

San Carlos Law and Order Code

Chapter Six

Criminal Ordinance

Revised September 2004

San Carlos Apache Law & Order Code

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SECTION ONE

GENERAL PROVISIONS

Section 1.1 Tribal Policy Regarding Criminal Offenses

The San Carlos Apache Tribe will prosecute and punish the criminal offenses defined in this ordinance and elsewhere in the Tribal Law & Order Code. Tribal jurisdiction over criminal offenses shall not affect the power or authority of any other courts that may have lawful concurrent jurisdiction.

Section 1.2 Territorial Jurisdiction

The San Carlos Apache Tribe shall have criminal jurisdiction over all territory within the boundaries of the San Carlos Apache Reservation.

Section 1.3 Criminal Jurisdiction

The San Carlos Apache courts shall have criminal jurisdiction over any person of Indian descent who is a member of or is eligible to be a member of any tribe recognized by the United States government when such Indian commits an offense within the exterior boundaries of the San Carlos Apache Reservation.

Nothing in this code shall be interpreted as limiting the civil or criminal jurisdiction of the San Carlos Apache Tribe over non-Indians if such jurisdiction is recognized by the laws of the United States.

Section 1.3 Concurrent Jurisdiction

The San Carlos Apache Tribe shall exercise concurrent jurisdiction with respect to any offense defined in this ordinance over which a federal court also has lawful jurisdiction.

Where concurrent jurisdiction applies, the tribal court shall determine whether the federal authorities will exercise jurisdiction and prosecute the alleged offender. In making this determination, the tribal court may use any information available. If the tribal court determines that federal authorities will exercise jurisdiction, the tribal court is authorized to turn the alleged offender over to the federal authorities.

Prosecution of the offense by federal authorities does not preclude prosecution by the tribal courts.

Section 1.4 Crimes Committed by Non-Indians

Non-Indians are expected to abide by tribal laws and ordinances and to respect the traditions and customs of the San Carlos Apache Tribe. A non-Indian who fails to do so may be expelled and excluded from the San Carlos Apache Reservation.

A non-Indian who violates any law of the State of Arizona while on the San Carlos Apache Reservation shall be detained by tribal authorities until custody of such person can be transferred to the appropriate non-tribal authorities.

Section 1.5 Statute of Limitations

The statute of limitations for offenses defined in the San Carlos Apache Penal Code shall be one (1) year from the date that the offense occurred or one (1) year from the date the offense was discovered, whichever is later.

If no complaint has been filed against the alleged offender within the prescribed statute of limitations, the alleged offender may not be prosecuted, fined, or punished for that alleged offense. The statute of limitations period shall begin when the last act constituting the offense occurred.

The statute of limitations period does not run during any time when the alleged offender is continuously absent from the San Carlos Apache Reservation or has no ascertainable place of residence with the reservation.

SECTION TWO

DEFINITIONS

Section 2.1 Definitions

In this code, the following definitions apply except where otherwise noted:

“Adult” means a person 18 years of age or older.

“Antiquity” means object relating to the life or culture of ancient people.

“Benefit” means anything of value or advantage, current or prospective.

“Bodily injury” means any physical injury.

“Control” means acting to exclude another person from using his or her property except as allowed by the defendant.

“Court” means one of the courts of the San Carlos Apache Tribe and the judges of those courts, collectively and individually.

“Dangerous instrument” means any instrument that, under the circumstances in which it is used or threatened to be used, is readily capable of causing death or physical injury.

“Deadly weapon” means any weapon designed to cause death, including firearms.

“Intentionally” means a person intends to cause the result or to engage in the conduct described by the statute.

“Knowingly” means a person is aware or believes that his or her conduct is of the type described in the statute or that the circumstances are of the type described in the statute; it does not mean that the person knows the conduct is unlawful.

“Law Enforcement Officer” means anyone vested by law with a duty to maintain public order and with the power to make arrests.

“Negligently” means that a person failed to exercise the degree of care that a reasonable person would have exercised in the same situation. A person is negligent if such person should be aware that a certain circumstance exists or should be aware of a risk that his or her conduct could cause a certain result.

“Material Issue” means any issue that could affect the course or outcome of any proceeding or transaction. Whether an issue is material is a question of law to be determined by the court.

“Material misrepresentation” means a pretense (either verbal or physical), promise, representation, or statement of a present, past, or future fact that is fraudulent.

“Minor” means a person under the age of 18 years old.

“Motor vehicle” means a self-propelled motor-powered vehicle, including but not limited to automobiles, trucks, motorcycles, motor powered boats, jet-skis, and all-terrain vehicles.

“Obscene material” means any material that (1) the average person, applying to contemporary community standards, would find as a whole appeals to the prurient interest, and (2) the average person applying contemporary standards would find depicts or describes conduct proscribed by statute in a patently offensive way, and (3) lacks any serious literary, artistic, political, or scientific value.

“Person” means any human being or, where appropriate, any business, public or private corporation, unincorporated association, partnership, government, or governmental authority over which the San Carlos Apache Tribal Courts have jurisdiction.

“Possess” means to have physical possession or to exercise control over property.

“Prohibited weapon” means any explosive; bomb; grenade; rocket; mine; device designed, made or adapted to muffle the report of a firearm; firearm capable of shooting more than one shot automatically without manual reloading; rifle with a barrel length of less than 16 inches; shotgun with a barrel length of less than 18 inches; any firearm that has been modified and has an overall length of less than 26 inches; and any materials intended to be used to make any of the weapons.

“Property” means anything of value, whether tangible, intangible, real, or personal.

“Public place” means any place where the general public has a right to gather, use, or visit, or that is usually accessible to the public.

“Recklessly” means acting in conscious disregard of a substantial and unjustifiable risk of which the actor was aware or should have been aware.

“Serious bodily injury” means physical injury that creates a substantial risk of death, or causes serious and protracted disfigurement, protracted impairment of

health, or protracted impairment of health, or protracted loss or impairment of a function of any bodily organ.

“Tribal official” means any tribal employee, political appointee, or elected official acting in his/her official capacity as outlined in a written job description or as delegated by the Tribal Council.

“Unlawful” means contrary to law or not permitted by law; it does not mean immoral.

“Voluntary” means acting willingly from one’s own free will and without reward.

“Willfully” means acting for a bad purpose.

SECTION THREE

DEFENSES TO CRIMINAL LIABILITY

Section 3.1 Voluntary Intoxication

Voluntary intoxication is not a defense to a criminal charge. However, when the offense requires specific intent, a jury may consider evidence of a defendant's intoxicated state when determining whether the defendant possessed the requisite intent to commit the crime.

Section 3.2 Mistake of Fact or Law

A mistake of law or fact is a defense to a criminal charge only when the mistake negates the mental state required by the statute.

Section 3.3 Affirmative Defenses

- A. **Duress:** A person is not guilty of an offense if a reasonable person would believe that the actor was compelled to engage in the prescribed conduct by the threat of or use of immediate physical force against the actor or another person, which could result in serious physical injury and which a reasonable person in the situation would not have resisted. Duress may not be used as a defense if the defendant intentionally, knowingly, or recklessly placed himself or herself in a situation in which it was probable that he or she would be subject to duress. Duress may also not be used as a defense to charges involving homicide or serious physical injury.
- B. **Execution of Public Duty:** A person is not guilty of an offense if, under the circumstances present at the time the offense was committed, a reasonable person would believe that the act constituting the offense was required or authorized by law (for example, authorized by a court or necessary to assist a police officer in the performance of his or her duties),
- C. **Mental Disease or Defect:** A person is not guilty of an offense if, at the time the offense was committed, the person suffered from a mental disease or defect which caused the person to not know the nature and quality of the act or to not know that the act was wrong.
- D. **Protection of Self, Other Persons, or Property:**
 - 1. A person is justified in using physical force against another when and to the extent that a reasonable person would believe it to be immediately

necessary to protect himself or herself or another person from harm or to prevent criminal trespass or the or the theft of property.

2. A person is justified in using deadly force only when a reasonable person would believe it immediately necessary to protect himself or herself or another person from another's use or attempted use of unlawful deadly physical force.

3. A person is not justified in using physical force in response to verbal provocation alone or to resist an arrest that the person knows or should know is being made by a peace officer or at the direction of a peace officer.

4. A person is not justified in using deadly force to protect property absent an immediate necessity to protect himself or herself from another's use or attempted use of unlawful deadly physical force.

SECTION FOUR

PREPARATORY CRIMES AND ACCOMPLICE LIABILITY

Section 4.1 Aiding and Abetting

- A. A person commits Aiding and Abetting if, knowing that another person is committing a crime, or intends to commit a crime, such person aids, counsels, or encourages that other person with means or opportunity to commit the crime.
- B. It shall be a defense to a prosecution for Aiding and Abetting if the defendant withdrew from the crime before the crime was actually committed. To effectively withdraw:
 - 1. A person who merely encouraged the commission of a crime must effectively repudiate that encouragement.
 - 2. A person who provided some material to the principal to be used in committing the crime must try to neutralize this assistance by retrieving the material provided.
 - 3. Alternatively, the person who aided and abetted must notify law enforcement authorities of the crime to be committed or take some action to prevent the commission to prevent the commission of the crime.
- C. A person found guilty of Aiding and Abetting may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 4.2 Accessory After the Fact

- A. A person becomes an Accessory After the Fact by receiving, aiding, comforting, or assisting another person to escape arrest, trial, or conviction, knowing that the other person has committed a crime.
- B. A person found guilty of Accessory After the Fact may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 4.3 Criminal Attempt

- A. A person commits Criminal Attempt if such person:

1. intentionally attempts to commit a crime with the intent that the crime be committed; and
 2. engages in some overt act beyond mere preparation for the crime.
- B. Factual Impossibility is not a defense to Criminal Attempt if the crime would have been committed had the circumstances been as the actor believed them to be.
- C. Legal Impossibility is a defense to Criminal Attempt, where the actor believed that the attempted result was a crime, when in fact, it was not a crime.
- D. A person found guilty of Criminal Attempt may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.
- E. The penalty imposed for Criminal Attempt shall not be greater than the penalty imposed for the crime that was the object of the attempt.

Section 4.4 Conspiracy

- A. A person commits Conspiracy if, with intent to promote or aid in the commission of a crime, such person intentionally agrees:
1. with one or more other persons that one or more of them will commit the crime or engage in conduct in furtherance of the crime, and one of them, in fact, commits an act in furtherance of the crime; or
 2. to aid in the planning or commission of an offense.
- B. If the crime that is the object of the conspiracy is successful, the conspirators may be convicted of both the conspiracy and the completed crime.
- C. A person found guilty of Conspiracy may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.
- D. The penalty imposed shall not be greater than the penalty imposed for the crime that was the object of the conspiracy.

Section 4.5 Co-Conspirator Liability

- A. A conspirator is criminally liable for any crime committed by a co-conspirator which is committed in furtherance of the conspiracy and which is a foreseeable and natural consequence of the conspiracy.

