RESOLUTION NO. 165-15
OF THE GOVERNING BODY OF THE
YAVAPAI-APACHE NATION

A Resolution Adopting Revisions to Title 5 – the Yavapai-Apache Nation
Criminal Code

WHEREAS: The Yavapai-Apache Tribal Council ("Council") is authorized to represent
the Yavapai-Apache Nation ("Nation") and act on all matters that concern
the health and welfare of the Nation, and to make decisions not
inconsistent with or contrary to the Constitution of the Yavapai-Apache
Nation ("Constitution") as provided under Article V(a) of the Constitution;
and

WHEREAS: The Council is authorized to enact laws governing law enforcement on the
Nation’s lands as provided under Article V(o) of the Constitution; and

WHEREAS: The Council, as the legislative body of the Nation, is authorized to enact
laws, ordinances and resolutions incidental to the exercise of its legislative
powers as provided under Article V(v) of the Constitution; and

WHEREAS: On February 10, 2005, the Council enacted Resolution No. 15-05 adopting
Title 5, the Yavapai-Apache Nation Criminal Code ("Criminal Code"); and

WHEREAS: The Council has met with the Prosecutor's Office, the Public Defender's
Office, and the Public Safety Department regarding proposed revisions to
the Criminal Code that would provide more specific notice to Tribal
members of prohibited behaviors, allow for more sophisticated charging of
alleged perpetrators, update definitions, and enhance the public safety on
the Nation’s Reservation; and

WHEREAS: The Council has reviewed the proposed revisions to the Criminal Code in
the form attached to this Resolution as Exhibit A and incorporated herein
by reference and deems it in the Nation’s best interest to adopt the same.

NOW THEREFORE BE IT RESOLVED that the Yavapai-Apache Tribal Council, in
Council assembled, at which a quorum is present, hereby adopts as the law of the Nation
the revisions to the Criminal Code, as set forth in the revised Title 5 attached to this
Resolution as Exhibit A, effective immediately.

BE IT FURTHER RESOLVED that the revised Title 5 supersedes all prior enactments
of Title 5 and any other enactments inconsistent with the revised Title 5 attached to this
Resolution as Exhibit A.
BE IT FURTHER RESOLVED that the revised Criminal Code shall be filed with the Secretary of the Nation, the Public Safety Department, the Nation's Human Resources Office, the Clerk of the Court, and the Office of the Attorney General.

BE IT FINALLY RESOLVED that the Chairman and Vice-Chairwoman, or either of them, are hereby authorized to take such further action as deemed necessary to carry out the purposes and intent of this Resolution.

CERTIFICATION

I hereby certify that the foregoing resolution was adopted by an affirmative vote of the Tribal Council, with a quorum in attendance, presented for approval on October 16, 2014, by a vote of 8 in favor, 2 opposed and 1 abstaining, pursuant to the authority contained under the Constitution of the Yavapai-Apache Nation as cited above.

[Signature]
Thomas Beauty, Chairman

ATTEST:

[Signature]
Karla Reimer, Council Secretary

Approved as to form:

[Signature]
Lisa Blueclaw
Office of the Attorney General
EXHIBIT A

Revised Title 5 – Yavapai-Apache Nation
Criminal Code

October 6, 2015
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Enacted on February 10, 2005 by Resolution No. 15-05, as amended on October 6, 2015 by Resolution No. 165-15.
CHAPTER 1: GENERAL PRINCIPLES

SECTION 101. SHORT TITLE
This law shall be cited as the Criminal Code.

[History: YAN 5-1-101; 2-10-05]

SECTION 102. PURPOSE AND INTERPRETATION
A. The provisions of this Code shall be construed in accordance with Tribal customs as well as to achieve the following general principles and purposes:

1. To forbid and prevent the commission of offenses and give fair warning of conduct which is declared to be an offense;

2. To adequately define the conduct and mental state which constitute an offense and to safeguard permitted conduct;

3. To prescribe penalties which are proportionate to the seriousness of the offense and which permit recognition of differing rehabilitative needs of individual offenders while at the same time recognizing the need of the entire Reservation community to protect itself from offenders;

4. To prevent arbitrary and oppressive treatment of persons accused or convicted of offenses and to promote the correction and rehabilitation of such persons; and

5. To protect any Tribal member or other person residing on the Reservation whose health or welfare may be adversely affected or threatened due to abuse, neglect or exploitation by family, household members, or other person in a legal or contractual position of providing physical, mental, or medical assistance and support to the affected person.

B. Interpretations. The judiciary should interpret the Criminal Code to ensure just and lawful adjudications of all criminal offenses. All procedural provisions of this Code shall be interpreted in harmony with the Nation’s Code of Criminal Procedure, Title 6. In the event that any items of this Code are in conflict with Title 6, then the terms of this Code shall prevail if the conflicting term pertains to the definition of a crime or the sentence, fine and costs for a crime, but if the conflicting terms relate to criminal procedure, then the terms of Title 6 shall control.

C. Zero Tolerance for Drugs. The Tribal Council by enactment of the criminal offenses enumerated at Chapter 9 of this Title “Drug Offenses” hereby declares all lands of the Yavapai-Apache Nation as drug free zones.

[History: YAN 5-1-102; 2-10-05]
SECTION 103. CIVIL ACTIONS NOT BARRED
This title (Criminal Code) does not bar, suspend, or otherwise affect any right or liability to damages, penalty, forfeiture, or other remedy authorized by law to be recovered. Civil injury is not merged into the criminal offense.

SECTION 104. EXCLUSIVENESS OF OFFENSES.
No conduct constitutes an offense unless so declared by this title (Criminal Code), by any Tribal ordinance, or by specific Arizona law incorporated by reference into this title (Criminal Code). The elements of any offense as contained in this code are the sole elements required for conviction in Tribal Court.

SECTION 105. PROSECUTION FOR MULTIPLE OFFENSES.
A. When the conduct of an offender establishes the commission of more than one offense, the offender may be prosecuted separately for each offense. All offenses may be given to the jury for consideration. The Court, however, may not be enter judgment of more than one offense, even if the jury finds guilt beyond a reasonable doubt, if:

1. One offense is included in the other; or

2. Inconsistent findings of fact are required to establish the commission of the offenses.

B. If a jury finds guilt beyond a reasonable doubt as to two offenses, one of which is included in the other, the Court shall only enter judgment as to the more serious offense.

SECTION 106. BURDEN OF PROOF
The defendant in a criminal proceeding is presumed to be innocent until each element of the offense with which the defendant is charged is proved beyond a reasonable doubt. In the absence of such proof, the defendant shall be acquitted.

[History: YAN 5-4-401; 2-10-05]

SECTION 107. TIME LIMITATIONS
A. Prosecution for any Infraction or Petty Offense must be commenced within one year after the alleged offense is committed;

B. Prosecution for any Class 4 or Class 3 offense must be commenced within two years after the alleged offense is committed;

C. Prosecution for any Class 2 offense must be commenced within three years after the alleged offense is committed;

D. Prosecution of any Class 1 offense other than Murder or Rape must be commenced within 5 years after the alleged offense is committed. There is no time limitation for prosecuting Murder or Rape;
E. Prosecution for a Class 1 offense where the victim is a minor must be commenced within 5 years of the victim’s eighteenth birthday;

F. Exceptions. The period of limitations does not run under the following conditions:

1. During any period in which the offender is not usually and publicly residing within the Reservation or is beyond the jurisdiction of the Tribal Court;

2. During prosecution pending against the offender for the same conduct by another jurisdiction even if the prosecution is dismissed.

G. An offense is committed either when every element occurs or, if the offense is based upon a continuing course of conduct, when the course of conduct is terminated. The time starts to run on the day after the offense is committed.

H. A prosecution is commenced when a complaint is filed.

SECTION 108. SEVERABILITY
If any part, or parts, or the application of any part of this code is held invalid, such holding shall not affect the validity of the remaining parts of this chapter. The Yavapai-Apache Nation Tribal Council hereby declares that it would have passed the remainder of this Code even if it had known that such part or parts or application of any part thereof would be declared invalid.
CHAPTER 2: DEFINITIONS AND CULPABLE MENTAL STATES

SECTION 201. DEFINITIONS
In the Criminal Code, unless context requires otherwise or is explicitly defined in other sections, the following terms have the following meaning:

1. Accomplice means a person, other than a law enforcement officer acting within an official capacity, who with the intent to promote or facilitate the commission of an offense solicits or commands another person to commit the offense, or aids, counsels, agrees to aid or attempts to aid another person in planning or committing the offense or who provides the means or opportunity to another person to commit the offense.

