must be received in the Human Resources Office by close of business on the closing date)

CONDITIONS OF EMPLOYMENT:

- Political Appointee. (Appointed by Tribal Council)
- Applicant must possess a valid driver's license.
- Applicant must submit three (3) letters of reference.
- Applicant must be a member or eligible for membership in the San Carlos Apache Tribal Bar Association, and must certify under oath and under penalty of perjury that the applicant has no ethical conflicts of interest which would disqualify the Chief Judge from performing the tasks and duties of this position.
- Applicant must pass a criminal background investigation through local, state and federal criminal records. Must sign all applicable pre-employment certification and documents. Applicant must have no felony convictions; No felony or misdemeanor arrests and/or convictions within the past thirty-six (36) months, including any misdemeanor offenses involving crimes of violence, sexual assault, molestation, exploitation, contact or prostitution; Crimes against persons or offenses committed against children; Not have been convicted of a felony or misdemeanor crime of domestic violence; Not have been convicted of a crime involving a child, a sex crime, or a drug felony. No DUI arrests/convictions for the past thirty-six (36) months. Failure to reveal arrest records may be grounds for not hiring or termination after hiring. ***If an applicant makes a false statement in any part of the application, the applicant may not be hired or may be terminated after he/she begins work.***
- In accordance with the San Carlos Apache Tribe Drug and Alcohol Policy, all potential employees will be tested for the presence of controlled substances as part of the pre-employment selection process. Applicants who fail to pass the drug test will be ineligible for employment and may not reapply for twelve (12) months thereafter. This policy has been adopted to provide drug-free work sites and to prohibit working while under the influence of alcohol.

DUTIES AND RESPONSIBILITIES:

As an Associate Judge under the direction of the Chief Judge, the Associate Judge hears and decides disputes on matters filed in the San Carlos Tribal Court. These may be civil, criminal, domestic relations, juvenile, probate, traffic, order of protection, restraining orders, guardianship, adoption, etc. The Associate Judge may be assigned to assist in matters of finance, budget, grant writing, reports and administrative as well as Personnel supervision and policy making up to and including revisions of the Law and Order Codes and overall recommending improvements to the judicial system. The Associate Judge may be assigned to act in the Chief Judge's place when the Chief Judge is unavailable. Hear and decide all matters assigned in an expeditious manner. Impartially weigh the facts of a variety of cases and render decisions based on the Law and evidence. Assist in drafting policies and procedures and their implementation. Serve on judicial committees, court related activities such as Wellness/Drug Court, Teen Court, Domestic Violence Teams, Law Enforcement Committees, Task Force, etc. Participate in community activities which promote the courts in the community and may perform other related duties as required and assigned.

QUALIFICATION REQUIREMENTS:

Basic Requirements:

Successful completion of a course of study in accredited law school leading to a Juris Doctor Degree recognized as adequate to meet the qualification for admission to the practice of law in the State of Arizona. **NOTE: Applicant must submit a copy of all transcripts and/or degrees to meet positive education requirements.**

Licensure: Candidates must possess a membership of a State Bar Association. **Note: Applicants must submit a copy of their active license.**

In addition to meeting the basic requirements above, candidates must have had five (5) years of specialized experience.

Specialized experience is experience practicing court advocate in good standing OR, a combination of education and training in a job related field which demonstrates the knowledge, skills and abilities to perform the duties of the position. **Examples of the type of experience that will be credited are shown above under "Duties and Responsibilities".**

EVALUATION METHOD AND RANKING FACTORS: Evaluation will be made of the extent to which experience, education, training, self-development, and/or awards demonstrate that basically qualified candidates possess the Ranking Factors-Knowledge, Skills and Abilities (KSA) described below.

1. Knowledge of court procedures, rules, codes and policies.
2. Knowledge of basic computers and software including Word, Excel, etc.
3. Ability to interpret and apply various laws, statutes and ordinances that are followed on the San Carlos Apache Reservation.
4. Ability to make decisions based on fact without bias or prejudice of any kind.
5. Ability to communicate effectively both orally and in writing with an understanding of human nature and psychology.
6. Ability to perform in depth legal research associated with decision making in cases.
7. Ability to apply common sense, reason and experience.