- B. Withdrawal from the conspiracy is a defense to liability for offenses committed by co-conspirators after the withdrawal. Withdrawal is not a defense to the charge of conspiracy itself nor to crimes committed by co-conspirators before the withdrawal. To withdraw, a conspirator must take an affirmative step to notify all members of the conspiracy of his or her intent to withdraw, and must do so giving enough time for the remaining conspirators to abandon their plans.

Section 4.6 Solicitation of a Crime

- A. A person is guilty of Solicitation of a Crime if such person, by words or action, intentionally commands, encourages, invites, requests, or solicits another to commit a crime with the intent that the crime be committed.
- B. A person who solicits a crime may be held criminally liable for the completed crime or the solicitation but not for both.
- C. It shall be a defense to prosecution for solicitation if the solicitor:
 - 1. voluntarily and intentionally renounces his or her criminal intent;
and
 - 2. persuades the solicited party not to commit the crime or prevents the solicited party from committing the crime.
- D. A person found guilty of Solicitation of a Crime may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.
- E. The penalty imposed shall not be greater than the penalty imposed for the crime that was the object of the solicitation.

SECTION FIVE

OFFENSES AGAINST PUBLIC ORDER AND TRIBAL WELFARE

Section 5.1 Disorderly Conduct

- A. A person commits Disorderly Conduct by:
1. Fighting or provoking a fight with another;
 2. Disrupting any lawful public, private or religious meeting, including church services, revivals, camp meetings, and traditional ceremonies;
 3. Using abusive, vulgar, or profane language, gestures or symbols likely to provoke or incite violence, unlawful conduct, or breach of the peace by others;
 4. Abusing or threatening a person in a manner calculated to place him or her in fear of bodily harm;
 5. Displaying a deadly weapon or discharges a firearm with the intent to cause alarm;
 6. Lying or sleeping as a result of intoxication on any public street, alley, or in any other public place or upon private property without the consent of the owner; or
 7. Making unreasonable noise, day or night, which is annoying or disturbing to a reasonable person.
- B. A person found guilty of Disorderly Conduct may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 5.2 Loitering

- A. A person commits Loitering if, in a public place, he or she intentionally:
1. solicits another person to engage in any sexual offense in an offensive manner or in a manner likely to disturb the public peace;
 2. solicits or engages in any business, trade, or commercial transactions involving the sale of merchandise or business without a business permit issued by the San Carlos Apache Tribe;
 3. begs for money, food or any other thing of value; or
 4. gambles with cards, dice, or similar gambling devices.
- B. A person found guilty of Loitering may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 5.3 Loitering Around a School

- A. A person commits Loitering Around a School if, without lawful business or reason, he or she is present on or near the premises or within 300 feet of the exterior boundaries of a school, day care, or place of learning where children or students are in attendance.
- B. A person found guilty of Loitering Around a School may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 5.4 False Reporting

- A. A person commits False Reporting if such person knowingly:
 - 1. makes a false, fraudulent or unfounded report or statement to a law enforcement agency; or
 - 2. misrepresents a fact for the purpose of interfering with the orderly operation of a law enforcement agency or misleading a peace officer.
- B. A person found guilty of False Reporting may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 5.5 Refusing to Aid a Police Officer

- A. A person commits Refusing to Aid a Police Officer if, after a request by someone reasonably known to be a police officer, such person knowingly refuses or fails to aid the officer in:
 - 1. making an arrest;
 - 2. preventing another from committing an offense; or
 - 3. otherwise carrying out his or her official duties.
- B. A person found guilty of Refusing to Aid a Police Officer may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 5.6 Interfering with a Police Officer

- A. A person commits Interfering with a Police Officer if such person knowingly engages in any conduct that tends to impair, obstruct, hinder or prevent a police officer from discharging his or her official duties.
- B. A person found guilty of Interfering with a Police Officer may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 5.7 Resisting Lawful Arrest

- B. A person commits Resisting Lawful Arrest if such person intentionally uses or threatens to use physical force in order to prevent or attempt to

prevent a person reasonably known to be a police officer acting in an official capacity from effecting an arrest.

- C. A person found guilty of Resisting Lawful Arrest may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 5.8 Public Nuisance

- A. A person commits Public Nuisance if he or she knowingly allows anything that is harmful to health or that is indecent or offensive to the senses to interfere with the comfortable enjoyment of life or property by an entire community, by a neighborhood, or by an individual.

- B. A person found guilty of Public Nuisance may be sentenced to a period of imprisonment not to exceed 30 days, a fine not to exceed \$100.00, or both, with costs imposed at the discretion of the Court.

Section 5.9 Unlawful Assembly

- A. A person commits Unlawful Assembly if he or she gathers or assembles with two or more other persons with the intent to engage in conduct that:

1. creates a clear and present danger of damage or injury to property or persons; or
2. obstructs, interferes with, or disturbs the performance of any lawful function or activity.

- B. A person found guilty of Unlawful Assembly may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 5.10 Desecration of Human Remains

- A. A person commits Abuse of a Human Corpse if, without legal right or privilege, he or she abuses, disinters, defaces or removes a human corpse from its burial site or fails or refuses to bury a human corpse.

- B. A person found guilty of Abuse of a Human Corpse may be sentenced to a period of imprisonment not to exceed 60 days, a fine not to exceed \$250.00, or both, with costs imposed at the discretion of the Court.

SECTION SIX

OFFENSES AGAINST PERSONS

Section 6.1 Assault

- A. A person commits Assault by intentionally placing another person in reasonable apprehension of imminent physical harm.
- B. A person found guilty of Assault may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 6.2 Aggravated Assault

- A. A person commits Aggravated Assault by committing an Assault:
 - 1. with a dangerous instrument;
 - 2. with the intent to cause serious bodily injury;
 - 3. after entering the private home of another with the intent to commit the Assault; or
 - 4. knowing or having reason to know that the victim is a Tribal Official or acting in an official capacity as an employee of an educational facility, correctional facility, domestic violence shelter, tribal court, law enforcement agency, counseling center, or probation department.
- B. A person found guilty of Aggravated Assault may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 6.3 Battery

- A. A person commits Battery by:
 - 1. intentionally, knowingly, or recklessly causing any physical injury to another person;
 - 2. negligently operating a motor vehicle in a manner which results in physical harm to another person; or
 - 3. knowingly touching another person with intent to injure, insult or provoke.

- B. A person found guilty of Battery may be sentenced to a period of imprisonment not to exceed 270 days, a fine not to exceed \$2,500.00, or both, with costs imposed at the discretion of the Court.

Section 6.4 Aggravated Battery

- A. A person commits Aggravated Battery by committing a Battery:
 - 1. upon a child under the age of 18, a person who is incapacitated, or an elderly person;
 - 2. after entering the private home of another person with the intent to commit the Battery;
 - 3. while knowingly or recklessly operating a motor vehicle in a manner which results in physical harm to another person; or
 - 4. knowing or having reason to know that the victim is a Tribal Official or acting in an official capacity as an employee of an educational facility, correctional facility, domestic violence shelter, tribal court, law enforcement agency, counseling center, or probation department.
- B. A person found guilty of Aggravated Battery may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 6.5 Endangerment

- A. A person commits Endangerment by intentionally, knowingly, or recklessly placing another person at risk of imminent death or physical injury.
- B. A person found guilty of Endangerment may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 6.6 Threatening

- A. A person commits Threatening if, by using words or conduct calculated to produce alarm or fear in another person, he or she suggests an intent to cause physical injury, property damage, or serious public inconvenience, including but not limited to, evacuation of a building or transportation facility.
- C. A person found guilty of Threatening may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 6.7 Harassment

- A. A person commits harassment if, with intent to harass or with knowledge that the person is harassing another person, the person:
 - 1. Anonymously or otherwise communicates or causes a communication with another person by verbal, electronic, mechanical, telegraphic, telephonic or written means in a manner that harasses.
 - 2. Continues to follow another person in or about a public place for no legitimate purpose after being asked to desist.
 - 3. Repeatedly commits an act or acts that harass another person.
 - 4. Surveils or causes another person to surveil a person for no legitimate purpose.
 - 5. On more than one occasion makes a false report to a law enforcement, credit or social service agency.
 - 6. Interferes with the delivery of any public or regulated utility to a person.
- B. For purposes of this section, "harassment" means conduct directed at a specific person which would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys or harasses the person.
- C. A person found guilty of Harassment may be sentenced to a period of imprisonment not to exceed 90 days, a fine not to exceed \$500.00, or both, with costs imposed at the discretion of the Court.

Section 6.8 Aggravated Harassment

- A. A person commits aggravated harassment if the person commits the offense of harassment and any of the following applies:
 - 1. A court has issued an order of protection or an injunction against harassment against the person and the order or injunction has been served and is still valid.
 - 2. The person has previously been convicted of a domestic violence offense.
- B. The victim of any previous offense shall be the same as in the present offense.
- C. A person found guilty of Aggravated Harassment may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 6.9 Stalking

- A. A person commits stalking if the person intentionally or knowingly engages in a course of conduct that is directed toward another person and if that conduct either:
 - 1. Would cause a reasonable person to fear for the person's safety or the safety of that person's immediate family member and that person in fact fears for their safety or the safety of that person's immediate family member.
 - 2. Would cause a reasonable person to fear death of that person or that person's immediate family member and that person in fact

fears death of that person or that person's immediate family member.

- B. For the purposes of this section:
 - 1. "Course of conduct" means maintaining visual or physical proximity to a specific person or directing verbal, written or other threats, whether express or implied, to a specific person on two or more occasions over a period of time, however short, but does not include constitutionally protected activity.
 - 2. "Immediate family member" means a spouse, parent, child or sibling or any other person who regularly resides in a person's household or resided in a person's household within the past six months.
- C. A person found guilty of Stalking may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 6.10 Unlawfully Administering a Harmful Substance

- A. A person commits Unlawfully Administering a Harmful Substance by:
 - 1. knowingly introducing a harmful substance into the body of another person, directly or indirectly, for a purpose other than lawful or therapeutic treatment without such victim's consent.
 - 2. knowingly introducing a harmful substance into a spring, well, or reservoir.
- B. A "harmful substance" includes, but is not limited to: intoxicating liquor, narcotics, poison, or dangerous drug.
- C. A person found guilty of Unlawfully Administering a Harmful Substance may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 6.11 Custodial Interference

- A. A person commits Custodial Interference if, without legal right or privilege, he or she knowingly takes, entices, or keeps a child younger than 18 years of age or an incapacitated person from the lawful custody of another parent, guardian or custodian.
- B. A person found guilty of Custodial Interference may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 6.12 Kidnapping

- A. A person commits Kidnapping if he or she, with the intent to detain or hold another person:
 - 1. seizes, confines, or carries away such other person by any means without his or her consent; or
 - 2. unlawfully seizes, confines or carries away by any means a child or children under the age of 18, or any other person who, because of mental illness or infirmity, is incompetent to consent.
- B. A person found guilty of Kidnapping may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 6.13 Abuse of a Person

- A. A person commits Abuse of a Person by intentionally causing or permitting a person to be:
 - 1. lacking adequate care and control related to essential needs, including food, clothing or shelter;
 - 2. subjected to infliction of physical or mental injury;
 - 3. placed in a situation or unfit place that endangers a person's life or health; or
 - 4. subjected to any sexual or sexually-related offense.
- B. A person found guilty of Abuse of a Person may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 6.14 Contributing to the Delinquency of a Minor

- A. A person commits Contributing to the Delinquency of a Minor by intentionally, recklessly, or negligently contributing, encouraging, approving, or causing a person under the age of 18 years to:
 - 1. engage in any conduct prohibited by law;
 - 2. disobey the reasonable and lawful orders and directions of a parent, guardian or custodian;
 - 3. be habitually truant from school or a runaway from a parent, guardian or custodian;
 - 4. accompany known criminals, drunks, and other persons of disreputable character;
 - 5. frequent places or houses where alcohol, drugs, or other intoxicants are used or sold; or
 - 6. use alcohol, drugs, narcotics, or other intoxicants or drugs not therapeutically administered.

