

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

No. MR-20-040

**(Approving Temporary Measures for Tribal Court, Continuing Court Hearings, and
Extending Court Deadlines)**

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

WHEREAS, the San Carlos Council (“Council”) has the authority, among other things, to “represent the Tribe and act in all matters that concern the welfare of the Tribe, and to make decisions not inconsistent with or contrary to [the Tribe’s] Constitution and Bylaws,” to “enact ordinances...governing tribal courts” to “regulate its own procedures” and pursuant to Article V, Section(s) 1(a), (m), and (o) of the Amended Constitution and By-Laws of the San Carlos Apache Tribe; and

WHEREAS, pursuant to Resolution Nos. MR-20-032 and MR-20-033, the Council declared a state of emergency and initiated certain measures to mitigate the spread of the novel coronavirus known as COVID-19; and

WHEREAS, a number of state, federal, local, and tribal court systems have temporarily imposed measures – including avoiding to the greatest extent possible all court proceedings, suspending jury trials, limiting in-person courtroom contact by using available technologies, and following CDC social distancing recommendations – to reduce the risk associated with the COVID-19 pandemic; and

WHEREAS, this day the Tribe’s Attorney General, together with the Chief Prosecutor, Chief Public Defender, Chief Judge, and Chief of Police, and members of the Emergency Response Commission, recommends a temporary restriction of operations and tolling or extension of time deadlines for the tribal court and court of appeals with limited exceptions; and

WHEREAS, the Council concurs with these recommendations and finds that certain mitigation measures need to be instituted in order to protect the health, safety, and welfare of the Tribe’s members while balancing the constitutional rights of these members.

BE IT RESOLVED by the Council of the San Carlos Apache Tribe that the following temporary measures shall be instituted effective immediately by the Tribal Court and Court of Appeals, as a matter of compelling government interest, for the purpose of mitigating the onset of COVID-19:

1. Any criminal matter that is set to expire under the Tribe's statute of limitations within three months of the passage of this Resolution is hereby tolled until the Tribe's state of emergency is lifted, and the Tribe shall have six months to file thereafter.
2. Time is hereby excluded for all criminal and civil matters that the Tribal Court and Court of Appeals have continued effective March 14, 2020 until the state of emergency is lifted and the matter is reset or the temporary court restrictions are lifted. Alternatively, the Tribe shall be allowed to dismiss any criminal matter without prejudice with leave to refile within 90 calendar days from the date the state of emergency is lifted.
3. Operations of the The Tribal Court and Court of Appeals are hereby temporarily restricted for 30 days from today. The Tribal Court will limit hearings to in-custody arraignments, juvenile detention hearings, child welfare shelter hearings, and order of protection hearings. Prior to expiration, the restrictions will be evaluated to determine if there is a need to continue restrictions.
4. For the hearings that will be heard, the Tribal Court and Court of Appeals are hereby ordered to do as many hearings as possible through audio technology, and for Tribal Court criminal arraignments, juvenile detention hearings and child welfare shelter hearings the Office of the Public Defender is hereby ordered to be present and provide limited representation and legal advice to the defendant, juvenile and respondent parent .

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

CERTIFICATION

I, the undersigned, Secretary of the San Carlos Council, hereby certify that the Council is composed of eleven (11) members, of whom eight (8), constituting a quorum, were at a Special Meeting hereto held on the 23rd day of March, 2020, and that the foregoing Resolution No. MR-20-040 was duly adopted by a vote of FOR: 6; OPPOSED: 0; ABSTAINED: 1; of the Tribal Council pursuant to Article V, Section 1 (a) of the Amended Constitution and Bylaws of the San Carlos Apache Tribe, effective, February 24, 1954.



Santana Dillon
Council Secretary
SAN CARLOS APACHE TRIBE