OTHER IMPORTANT INFORMATION:

- Persons who submit incomplete applications will be given credit only for the information they provide and may not, therefore, receive full credit for their veteran preference determination, Indian preference, education, training and/or experience.
- All material submitted for consideration under this announcement becomes the property of Human Resources Office and is subject to verification. Therefore, careful attention should be given to the information provided. Fraudulent statements or any form of misrepresentation in the application process could result in loss of consideration for this position and/or a determination of unsuitability for tribal employment.
- Additional or alternate selections may be made from the eligibility list within 30 days from the date the selection list was issued. The positions to be filled must have the same title and have the same qualification requirements. However, if there are no Indian preference candidates left on the certificate, the vacancy must be re-announced.
- **INDIAN PREFERENCE:** It is the goal of the San Carlos Apache Tribe to employ as many tribal members as possible in tribal positions. Therefore, all other qualifications being equal, tribal members will receive hiring preference over other Indian Preference eligible and non-Indian Preference eligible. Preference for employment will be granted to qualified individuals, in the following order:
 1. Enrolled member of the San Carlos Apache Tribe with Veteran's Preference
 2. Enrolled member of the San Carlos Apache Tribe
 3. Native American spouse of an enrolled tribal member or Native American parent of enrolled tribal member
 4. Other Native American
 5. Non-Indian spouse or Non-Indian parent of enrolled tribal member
 6. Non-Indian

It is also the goal of the San Carlos Apache Tribe to provide the best services possible to tribal members. In furthering the Tribe's efforts to insure retention of tribal members and to provide job opportunities to tribal members, non-tribal member employees upon hiring shall, as part of the hiring agreement, agree to provide training and development to tribal members to allow them to become qualified for jobs which non-tribal member employees hold. The Indian Preference policy applies to hiring, placement, and promotion, transfer or lay off, treatment during employment, and selection for training.

- **VETERANS PREFERENCE AND INDIAN PREFERENCE:** Preference in filling vacancies may be given to honorably discharged veterans who are enrolled members of the San Carlos Apache Tribe.
- **EQUAL EMPLOYMENT OPPORTUNITY:** Except for Indian preference, consideration will be given without regard to any non-merit factor such as race, color, religion, sex, national origin, partisan politics, physical or mental handicap, marital status, age, membership or non-membership in any employee organization, or sexual orientation.

HUMAN RESOURCES OFFICE CLEARANCE:

/s/Deidre Antonio
Human Resources Specialist

September 26, 2018
Date

SAN CARLOS APACHE COURT OF APPEALS

RULES OF APPELLATE PROCEDURE

(Enacted by Tribal Council Resolution NV-15-210)

RULE 1. SCOPE OF RULES

These rules govern procedure in the San Carlos Apache Court of Appeals. Unless otherwise specified, the word “Court” in these Rules refers to the San Carlos Apache Court of Appeals.

RULE 2. APPEALS FROM FINAL JUDGMENTS OR FINAL ORDERS

a. Notice of Appeal. A party may appeal from a final judgment or final order of a court of the San Carlos Apache Tribe by filing a written Notice of Appeal with the Clerk of the Court of Appeals within 15 days after the date on which the judgment or order appealed from is filed in the lower court. The Notice of Appeal must specify the party or parties taking the appeal and identify the judgment or order from which appeal is taken. Whenever possible, a copy of the judgment or order appealed from should be attached to the Notice of Appeal. If any party makes a timely motion in the court below for reconsideration of a final judgment or order of that court, or for a new trial, the time within which a Notice of Appeal must be filed begins to run on the date that the disposition of such a motion by the lower court is filed in that court. Extensions on the time for filing a Notice of Appeal will not be granted.

b. Filing Fee. Unless a motion to waive or delay payment of the filing fee is made, a party filing a Notice of Appeal must pay a filing fee of \$15.00 to the Clerk of the Court of Appeals at the time the Notice of Appeal is filed. The filing fee must be paid by cashier’s check or money order; cash, personal check or credit card are not acceptable forms of payment. The

filing fee requirement does not apply to Notices of Appeal filed on behalf of the San Carlos Apache Tribe, its agencies, departments or enterprises.