- B. A person found guilty of Contributing to the Delinquency of a Minor may be sentenced to a period of imprisonment not to exceed 270 days, a fine not to exceed \$2,500.00, or both, with costs imposed at the discretion of the Court.

Section 6.15 Endangering the Welfare of a Minor

- A. A person commits Endangering the Welfare of a Minor by knowingly or negligently contributing, encouraging, or allowing a person under the age of 18 years to:
 - 1. be subjected to physical or mental injury as a result of failing to maintain or provide reasonable care and treatment;
 - 2. be subjected to overwork or exploitation resulting in physical or mental injury; or
 - 3. live in a home which by reason or neglect, cruelty or depravity is an unfit place.
- B. A person found guilty of Endangering the Welfare of a Minor may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 6.16 Nonsupport

- A. A person commits Nonsupport by intentionally, knowingly, and persistently failing to provide food, shelter, clothing, medical attention, financial support, or other necessary care which he or she can provide and is legally obliged to provide to a spouse, child, or other dependent.
- B. A person found guilty of Nonsupport may be sentenced to a period of imprisonment not to exceed 90 days, a fine not to exceed \$500.00, or both, with costs imposed at the discretion of the Court.
- C. The Court may suspend or defer imposition of sentence upon the condition that the Defendant be given a chance to rectify the claim of Nonsupport within a reasonable period of time set by the Court.

SECTION SEVEN

SEXUALLY-RELATED OFFENSES

Section 7.1 Furnishing Obscene Materials to a Minor

- A. A person commits Furnishing Obscene Materials to a Minor by knowingly giving, lending, showing, or selling obscene materials to any person under the age of 18.
- B. A person found guilty of Furnishing Obscene Materials to a Minor may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 7.2 Possession of Obscene Materials

- A. A person commits Possession of Obscene Materials if he or she possesses obscene material with the intent to sell, rent, lend, transport or distribute such material.
- B. A person found guilty of Possession of Obscene Materials may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 7.3 Indecent Exposure

- A. A person commits Indecent Exposure by knowingly exposing his or her genitals or anus, or her areola or nipple in the presence of another person in a manner calculated to produce disgust or alarm.
- B. A person found guilty of Indecent Exposure may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 7.4 Public Sexual Indecency

- A. A person commits Public Sexual Indecency by intentionally or knowingly engaging in the following acts in the presence of another person without regard as to whether a reasonable person would be offended by such act:
 - 1. an act of sexual contact;

2. an act of oral sexual contact involving genitalia,
 3. an act of sexual intercourse;
 4. an act involving sexual contact between a person and an animal;
or
 5. any other sexual act deemed indecent by generally recognized standards of the community.
- B. A person found guilty of Public Sexual Indecency may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 7.5 Prostitution

- A. A person commits Prostitution by offering to perform, agreeing to perform, or performing any act of oral sexual contact or sexual intercourse in exchange for money or any other thing of value.
- B. A person found guilty of Prostitution may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 7.6 Soliciting for Prostitution

- A. A person commits Soliciting for Prostitution by arranging or offering to provide the services of a prostitute.
- B. A person found guilty of Soliciting for Prostitution may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 7.7 Patronizing a Prostitute

- A. A person commits Patronizing a Prostitute by attempting to procure the services of a prostitute or engaging in any act of oral sexual contact or sexual intercourse with a prostitute.
- B. A person found guilty of Patronizing a Prostitute may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 7.8 Receiving the Proceeds of Prostitution

- A. A person commits Receiving the Proceeds of Prostitution if he or she knowingly receives, lives on, or is supported, in whole or in part, by money or any other thing of value, which is earned, received, procured, or realized by any person through prostitution.

- B. A person found guilty of Receiving the Proceeds of Prostitution may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 7.9 Engaging in Child Prostitution

- A. A person commits Engaging in Child Prostitution by knowingly:
1. taking or enticing any person under the age of 18 away from his or her parent, guardian or custodian for the purpose of prostitution;
 2. causing any minor to engage in prostitution;
 3. using any minor for purposes of prostitution;
 4. receiving any benefit for procuring or placing a minor in any place or in the care of any person for the purpose of prostitution;
 5. receiving any benefit pursuant to any agreement to participate in the proceeds of prostitution of a minor;
 6. financing, managing, supervising, controlling, or owning, either alone or in association with others, prostitution activities involving a minor; or
 7. transporting or financing transportation of any minor through or across the San Carlos Apache Reservation with the intent that such minor engage in prostitution.
- B. A person found guilty of Engaging in Child Prostitution may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 7.10 Adultery

- A. A person commits Adultery if he or she intentionally or knowingly:
1. while married, engages in oral sexual contact or sexual intercourse with a person other than his or her spouse; or
 2. while unmarried, engages in oral sexual contact or sexual intercourse with a married person.
- B. No prosecution for Adultery shall be commenced except under the complaint of the husband or wife not committing the offense.
- C. A person found guilty of Adultery may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 7.11 Spreading a Sexually Transmitted Disease

- A. A person commits Spreading a Sexually Transmitted Disease if, while knowing or having reason to know that he or she has a Sexually Transmitted Disease, he or she recklessly engages in sexual conduct resulting in the transmission of the disease.
- B. A person found guilty of Spreading a Sexually Transmitted Disease may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 7.12 Child Molestation

- A. A person commits Child Molestation if he or she:
 - 1. directly or indirectly fondles, touches, or plays with the genitals, anus or breasts of a child under the age of 14; or
 - 2. causes a child under the age of 14 to directly or indirectly fondle, touch, or play with the genitals, anus or breasts of such person.
- B. A person found guilty of Child Molestation may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 7.13 Incest

- A. A person commits Incest by knowingly engaging in sexual intercourse with a parent, step-parent, sibling, step-sibling, aunt, uncle, niece, nephew, or with one's child or step-child.
- B. A person found guilty of Incest may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 7.14 Sexual Abuse

- A. A person commits Sexual Abuse by knowingly:
 - 1. causing another person to engage in an act of sexual contact by threatening or placing that person in fear of death, serious bodily injury, or kidnapping; or
 - 2. engaging in an act of sexual contact with another person if such other person is incapable of appraising the nature of the conduct, or physically unable to communicate an unwillingness to engage in such act.

- B. A person found guilty of Sexual Abuse may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 7.15 Sexual Abuse of a Minor

- A. A person commits Sexual Abuse of a Minor by knowingly engaging in oral sexual contact or sexual intercourse with any person who is under the age of 18.
- B. A person found guilty of Sexual Abuse of a Minor may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 7.16 Sexual Assault

- A. A person commits Sexual Assault by knowingly causing another person to engage in an act of sexual contact while:
 - 1. using force against such other person;
 - 2. threatening or placing such other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping;
 - 3. administering to such other person by force or threat of force, or without such person's knowledge or consent, an intoxicant, drug or other similar substance, thereby substantially impairing such other person's ability to appraise or control his or her conduct.
- B. A person found guilty of Sexual Assault may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 7.17 Sexual Assault of a Child

- A. A person commits Sexual Assault of a Child by knowingly engaging, or attempting to engage in an act of sexual contact with a child under the age of 12.
- B. A person found guilty of Sexual Assault of a Child may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 7.19 Sexual Assault of a Spouse

- A. A person commits Sexual Assault of a Spouse by intentionally or knowingly engaging in oral sexual contact or sexual intercourse with his or her spouse, without consent, through the use of force or threatened use of force.
- B. A person found guilty of Sexual Assault of a Spouse may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 7.20 Abusive Sexual Contact

- A. A person commits Abusive Sexual Contact by intentionally or knowingly touching, whether directly or indirectly, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with the intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- B. A person found guilty of Abusive Sexual Contact may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

SECTION EIGHT

OFFENSES INVOLVING TECHNOLOGY

Section 8.1 Unlawful Use of Telephone

- A. It is unlawful for any person, with intent to terrify, intimidate, threaten, harass, annoy or offend, to use a telephone for the purpose of:
 - 1. using any obscene, lewd or profane language or suggesting any lewd or lascivious act,
 - 2. threatening to inflict physical harm to the person or property of any person,
 - 3. disturbing by repeated anonymous telephone calls the peace, quiet or right of privacy of any person at the place where the telephone call or calls were received.
- B. Any offense committed by use of a telephone as set forth in this section is deemed to have been committed at either the place where the telephone call or calls originated or at the place where the telephone call or calls were received.
- C. A person found guilty of Unlawful Use of Telephone may be sentenced to a period of imprisonment not to exceed 90 days, a fine not to exceed \$500.00, or both, with costs imposed at the discretion of the Court.

Section 8.2 Surreptitious Photographing, Videotaping, Filming or Digitally Recording

- A. It is unlawful for any person to knowingly photograph, videotape, film, digitally record or by any other means use a device to secretly view or record another person without that person's consent under both of the following circumstances:
 - 1. In a restroom, bathroom, locker room, bedroom or other location where the person has a reasonable expectation of privacy.
 - 2. While the person is urinating, defecating, dressing, undressing, nude or involved in sexual intercourse or sexual contact.
- B. It is unlawful to disclose, display, distribute or publish a photograph, videotape, film or digital recording made in violation of subsection A of this section without the consent of the person depicted.
- C. This section does not apply to:
 - 1. Photographing, videotaping, filming or digitally recording for security purposes where notice of the use of photographing, videotaping, filming or digital recording equipment is clearly posted in the location.
 - 2. Photographing, videotaping, filming or digitally recording by correctional officials for security reasons or in connection with the investigation of alleged misconduct of persons on the premises of a jail or prison.

3. Photographing, videotaping, filming or digitally recording by law enforcement officers pursuant to an investigation, which is otherwise lawful.
 4. The use of a child monitoring device.
- D. A person found guilty of Surreptitious Photographing, Videotaping, Filming or Digitally Recording may be sentenced to a period of imprisonment not to exceed 270 days, a fine not to exceed \$2,500.00, or both, with costs imposed at the discretion of the Court.