2. Act means a bodily movement, or some overt step in a process.

3. Benefit means anything of value or advantage, present or prospective.

4. Conduct means an act or omission and its accompanying culpable mental state, if any.

5. Course of conduct means a pattern of conduct composed of two or more acts over a period of time, however short, evincing a continuity of purpose.

6. Court Costs mean all costs associated with the hearing and adjudication of a case including the standard filing or docket fees, jail and other incarceration costs, probation and parole costs, electronic monitoring costs, probation and parole fee, appellate fees, discovery fees and expenses, a public defender fee, attorney fees if assessed by the Court, and other fees that the Court determines are related to the prosecution, conviction, and all post conviction remedies.


8. Dangerous instrument means anything that under the circumstances in which it is used, attempted to be used, or threatened to be used is readily capable of causing death or serious physical injury.

9. Deadly physical force means force which is used with the purpose of causing death or serious physical injury or in the manner of its use or intended use is capable of creating a substantial risk of causing death or serious physical injury.

10. Deadly weapon means anything designed or intended for lethal use. The term includes a firearm.

11. Economic loss means any loss incurred by a person as a result of the commission of an offense. Economic loss includes lost interest, lost earnings and other losses which would not
have been incurred but for the offenses. Economic loss does not include losses incurred by
the convicted person, damages for pain and suffering, punitive damages or consequential
damages.

12. **Firearm** means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun, air rifle, or
other weapon which is designed to, or may readily be converted to, expel a projectile by the
action of an explosive or rapidly expanding gas, except that it does not include a firearm in a
permanently inoperable condition.

13. **Force** means the infliction, attempted infliction, or threatened infliction of physical injury by
a person, or the commission or threat of any other crime by a person against the complainant
or another which causes the complainant to reasonably believe that the person has the present
ability to execute the threat, thereby coercing the complainant to submit.

14. **Impairment** means person’s faculties are reduced, to include a reduction in the ability to see,
hear, talk, walk, stand, calculate, function, judge distances, or otherwise function normally.

15. **Law Enforcement Officer** means a Tribal Police Officer, who is designated as such by any
Tribal Police Department or certified as a law enforcement officer under the laws of the State
of Arizona or certified as such by any agency of the United States Government, or any other
law enforcement officer certified by another jurisdiction who is present on the Yavapai-
Apache reservation, with permission from the Nation, and who is working in an official
capacity.

16. **Nation** means the Yavapai-Apache Nation.

17. **Offense, public offense, criminal offense,** or **crime** means conduct for which a sentence to a
term of imprisonment or of a fine is provided by law.

18. **Omission** means the failure to perform an act as to which a duty of performance is imposed
by law.

19. **Parole** means releasing a defendant from incarceration prior to serving an entire jail sentence
on specific terms for a specific time as authorized by this Code at Section 303.

20. **Person** means a human being and, as the context requires, an enterprise, a public or private
corporation, an unincorporated association, a partnership, a firm, a society, a government, a
governmental authority or an individual or entity capable of holding a legal or beneficial
interest in property.

21. **Physical force** means force used upon or directed toward the body of another person and
includes confinement, but does not include deadly physical force.

22. **Physical injury** means substantial pain or impairment of physical condition, however slight.

23. **Possess** or **Possession** means knowingly having substantial physical possession or otherwise
to substantially exercise dominion or control over property.

24. **Probation** means releasing the defendant from the serving of a jail term and suspending the sentence provided the defendant abides by specific terms for a specified time as authorized by this Code at Section 303.

25. **Property** means anything of value, tangible or intangible

26. **Property of another** means property in which any person other than the defendant has an interest, including community property and other property in which the defendant also has an interest, which the defendant is not privileged to infringe upon.

27. **Relative** means a parent or stepparent, ancestor, descendant, sibling, uncle or aunt, including an adoptive relative of the same degree through marriage or adoption or a spouse.

28. **Restitution** means the amount the judge determines the defendant must pay to the victim for economic harm caused by the defendant to the victim and/or the victim's property. This amount is independent of any fine imposed.

29. **Restraint** means to restrict a person's movement without consent, without legal authority, and in a manner, which interferes substantially with such person's liberty, by either moving such person from one place to another or by confining such person. Restraint is without consent if it is accomplished by physical force, intimidation or deception; or any means including acquiescence of the victim if the victim is a child less than eighteen years old or an incompetent person and the victim's lawful custodian has not acquiesced in the movement or confinement.

30. **Serious physical injury** includes physical injury which creates a substantial risk of death, or which causes serious and permanent or protracted disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily member, organ, or mental faculty. A broken bone is a serious physical injury.

31. **Spouse** means a person who is married as defined by the laws and customs of the Yavapai-Apache Nation or the state of Arizona.

32. **Threat** means a verbal or physical menace of imminent physical injury to a person.

33. **Unlawful** means contrary to law or, where the context so requires, not permitted by law.

34. **Vehicle** means a device in, upon or by which any person or property is or may be transported or drawn upon a highway, water way or airway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

35. **Victim** means a person directly and proximately harmed as a result of the commission of a criminal offense. Victims are entitled to exercise the Rights enumerated in Rule 37 of the Yavapai-Apache Nation Criminal Code. For purposes of this chapter, children who witness
domestic violence by or against one of their parents are considered victims and entitled to full rights and services, as provided by a Victim Advocate or Yavapai-Apache Nation Department of Social Services.

36. **Voluntary act** means a bodily movement performed consciously and as a result of effort and determination.

37. **Voluntary Intoxication** means intoxication caused by the knowing use of drugs, toxic vapors or intoxicating liquors by a person, the tendency of which is to cause intoxication, unless the person introduces them pursuant to medical advice or under such duress as would afford a defense to an offense.

[History: YAN 5-2-201; 2-10-05]

**SECTION 202. CULPABLE MENTAL STATES**

Culpable mental state means intentional, knowingly, recklessly or with criminal negligence as defined below.

A. **Intentionally** or with intent to when used with respect to a result or to conduct described by a statute defining an offense, means that a person acts with a conscious objective to cause that result or to engage in that conduct.

B. **Knowingly** when used with respect to conduct or to a circumstance described by a statute defining an offense, means that a person is aware or believes that his or her conduct is of that nature described in the statute, or that the circumstances described in the statute exist. It does not require any knowledge of the unlawfulness of the act or omission.

C. **Recklessly** when used with respect to a result or to circumstances described by a statute defining an offense, means that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstances exists. The risk must be of such nature and degree that disregard of such risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware of such risk solely by reason of voluntary intoxication also acts recklessly with respect to such risk.

D. **Criminal Negligence** when used with respect to a result or to a circumstance described by a statute defining an offense, means that a person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

E. If the offense does not specify any culpable mental state, no culpable mental state is required for the commission of the offense.
F. If a statute provides that criminal negligence suffices to establish an element of the offense, that element also is established if a person acts intentionally, knowingly, or recklessly. If acting recklessly suffices to establish an element of the offense, that element is also established if a person acts intentionally or knowingly. If acting knowingly suffices to establish an element, that element is also established if a person acts intentionally.

[History: YAN 5-2-202; 2-10-05 and YAN 5-2-203; 2-10-05]

SECTION 203. EFFECT OF IGNORANCE OR MISTAKE OF LAW AND FACT
A. Ignorance or mistake of law does not relieve a person from criminal liability.

