



# WHITE MOUNTAIN APACHE TRIBE

*A Sovereign Nation Exercising Self-Governance  
Over the Fort Apache Indian Reservation*

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## **Resolution No. 03-2013-75**

### **(Authorizing the Posting of Proposed Ordinance No. 257, Amending Chapter Seventeen of the Health & Safety Code)**

**WHEREAS,** Chapter Seventeen of the Health & Safety Code, which pertains to Involuntary Commitment, was created by Ordinance No. 221 enacted September 26, 2006; and

**WHEREAS,** the Legal Department and Prosecution Unit came before the Tribal Council this day to suggest that Chapter Seventeen, Sections 17.5A and 17.7A of the Tribal Health & Safety Code, be modified to allow the Court time to order the necessary evaluations of the proposed patient and to eliminate reference to "live interactive tele-video access"; and

**WHEREAS,** the Tribal Council of the White Mountain Apache Tribe finds that the recommendations by the Legal Department and Prosecution Unit to amend Chapter Seventeen of the Tribal Health & Safety Code, as set forth in Ordinance No. 257, is in the best interest of the White Mountain Apache Tribe; and

**WHEREAS,** the Tribal Council concludes that Ordinance No. 257 should be posted in each district for at least ten (10) days before final action is taken by the Council, as required by Article XV, Section 2, of the Constitution of the White Mountain Apache Tribe.

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe, as follows:

1. The Tribal Council Secretary is hereby authorized and directed to post this resolution along with Ordinance No. 257 in the form and content attached hereto, in each District for at least ten (10) days before final action on the amendment is taken by the Tribal Council.
2. That any and all comments concerning these Ordinances may be sent to the attention of the Tribal Council Secretary, White Mountain Apache Tribe, P. O. Box 700, Whiteriver, AZ 85941.
3. That upon completion of the posting period, the Tribal Council Secretary is directed to (a) submit proof of posting of the amendment to the Tribal Council and to the Legal Department; (b) report any public comments to the Tribal Council, and (c) schedule a Tribal Council meeting through the Office of the Tribal Chairman for final action by the Tribal Council.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.

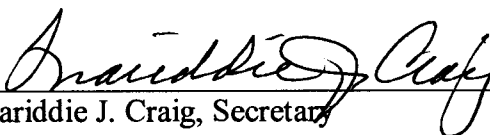
**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances or Federal Laws, this Resolution shall be declared null and void and have no legal effect. This Resolution shall not be subject to Judicial Interpretation, only the Tribal Attorney, with the assistance of the Tribal Council Secretary, may opine on Tribal Council intent and the meaning of the language as used herein.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Acting Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution. In the event that the Chairman fails to delegate signatory authority to an Acting Chairman, the Vice-Chairman may sign provided that the Tribal Secretary and a Tribal Attorney attest to the veracity of the subject matter of this Resolution.

The foregoing resolution was on MARCH 20, 2013 duly adopted by a vote of SEVEN for and ZERO against by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (f), (h), (i), (q), (r), (s), (t) and (u) of the Tribal Constitution, 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).

  
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Ronnie Lupe, Chairman

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Mariddie J. Craig, Secretary

  
\_\_\_\_\_  
Date

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

BE IT ENACTED BY THE COUNCIL OF THE WHITE MOUNTAIN APACHE TRIBE Ordinance No. 257, amending White Mountain Apache Health & Safety Code to revise Chapter Seventeen, Involuntary Commitment, Sections 17.5A and 17.7A, as follows:

**CHAPTER SEVENTEEN  
INVOLUNTARY COMMITMENT**

[NOTE: Chapter Seventeen was derived from Ordinance No. 221, enacted September 26, 2006; Sections 17.5A and 17.7A were amended by Ordinance No. 257, enacted \_\_\_\_\_.]

**SECTION 17.5 COURT REVIEW**

A. **Court Review / Scheduling.** Upon receipt of a petition filed with the Court pursuant to Section 17.3, the Court shall immediately, after verifying that the petition complies with the requirements of this Chapter, order an evaluation of the proposed patient as provided in Section 17.6, and the appointment of legal counsel for the proposed patient if the proposed patient is not already represented. If the proposed patient has been taken into custody for any reason other than the commission of a criminal offense, the court shall schedule a hearing to be held not later than 96 hours after receipt of the petition. The Court may, for good cause, extend the period for the hearing date up to 14 days if the proposed patient is not in detention. In the event that the proposed patient cannot be located in time to comply with the schedule set forth in this Section, the Court hearing shall occur 48 hours following the evaluation when completed. Prior to scheduling a hearing as set forth in this subsection, upon request, or its own action, the Court may direct that an initial screening pursuant to Section 17.4 be first conducted and that the report be submitted to the Court.

**SECTION 17.7 HEARING PROCEDURES**

A. **Witnesses.** The proposed patient and the petitioner, or the Tribal Prosecutor or Tribal Attorney on behalf of the petitioner, may present and cross-examine witnesses. The testimony of examiners shall not be admitted into evidence unless, (1) the examiner is present and is subject to cross-examination, or, 2) in the event that the examiner, for good cause, is unable to attend, ~~testifies through live interactive tele-video access which permits continuous two-way audio-visual connection adequate for cross-examination~~ appears via telephone so that all parties and counsel may hear the testimony and cross-examine the witness; or (3) the parties stipulate to its admission. The judge may sequester any witness or witnesses.