- c. Waiver of Filing Fee.** If a party filing a Notice of Appeal is unable to pay the filing fee, the Clerk will nevertheless file the Notice of Appeal. The party must then file a motion asking the Court to waive or defer payment of the fee. Such a motion must be filed within 5 days of filing the Notice of Appeal. If the Court denies the motion to waive or delay payment of the fee, the appellant will have 5 days from the filing of the denial of the motion to pay the fee; if the fee is not paid within this 5-day period, the appeal will be dismissed. If a motion to waive or delay payment of the filing fee is granted, the time for filing the appellant's Opening Brief, as provided in Rule 4(a) of these Rules, will run from the date the order granting the motion is filed.
- d. Motions to Dismiss.** A party that believes that a Notice of Appeal is untimely or legally insufficient, that a required filing fee has not been paid, or that an appeal should be dismissed for any other reason, may file a Motion to Dismiss the appeal. If the Motion to Dismiss is granted, the Court of Appeals will remove the case from its docket. If the Motion to Dismiss is denied, and the Appellant's Opening Brief has not yet been filed, the time within which the Appellant's Opening Brief must be filed will begin to run when the Court's order denying the Motion to Dismiss is filed.

RULE 3. APPEALS FROM NON-FINAL ORDERS

Appeals from non-final orders are permitted only in the discretion of the Court and only if: (i) the order appealed from involves a controlling question of law as to which there is a substantial ground for difference in opinion, and; (ii) an immediate appeal from the order will materially advance the ultimate termination of the litigation. A party seeking to appeal a non-final order must file a Motion

for Leave to Appeal within 5 days of the date of the order appealed from. The motion should set forth the reasons why the conditions stated in the first sentence of this Rule are satisfied. The filing fee required by Rule 2(b) of these Rules applies to Motions for Leave to Appeal non-final orders. If leave to appeal a non-final order is granted by the Court, the Court will establish a briefing schedule at the time leave to appeal is granted.

RULE 4. BRIEFS ON APPEAL

- a. Time for Filing.** Unless the Court orders otherwise, an appellant must file an Appellant's Opening Brief within 45 days of (i) the date the Notice of Appeal is filed, or (ii) the date of disposition of a motion to waive or delay payment of the filing fee, or (iii) the date the Court's denial of a Motion to Dismiss the appeal is filed, whichever is the latest of these three dates. Unless an extension of time to file the Appellant's Opening Brief is granted, the failure of the appellant to file an Appellant's Opening Brief within the time prescribed by the first sentence of this Rule will ordinarily result in dismissal of the appeal. The appellee may file an Appellee's Response Brief within 30 days of being served with the appellant's Opening Brief and the appellant may file an Appellant's Reply Brief within 10 days of being served with the Appellee's Response Brief. Unless an extension of time to file is granted, Response or Reply briefs that are not timely will not ordinarily be considered by the Court.
- b. Content of Briefs.** The Appellant's Opening Brief should contain, in the following order:
- (i) a specific identification of the judgment or order appealed from (a copy of the judgment or order appealed from should be attached);
 - (ii) a brief statement of the issues presented for review;
 - (iii) a brief description of the proceedings in the lower court;
 - (iv) a statement of the relevant facts;
 - (v) a brief summary of the decision below;

- (vi) an argument in support of the appeal; and
- (vii) a conclusion specifically stating the relief sought from the Court of Appeals.

The Appellee's Response Brief shall specify any disagreement with parts (i), (ii), (iii), (iv) and (v) of the Appellant's Opening Brief and shall contain an argument in support of appellee's position. An Appellant's Reply Brief may only respond to matters contained in the Appellee's Response Brief. References in briefs to material in the case file should include the date and title of the material to which reference is made, e.g., "Trial Court Order dated February 30, 2014."

