

**SAN CARLOS APACHE TRIBE
SAN CARLOS APACHE INDIAN RESERVATION
SAN CARLOS, ARIZONA**

RESOLUTION

No. AP-25-058

**(Approving Publication of the Rules of Criminal Procedure
For Public Comment)**

WHEREAS, the San Carlos Apache Tribe (the “Tribe”) is a federally recognized Indian Tribe organized pursuant to the provisions of Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984); and

WHEREAS, the San Carlos Council (“Council”) has the authority, among other things, 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 [the Tribe’s] Constitution and Bylaws, to “enact ordinances, subject to review by the Secretary of the Interior, establishing and governing tribal courts and law enforcement on the Reservation,” pursuant to Article V, Section(s) 1(a) and (m) of the Amended Constitution and By-Laws of the San Carlos Apache Tribe; and

WHEREAS, the Council has the authority to amend and add to the Tribe’s Law & Order Code pursuant to the Constitution and Bylaws; and

WHEREAS, the federal Tribal Law and Order Act (“TLOA”), Pub. L. 111-2111 (25 U.S.C. 2801 et seq. and various section of 18 U.S.C.), signed into law on July 29, 2010, is a comprehensive statute focused on improving the criminal justice system in Indian Country, with a primary goal of reducing crime and enhancing public safety on Reservations, and allows for enhanced sentencing, including imprisonment up to 3 years by a tribe and fines of up to \$15,000 for certain offenses, if tribes meet specific prerequisites and ensure access to their criminal laws and procedures; and

WHEREAS, TLOA prerequisites generally include the following:

- Effective assistance of counsel equal to what would be available in federal or state court /is equal to that guaranteed by the U.S. Constitution;
- Free, appointed, and licensed attorneys for indigent defendants;
- Law-trained tribal judges who are licensed to practice law in any jurisdiction in the United States;
- Publicly available tribal criminal laws and rules of evidence and criminal procedure; and
- Maintain a record of criminal proceedings, including audio or video recordings of trial proceedings; and

WHEREAS, the Council has a duty to vigilantly safeguard and protect the Tribe's sovereignty and its lands, people, resources, culture, language, inter-governmental relations, and economy, among others matters, while ensuring public safety for members of the Tribe, as well as non-members residing or visiting our Reservation; and

WHEREAS, the Council finds that the substances being abused on the Reservation are not among the medicines (izee') placed on the earth by the Creator for the health of the Ndee' (Apache) people, but are of foreign origin, and that these "izee' ncho'ii" constitute a threat to the health and very survival of the Tribe, and that these substances form the basis of crime on our Reservation and in our communities; and

WHEREAS, the Council finds that the illegal importation, manufacture, distribution, possession and improper use of controlled substances and psychotropic substances, otherwise known as Dangerous Drugs, have a substantial and detrimental effect on the health and general welfare of Members of the San Carlos Apache Tribe and residents of the Reservation; and

WHEREAS, the Council finds that the abuse and prevalence of dangerous drugs has become a grievous plague on the Reservation, destroying the lives of individuals and their families alike, costing jobs, increasing crime rates, domestic violence, and creating an atmosphere of fear, intimidation and violence by dealers and addicts; and

WHEREAS, the Council finds that the San Carlos Apache Police Department reports that nearly all incidents of violent crime are related to substance abuse; and

WHEREAS, for these reasons, the Council finds that enhanced sentencing available under TLOA will assist in the deterrence of crime occurring on our Reservation and within our communities; and

WHEREAS, the Tribe's Attorney General and Chief Prosecutor this day advise the Council that the Tribe has only one prerequisite to fulfill, that being Rules of Criminal Procedure, and present said Rules in draft form for public comment; and

WHEREAS, the Council's Law and Order Committee recommends that the draft Rule of Criminal Procedure be published for public comment and be reviewed by all of the Tribe's law enforcement agencies; and

WHEREAS, the Council concurs with the Committee's recommendation and finds in addition to all the findings above, the proposed Rules of Criminal Procedure will allow for compliance with TLOA and afford enhanced sentencing, as described above, and that the public and the Tribe's law enforcement agencies should have an opportunity for comment.

NOW, THEREFORE, BE IT RESOLVED by the Council of the San Carlos Apache Tribe:

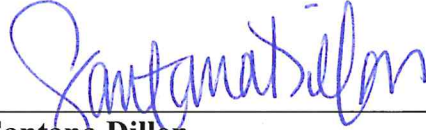
1. The Council Secretary is hereby directed to post and publish the attached drafts of the proposed Rules of Criminal Procedure for Public Comment, in the Administration Building, Council Secretary's Office, all District Offices and appropriate media outlets.
2. The public comment period shall be thirty ("30") days from the date of this Resolution.
3. All comments from the general public shall be in writing and transmitted to the attention of the Law and Order Committee for distribution and review by the Committee, which shall provide its further recommendations, if any, to the Council.
4. The Tribal Court, Adult & Juvenile Detention and Rehabilitation Center, San Carlos Apache Police Department, Game Rangers, Public Defender, Child Protective Services, and Chief Prosecutor shall submit their comments and revisions to the Tribe's Attorney General for compilation and review by the Law & Order Committee.
5. The Law & Order Committee shall have thirty (60) days from the date of this Resolution within which to report on and submit a final draft of the Rules of Criminal Procedure to the Council for its review and consideration.

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

CERTIFICATION

I, the undersigned, Secretary of the San Carlos Council, hereby certify that the Council is composed of eleven (11) members, of whom nine (9), constituting a quorum, were at a Regular Meeting hereto held on the 1st day of April, 2025, and that the foregoing Resolution No. AP-25-058 was duly adopted by a vote of FOR: 8; OPPOSED: 0; ABSTAINED: 0; of the Council pursuant to Article V, Section 1 (a) of the Amended Constitution and Bylaws of the San Carlos Apache Tribe, effective, February 24, 1954, according to the following vote tabulation:

<u>Council Member</u>	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Not Present</u>
Terry Rambler, Chairman	___	___	___	___
Tao Etpison, Vice Chairman	<u> x </u>	___	___	___
Ina Salter, Seven Mile	<u> x </u>	___	___	___
John Antonio, Jr., Seven Mile	<u> x </u>	___	___	___
Barbara May, Gilson Wash	<u> x </u>	___	___	___
Simon Hooke, Gilson Wash	<u> x </u>	___	___	___
Valerie Cheney, Peridot	<u> x </u>	___	___	___
Dr. John Bush, Peridot	<u> x </u>	___	___	___
Jonathan Kitcheyan, Bylas	___	___	___	___
Ned Anderson, Jr., Bylas	<u> x </u>	___	___	___
Eugene D. Nozie, Bylas	___	___	___	___



Santana Dillon
Council Secretary
SAN CARLOS APACHE TRIBE