

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

- WHEREAS**, the Chief Judge of the Tribal Court and the Tribal Prosecutor recommend to the Tribal Council that amendments be made to the Rules of Criminal Procedure; and
- WHEREAS**, Rule 3.9 provides that a person arrested must be brought before a judge within 24 hours after arrest and if not brought before the judge within this time the person is to be released; and
- WHEREAS**, the Tribal Council is advised that this time limitation does not allow sufficient time for preparing reports and investigation and further mandates that the court convene on weekends and holidays and further requires that police officers be available to escort prisoners to and from court; and
- WHEREAS**, this time limitation also places an undue financial burden on the police department, the court and the Tribe because of the necessity of convening court on weekends and holidays and requiring that additional police officers be on duty to escort prisoners, further depleting limited court and law enforcement funds; and
- WHEREAS**, it is recommended to the Tribal Council that Rule 3.9 be amended to provide that a person arrested be brought before a judge within 72 hours, which would allow sufficient time to complete reports and investigations and would free the police department to attend other duties on the weekends; and
- WHEREAS**, it is further recommended to the Tribal Council that Rule 4.5 be amended to provide that the Tribal Prosecution Unit be authorized to issue and serve subpoenas, which would take some of the burden off the Police Department and Court, require less paperwork and provide CPS with a more timely response in emergency situations; and
- WHEREAS**, it is proposed that the Rules of Criminal Procedure be amended as follows:

[Strike outs are deletions, Redlines are additions]

RULE 3.9 **PROCEDURE UPON ARREST**

A. **Timeliness.** A person arrested shall be taken before a Tribal Judge without unnecessary delay. If he or she is not brought before a Tribal Judge within ~~24~~ 72 hours after arrest, the defendant shall immediately be released unless good cause is found to go beyond the 72 hours.

RULE 4.5 **ISSUANCE OF SUBPOENAS**

B. With the exception of subsection C. below, a subpoena shall bear the signature of a Tribal Judge, and it shall state the name of the court,

the name of the person or description of the physical evidence to be subpoenaed, the title of the proceeding, and the time and place where the witness is to appear or the evidence is to be produced.

C. The Prosecution Unit may issue a subpoena for a person to appear in court. Such subpoena shall give the person's name, and the time and place where the witness is to appear.

RULE 4.6 SERVICE OF SUBPOENAS

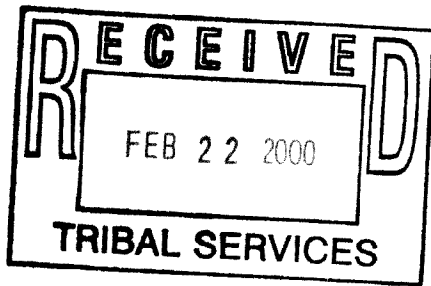
B. Except as provided in subsection A. above for the service of subpoenas outside of the Reservation, a subpoena may be served by an tribal law enforcement officer, or other person appointed by the court for such purpose, or the Prosecution Unit. Service of a subpoena shall be made by delivering a copy of it to the person named or by leaving a copy at his or her place of residence with any competent person 16 years of age or older who also resides there or by mailing the subpoena by certified mail to the person's last known address. A copy of the subpoena shall be promptly filed with the court; and

WHEREAS, the Law and Order Committee has reviewed the foregoing proposed amendments to the Rules of Criminal Procedure and unanimously (5-0) recommends said amendments.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache tribe that it hereby approves the revision to the Rules of Criminal Procedure as set forth above pursuant to Section 2.18 A. of the Judicial Code.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the foregoing provisions of the Rules of Criminal Procedure shall take effect immediately.

The foregoing resolution was on ~~January~~ ^{February} 10, 2000 duly adopted by a vote of SEVEN for and ZERO against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a), (q), (t) and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).



[Signature]
Chairman of the Tribal Council

[Signature]
Secretary of the Tribal Council