Section 8.3 Unlawful Use of a Computer

- A. A person commits Unlawful Use of a Computer if he or she intentionally or knowingly:
1. accesses, alters, deletes, damages, or destroys any computer, computer data, system or network without permission of the owner or lawful operator; or
 2. obtains any confidential information, whether personal or tribal, by accessing any computer, computer data, system, or network without permission of the owner or lawful operator.
- B. A person found guilty of Unlawful Use of a Computer may be sentenced to a period of imprisonment not to exceed 270 days, a fine not to exceed \$2,500.00, or both, with costs imposed at the discretion of the Court.

SECTION NINE

CRIMES AGAINST PROPERTY

Section 9.1 Joyriding

- A. A person commits Joyriding if he or she, with the intent to temporarily deprive the owner or lawful possessor of the use of a motor vehicle, drives or takes away such motor vehicle without the consent of the owner or lawful possessor.
- B. For purposes of this section, “temporarily deprive” shall mean a period of time of not more than twenty-four hours. If the defendant drives or takes the motor vehicle for a period in excess of twenty-four hours, it shall be presumed that he or she intended to permanently deprive the owner or lawful possessor of its use, benefit, or value.
- C. A person found guilty of Joyriding may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 9.2 Criminal Trespass

- A. A person commits Criminal Trespass by knowingly:
 - 1. entering or remaining unlawfully on or in any commercial building or structure, commercial yard, residential building or structure, or residential yard; or
 - 2. entering or remaining unlawfully on or in any building, structure, or land after having been given sufficient notice not to enter or remain by the owner or any person having lawful control over the property. A written or verbal communication, a sign posted on the property in a place likely to be seen by a trespasser, and any fences or barricades designed to enclose the property constitute sufficient notice under this provision.
- B. A person found guilty of Criminal Trespass may be sentenced to a period of imprisonment not to exceed 90 days, a fine not to exceed \$500.00, or both, with costs imposed at the discretion of the Court.

Section 9.3 Criminal Littering or Polluting

- A. A person commits Criminal Littering or Polluting by:

1. dumping, depositing, placing, throwing, or leaving any refuse, rubbish, debris, trash, or other substance, organic or inorganic, on public or private property and failing to immediately remove it; or
 2. unlawfully discharging or causing to be discharged any substance that will alter the quality of the waters on the reservation.
- B. A person found guilty of Criminal Littering or Polluting may be sentenced to a period of imprisonment not to exceed 90 days, a fine not to exceed \$500.00, or both, with costs imposed at the discretion of the Court.

Section 9.4 Criminal Damage to Public Property

- A. A person commits Criminal Damage to Public Property by intentionally, recklessly or negligently defacing, damaging, or tampering with any property of the San Carlos Apache Tribe, any federal government agency, or the State of Arizona while such property is located within the San Carlos Reservation, so as to impair the property's function or value.
- B. A person found guilty of negligently causing Criminal Damage to Public Property may be sentenced to pay restitution of an amount that will fully compensate for the damage cause, serve a period of imprisonment not to exceed 90 days, pay a fine not to exceed \$500.00, or any combination of the above, with costs imposed at the discretion of the Court.
- C. A person found guilty of intentionally or recklessly causing Criminal Damage to Public Property may be sentenced to pay restitution of an amount that will fully compensate for the damage cause, serve a period of imprisonment not to exceed 180 days, pay a fine not to exceed \$1,000.00, or any combination of the above, with costs imposed at the discretion of the Court.

Section 9.5 Criminal Damage to Private or Personal Property

- A. A person commits Criminal Damage to Private or Personal Property by intentionally, recklessly or negligently defacing, damaging, or tampering with any property belonging to another person, without such person's consent, so as to impair the property's function or value.
- B. A person found guilty of negligently causing Criminal Damage to Private or Personal Property may be sentenced to pay restitution of an amount that will fully compensate for the damage cause, serve a period of imprisonment not to exceed 90 days, pay a fine not to exceed \$500.00, or any combination of the above, with costs imposed at the discretion of the Court.

- C. A person found guilty of intentionally or recklessly causing Criminal Damage to Private or Personal Property may be sentenced to pay restitution of an amount that will fully compensate for the damage cause, serve a period of imprisonment not to exceed 180 days, pay a fine not to exceed \$1,000.00, or any combination of the above, with costs imposed at the discretion of the Court.

Section 9.6 Aggravated Criminal Damage

- A. A person commits Aggravated Criminal Damage by intentionally or recklessly, and without express permission from the owner, defacing, damaging, or altering the appearance of any building, structure or place used:
 - 1. as an educational facility;
 - 2. for worship or any religious purpose; or
 - 3. for the purpose of burial or memorializing the dead.
- B. A person found guilty of Aggravated Criminal Damage may be sentenced to a period of imprisonment not to exceed 270 days, a fine not to exceed \$2,500.00, or both, with costs imposed at the discretion of the Court.

Section 9.7 Arson

- A. A person commits Arson by intentionally or recklessly causing a fire or explosion that results in any damage to a building, structure, land or personal property.
- B. This section does not apply to any person who has properly obtained a tribal permit to burn his or her own land or the land of another.
- C. A person found guilty of Arson may be sentenced to pay restitution in an amount that will fully compensate for the damage cause, serve a period of imprisonment not to exceed 365 days, pay a fine not to exceed \$5,000.00, or any combination of the above, with costs imposed at the discretion of the Court.

Section 9.8 Negligent Burning

- A. A person commits Negligent Burning if such person fails to use due diligence in containing a lawful fire for which he or she is responsible, and such fire burns out of control, causing damage to any structure, land, or personal property belonging either to another person or to the person responsible for the fire.

- B. In this section, a “lawful fire” is a fire burned under permit from the Tribal Forestry Department.
- C. A person found guilty of Negligent Burning may be sentenced to pay restitution in an amount that will fully compensate for the damage caused, serve a period of imprisonment not to exceed 90 days, pay a fine not to exceed \$500.00, or any combination of the above, with costs imposed at the discretion of the Court.

SECTION TEN

THEFT AND RELATED OFFENSES

Section 10.1 Theft

- A. A person commits Theft if, without lawful authority or consent, such person knowingly:
1. takes, controls, uses or conceals the property of another with intent to deprive the owner of the property's use, benefit, or value;
 2. obtains property or services of another by means of any material misrepresentation with intent to deprive the owner of such property or services;
 3. takes property entrusted to him or her for a specified period of time and a particular use and uses such property for an unauthorized period of time or use;
 4. obtains services known to be available for compensation without paying for such services or entering into an agreement to pay for the services;
 5. comes into control of lost, mislaid, or misdelivered property of another under circumstances providing means of inquiry as to the true owner and appropriates such property to the person's own or another's use without reasonable efforts to notify the true owner;
 6. controls property of another knowing or having reason to know that the property was stolen; or
 7. takes control, title, use or management of an elderly, incapacitated, or vulnerable adult's assets or property through intimidation, omission, or deception.
- B. A person found guilty of Theft may be sentenced to return the property, pay restitution in an amount that will fully compensate for the loss, serve a period of imprisonment not to exceed 180 days, pay a fine not to exceed \$1,000.00, or any combination of the above, with costs imposed at the discretion of the Court.

Section 10.2 Shoplifting

- A. A person commits Shoplifting if, while goods are displayed for sale, such person knowingly obtains such goods with the intent to deprive the owner of such goods by:

1. removing any of the goods from display or any other place within the establishment without paying the purchase price;
 2. charging the purchase price of the goods to a fictitious person or to a real person without that person's authority;
 3. paying less than the purchase price for the goods by some trick, such as altering, removing, substituting, or otherwise disfiguring any label, price tag, or marking;
 4. transferring the goods from one container to another; or
 5. concealing the goods.
- B. A person who knowingly conceals unpurchased merchandise while in a store shall be presumed to have the necessary intent to deprive the owner of the goods.
- C. A person found guilty of Shoplifting may be sentenced to return the property, pay restitution in an amount that will fully compensate for the loss, serve a period of imprisonment not to exceed 60 days, pay a fine not to exceed \$200.00, or any combination of the above, with costs imposed at the discretion of the Court.

Section 10.3 Issuing Bad Checks

- A. A person commits Issuing Bad Checks by making, issuing or passing a check, knowing or having reason to know, that his or her bank account does not have sufficient funds to make full payment on the check and all other checks outstanding at the time of issuance.
- B. In a prosecution for Issuing Bad Checks, any of the following constitutes a defense:
1. the payee or holder of the check knows, has express prior notice, or has reason to believe that the writer of the check did not have sufficient funds to make full payment on the check;
 2. the check is postdated and sufficient funds are on deposit at the later date for full payment on the check.
- C. A person found guilty of Issuing Bad Checks may be sentenced to pay restitution in an amount that will fully compensate for the loss, serve a period of imprisonment not to exceed 365 days, pay a fine not to exceed \$5,000.00, or any combination of the above, with costs imposed at the discretion of the Court.

Section 10.4 Criminal Fraud

- A. A person commits Criminal Fraud by obtaining money, property, advantage, credit, or any thing of value from another person by trick, deceit, or misrepresentation.
- B. It is unlawful for a person to sell or offer for sale any ticket or other token representing a chance to win a lottery, raffle, or other promotion where such lottery, raffle, or other promotion is not bona fide.
- C. A person found guilty of Criminal Fraud may be sentenced to a period of imprisonment not to exceed 90 days, a fine not to exceed \$500.00, or both, with costs imposed at the discretion of the Court.

Section 10.5 Forgery

- A. A person commits Forgery if, with intent to defraud, such person:
 - 1. falsely makes, completes, or alters a written document or instrument;
 - 2. knowingly possesses a forged document or instrument; or
 - 3. offers or presents a document or instrument, knowing the document or instrument is forged or contains false information.
- B. A person found guilty of Forgery may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 10.6 Criminal Impersonation

- A. A person commits Criminal Impersonation if he or she:
 - 1. Assumes a false identity with the intent to defraud another; or
 - 2. pretends to be a representative of some person, agency, government, or organization with the intent to defraud or to obtain otherwise unauthorized access to information or property.
- B. A person found guilty of Criminal Impersonation may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 10.7 Identity Theft

- A. A person commits Identity Theft by knowingly taking, using, selling or transferring any person identifying information of another person, without the consent of that person, with the intent to:

1. obtain, use, sell or transfer the other person's identity for any unlawful purpose; or
 2. to cause loss to a person, whether or not the person actually suffers any economic loss as a result of the offense.
- B. A person found guilty of Identity Theft may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 10.8 Unlawful Use of Credit Card

- A. A person commits Unlawful Use of Credit Card if, with the intent to defraud, he or she uses a credit card or credit card number:
1. to obtain money, goods, services, or any thing of value without the cardholder's or issuer's consent; or
 2. which the person knows is forged, expired, canceled or revoked.
- B. A person found guilty of Unlawful Use of Credit Card may be sentenced to a period of imprisonment not to exceed 270 days, a fine not to exceed \$2,500.00, or both, with costs imposed at the discretion of the Court.

