

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

- WHEREAS, the Indian Health Service policies dictate that a blood specimen for the determination of its alcohol level may be drawn at the direction of an Indian Health Service physician upon the request of the law enforcement officers, with or without the consent of the individual (s) if it is permitted by appropriate tribal laws and there is a written service unit policy which permits the drawing of blood samples for the determination of its alcohol level; and
- WHEREAS, the Tribal Council is advised that such a policy will be developed when it has been determined, after consultation with the Tribe, that a meaningful health/social/law enforcement program exists aimed at the protection of the health of the community and/or the identification, treatment, and rehabilitation of individuals with potential alcohol problems, and that a determination of blood alcohol level would contribute to the effective operation of the program and/or treatment of the patient; and
- WHEREAS, the White Mountain Apache Tribe does not prohibit such testing by ordinance, and in fact permits the drawing of blood by a physician for said purposes; and
- WHEREAS, the apprehension, identification, treatment and rehabilitation of individuals operating motor vehicles and involved in motor vehicle accidents under the influence of alcohol is a meaningful health, social and law enforcement purpose of the Tribe which is aimed at the protection of the health of the community; and
- WHEREAS, the United States Supreme Court has upheld the validity of a hospital performed blood alcohol test conducted at the request of law enforcement personnel incident to a lawful arrest on suspicion of driving while intoxicated, even though the subject expressly refuses to consent to the test, Schmerber v. California, 384 U.S. 757, 86 S.Ct. 1826, 16 L.Ed.2d 908 (1966); and

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WHEREAS, the White Mountain Apache Tribe has also adopted Title 28 of the Traffic Code of the State of Arizona as tribal law to the extent that it does not conflict with tribal sovereignty, and Title 28 permits blood alcohol testing for law enforcement purposes; and

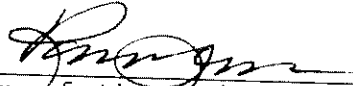
WHEREAS, the Tribal Council concludes that authorization should be granted to the Indian Health Service Unit in Whiteriver to permit IHS physicians or persons under their supervision to take blood samples for non-medical related reasons at the request of law enforcement officers such as BIA police, the Federal Bureau of Investigation, Whiteriver Police Department and any cross deputized or commissioned tribal police officer, such as state DPS and County Sheriff officers, in order to carry out the Tribe's health, social and law enforcement program aimed at the protection of the health of the community and to assist in the identification, treatment and rehabilitation of individuals with potential alcohol problems in connection with suspected incidents of driving while intoxicated.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes and requests that the Whiteriver Service Unit of the Indian Health Service honor any request from a certified law enforcement officer of the Bureau of Indian Affairs, Federal Bureau of Investigation, Whiteriver Police Department, and any cross deputized or commissioned tribal police officer, such as State Department of Safety and County Sheriff Officer, that blood be drawn for a blood alcohol test in connection with suspected incidences of driving while intoxicated, with or without the consent of the patient in order to assist the tribe in implementing and maintaining a meaningful health, social and law enforcement program on the reservation, aimed at the protection of the health of the community and/or the identification, treatment and rehabilitation of individuals with potential alcohol problems as a determination of blood alcohol level will contribute to the effective operation of the program and/or treatment of the patient.

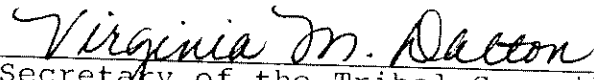
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BE IT FURTHER RESOLVED by the Tribal Council that it hereby directs that a copy of this resolution be delivered to all law enforcement agencies mentioned herein and to the Director of the Whiteriver Service Unit.

The foregoing resolution was on July 25, 1991, duly adopted by a vote of NINE for and ZERO against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (a,b,i,q,t,u) of the Amended Constitution and Bylaws of the Tribe, ratified by the Tribe June 27, 1958, and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).



Chairman of the Tribal Council



Secretary of the Tribal Council

RECEIVED

JUL 26 1991

INDIAN AFFAIRS BUREAU
WASHINGTON, D.C.