B. Ignorance or a mistaken belief as to a matter of fact does not relieve a person of criminal liability unless:

1. It negates the specific culpable mental state required for the commission of the offense; or

2. It supports a justification defense as defined in Chapter 5 of this Criminal Code.

[History: YAN 5-2-204; 2-10-05]
CHAPTER 3: CLASSIFICATION OF OFFENSES, PUNISHMENT, AND LIMITATIONS

SECTION 301. CLASSIFICATION OF OFFENSES
Six (6) categories of offenses are created as identified below:

A. Class 1 Offense
B. Class 2 Offense
C. Class 3 Offense
D. Class 4 Offense
E. Petty Offense

[History: YAN 5-3-301; 2-10-05]

SECTION 302. MAXIMUM PUNISHMENT ALLOWED
A. The following are the maximum punishments allowed for each category of offenses:

1. For a Class 1 Offense: up to 1 year imprisonment, 3 years probation, and $5,000 fine, or the maximum allowed under federal law.

2. For a Class 2 Offense: up to 9 months imprisonment, 2 years probation, and $2,500 fine.

3. For a Class 3 Offense: up to 6 months imprisonment, 1 year probation, and $1000 fine.

4. Class 4 Offense: up to 3 months imprisonment; 6 months probation, and $750 fine.

5. Petty Offense: up to 30 days jail, 6 months probation, and $500 fine.

B. The Court may impose any combination of imprisonment, probation, and fine not to exceed the maximum authorized for the offense category. The court may also sentence defendants to consecutive jail sentences, up to the maximum allowed under federal law.

C. The Court may also sentence the defendant to other appropriate conditions, including but not limited to: community service, restitution, rehabilitation, or treatment.

[History: YAN 5-3-302; 2-10-05]

SECTION 303. SENTENCE OF PROBATION
A. If a person is convicted of an offense, the sentencing judge may suspend the imposition of sentence and grant such person a period of probation unless probation is explicitly prohibited by law.
B. Mandatory Terms of Probation. The Court shall impose the following terms when placing a person on probation:

1. Be a law-abiding citizen at all times. Defendant shall be advised that any conviction for violation of the Nation’s Criminal Code, Federal laws, State laws, municipal or county laws may result in a revocation of probation.

2. Maintain full-time employment or full-time student status. If not employed, the probationer will seek full-time employment or perform community service.

3. Pay restitution and fines at a minimum monthly rate as ordered by the Court. These fines may include Tribal Court order in other cases, such as child support.

4. Refrain from the use of alcohol.

5. Do not possess any firearms.

6. Do not use or possess any illicit drugs or any prescribed medication without a valid prescription.

7. The probationer is subject to search and seizure by the Department of Probation at any and all times.

C. Discretionary Terms of Probation. The Court may impose the following terms if the Court determines that the following terms are necessary to protect the public or to rehabilitate the defendant.

1. Participate in counseling and treatment for substance abuse.

2. Participate in mental health counseling.

3. Participate in anger management counseling.

4. Participate in a domestic violence offender program.

5. Other terms as determined by the Court necessary to protect the public or to rehabilitate the defendant.

D. Incarceration or Imprisonment

1. The Court may also impose a term of imprisonment as a condition of probation.

2. The length of imprisonment may not exceed the maximum term of imprisonment authorized under Section 301 of this Chapter.
3. The maximum term of imprisonment combined for violation of probation and an initial term of probation may not exceed the maximum term of imprisonment authorized under Section 301 of this Chapter.

E. Restrictions on Movement.

1. The Court may limit the areas and places where the defendant may be during his probation.

2. The Court may impose a curfew on the defendant.

3. The Court may require the defendant to be under electronic surveillance.

[History: YAN 5-3-303; 2-10-05]

SECTION 304. PAROLE

A. The Court may impose a jail sentence, and before the same is fully served, grant the defendant parole from the sentence by placing the defendant on parole on the same terms as the Court could grant the defendant probation. The balance of the unserved jail sentence shall be suspended when the defendant is placed on parole.

B. No parole can be granted until the mandatory minimum jail term is served by the defendant for those offenses requiring mandatory minimum jail sentences.

[History: YAN 5-3-304; 2-10-05]

SECTION 305. DEFERRED PROSECUTION OR DEFERRED ADJUDICATION

A. Unless otherwise prohibited by law, the prosecutor with the consent of the defendant and Court may defer prosecution of the offense for up to two years. If a prosecution is deferred under this section, the statute of limitations shall be tolled while the prosecution is deferred, but in no event shall the statute of limitations be tolled for greater than two years.

B. Unless otherwise prohibited by law, the prosecutor with the consent of the defendant and the Court may agree to proceed with a change of plea proceeding, but stay sentencing for a period not to exceed two years, to allow the defendant to comply with agreed-upon conditions. If all conditions are met within the agreed upon timeframe, the plea shall be vacated by the Court. If the conditions are not met within the agreed upon timeframe, the guilty plea shall be entered, and the Court shall proceed with sentencing.

[History: YAN 5-3-305; 2-10-05]
SECTION 306. ENHANCEMENT FOR REPEAT OFFENDERS
A. If the criminal section states that a person is subject to enhanced penalties based on prior violations of that section, those prior violations shall be set forth in the charging document as elements of the current, enhanced, charge, and must be proven beyond a reasonable doubt by the Nation.

B. Furthermore, prior violations shall be decided by the finder of fact, as any other element of the crime charged.

SECTION 307. LAW ENFORCEMENT ENHANCEMENT
If any criminal offense is committed against a Yavapai-Apache Police Officer acting within the scope of his or her official capacity, the punishment shall be enhanced by one offense category offense. For example, if the crime is a Class 3 offense and is committed against a Yavapai-Apache Police Officer acting within the scope of his or her official capacity, the punishment shall be in accordance with a Class 2 offense.
CHAPTER 4: CRIMINAL LIABILITY, FORFEITURE AND PREPARATORY OFFENSES

SECTION 401. REQUIREMENTS FOR CRIMINAL LIABILITY
The minimum requirement for criminal liability is the performance by a person of conduct which includes a voluntary act or omission to perform a duty imposed by law which the person is physically capable of performing. A person may be criminally liable for conduct based upon conduct of another if the person is accountable for such conduct by law or the person is an "accomplice" of such other person in the commission of the offense.

[History: YAN 5-4-401; 2-10-05]

SECTION 402. CAUSAL RELATIONSHIP BETWEEN CONDUCT AND RESULT
A. Conduct is the cause of a result when both of the following exist:

1. But for the conduct, the result in question would not have occurred; and

2. The relationship between the conduct and result satisfies any additional causal requirement imposed by the offense.

B. If "intentionally," "knowingly," or "purposely" causing a particular result is an element of the offense, and the actual result is not within the intention or contemplation of the person, that element is nevertheless established if:

1. The actual result differs from the intended or contemplated only in the respect that a different person or different property is injured or affected or that the injury or harm intended or contemplated would have been more serious or extensive than that caused; or

2. The actual result involves similar injury or harm as that intended or contemplated and occurs in a manner which the person knows or should know is rendered substantially more probable by such person's conduct.

C. If "recklessly" or "negligently" causing a particular result is an element of an offense, and the actual result is not within the risk of which the person is aware or in the case of criminal negligence, of which the person should be aware, that element is nevertheless established if:

1. The actual result differs from the probable result only in the respect that a different person or different property is injured or affected or that the injury or harm intended or contemplated would have been more serious or extensive than that caused; or

2. The actual result involves similar injury or harm as the probable result and occurs in a manner which the person knows or should know is rendered substantially more probable by such person's conduct.

[History: YAN 5-4-402; 2-10-05]
SECTION 403. JUVENILE OFFENDERS
Unlawful conduct by juveniles shall be governed by the Juvenile Code.

[History: YAN 5-4-404; 2-10-05]

SECTION 404. TRANSFER TO TRIBAL COURT
A. Transfer Petition. Upon completion of the preliminary investigation, the Nation may file a petition requesting that the Juvenile Court transfer the child to the jurisdiction of the adult court if the child alleged to have committed an act which would have been considered a serious crime if committed by an adult. Presumptively, a child must be at least 16 years or older to be eligible for transfer, however, discretion lies with the Court.

B. Transfer Hearing. The Juvenile Court shall conduct a hearing to determine whether jurisdiction of the child should be transferred to Tribal Court. The transfer hearing shall be held within ten days of receipt of the Transfer Petition by the Court. Written notice of the time, place and purpose of hearing shall be given to the child and the child's parents, guardian or custodian at least three days before the hearing. At the commencement of the hearing, the Court shall notify the child and the child's parents, guardian or custodian of the rights enumerated in the Juvenile Code.