Section 10.9 Embezzlement

- A. A person commits Embezzlement if, while in lawful possession of property belonging to another person, he or she fraudulently converts such property with the intent to permanently deprive the owner of the property.
- B. A person found guilty of Embezzlement may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 10.10 Burglary

- A. A person commits Burglary by unlawfully entering or remaining in a building, structure, or fenced yard with the intent to commit an offense against a person or property.
- B. A person is deemed to have entered a building, structure, or fenced yard if any part of any instrument used by the person or any body part of the person has intruded within the external boundaries of the building, structure or fenced yard.

- C. A person found guilty of Burglary may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 10.11 Aggravated Burglary

- A. A person commits Aggravated Burglary by knowingly possessing a deadly weapon or dangerous offense in the course of committing Burglary.
- B. A person found guilty of Aggravated Burglary may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 10.12 Robbery

- A. A person commits Robbery by using force, threats, coercion, or intimidation to take property or any thing of value from another person in that person's presence with the intent to permanently deprive that person of the property.
- B. A person found guilty of Robbery may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 10.13 Aggravated Robbery

- A. A person commits Aggravated Robbery if such person commits a Robbery aided by one or more accomplices actually present at the scene of the Robbery.
- B. A person found guilty of Aggravated Robbery may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 10.14 Armed Robbery

- A. A person commits Armed Robbery by committing a Robbery while:
 - 1. Armed with a deadly weapon, simulated deadly weapon, or dangerous instrument; or
 - 2. using or threatening to use a deadly weapon, simulated deadly weapon, or dangerous instrument.

- B. A person found guilty of Armed Robbery may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 10.15 Possessing or Receiving Stolen Property

- A. A person commits Possessing or Receiving Stolen Property by taking possession or control of illegally obtained property, knowing or having reason to know, that such property was unlawfully obtained from another person and intending to deprive the owner of his or her interest in the property.
- B. A person found guilty of Possessing or Receiving Stolen Property may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 10.16 Trafficking in Stolen Property

- A. A person commits Trafficking in Stolen Property by knowingly selling, exchanging for value, or offering for sale or exchange, any property belonging to another with knowledge that the property is stolen and with the intent to deprive the owner of the property.
- B. A person found guilty of Trafficking in Stolen Property may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 10.17 Extortion

- A. A person commits Extortion if he or she knowingly seeks to obtain money, property, or services by threatening to perpetrate any of the following acts:
 - 1. causing physical injury to anyone;
 - 2. causing damage to property;
 - 3. engaging in other conduct constituting a crime;
 - 4. accruing a person of a crime or bringing criminal charges against a person;
 - 5. exposing a secret or asserted fact, whether true or false, intending to subject anyone to hatred, ridicule, or contempt, or to impair his or her credit or business; or
 - 6. taking or withholding action as a Tribal employee or Tribal official or causing a Tribal employee or Tribal official to take or withhold action.

- B. A person found guilty of Extortion may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

SECTION ELEVEN

OFFENSES INVOLVING ALCOHOL

Section 11.1 Tribal Policy Regarding Alcoholic Beverages

It is legal and permissible to possess, transport, and/or consume alcoholic beverages within the exterior boundaries of the San Carlos Apache Reservation, subject to such laws and regulations as may be provided by this Code or by the ordinances or policies of the San Carlos Apache Tribal Council.

Section 11.2 Definitions

In this Chapter, unless the context otherwise requires:

“Alcoholic Beverages” means any beverage, mixture or preparation containing any form of ethanol or ethanol compound which may, in sufficient quantities, result in physical, mental, or emotional impairment or intoxication.

“Public Place” means a place to which the public or a substantial group of persons has access and includes, but is not limited to: highways, streets, alleys, schools, parks, places of business, playgrounds and hallways, lobbies and other portions of motels and hotels not constituting rooms or apartments designed for actual residence. A public place shall include the immediate area, both inside and outside a structure wherein traditional San Carlos religious practices, ceremonies or services are held.

It shall also include the immediate area within 300 horizontal feet, both inside and outside the San Carlos convenience store. This definition does not apply to the sale of alcoholic beverages on the premises of and by an on-sale retailer, nor does it apply to a person consuming alcoholic beverages from a broken package in a public recreation area or on private property with permission of the owner or lessor.

“Vehicle” includes any means of transportation by land, air, or water, and consists of everything made use of in any way for such transportation.

Section 11.3 Unlawful Possession of Open Container

- A. A person commits Unlawful Possession of Open Container if he or she knowingly possesses an open container of an alcoholic beverage while in a public place or vehicle.

- B. A person found guilty of Unlawful Possession of Open Container may be sentenced to a period of imprisonment not to exceed 30 days, a fine not to exceed \$100.00, or both, with costs imposed at the discretion of the Court.

Section 11.4 Underage Possession or Consumption of Alcoholic Beverages

- A. A person commits Underage Possession or Consumption of Alcoholic Beverages if he or she is under the age of 21 years and possesses or consumes alcoholic beverages.
- B. A person found guilty of Underage Possession or Consumption of Alcoholic Beverages may be sentenced to a period of imprisonment not to exceed 30 days, a fine not to exceed \$100.00, or both, with costs imposed at the discretion of the Court.

Section 11.5 Public Intoxication

- A. A person commits Public Intoxication if he or she appears in any public place or in a private place without the consent of the owner, and is under the influence of or intoxicated by alcoholic beverages, toxic vapors, or any psychotropic substances, whether legal or illegal.
- B. A person found guilty of Public Intoxication may be sentenced to a period of imprisonment not to exceed 30 days, a fine not to exceed \$100.00, or both, with costs imposed at the discretion of the Court.
- C. The Tribal Court may, in its discretion or at the request of another, commit a person repeatedly convicted of Public Intoxication to an alcoholic rehabilitation unit for residential treatment, or require the offender to participate in an outpatient counseling program designed and supervised by an alcohol or drug rehabilitation program as a condition of probation or in lieu of a jail sentence as required in Paragraph B of this section.

Section 11.6 Involving a Minor in an Alcohol-Related Offense

- A. A person commits Involving a Minor in an Alcohol-Related Offense if he or she:
 - 1. hires, employs, or uses a person under the age of 21 years to engage in any conduct, completed or preparatory, which is prohibited by this chapter.
 - 2. sells, transfers, or offers to sell or transfer to a person under the age of 21 years any alcoholic beverage.

- B. A person found guilty of Involving a Minor in an Alcohol-Related Offense may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.
- C. If a person has been previously convicted of this offense, he or she shall be sentenced to a period of imprisonment for 365 days and a fine of \$5,000.00. He or she shall not be eligible for suspension or commutation of sentence, probation, pardon, or parole or release on any other basis.

Section 11.7 Possession of Alcoholic Beverages for Manufacture, Delivery or Sale

- A. A person commits Possession of Alcoholic Beverages for Manufacture, Delivery or Sale if he or she manufactures, sells, delivers for sale or resale, buys for resale, or otherwise deals in alcoholic beverages without a liquor license or other lawful authority.
- B. A person found guilty of Possession of Alcoholic Beverages for Manufacture, Delivery or Sale may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

SECTION TWELVE
OFFENSES INVOLVING DRUGS

Section 12.1 Definitions

In this Chapter, unless the context otherwise requires:

“Administer” means to apply, inject, or facilitate the inhalation or ingestion of a substance into the body of a person.

“Deliver” means the actual, constructive, or attempted exchange from one person to another, whether or not there is an agency relationship.

“Dispense” means distribute, leave with, give away, dispose of, or deliver.

“Manufacture” means produce, prepare, propagate, compound, mix or process, directly or indirectly, by extraction from substances of natural origin or combination of extraction and chemical synthesis. Manufacture includes any packaging or repackaging or labeling or relabeling of containers. Manufacture does not include any producing, preparing, propagating, compounding, mixing, processing, packaging or labeling done in conformity with applicable state and local laws and rules by a licensed practitioner to and in the course of his or her licensed practice.

“Marijuana” means all the parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. Such term does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

“Narcotic drug” means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- a. Opium, coca leaves, and opiates,
- b. A compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates,
- c. A substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in clause (a) or (b). This term does not refer to decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.
- d. As defined in § 13-3401 of the A.R.S.

“Opiate” means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability.

“Peyote” means any part of a plant of the genus *lophophora*, known as the mescal button.

“Production” means the manufacture, planting, cultivating, growing, or harvesting of a controlled substance.

“Precursor Chemical” means a substance which the Tribal Prosecutor has found to be and by regulation designated as being the principal compound used, or produced primarily for use, in the manufacture of such controlled substance; which is an immediate chemical intermediary used or likely to be used in the manufacture of such controlled substance; and the control of which is necessary to prevent, curtail, or limit the manufacture of such controlled substance.

“Sale” or “Sell” means an exchange for anything of value or advantage, present, or prospective.

“Transfer” means to furnish, deliver or give away.

“Vapor-releasing substance containing a toxic substance” means paint or varnish dispensed by the use of aerosol spray, or any glue, which releases vapors or fumes containing acetone, volatile acetates, benzene, butyl alcohol, ethyl alcohol, ethylene dichloride, isopropyl alcohol, methyl alcohol, methyl ethyl ketone, pentachlorophenol, petroleum ether, toluene, volatile ketones, isophorone, chloroform, methylene chloride, mesityl oxide, xylene, cumene, ethylbenzene, trichloroethylene, mibk, miak, mek or diacetone alcohol or isobutyl nitrite.

Section 12.2 Possession or Sale of Peyote

- A. A person commits Possession or Sale of Peyote by knowingly possessing, selling, transferring, or offering to sell or transfer peyote.
- B. In a prosecution under this Section, it is a defense that the peyote is being used or is intended for use:
 - 1. In connection with a bona fide practice of a religious belief; and
 - 2. as an integral part of a religious exercise; and
 - 3. in a manner not dangerous to public health, safety, or morals.
- C. A person found guilty of Possession or Sale of Peyote may be sentenced to a period of imprisonment not to exceed 90 days, a fine not to exceed \$500.00, or both, with costs imposed at the discretion of the Court.

Section 12.3 Possession or Use of Marijuana

- A. A person commits Possession or Use of Marijuana by possessing or using marijuana.

- B. A person found guilty of Possession or Use of Marijuana involving an amount of marijuana not possessed for sale having a weight of up to but not exceeding sixteen (16) oz. shall be sentenced to a period of imprisonment for 180 days and a fine not to exceed \$2,500.00.
- C. A person found guilty of Possession or Use of Marijuana involving an amount of marijuana not possessed for sale having a weight of sixteen (16) oz. or more shall be sentenced to a period of imprisonment for 365 days and a fine not to exceed \$5,000.00.