RULE 5. ORAL ARGUMENT

After the appellate briefs have been distributed to the Judges, the Court will determine whether it will hear oral argument. If the Court decides to hear oral argument, the Clerk will so notify the parties. Whenever possible, that notice will be provided at least 20 days prior to the scheduled date of the oral argument. If oral argument is heard, each side's argument will ordinarily be limited to approximately 30 minutes. The appellant will argue first and may reserve up to 10 minutes for rebuttal. If the Court does not order oral argument, the case will be decided on the basis of the briefs and the material in the case file.

RULE 6. TRANSCRIPTS OF LOWER COURT PROCEEDINGS

If a party believes that a written transcript of any proceedings in the lower court would aid in the Court's determination of an appeal, it may move the Court to order that such a transcript be prepared. The motion may seek either a full or a partial transcript of the lower court proceedings. The motion should explain why a transcript would aid the Court's consideration of the case. The party requesting the transcript will be responsible for the costs of preparation unless the Court orders otherwise.

RULE 7. MOTIONS PRACTICE

A party wishing to respond to a motion may do so by filing a response within 5 days of being served with the motion. The moving party may file a reply within 3 days of being served with a response.

RULE 8. FILING OF DOCUMENTS

Whenever a notice, motion, brief or other document is required to be filed by a party, the document must be mailed or delivered by hand to the Clerk of the Court. Filing is deemed accomplished when the document is received at the Clerk's office at a time when the office is open for business. The date of filing will be stamped by the Clerk on the original of each filed document. Within 5 days of the date of filing, all documents filed by a party must be served by that party on all other parties.

RULE 9. SERVICE OF BRIEFS, MOTIONS AND OTHER DOCUMENTS

Whenever a notice, motion, brief or other document is required to be served, service is accomplished by mailing the document or delivering it by hand to the person or entity to be served. The date of service is the date when a document is delivered by hand to the person or entity to be served or 5 days after a document is placed in the United States mail for the purpose of service.

RULE 10. REPRESENTATIVES OF PARTIES

Unless otherwise specified in these Rules, all acts required or permitted to be done by a party may be done by a party's representative and all service upon or notification to a party may be made upon or to a party's representative.

RULE 11. CALCULATION OF TIME

In calculating time pursuant to these Rules, “days” refers to calendar days, including Saturdays, Sundays and legal holidays, except that, when the day on which an act must be done falls on a Saturday, Sunday or legal holiday recognized by the Tribe, the act may be done on the next calendar day that is not a Saturday, Sunday or legal holiday recognized by the Tribe.

RULE 12. EXTENSIONS OF TIME

The Court may, for good cause shown, extend the time for filing any document or performing any act. A request for an extension of time is made by motion addressed to the Court. A motion requesting an extension of time, should state whether any other party objects to the requested extension. Regardless of whether any other party objects, the motion for extension must explain why an extension is required.

RULE 13. MOTIONS FOR STAY OF EXECUTION

A party seeking a stay of execution of a judgment or sentence of the lower court, pending disposition of the party’s appeal to the Court of Appeals, must first seek that relief from the lower court. The Court of Appeals will ordinarily consider a motion for such relief only after the lower court has ruled on the request, or when the lower court has failed to rule on the request within a reasonable period of time. The filing of a Notice of Appeal does not remove the lower court’s jurisdiction to grant a stay of execution or similar relief pending appeal.

RULE 14. COURT DECISIONS

Decisions of the Court of Appeals will be in writing and will be filed with the Clerk and distributed by the Clerk to the parties. Decisions on motions may be made by a single Judge authorized by the Court to act on motions. Decisions of appeals will ordinarily be filed within 6 months of the oral argument or within 6 months of the filing of the last brief if the case is decided

without oral argument. The Clerk will keep a permanent chronological file of all of the Court's decisions and opinions.

RULE 17. EFFECTIVE DATE

These rules shall be effective from and after December 3, 2015, per Tribal Council Resolution No. NV-15-210, enacted on November 3, 2015.