C. Deciding Factors in Transfer Hearing. The following factors shall be considered when determining whether to transfer jurisdiction of the child to Tribal Court:

1. The nature and seriousness of the offense with which the child is charged.

2. The nature and condition of the child, as evidenced by his age, mental and physical condition.

3. The child's past record of offenses.

D. Standard of Proof. The Juvenile Court may transfer jurisdiction of the child to Tribal Court if the Court finds clear and convincing evidence that either of the following circumstances exist:

1. The offense(s) allegedly committed by the child in conjunction with any prior offense(s) evidence conduct which constitutes a substantial danger to the public; or

2. The alleged offense would be a Class 1 offense if committed by an adult.

SECTION 405. CONSPIRACY
A. A person commits Conspiracy when, with the purpose that an offense be committed, the person agrees with another to the commission of the offense.

B. No person may be convicted of conspiracy to commit an offense unless an act in furtherance of such agreement has been committed by the person or by a co-conspirator.
C. For purposes of this section:

1. *Act in furtherance* is any course of conduct which makes it more probable than not that an act towards the commission of an offense will occur and the person's present conduct is not terminated.

2. Proof of an "act in furtherance" may be inferred from the circumstances surrounding the involved parties' actions and does not require direct proof of an agreement.

D. It shall not be a defense to conspiracy that the person or persons with whom the accused has conspired:

1. Has not been prosecuted or convicted;

2. Has been convicted of a different offense;

3. Is not amenable to justice;

4. Has been acquitted; or

5. Lacked the capacity to commit the offense.

E. The punishment for conspiracy shall be the same as the punishment for the most serious offense which is the object of or result of that conspiracy.

[History: YAN 5-4-405; 2-10-05]

**SECTION 406. ATTEMPT**

A. A person commits *Attempt* if, acting with the kind of culpability otherwise required for commission of an offense, such person:

1. Intentionally engages in conduct which would constitute an offense if the attendant circumstances were as such person believes them to be; or

2. Intentionally does or omits to do anything which, under the circumstances as such person believes them to be, is any step in a course of conduct planned to culminate in commission of an offense; or

3. Engages in conduct intended to aid another to commit an offense, although the offense is not committed or attempted by the other person, provided his conduct would constitute Facilitation if the offense were committed or attempted by the other person.

B. It is no defense that the crime charged to have been attempted was, under the attendant circumstances, factually or legally impossible of commission, if such crime could have been committed had the attendant circumstances been as such person believed them to be.
YAVAPAI-APACHE NATION CRIMINAL CODE

C. The punishment for Attempt shall be one offense category less severe than the offense intended, except that attempt of a Class 4 offense shall also be a Class 4 offense.

[History: YAN 5-4-406; 2-10-05]

SECTION 407. SOLICITATION
A. A person commits the Solicitation when, with the purpose that an offense be committed, he commands, encourages, requests or solicits the commission of that offense.

B. This section does not apply to law enforcement officers acting within the scope of their official duty.

C. It shall not be a defense to solicitation that the person or persons that the accused solicited:
   1. Has not been prosecuted or convicted;
   2. Has been convicted of a different offense;
   3. Is not amenable to justice;
   4. Has been acquitted; or
   5. Lacked the capacity to commit the offense.

D. The punishment for Solicitation shall be one offense category less severe than the offense intended, except that solicitation of a Class 4 offense shall also be a Class 4 offense.

[History: YAN 5-4-407; 2-10-05]

SECTION 408. FINES AND RESTITUTION
A. If a person has been convicted of an offense, the Court may impose a fine in addition to any incarceration or term of probation. The maximum fine shall not exceed the amount authorized under Section 302 of the Criminal Code.

B. If the commission of the offense caused any economic loss to the victim, the Court shall order a payment of restitution to the victim. In determining the economic loss to the victim, the Court may consider any credible evidence, including hearsay, to calculate the loss. If the Court determines that restitution is appropriate, the Court shall also order the manner of restitution payments. Payments shall be made to the Court, and the Court shall forward the payments to the victim.

C. All fines, restitution and Court Costs owed by a defendant shall be subject to payment from any funds owed by the Nation to the defendant, including but not limited to per capita gaming payments, holiday bonuses, contract payments, wages, or other funds of the Nation subject to payment to the defendant. In order for payment of said funds to be issued by the
Nation to the Court to satisfy the fines, restitution and Court Costs owed by a defendant, the Court shall issue an order detailing the amount owed by a defendant and shall serve said order as follows:

1. The Court shall serve a copy of the order on the Nation’s Department of Finance. Upon receipt of the order, the Nation’s Department of Finance shall pay the total of the funds actually due that defendant from the Nation into the Court, up to the amount detailed in the Court’s order.

2. The Court shall apply the funds to the fines, restitution, and Court Costs owed within five (5) days after the funds are paid to the Court, and shall thereafter notify the Department of Finance of the balance still owing. This procedure may be accomplished by the Department of Finance and the Court exchanging accounting information and without the transfer of actual funds as long as the Court file reflects the balance owed and the Department of Finance does not pay the funds to the defendant.

3. Until the Department of Finance is notified that the total sum of the fines, restitution and Court Costs have been satisfied, the Department of Finance shall make any and all payments owed by the Nation to the defendant to the Court.

4. The defendant may only contest the application of such funds by filing a motion in the case under which the funds are being seized. This shall be the defendant’s sole remedy.

D. Payment Bonus Incentive: Any defendant that pays a court ordered penalty, fine or sanction on the same day that the court imposed the fine, penalty or sanction shall be credited $20 for early payment.

E. Time Payment Fee: A fee of twenty dollars shall be assessed on each person who pays restitution on a time payment basis. A time payment basis shall be any restitution not paid in full on the date the court imposed and specified the restitution amount owed. A judge may not waive or suspend a time payment fee.

[History: YAN 5-4-408; 2-10-05]

SECTION 409. FORFEITURE

Any property, including cash, weapons, homes, and motor vehicles used in the commission of a criminal offense may be forfeited with notice to the owner by personal service. Any property, including cash, weapons, homes, and motor vehicles used in the commission of a criminal drug offense as defined in Chapter 9 shall be forfeited.

[History: YAN 5-4-409; 2-10-05]
SECTION 410. EXCEPTIONS TO FORFEITURE

A. No vehicle used by any person as a common carrier in the transaction of business as a common carrier may be forfeited under the provisions of this Code unless it appears that the owner or other person in charge of the vehicle was a consenting party or privy to the act or omission giving rise to the forfeiture or knew or had reason to know of it.

B. No vehicle may be forfeited under the provisions of this Code for any act or omission established by the owner to have been committed or omitted by a person other than the owner while the vehicle was unlawfully in the possession of a person other than the owner in violation of the criminal laws of this Nation or of the United States.

C. No owner's or interest holder's interest may be forfeited under this chapter if the owner or interest holder establishes all of the following:

1. The owner did not empower any person whose act or omission gives rise to the forfeiture with legal or equitable power to convey the interest, as to a bona fide purchaser for value, and he was not married to any such person or if married to such person, held the property as separate property.

2. The owner did not know and could not reasonably have known of the act or omission or that it was likely to occur.

3. The owner acquired the interest after the conduct giving rise to forfeiture.

4. The owner is a bona fide purchaser for value not knowingly taking part in an illegal transaction.

D. The owner was at the time of purchase and at all times after the purchase and filing of notice of pending forfeiture or the filing and notice of a civil or criminal proceeding under this title relating to the property, whichever is earlier, reasonably without notice of the act or omission giving rise to the forfeiture and reasonably without cause to believe that the property was subject to forfeiture.

[History: YAN 5-4-410; 2-10-05]

SECTION 411. FACILITATION

A. A person commits Facilitation if, such person:

1. Engages in conduct intended to aid another to commit an offense or aiding in the commission of any act, in furtherance of said offense, or:

2. Acts with knowledge that another person is committing or intends to commit an offense, knowingly provides such other person with means or opportunity for the commission of the offense, or:

3. Aids another person to escape or attempt to escape from lawful custody
B. This section does not apply to law enforcement officers acting within the scope of their official capacity.