Section 12.4 Possession or Transport of Marijuana with Intent to Sell

- A. A person commits Possession or Transport of Marijuana with Intent to Sell by possessing sixteen (16) or more oz. of marijuana or any substance or mixture containing marijuana with the intent to:
 - 1. exchange all or party of such marijuana for anything of value or advantage, present or prospective, or
 - 2. transfer or convey all or part of such marijuana from one place to another.
- B. A person found guilty of Possession or Transport of Marijuana with Intent to Sell may be sentenced to a period of imprisonment for a period not less than 180 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 12.5 Production of Marijuana

- A. A person commits Production of Marijuana if he or she knows or has reason to know that he or she has planted, cultivated, tended, or harvested marijuana, or if he or she produces, prepares, or processes marijuana by extraction from a substance of natural origin or by means of chemical synthesis or by a combination of extraction and chemical synthesis.
- B. A person found guilty of Production of Marijuana may be sentenced to a period of imprisonment for a period not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 12.6 Unlawful Use of Prescription-Only Drugs

- A. A person commits Unlawful Use of Prescription-Only Drugs by knowingly:
 - 1. possessing or using a prescription-only drug without an appropriate prescription from a licensed physician;

2. possessing a prescription-only drug for sale;
3. possessing equipment and chemicals for the purpose of manufacturing a prescription-only drug;
4. manufacturing a prescription-only drug;
5. administering a prescription-only drug;
6. obtaining or procuring the administration of a prescription-only drug by fraud, deceit, misrepresentation, or subterfuge;
7. transporting for sale, importing onto the reservation, or offering to transport or import for sale, selling, transferring, or offering to sell or transfer a prescription-only drug.

B. "Prescription-Only" drug does not include dangerous or narcotic drugs, but means:

8. Any drug which, because of its use, or other potentiality, requires special caution in its use, or which is generally recognized as safe and efficacy, as safe for use except by or under the supervision of a medical practitioner.
9. any drug that is limited by an approved new drug application under the Federal Food, Drug, and Cosmetic Act, 21 C.F.R. § 314.101, or any drug that is limited by an approved new drug application under the Food and Drug Administration Code of Federal Regulations, 21 C.F.R. § 314.101, to use under the supervision of a medical practitioner.
10. every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer.
11. any drug which, because of its use, or other potentiality, requires special caution in its use, or which is generally recognized as safe and efficacy, as safe for use except by or under the supervision of a medical practitioner.

B. A person found guilty of Unlawful Use of Prescription Only Drugs may be sentenced to a period of imprisonment for a period not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 12.7 Unlawful Use of Dangerous Drugs

A. A person commits Unlawful Use of Dangerous Drugs by knowingly:

1. possessing or using a dangerous drug;
2. possessing a dangerous drug for sale;
3. possessing equipment and chemicals for the purpose of manufacturing a dangerous drug;
4. manufacturing a dangerous drug;
5. administering a dangerous drug to another person;
6. obtaining or procuring the administration of a dangerous drug by fraud, deceit, misrepresentation, or subterfuge;

7. transporting for sale, importing onto the reservation, or offering to transport or import for sale, selling, transferring, or offering to sell or transfer a dangerous drug.
- B. “Dangerous Drug” does not include prescription-only or narcotic drugs, but means any drug described or defined as a dangerous drug under the provisions of A.R.S. § 13-3401, as amended at the time of the offense, and incorporated into the San Carlos Law & Order Code by reference. In case of a conflict, the San Carlos Law & Order Code shall prevail.
- C. A person found guilty of Unlawful Use of Dangerous Drugs may be sentenced to a period of imprisonment for a period not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 12.8 Unlawful Use of Narcotic Drugs

- A. A person commits Unlawful Use of Narcotic Drugs by knowingly:
1. possessing or using a narcotic drug;
 2. possessing a narcotic drug for sale;
 3. possessing equipment and chemicals for the purpose of manufacturing a narcotic drug;
 4. manufacturing a narcotic drug;
 5. administering a narcotic drug to another person without proper medical authorization;
 6. obtaining or procuring the administration of a narcotic drug by fraud, deceit, misrepresentation, or subterfuge;
 7. transporting for sale, importing onto the reservation, or offering to transport or import for sale, selling, transferring, or offering to sell or transfer a narcotic drug.
- B. “Narcotic Drug” does not include prescription-only or dangerous drugs, but means any drug described or defined as a controlled substance under the provisions of A.R.S. § 13-3401, as amended at the time of the offense, and incorporated into the San Carlos Law & Order Code by reference. In case of a conflict, the San Carlos Law & Order Code shall prevail.
- C. A person found guilty of Unlawful Use of Narcotic Drugs may be sentenced to a period of imprisonment for a period not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 12.9 Unlawful Use of a Vapor-Releasing Substance Containing a Toxic Substance

- A. A person commits Unlawful Use of a Vapor-Releasing Substance Containing a Toxic Substance by knowingly:
1. breathing, inhaling or drinking a vapor-releasing substance containing a toxic substance,
 2. possesses a vapor-releasing substance containing a toxic substance with the intent to breathe, inhale, or drink such substance,
 3. selling, transferring, or offering to sell or transfer a vapor-releasing substance containing a toxic substance to a person under the age of 18 years,
 4. selling, transferring, or offering to sell or transfer a vapor-releasing substance containing a toxic substance while not employed by or engaged in the operation of a licensed commercial establishment regularly offering such vapor-releasing substances for lawful use.
- B. A person found guilty of Unlawful Use of a Vapor-Releasing Substance Containing a Toxic Substance may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 12.10 Involving or Using Minors in Drug Offenses

- A. A person commits Involving or Using Minors in Drug Offenses by knowingly:
1. hiring, employing, or using a person under the age of 18 to engage in any conduct, completed or preparatory, which is prohibited by this Section 12.
 2. selling, transferring, or offering to sell or transfer to a person under the age of 18 any substance if its possession is prohibited by this Section 12.
- B. A person found guilty of Involving or Using Minors in Drug Offenses may be sentenced to a period of imprisonment for a period not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.
- C. A person previously convicted of this offense shall be sentenced to a period of imprisonment of 365 days and a fine of \$5,000.00, and shall not be eligible for suspension or commutation of sentence, probation, pardon, or parole or release on any other basis.

Section 12.11 Possession of Precursor Chemicals

- A. A person commits Possession of Precursor Chemicals by knowingly possessing a precursor chemical or selling, transferring or otherwise furnishing a precursor chemical to another with knowledge that such recipient will use the precursor chemical to unlawfully manufacture a dangerous drug or a narcotic drug.
- B. A person found guilty of Possession of Precursor Chemicals may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 12.12 Possession, Manufacture, Delivery or Advertisement of Drug Paraphernalia

- A. A person commits Possession, Manufacture, Delivery or Advertisement of Drug Paraphernalia by:
 - 1. using, delivering, manufacturing, or possessing with the intent to use, deliver or manufacture, knowing or having reason to know that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a drug in violation of this Chapter 12.
 - 2. placing in a newspaper, magazine, handbill, or other publication any advertisement knowing or having reason to know that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
- B. A person found guilty of Possession, Manufacture, Delivery or Advertisement of Drug Paraphernalia may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 12.13 Selling or Furnishing Tobacco to a Minor

- A. A person commits Selling or Furnishing Tobacco to a Minor by giving, selling, or otherwise furnishing cigars, cigarettes, cigarette papers, or smoking or chewing tobacco to any person under the age of 18 years.
- B. A person found guilty of Selling or Furnishing Tobacco to a Minor may be sentenced to a period of imprisonment not to exceed 30 days, a fine not to exceed \$300.00, or both, with costs imposed at the discretion of the Court.

Section 12.14 Forfeiture and Destruction of Seized Substances

- A. Upon the conviction of any person based upon violation of this Section 12, the Tribal Court shall order the substance seized and forfeited to the San Carlos Apache Tribe to be destroyed by the San Carlos Police Department.

- B. A record of the place where such substance was seized, the kinds and quantities of the substance forfeited and destroyed, and the time, place, and manner of destruction shall be kept, and a return under oath reporting such destruction shall be made by the officer who makes such destruction within 7 days of the Tribal Court's order.

SECTION THIRTEEN

OFFENSES INVOLVING WEAPONS OR EXPLOSIVES

Section 13.1 Definitions

- A. In this chapter, unless the context otherwise requires:
1. “Deadly weapon” means anything that is designed for lethal use. The term includes a firearm.
 2. “Deface” means to remove, alter or destroy the manufacturer’s serial number.
 3. “Explosive” means any dynamite, nitroglycerine, black powder or other similar explosive material including plastic explosives. Explosive does not include ammunition or ammunition components such as primers, percussion caps, smokeless powder, black powder and black powder substitutes used for hand loading purposes.
 4. “Firearm” means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or other weapon that will or is designed to or that may readily be converted to expel a projectile by the action of an explosive. Firearm does not include a firearm in permanently inoperable condition.
 5. “Prohibited weapon” means:
 - (a) Any explosive, incendiary or poison gas, including bombs, grenades, mines, and rockets having a propellant charge of more than four ounces. This does not include such devices that are being used in a manner consistent with their intended purpose.
 - (b) Any device that is designed, made or adapted to muffle the report of a firearm.
 - (c) Any firearm that is capable of shooting more than one shot automatically, without manual reloading, by a single function of the trigger.
 - (d) Any rifle with a barrel length of less than sixteen inches, or shotgun with a barrel length of less than eighteen inches, or any firearm that is made from a rifle or shotgun and that, as modified, has an overall length of less than twenty-six inches.
 - (e) Any instrument, including a nunchaku, that consists of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense.
 - (f) Any breakable container that contains a flammable liquid with a flash point of one hundred fifty degrees Fahrenheit or less and that has a wick or similar device capable of being ignited.

(g) Any chemical or combination of chemicals, compounds or materials, including dry ice, that are placed in a sealed or unsealed container for the purpose of generating a gas to cause a mechanical failure, rupture or bursting of the container.

(h) Any combination of parts or materials that is designed and intended for use in making or converting a device into an item set forth in subdivision (a) or (f) of this paragraph.

- B. The items set forth in subsection A, paragraph 4, subdivisions (a), (b), (c) and (d) of this section do not include any firearms or devices that are registered in the national firearms registry and transfer records of the United States treasury department or any firearm that has been classified as a curio or relic by the United States treasury department.

Section 13.2 Carrying a Concealed Weapon

- A. A person commits Carrying a Concealed Weapon by knowingly appearing in a public place carrying a prohibited weapon, a firearm, or a dangerous instrument:

1. concealed on his or her person in such a way that some part of the weapon is not in clear view and identifiable as a weapon; or
2. concealed within his or her immediate vicinity such that some part of the weapon is not in clear view and identifiable as a weapon.

- permitting B. In a prosecution under this section, it is a defense if such person has a permit signed by a judge of the San Carlos Apache Tribal Court the person to carry a concealed weapon or if such person is a law enforcement officer acting in his or her official capacity.