C. It shall not be a defense to facilitation that the person or persons whom the accused facilitated:

1. Has not been prosecuted or convicted of the offense;

2. Has been convicted of a different offense;

3. Is not amenable to justice;

4. Has been acquitted; or

5. Lacked the capacity to commit the offense.

D. The punishment for facilitation shall be one offense category less severe than the offense facilitated, except that facilitation of a Class 4 offense shall also be a Class 4 offense.

[History: YAN 5-4-407; 2-10-05]
CHAPTER 5: DEFENSES TO PROSECUTION

SECTION 501. SELF DEFENSE—USE OF PHYSICAL FORCE

A. The use of physical force upon another which would otherwise constitute an offense is justifiable and not criminal if the person used only the amount of force he reasonably believed necessary under the any of the following circumstances:

1. A reasonable person under similar circumstances believed the use or threatened use of physical force was immediately necessary to protect oneself or an innocent third-party from an unlawful use or attempted unlawful use of physical force; or

2. A reasonable person who is in lawful possession of a premise believed the use or threatened use of physical force was necessary to prevent or terminate the commission of criminal trespass by another person upon the premise; or

3. A reasonable person who is in lawful possession of movable property believed the use or threatened use of physical force was necessary to prevent criminal damage or theft of the property by another person.

B. The use or threatened use of physical force against another is not justified:

1. In response to verbal provocation alone; or

2. To resist an arrest that the person knows or should know is being made by a law enforcement officer or a person acting in the law enforcement officer’s presence and at the law enforcement officer’s direction whether the arrest is lawful or unlawful unless the use of physical force used by the law enforcement officer exceeds that allowed by law; or

3. If a person initiates or provokes another person’s use or attempted use of unlawful physical force and the provoker clearly withdraws from the encounter or clearly communicates the intent to withdraw from the encounter and the other person nevertheless continues or attempts to use unlawful force.

C. A law enforcement officer is justified in using physical force or threatening to use physical force against another if, in making or assisting in making an arrest or detention or in preventing or assisting in preventing the escape after arrest or detention of another person, such officer uses or threatens to use physical force and all of the following exist:

1. A reasonable person would believe that such force is immediately necessary to make the arrest or detention or prevent escape;

2. The law enforcement officer makes known the purpose of the arrest or detention or believes that it is otherwise known or cannot reasonably be made known to the person to be arrested or detained; and
3. A reasonable person would believe the arrest or detention to be lawful.

D. Even if a person is justified in using physical force or deadly physical force against another, the person may not claim justification to prosecution for recklessly injuring or killing an innocent third person.

E. A defendant has the burden of proving by a preponderance of the evidence that his actions were justified.

[History: YAN 5-5-501; 2-10-05]

SECTION 502. SELF DEFENSE—USE OF DEADLY FORCE

A. A person is justified in threatening or using deadly physical force against another if such person would be justified in using force under section 501 of this Chapter and when and to the degree a reasonable person would believe that the deadly physical force is immediately necessary to protect himself against the other’s use or attempted use of unlawful deadly physical force.

B. A law enforcement officer is justified in using deadly physical force against another person under section 501(c) of this Chapter when the law enforcement officer reasonably believes that it is necessary:

1. To defend himself/herself or a third party from what the law enforcement officer reasonably believes to be the use or imminent use of deadly force;

2. To make an arrest or prevent the escape from custody of a person whom the law enforcement officer reasonably believes:

   a. has committed, or attempted to commit an offense using a deadly weapon; or

   b. is attempting to escape using a deadly weapon; or

   c. has in the past threatened or endangered other human life with the use of a deadly weapon; or

   d. is necessary to suppress a riot if the person participating in the riot is armed with deadly force.

[History: YAN 5-5-502; 2-10-05]

SECTION 503. ENTRAPMENT

A. To claim entrapment, the person must admit to substantial elements of the offense charged.

B. A defendant asserting the defense of entrapment must prove, by clear and convincing evidence, each of the following:
1. The idea of committing the offense started with law enforcement or their agents rather than with the defendant; and

2. The law enforcement officers or their agents urged and induced the person to commit the offense; and

3. The person was not predisposed to commit the type of offense charged before the law enforcement officers or their agents urged and induced the person to commit the offense.

C. A person cannot establish entrapment if the person was predisposed to committing the offense, and the law enforcement officer or their agents merely provided the person with an opportunity to commit the offense.

D. It is not entrapment for law enforcement officers or their agents to use a ruse or to conceal their identity.

[History: YAN 5-5-504; 2-10-05]

SECTION 504. DURESS AND NECESSITY

A. Duress is defined as: conduct which otherwise constitutes an offense is justified if a reasonable person would believe that he was compelled to engage in the proscribed conduct by the threat or use of immediate physical force against his/her person or the person of another which resulted or could result in serious physical injury which a reasonable person would not have resisted.

B. Necessity is defined as: conduct which would otherwise constitute an offense is justified if a reasonable person would believe that he was compelled to engage in the proscribed conduct and the person had no reasonable alternative to avoid imminent public or private injury greater than the injury that might reasonably result from the person’s own conduct.

C. A defendant may not claim the defenses of duress or necessity if the defendant had intentionally, knowingly, or recklessly placed himself/herself in a situation which was probable that he would be subject to duress.

D. A defendant must prove by a preponderance of the evidence that he or she acted out of duress or necessity.

[History: YAN 5-5-505; 2-10-05]

SECTION 505. INSANITY

A. A person may be found guilty except insane if, at the time of the commission of the offense, the person was afflicted with a mental disease or defect of such severity that the person did not know the criminal act was wrong. A mental disease or defect constituting legal insanity is an affirmative defense and must be noticed pursuant to Rule 15.2(B) of Yavapai-Apache
Nation Rules of Criminal Procedure, and proven by the defendant by clear and convincing evidence.

B. If a defendant intends to raise the defense of insanity, the Court shall order the defendant to provide a mental health expert’s written report that includes that the defendant suffered from a mental disease, defect or disability at the time of the offense and the relationship of the alleged mental disease or defect to the alleged offense. Defendant shall provide the written report to the Nation no later than 40 days after arraignment or within 10 days after the Nation provides disclosure, whichever happens first.

C. Upon the Nation’s receipt of the defendant’s written report, described in Section 506(b), the Court shall order the defendant to submit to an examination by a psychiatrist or licensed psychologist, if the Nation so requests. The defendant has the right to have counsel present at the Nation’s examination. The Nation may also have counsel present. The role of each counsel at such examination is that of an observer, and neither counsel shall be permitted to take an active role at the examination. The psychiatrist or licensed psychologist utilized by the Nation shall submit a written report to the Nation and to counsel for the defendant. If the Court finds that the defendant has willfully refused to cooperate fully in the examination, it may preclude the defendant from asserting insanity as an affirmative defense, or introducing any evidence of such at trial.

D. The period of time from the date the defendant provided the Nation with a written mental health report to the date the Nation’s psychiatrist or licensed psychologist submits a report to both parties is excluded time for speedy trial purposes.

[History: YAN 5-5-506; 2-10-05]

SECTION 506. COMPETENCY

A. At any time after the filing of the complaint, any party or the Court on its own motion may request that the defendant be examined by a psychiatrist or licensed psychologist to determine the defendant’s competency to stand trial, to enter a plea, or to assist in his/her own defense. The request made by a party shall be in writing and shall state the specific facts on which the mental examination is sought. The psychologist or psychiatrist shall submit a written report to the court and provide copies to defense counsel and prosecutor for the Nation.

B. Unless the parties stipulate to a disposition based on the results of the examination, the Court shall hold a hearing to determine whether the defendant is presently suffering from a mental illness, mental or psychiatric disorder, disease or disability rendering him or her mentally incompetent to the extent that he or she is unable to understand the nature and consequences of the proceedings against him or her or to assist in his or her own defense.

1. If the Court finds by a preponderance of the evidence that the defendant is, in fact, competent, this shall not prejudice the defendant in raising the issue of insanity as a defense to the offense charged, and shall not be admissible as evidence in trial for the offense charged. The time from the defendant’s assertion of incompetency to the Court’s determination of competency shall be excluded time for Speedy Trial purposes.
2. If the Court finds by a preponderance of the evidence that the defendant is currently incompetent, the Court shall order appropriate mental health services, including residential treatment, if necessary. Such service providers shall report to the Court bi-monthly as to whether the defendant has recovered to such an extent that he or she has regained competency as well as the likelihood that the defendant will become competent within the foreseeable future.

C. If the defendant remains incompetent and there is no substantial probability that the defendant will regain competency within 18 months after the date of the original finding of incompetency, the court shall dismiss the charges without prejudice and report the defendant to the Yavapai-Apache Nation Department of Social Services for possible guardianship proceedings.

D. If the defendant does regain competency and the case proceeds to trial, no part of the competency proceeding, including reports, findings or testimony, may be admitted at trial.

[History: YAN 5-5-507; 2-10-05]

SECTION 507. VOLUNTARY INTOXICATION
Temporary intoxication resulting from the voluntary ingestion, consumption, inhalation or injection of alcohol, or illegal substances under Chapter 9 of this Code, or abuse of prescribed medications does not constitute insanity and is not a defense for any criminal act or requisite state of mind.

[History: YAN 5-5-509; 2-10-05]
CHAPTER SIX: CRIMES AGAINST PERSONS

SECTION 601. DEFINITIONS
In this chapter, unless the context requires otherwise:

1. Abduction means to restrain a person with intent to prevent his liberation by either (a) secreting or holding him in a place where he is not likely to be found or (b) using or threatening physical force.

2. Course of conduct means a pattern of conduct composed of two or more acts over a period of time, however short, evincing a continuity of purpose.

3. Dangerous instrument means anything that under the circumstances in which it is used, attempted to be used or threatened to be used is readily capable of causing death or serious physical injury.

4. Deadly weapon means anything designed or intended for lethal use. The term includes a firearm.

5. Electronic Communication means any form of expression or exchange of information by speech, photographs or written form using electronic means. Electronic communications includes, but is not limited to: communication via telephone, facsimile, electronic mail, social media and other electronic forms.

6. Impaired Condition is when a person's faculties are reduced so that his or her ability to see, hear, walk, talk, judge distances, or otherwise function is below the normal level.

7. Law Enforcement Officer means a Tribal Police Officer, who is designated as such by any Tribal Police Department or certified as a law enforcement officer under the laws of the State of Arizona or certified as such by any agency of the United States Government, or any other law enforcement officer certified by another jurisdiction who is present on the Yavapai-Apache reservation, with permission from the Nation, and who is working in an official capacity.

8. Physical injury means substantial pain or impairment of physical condition, however slight.

9. Public Official means an officer, employee or appointed position of the Tribal government including but not limited to elected members of Tribal Council.

10. Restraint means to restrict a person’s movement without consent, without legal authority, and in a manner, which interferes substantially with such person’s liberty, by either moving such person from one place to another or by confining such person. Restraint is without consent if it is accomplished by physical force, intimidation or deception; or any means including acquiescence of the victim if the victim is a child less than eighteen years old or an incompetent person and the victim’s lawful custodian has not acquiesced in the movement or confinement.
11. **Serious physical injury** includes physical injury which creates a substantial risk of death, or which causes serious and permanent or protracted disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily member, organ, or mental faculty. A broken bone is a serious physical injury.

12. **Strangulation** means intentionally impeding the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of such person. Strangulation does not require loss of consciousness or any other impairment, visible mark or physical injury.

13. **Suffocation** means intentionally impeding the normal breathing or circulation of the blood of another person by blocking the nose or mouth of such person. Suffocation does not require loss of consciousness or any other impairment, visible mark or physical injury.

14. **Words or Conduct**: includes, in addition to any other form of communication or conduct, the sending of an electronic communication.

[History: YAN 5-6-601; 2-10-05]

**SECTION 602. MURDER**

A. A person commits **Murder** if such person:

1. Intentionally causes the death of another person; or

2. Acting as a principal or an accomplice causes the death of another in the perpetration of, or in an attempt to perpetrate, any arson, escape, kidnapping, child abuse, child molestation, sexual conduct with a minor, sexual assault, burglary, or robbery; or

3. Knowing that his conduct will cause death or serious physical injury, such person causes the death of another person; or

4. Under circumstances manifesting extreme indifference to human life, such person recklessly engages in conduct which creates a grave risk of death and thereby causes the death of another person, including an unborn child or, as a result of recklessly causing the death of another person, causes the death of an unborn child; or

5. Engages in a course of conduct against a child, intimate partner or family member, of violence or torture that results in the death of that person.

B. Violation of this section is a Class 1 offense. Any person convicted under this section shall be sentenced to the maximum term of imprisonment. A person convicted under this section shall not be eligible for probation or parole.
C. Violation of this section applies to an unborn child in the womb at any stage of its development. A person may not be prosecuted under this section if any of the following applies:

1. The person was performing an abortion for which the consent of the pregnant woman, or a person authorized by law to act on the pregnant woman's behalf, has been obtained or for which the consent was implied or authorized by law; or

2. The person was performing medical treatment on the pregnant woman or the pregnant woman's unborn child; or

3. The person was the unborn child's mother.

[History: YAN 5-6-602; 2-10-05]

SECTION 603. MANSLAUGHTER

A. A person commits Manslaughter if the person acts recklessly or with criminal negligence and the person's actions result in the death of another person.

1. It is a Class 1 offense if the person acts recklessly.

2. It is a Class 2 offense if the person acts with criminal negligence.

B. Any person convicted of a Class 1 offense under section (A) shall be sentenced to a mandatory term of imprisonment not less than six months and fined not less than $3000.00. The Court may impose parole only after serving a term of incarceration of at least six months.

[History: YAN 5-6-603; 2-10-05]

SECTION 604. GIVING SEXUALLY TRANSMITTED INFECTION TO ANOTHER

A. A person commits Giving Sexually Transmitted Infection to Another by knowingly exposing another person to the risk of contracting a sexually transmitted infection (STI)

1. If the STI is curable, violation of this section is a Class 3 offense.

2. If the STI is not curable, violation of this section is a Class 1 offense.

B. In addition to any sentence imposed by the Court for a violation of this section, any person so convicted shall be ordered and compelled to have a medical examination and treatment for such disease until cured or under control.

C. Furthermore, such person shall be compelled to pay restitution to the victim for any medical costs arising from diagnosis and ongoing treatment.
SECTION 605. ASSAULT
A. A person commits Assault by:

1. Intentionally, knowingly or recklessly causing physical injury to another person; or

2. With criminal negligence, causes physical injury to another person by means of a deadly weapon or dangerous instrument; or

3. With criminal negligence, causes physical injury accompanied by substantial pain that extends for a period sufficient to cause considerable suffering.

B. Violation of this section is a Class 3 offense.

[History: YAN 5-6-605; 2-10-05]

SECTION 606. AGGRAVATED ASSAULT
A. A person commits Aggravated Assault if such person commits Assault as defined in Section 605 under any of the following circumstances:

1. If such person causes serious physical injury to another person or to a third person; or

2. If such person commits assault as defined in 605(A)(1) and causes physical injury by means of a deadly weapon or dangerous instrument; or

3. If such person commits the assault knowing, or having reason to know, the victim is pregnant; or

4. If such person commits the assault to a victim he has previously assaulted; or

5. If such person commits the assault while the victim is bound or otherwise physically restrained or while the victim’s capacity to resist is substantially impaired; or

6. If such person intentionally strangles or suffocates the victim; or

7. If such person commits the assault in the course of and in furtherance of the commission of or attempted commission of a Class 1 or Class 2 offense, or in immediate flight therefrom and such person causes physical injury to another person other than one of the participants.

B. Violation of subsection (a)(1) or (a)(7) is a Class 1 offense.

C. Violation of all other subsections is a Class 2 offense if the assault resulted in physical injury; violation is a Class 1 offense if the assault resulted in serious physical injury.