- B. A person found guilty of Carrying a Concealed Weapon may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 13.3 Minor in Unlawful Possession of Firearms

- A. Except as provided in Subsection B, an unemancipated person who is under the age of 18 years and who is unaccompanied by a parent, guardian, legal custodian, or certified hunting safety instructor acting with parental consent, shall not knowingly carry or possess on his person, within his immediate control, or in or on a means of transportation, a firearm.

- B. A person shall not be guilty of Minor in Unlawful Possession of Firearms who is either: 1) over 14 years of age with a valid game license issued by the Department of Recreation and Wildlife, or 2) between 12 and 14 years of age with a valid game license issued by the Department of Recreation and Wildlife *and* a recognized hunter's safety certificate.

- C. A person found guilty of Minor in Unlawful Possession of Firearms may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 13.4 Unlawfully Carrying Firearms or Game-Trapping Devices

- A. A person commits Unlawfully Carrying Firearms or Game-Trapping by knowingly carrying, transporting, or possessing one or more devices for taking wildlife within or upon an area closed to the taking of wildlife.
- B. This Section shall not apply to officers of the law in performance of their official duties, nor to persons traversing such closed area or over roads therein carrying unloaded devices.
- C. A person found guilty of Unlawfully Carrying Firearms or Game-Trapping Devices may be sentenced to a period of imprisonment not to exceed 60 days, a fine not to exceed \$300.00, or both, with costs imposed at the discretion of the Court.

Section 13.5 Misuse of Firearms

- A. A person commits Misuse of Firearms if such person:
 - 1. handles or discharges such firearm while under the influence of intoxicating liquor or drugs or with reckless disregard for the safety of human life or property; or
 - 2. knowingly discharges a firearm from a vehicle or a building or structure, whether occupied or unoccupied, across or into a road, railway, another building, structure or vehicle, or in such a manner as to endanger any person or property.
- B. A person found guilty of Misuse of Firearms may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 13.6 Misconduct Involving Weapons

- A. A person commits Misconduct Involving Weapons by knowingly:
 - 1. Carrying a deadly weapon without a permit on his person or concealed within the immediate control of any person in or on a means of transportation;
 - 2. Manufacturing, possessing, transporting, selling or transferring a prohibited weapon;
 - 3. Defacing a deadly weapon;
 - 4. Possessing a defaced deadly weapon knowing the deadly weapon was defaced;

criminal

5. Using or possessing a deadly weapon during the commission of any offense included in this Code;
 6. Discharging a firearm at an occupied structure in order to assist, promote or further the interests of a criminal street gang, a syndicate or a racketeering enterprise;
 7. Unless specifically authorized by law, entering any public place or attending any public event while carrying a deadly weapon on his person after reasonable notice by the operator of the establishment or the sponsor of the event that such conduct is prohibited;
 8. Unless specifically authorized by law, entering an election polling place on the day of any election carrying a deadly weapon;
 9. Possessing a deadly weapon on school grounds; or
 10. Supplying, selling or giving possession or control of a firearm to another person if the person knows or has reason to know that the other person would use the firearm in the commission of any felony.
- B. Subsection A, paragraph 1 of this section shall not apply to a person in his dwelling, on his business premises or on real property owned or leased by that person.
- C. Subsection A, paragraphs 1, 2, 4, 7, 8, and 9 of this section shall not apply to police officers or correctional officers in the performance of their official duties.
- D. A person found guilty of Misconduct with Weapons may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 13.7 Misconduct Involving Explosives

- A. A person commits Misconduct Involving Explosives if such person:
1. knowingly sells, possesses, or transports explosives without having plainly and conspicuously marked on the box containing the explosives the name and explosive character of the explosive and the date of manufacture;
 2. knowingly keeps or stores more than 50 pounds of explosives in or near any building or structure within 1,500 feet of a residence;
 3. knowingly keeps or stores percussion caps or any blasting powder within 200 feet of a building or structure where explosives are being stored;
 4. knowingly makes, buys, sells, transports, or transfers any explosive either with intent to use the explosive to commit a crime or knowing or having reason to know another intends to use it to commit a crime;
 5. maliciously places, attempts to explode, or explodes any explosive with intent to injure, intimidate, or terrify another, or with intent to damage another's property; or
 6. places, attempts to explode, or explodes any explosive or simulated explosive in or near any building, vehicle or place where people frequently assemble or pass.

- B. A person found guilty of Misconduct Involving Explosives may be sentenced to a period of imprisonment not to exceed 365 days, a fine not exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 13.8 Permitting for Use of Explosives

The San Carlos Police Department shall issue a permit for selling, possessing, transporting, transferring, storing, or keeping explosives within the exterior boundaries of the San Carlos Apache Reservation. The permittee shall present the permit for inspection to any law enforcement officer upon request.

Section 13.8 Forfeiture of Firearms and Explosives

Any weapon, firearm or explosive used in any way in the commission of an offense as defined by this Chapter may be immediately confiscated by the San Carlos Police Department and forfeited to the San Carlos Apache Tribe by order of the Tribal Court upon the conviction of the accused.

SECTION FOURTEEN

OFFENSES INVOLVING ANIMALS OR NATURAL RESOURCES

Section 14.1 Assault by Vicious Animals

- A. Should a vicious animal cause injury to a person or livestock, the owner will be held responsible for damages may be criminally prosecuted for assault.
- B. “Vicious animal” means any animal that has a propensity to bite human beings or livestock without provocation.
- C. While acting under color of law, a Tribal Law Enforcement officer may use deadly force against a vicious animal whenever he or she is threatened by a freely roaming vicious animal in the public or private domain.
- D. The provisions of this section shall not apply to animals owned or used by a law enforcement agency and used in the performance of police work.
- E. A person found guilty of Assault by Vicious Animals may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 14.2 Cruelty to Animals

- A. A person commits Cruelty to Animals by intentionally, knowingly or recklessly:
 - 1. subjecting any animal under his or her custody or control to cruel neglect or abandonment,
 - 2. inflicting unnecessary physical injury to any animal;
 - 3. killing any animal under the custody or control of another person without legal privilege or the consent of the owner, or
 - 4. subjecting any animal to cruel mistreatment, including withholding of medical care necessary to prevent the prolonged suffering of an animal under the person’s custody and control.
- F. This offense shall not apply to any officer or agent of the San Carlos Apache Tribe, the United States, or the State of Arizona acting in his or her official capacity.

- C. A person found guilty of Cruelty to Animals may be sentenced to a period of imprisonment not to exceed 90 days, a fine not to exceed \$500.00, or both, with costs imposed at the discretion of the Court.

Section 14.3 Unauthorized Leasing

- A. Any person who leases his or her land in violation of the tribal leasing regulations shall be deemed guilty of Unauthorized Leasing.
- B. A person found guilty of Unauthorized Leasing may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 14.4 Cutting Green Timber without a Permit

- A. Any person who, without first securing a proper permit, intentionally cuts any standing green timber off tribal land shall be deemed guilty of Cutting Green Timber without a Permit.
- B. A person found guilty of Cutting Green Timber without a Permit may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 14.5 Unlawful Violation of Fire Ban

- A. It is unlawful for a person to enter or remain in any public building or on any public property in violation of any tribal order or rule that that relates to the control and limitation of fires.
- B. A person found guilty of Unlawful Violation of a Fire Ban may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 14.6 Malicious Mischief

- A. A person commits Malicious Mischief by intentionally disturbing, injuring or destroying any livestock or other domestic animal or property.
- B. A person found guilty of Malicious Mischief may be sentenced to a period of imprisonment not to exceed 30 days, a fine not to exceed \$100.00, or both, with costs imposed at the discretion of the Court.

Section 14.7 Misbranding

- A. A person commits Misbranding by knowingly and willfully misbranding or altering any brand or mark upon any livestock or other domestic animal belonging to another.
- B. A person found guilty of Misbranding may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

SECTION FIFTEEN

OFFENSES AGAINST THE COURT

Section 15.1 Failure to Appear

- A. A person commits Failure to Appear if such person, having been notified that he or she is required by law to appear at any judicial proceeding in connection with any offense, fails to appear at the proper time and place.
- B. A person found guilty of Failure to Appear may be sentenced to a period of imprisonment not to exceed 90 days, a fine not to exceed \$500.00, or both, with costs imposed at the discretion of the Court.

Section 15.2 Criminal Contempt of Court

- A. A person commits Criminal Contempt of Court by intentionally:
 - 1. disobeying or resisting the lawful order, process, or other mandate of a Court;
 - 2. refusing to be sworn or affirmed as a witness in any court proceeding;
 - 3. publishing a false or grossly inaccurate report of a court proceeding;
 - 4. refusing to serve as a juror unless exempted by law;
 - 5. failing to appear without excuse to attend a trial at which he or she has been chosen to serve as a juror;
 - 6. failing to appear without excuse to attend an official proceeding at which he or she has been lawfully ordered to appear as a witness.
- B. A person found guilty of Criminal Contempt of Court may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 15.3 Disrupting a Court Proceeding

- A. A person commits Disrupting a Court Proceeding by knowingly engaging in any disorderly, disrespectful, or insolent behavior while the San Carlos Apache Tribal Court is in session.
- B. A person found guilty of Disrupting a Court Proceeding may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 15.4 Simulating Legal Process

- A. A person commits Simulating Legal Process if such person knowingly sends or delivers to another any document falsely purporting to be an order or other document that simulates civil or criminal process.
- B. A person found guilty of Simulating Legal Process may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 15.5 Removing, Altering or Destroying Tribal Court Documents

- A. A person commits Removing, Altering or Destroying Tribal Court Documents by knowingly:
1. removing an original tribal court document from the location where it is normally housed without authorization from the court;
 2. altering in any way an original document filed with the court;
 3. altering a tribal court document in any way with the intent to deceive another person or entity;
 4. removing a nonpublic tribal court document from the tribal court without authorization; or
 5. destroying an original tribal court document with the intent to alter the court record or for the purpose of misleading or deceiving another person or entity.
- B. A person found guilty of Removing, Altering or Destroying Tribal Court Documents may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 15.6 Perjury

- A. A person commits perjury by willfully and deliberately making a false statement under oath or affirmation, either verbally or in writing, knowing or having reason to know the statement is false.
- B. This section applies to:
1. written statements made under oath, such as affidavits and notarized statements, whether or not made in connection with any official proceeding;
 2. any oral statements or representations made during a deposition or any judicial proceeding in any court of the San Carlos Apache Tribe; or
 3. any oral statements or representations made during any administrative proceeding of the San Carlos Apache Tribe.
- C. A person found guilty of Perjury may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 15.7 Witness Tampering

- A. A person commits Witness Tampering by knowingly inducing or attempting to induce, in any way, a person called to be a witness in any judicial or administrative proceeding to:
1. unlawfully withhold any testimony;
 2. testify falsely;
 3. avoid legal process or fail to appear at an official proceeding to which the witness has been legally summoned; or
 4. influence such testimony.