[History: YAN 5-6-606; 2-10-05]
SECTION 607. BATTERY
A. A person commits Battery by

1. Intentionally striking or wounding another person; or

2. Knowingly touching another person with intent to injure, insult, or provoke such person;

B. Except as provided in Subsection (C) below, violation of this section is a Class 3 offense.

C. Battery is a Class 2 offense when committed under any of the following circumstances:

1. If such person is 18 years of age or older and intentionally strikes a person under 12 years of age, or a person over 55 years of age; or

2. If such person commits the battery when the victim is bound or otherwise physically restrained or while the victim’s capacity to resist is substantially impaired; or

3. If such person uses a dangerous instrument or deadly weapon; or

4. If such person projects an unknown chemical or caustic substance onto another person; or

5. If such person projects any bodily fluid onto another person, including a law enforcement officer. For the purposes of this section, “bodily fluid” means saliva, blood, seminal fluid, urine or feces. In addition to any sentence imposed by the Court for a violation of this section, any person alleged to have committed this offense shall be ordered and compelled to submit a specimen to a laboratory for testing and to release the results of the testing according to the procedure outlined in this Code section 1207. The person accused is responsible for the cost associated with testing, and shall be compelled to pay restitution to the victim for any medical costs arising from resulting medical treatment.

[History: YAN 5-6-607; 2-10-05]

SECTION 608. KIDNAPPING
A person is commits Kidnapping when he abducts another person.

A. Except as provided in section (B), Kidnapping is a Class 2 offense.

B. Kidnapping is a Class 1 offense if the offender:

1. Intends to use the victim as a shield or hostage, or to compel a third person to pay or deliver money or property as ransom;

2. Transports the victim off of the Yavapai Apache Nation, or across state lines; or:

3. Restrains the abducted person with intent to;
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a. Violate or abuse the victim sexually or inflict physical injury upon the victim; or

b. Accomplish or advance the commission of a Class 1 or Class 2 offense.

C. A defendant convicted under subsection (B) shall serve a mandatory sentence of imprisonment of at least 9 months and pay a fine of at least $3000. The Court may grant parole only after the term of mandatory incarceration of at least nine months is served.

[History: YAN 5-6-608; 2-10-05]

SECTION 609. UNLAWFUL IMPRISONMENT
A. A person commits the offense of Unlawful Restraint by knowingly or purposefully, and without lawful authority, restraining another so as to interfere substantially with another's liberty.

B. Unlawful Restraint is a Class 3 offense, except as provided in Section (C).

C. The offense shall be a Class 2 offense if the unlawful restraint exposes the victim to a risk of serious physical injury.

D. In any prosecution for unlawful restraint, it is an affirmative defense if all four of the following conditions are met:

1. The person restrained was a child less than sixteen years old; and

2. The defendant was a relative of such child; and

3. The defendant’s sole purpose was to assume control of such child; and

4. The child was not physically injured by the restraint.

[History: YAN 5-6-609; 2-10-05]

SECTION 610. ROBBERY
A. A person commits Robbery if, in the course of taking any property of another, either from his person or within his immediate presence, and against his will, such person threatens or uses force against any person with intent either to coerce surrender of property or to prevent resistance to the taking or retaining said property. As used in this section, the phrase “in the course of taking” includes any of the defendant’s acts beginning with the initiation and extending through the flight from a robbery.

B. Except as provided in sections (C) below, a violation of this section is a Class 2 offense.

C. Robbery is a class 1 offense committed under any of the following circumstances:
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1. If such person is aided by one or more "accomplices" actually present; or

2. If such person, or an accomplice, uses or threatens us of a deadly weapon, dangerous instrument, or simulated deadly weapon or dangerous instrument.

[History: YAN 5-6-610; 2-10-05]

SECTION 611. CRIMINAL ENDANGERMENT
A. A person commits *Criminal Endangerment* if the person knowingly engages in conduct that creates a substantial risk

1. Of death or serious physical injury to a person; or

2. Of death, serious physical injury, or developmental disability to an unborn child.

B. Violation of this section is a Class 2 offense.

SECTION 612. NEGLIGENT ENDANGERMENT
A. A person commits *Negligent Endangerment* if the person negligently or recklessly engages in conduct which creates a substantial risk of death or serious physical injury to another person.

B. Violation of this section is a Class 3 offense.

SECTION 613. STALKING
A. A person is guilty of *Stalking* when he or she intentionally and for no legitimate purpose engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct:

1. Is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or

2. Causes material harm to the mental or emotional health of such person, and where the person was previously clearly informed to cease that conduct; or

3. Is likely to cause such victim to reasonably fear that his or her employment, business or career is threatened, and the person was previously clearly informed to cease that conduct.

B. A violation of this section is a Class 3 offense.
SECTION 614. AGGRAVATED STALKING
A. A person commits *Aggravated Stalking* if such person commits Stalking as defined in Section 612 under any of the following circumstances:

1. The person has previously been convicted of Stalking; or

2. The person is eighteen years of age or older and engages in a course of conduct which intentionally places or attempts to place a person under the age of fifteen in reasonable fear of physical injury, serious bodily harm or death.

3. Displays a dangerous instrument or deadly weapon during the course of the offense; or

4. Intentionally or recklessly causes physical injury to victim during the course of the offense.

B. Violation of this section is a Class 2.

SECTION 615. HARASSMENT
A. A person commits *Harassment* if, with intent to harass, annoy, threaten or alarm another person, the person engages in a course of conduct which:

1. Communicates with a person, anonymously or otherwise, by telephone, by mail, or electronically or any other form of communication in a manner that is likely to cause annoyance or alarm; or

2. Causes a communication to be initiated by mechanical or electronic means or otherwise with a person, anonymously or otherwise, in a manner likely to cause annoyance or alarm; or

3. Makes a telephone call, whether or not a conversation ensues, with no purpose of legitimate communication.

B. Violation of this section is a Class 3 offense.

SECTION 616. HARASSMENT OF PUBLIC OFFICIAL
A. A person commits *Harassment of Public Official* by intentionally:

1. Harming or threatening harm to any “public official” in an attempt to influence the official’s decision, opinion, recommendation, vote or other exercise of discretion as an elected, tribal public official acting in their official capacity; or

2. Preventing or attempting to prevent any public official from performing their official duties.
B. It is not a defense that the official whom the offender sought to influence was not qualified to act in the desired way.

C. Violation of this section is a Class 2 offense.

SECTION 617. MENACING
A. A person commits Menacing by knowingly and without lawful authority using "words or conduct" to place or attempt to place another person in fear of imminent physical confinement, physical injury, or death.

B. Violation of this section is a class 4 offense.

[History: YAN 5-6-605(a)(2); 2-10-05]

SECTION 618. AGGRAVATED MENACING
A. A person commits Aggravated Menacing by knowingly and without lawful authority using "words or conduct" to place or attempt to place another person in fear of imminent physical confinement, physical injury or death by displaying a dangerous instrument, deadly weapon, or what appears to be a deadly weapon or dangerous instrument.

B. Violation of the section is a Class 2 offense.

SECTION 619. MUTILATION OR DISINTERMENT OF DEAD BODY
A. A person commits Mutilation or Disinterment of a Dead Body by mutilating, manipulating, disinterring, removing, or intentionally damaging a dead body or ashes of a human being without lawful authority.

B. Violation of this section is a Class 4 offense.

SECTION 620. STRANGULATION OR SUFFOCATION
A. A person commits Strangulation or Suffocation by intentionally, knowingly or recklessly impeding the normal breathing or circulation of the blood of another person by either:

1. Applying pressure on the throat or neck of the other person, regardless of whether that conduct results in loss of consciousness, visible injury or whether there is any intent to kill or protractedly injure the victim; or

2. Blocking the nose or mouth, or both of the other person, or applying weight to the other person’s chest, regardless of whether that conduct results in loss of consciousness, visible injury or whether there is any intent to kill or protractedly injure the victim.

B. A violation of this section is a Class 1 offense.
CHAPTER 7: CRIMES AGAINST PROPERTY

SECTION 701. DEFINITIONS:
In this Chapter, unless the context requires otherwise:

1. Course of conduct means a pattern of conduct composed of two or more acts over a period of time, however short, evincing a continuity of purpose.

2. Damage means any physical or visual impairment of any surface.

3. Deprive means to withhold the property interest of another, without entitlement, either permanently or for so long a time period that a substantial portion of its economic value or usefulness or enjoyment is lost, or to uphold it with the intent to restore it only upon payment of a reward or other compensation or to transfer or dispose of it so that it is unlikely to be recovered.