- C. A person found guilty of Witness Tampering may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 15.8 Jury Tampering

- A. A person commits Jury Tampering by directly or indirectly communicating with a juror outside the normal proceedings of the case with the intent to influence the juror's vote, opinion, decision, or any other action as a juror.
- B. A person found guilty of Jury Tampering may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 15.9 Tampering with Evidence

- A. A person commits Tampering with Evidence if, with intent that such evidence be used, rejected or unavailable in an official proceeding, such person:
 - 1. intentionally destroys, mutilates, alters, conceals or removes evidence with the intent to impair the truthfulness or availability of the evidence;
 - 2. knowingly makes, produces, or offers any false evidence in an official proceeding; or
 - 3. intentionally uses forces, intimidation, or deception against any person with the intent to prevent the production of evidence in an official proceeding.
- B. A person found guilty of Tampering with Evidence may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 15.10 Acceptance of a Bribe by a Juror

- A. A person commits Acceptance of a Bribe by a Juror by knowingly soliciting, accepting, or agreeing to accept any benefit upon an agreement or understanding that his or her vote, opinion, decision or other action as a juror will be influenced.
- B. A person found guilty of Acceptance of a Bribe by a Juror may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

SECTION SIXTEEN
INTERFERENCE WITH THE ADMINISTRATION OF JUSTICE

Section 16.1 False Arrest

- B. A person commits False Arrest if such person knowing makes or causes to be made an unlawful arrest, detention, or imprisonment of another knowing it to be unlawful.

- C. A person found guilty of False Arrest may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 16.2 Unlawful Imprisonment

- A. A person commits Unlawful Imprisonment by knowingly detaining or confining another person without his or her consent.

- B. In a prosecution for Unlawful Imprisonment, it shall be a defense that the person acting to detain another was:
 - 1. a law enforcement officer acting in the reasonable and lawful performance of his or her duties;
 - 2. a relative of the detained person acting with the sole intent to assume lawful custody of that person and without causing physical injury.

- C. A person found guilty of Unlawful Imprisonment may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 16.3 Escape from Lawful Custody

- A. A person commits Escape from Lawful Custody if, having been charged with or found guilty of an offense, such person knowingly escapes or attempts to escape from custody.

- B. A person found guilty of Escape from Lawful Custody may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 16.4 Aggravated Escape from Lawful Custody

- A. A person commits Aggravated Escape from Lawful Custody if, having been charged with or found guilty of an offense, such person knowingly escapes or attempts to escape from custody by using or threatening to use physical force or a deadly weapon against another person.

- B. A person found guilty of Aggravated Escape from Lawful Custody may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 16.5 Aiding Another to Escape

- A. A person commits Aiding Another to Escape if such person knowingly offers or provides any means of assistance to another, held in lawful custody, to escape or attempt to escape from lawful custody.
- B. A person found guilty of Aiding Another to Escape may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 16.6 Unlawful Disposition of Property

- A. A person commits Unlawful Disposition of Property if he or she, without lawful authority, sells, trades, or otherwise disposes of any property of an estate before the determination of heirs by a court of competent jurisdiction.
- B. A person found guilty of Unlawful Disposition of Property may be sentenced to a period of imprisonment not to exceed 90 days, a fine not to exceed \$500.00, or both, with costs imposed at the discretion of the Court.

SECTION SEVENTEEN

OFFENSES AGAINST THE TRIBE

Section 17.1 Abuse of Office

- A. A person commits Abuse of Office is:
1. as a Tribal Official or employee acting or purporting to act in an official capacity, such person:
 - a. knowingly acts or fails to act, with corrupt intent, so as to gain any pecuniary or personal benefit, advantage or privilege to which he or she is not entitled;
 - b. subjects another unlawfully to arrest, detention, search or seizure, mistreatment, or dispossession, knowing such action is unlawful; or
 - c. infringes unlawfully on the personal or property right of another, knowing such action is unlawful.
 2. as a tribal official or employee acting in an unofficial capacity, such person uses his or her position and power to pressure or coerce another to act or refrain from acting in a particular manner.
- B. A person found guilty of Abuse of Office may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.
- C. A Tribal Council member who has been convicted of Abuse of Office shall be deemed to have been convicted of an offense involving moral integrity under Article IX, Section 1 of the Amended Constitution of the San Carlos Apache Tribe.

Section 17.2 Offering a Bribe to a Tribal Official

- A. A person commits Offering a Bribe to a Tribal Official by offering, giving, or agreeing to offer or give anything of value to any Tribal Council member, political appointee, or tribal employee, with intent to improperly influence his or her vote, opinion, judgment, exercise of discretion, or other action or inaction in his or her official capacity.
- B. A person found guilty of Offering a Bribe to a Tribal Official may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 17.3 Acceptance of a Bribe by a Tribal Official

- A. A person commits Acceptance of a Bribe by a Tribal Official if, as a Tribal Council member, political appointee, or tribal employee, such person solicits, receives, or agrees to receive any benefit upon agreement or understanding that his or her vote, opinion, judgment, exercise of discretion, or other action in an official capacity will be influenced.
- B. A person found guilty of Acceptance of a Bribe by a Tribal Official may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 17.4 Obstructing Tribal Operations

- A. A person commits Obstructing Tribal Operations if, by using or threatening violence or physical force, such person knowingly obstructs, impairs, or hinders:
 - 1. the performance of a governmental function by a tribal employee acting in his or her official capacity; or
 - 2. the enforcement of penal law or the preservation of the peace by a law enforcement officer acting in his or her official capacity.
- C. A person found guilty of Obstructing Tribal Operations may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 17.5 Removing, Altering or Destroying Tribal Documents

- A. A person commits Removing, Altering or Destroying Tribal Documents by knowingly:
 - 1. removing an original tribal document from the location where it is normally housed without authorization from the Tribal Council;
 - 2. altering in any way an original tribal document;
 - 3. altering a tribal document in any way with the intent to deceive another person or entity;
 - 4. removing a nonpublic tribal document from the tribal offices without authorization from the Tribal Council; or
 - 5. destroying an original tribal document with the intent to alter tribal records or files for the purpose of misleading or deceiving another person or entity.
- B. A person found guilty of Removing, Altering or Destroying Tribal Documents may be sentenced to a period of imprisonment not to exceed 270 days, a fine not to exceed \$2,500.00, or both, with costs imposed at the discretion of the Court.

Section 17.6 Possessing or Receiving Confidential Tribal Documents

- A. A person commits Possessing or Receiving Confidential Tribal Documents if he or she takes possession or control of such documents knowing or having reason to know that such documents were unlawfully obtained and intending to use such documents for personal advantage or to hinder, obstruct, delay, or misrepresent governmental operations or policy.
- B. A person found guilty of Possessing or Receiving Confidential Tribal Documents may be sentenced to a period of imprisonment not to exceed 270 days, a fine not to exceed \$2,500.00, or both, with costs imposed at the discretion of the Court.

Section 17.7 Abuse of Archeological Resources

- A. A person commits Abuse of Archeological Resources by intentionally abusing, disrupting, removing, or carrying away any object of religious or cultural significance to the San Carlos Apache people.
- B. A person found guilty of Abuse of Religious Shrines, Objects or Sites may be sentenced to a period of imprisonment not to exceed 180 days, a fine not to exceed \$1,000.00, or both, with costs imposed at the discretion of the Court.

Section 17.8 Removal or Destruction of Archeological Resources

- A. A person commits Removal or Destruction of Archeological Resources if such person, without legal right or authority, possesses, removes, excavates, damages, defaces, injures, or destroys any historic or prehistoric ruin or monument, or any funerary object, sacred object, or object of cultural patrimony as defined by federal law.
- B. A person found guilty of Removal or Destruction of Archeological Resources may be sentenced to return the property, pay restitution of an amount that will fully compensate for the damage caused, serve a period of imprisonment not to exceed 365 days, pay a fine not to exceed \$5,000.00, or any combination of the above, with costs imposed at the discretion of the Court.

SECTION EIGHTEEN

OFFENSES INVOLVING GANGS OR TERRORISM

Section 18.1 Participating in or Assisting a Criminal Syndicate or Street Gang

- A. A person commits participating in or assisting a criminal syndicate or street gang by:
1. Intentionally organizing, managing, directing, supervising or financing a criminal syndicate or street gang with the intent to promote or further the criminal objectives of the syndicate or gang; or
 2. Knowingly inciting or inducing others to engage in violence or intimidation to promote or further the criminal objectives of a criminal syndicate or street gang; or
 3. Furnishing advice or direction in the conduct, financing or management of a criminal syndicate or street gang with the intent to promote or further criminal objectives; or
 4. Intentionally promoting or furthering the criminal objectives of a criminal syndicate or street gang by inducing or committing any act or omission by a tribal official or manager, employee, or agent of the Apache Gold Casino; or
 5. Hiring, engaging or using a minor for any conduct preparatory to or in completion of any offense in this section.
- B. A person commits assisting a criminal syndicate or street gang by committing any offense, whether completed or preparatory, with the intent to promote or further the criminal objectives of a criminal syndicate or street gang.
- C. A person found guilty of Participating in or Assisting a Criminal Syndicate or Street Gang may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.

Section 18.2 Terrorism

- A. It is unlawful for a person to intentionally or knowingly do any of the following:
1. Engage in an act of terrorism.
 2. Organize, manage, direct, supervise or finance an act of terrorism.
 3. Solicit, incite or induce others to promote or further an act of terrorism.
 4. Without lawful authority or when exceeding lawful authority, manufacture, sell, deliver, display, use, make accessible to others, possess or exercise control over a weapon of mass destruction

- knowing or having reason to know that the device or object involved is a weapon of mass destruction.
5. Make property available to another, by transaction, transportation or otherwise, knowing or having reason to know that the property is intended to facilitate an act of terrorism.
 6. Provide advice, assistance or direction in the conduct, financing or management of an act of terrorism knowing or having reason to know that an act of terrorism has occurred or may result by:
 - (a) Harboring or concealing any person or property.
 - (b) Warning any person of impending discovery, apprehension, prosecution or conviction. This subdivision does not apply to a warning that is given in connection with an effort to bring another person into compliance with the law.
 - (c) Providing any person with material support or resources or any other means of avoiding discovery, apprehension, prosecution or conviction.
 - (d) Concealing or disguising the nature, location, source, ownership or control of material support or resources.
 - (e) Preventing or obstructing by means of force, deception or intimidation anyone from performing an act that might aid in the discovery, apprehension, prosecution or conviction of any person or that might aid in the prevention of an act of terrorism.
 - (f) Suppressing by any act of concealment, alteration or destruction any physical evidence that might aid in the discovery, apprehension, prosecution or conviction of any person or that might aid in the prevention of an act of terrorism.
 - (g) Concealing the identity of any person.
- B. This section does not apply to any person who is engaged in lawful activity within the scope of the person's employment and the person is in compliance with all applicable tribal, federal and state laws in doing so.
- C. A person found guilty of Terrorism may be sentenced to a period of imprisonment not to exceed 365 days, a fine not to exceed \$5,000.00, or both, with costs imposed at the discretion of the Court.