4. Entry means the intrusion of any part of any instrument or any part of a person’s body inside the external boundaries of a structure or unit of real property.

5. Fenced commercial yard means a unit of real property surrounded completely by, fences, walls, buildings, or similar barriers or any combination thereof, and used primarily for business operations or where livestock, produce or other commercial items are locate.

6. Fenced residential yard means a unit of real property immediately surrounding or adjacent to a residential structure and enclosed by a fence, wall, building or similar barrier, or any combination thereof.

7. Nonresidential structure means any structure other than a residential structure.

8. Material misrepresentation means pretense, promise, representation or statement of present, past or future fact which is fraudulent and which, when used or communicated, is instrumental in causing the wrongful control or transfer of property or services. The pretense may be verbal, written or it may be a physical act.

9. Occupied structure means any structure in which one or more human beings either is or is likely to be present or so near as to be in equivalent danger at the time a fire or explosion or discharge of a firearm occurs. The term includes any dwelling house, whether occupied, unoccupied or vacant.

10. Property means anything other than a structure which has value, tangible or intangible, public or private, real or personal, including documents evidencing value or ownership.

11. Property of another means property in which any person other than the defendant has an interest, including community property and other property in which the defendant also has an interest, which the defendant is not privileged to infringe upon.
12. **Public Property** means any property used for governmental or community purposes.

13. **Residential Structure** means any structure, movable or immovable, permanent or temporary, adopted for both human residence and lodging whether occupied or not. Residential Structure includes the curtilage, or the land immediately surrounding the dwelling.

14. **Services** include labor, professional services, transportation, cable television, telephone, gas, or electricity services, accommodation in hotels, restaurants, leased premises or elsewhere, admission to exhibitions and use of vehicles or other movable property.

15. **Structure** means any building, object, vehicle, watercraft or place with sides and a floor, separately securable from any other structure attached to it and used for lodging, business, transportation, recreation or storage.

16. **Tamper** means any act of interference.

17. **Utility** means any enterprise, public or private, which provides gas, electric, steam, water, sewer or communications services, as well as any common carrier on land, rail, sea or air.

18. **Value** means the fair market value of the property or services at the time of the theft. Written instruments which do not have a readily ascertained market value have as their value either the face amount of indebtedness less the portion satisfied or the amount of economic loss involved in deprivation of the instrument, whichever is greater. When property has undeterminable value its value shall be determined by the trier of fact and, in reaching its decision, all relevant evidence, including hearsay, may be considered including evidence of such property’s value to its owner.

19. **Vandalize** means any unnecessary act of substantially marring any surface or place, by any means, or any act of putting up, affixing, fastening, printing, or painting any notice upon any structure, without permission from the owner.

20. **Wildland** means any brush covered land, cutover land, forest, grassland or woods.

[History: YAN 5-7-01; 2-10-05]

**SECTION 702. ARSON**

A. A person commits *Arson* by intentionally damaging a structure or property by knowingly causing a fire or explosion.

1. If the damage was done to an occupied structure, or to any residential structure, a violation of this section is a Class 1 offense.

2. If the damage was done to an unoccupied structure, a non-residential structure, or wildland, a violation of this section is a Class 2 offense.
3. If the damage was done to property not included in subsections (1) or (2) above, a violation of this section is a Class 3 offense.

[History: YAN 5-7-702; 2-10-05]

SECTION 703. RECKLESS OR NEGligent ARSON

A. A person commits Reckless or Negligent Arson by recklessly or knowingly starting a fire or causing an explosion, whether on his own property or property of another, and thereby negligently

1. Placing another person in danger of death or bodily injury, including a firefighter responding to or at the scene; or

2. Placing an occupied structure, a structure, wildland or property of another in danger of damage or destruction.

B. Violation of this section is a Class 3 offense. If the person has been previously convicted of Arson, it is a Class 2 offense.  

[History: YAN 5-7-703; 2-10-05]

SECTION 704. BURGLARY

A. A person commits Burglary by entering or remaining unlawfully in or on any of the following with the intent to commit a criminal offense therein:

1. If the person enters or remains unlawfully in or on a nonresidential structure, a fenced commercial or residential yard, or a motor vehicle, violation of this section is a Class 3 offense; or

2. If the person enters or remains unlawfully in or on a residential structure, violation of this section is a Class 2 offense.

B. If a person, or an accomplice, commits a violation of subsection (A) while knowingly possessing explosives, flammable materials, a dangerous instrument, deadly weapon, or what appears to be a deadly weapon, violation is a Class 1 offense.

[History: YAN 5-7-704; 2-10-05]

SECTION 705. CRIMINAL TRESPASS

A. A person commits the offense of Criminal Trespass under any of the following circumstances:
1. Knowingly entering or remaining unlawfully on any real property after a reasonable request to leave by the owner or any other person having lawful control over such property has been issued; or

2. Knowingly entering or remaining unlawfully on any real property where reasonable notice prohibiting entry is posted; or

3. Entering any residential yard and without lawful authority, looking into the residential structure thereon in reckless disregard of infringing on the inhabitant's right of privacy; or

4. Knowingly entering or remaining unlawfully in or on any nonresidential structure, fenced commercial yard, residential structure or fenced residential yard; or

5. Knowingly entering or remaining on a non-residential premise after having received prior notice of prohibition of entry or having been requested to leave by the owner or any other person having lawful control over such non-residential premise.

B. Violation of this section is a Class 3 offense.

C. If within a 24 month period, a person has been convicted of Criminal Trespass involving the same victim, the person shall be sentenced to no less than three months presumptive imprisonment.

D. A third or subsequent Criminal Trespass conviction within 36 months, involving the same victim, is a Class 1 offense, and the person shall be sentenced to not less than six months mandatory imprisonment.

[History: YAN 5-7-705; 2-10-05]

SECTION 706. CRIMINAL TRESPASS TO PUBLIC PROPERTY OR LANDS OF THE NATION
A. A person commits Criminal Trespass to Public Property by knowingly or purposely and without express or implied privilege, entering onto the Yavapai-Apache Nation Reservation after having been excluded from the Reservation.

1. A privilege to enter may be extended by explicit invitation, license, or permission from the Nation or the Tribal Court.

2. Access to Tribal lands, waters, and natural resources by persons who are not Tribal members is restricted as provided by Tribal and Federal law.

B. Criminal Trespass to Public Property is a Class 2 offense.
SECTION 707. CRIMINAL DAMAGE
A. A person commits Criminal Damage when, without lawful authority, nor any reasonable ground to believe that person has lawful authority, a person:

1. Recklessly damages or vandalizes property of another person; or

2. Recklessly tampers with property of another so as to endanger or interfere with the use of the property, or substantially impair the value of the property.

B. If the verified damage is less than $100, a violation of Criminal Damage is a petty offense.

C. If the verified damage is $100 or greater, a violation of Criminal Damage is a Class 3 offense.

D. If the verified damage is $500 or greater, a violation of Criminal Damage is a Class 2 offense.

[History: YAN 5-7-706; 2-10-05]

SECTION 708. CRIMINAL DAMAGE TO PUBLIC PROPERTY
A. A person commits the offense of Criminal Damage to Public Property when, without lawful authority, nor any reasonable ground to believe that person has lawful authority, a person:

1. Recklessly vandalizes, damages, or tampers with any public, tribal or U.S. government property; or

2. Recklessly tampers with the property of a utility.

B. If the verified damage does not exceed $1,000, a violation of Criminal Damage to Public Property is a Class 2 offense.

C. If the verified damage is greater than $1,000, Criminal Damage to Public Property is a Class 1 offense.

[History: YAN 5-7-707; 2-10-05]

SECTION 709. REMOVAL, DAMAGING, OR DESTRUCTION OF ANTIQUITIES
A. A person commits the offense of Removing, Damaging or Destroying Antiquities by damaging petroglyphs, pictographs, caves or caverns or any historic or prehistoric ruin or
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monument or any object of antiquity, if such person knowingly, without prior written permission of the owner does any of the following:

1. Breaks, breaks off, cracks, carves upon, writes or otherwise marks upon or in any manner destroys, mutilates, vandalizes, defaces, removes, displaces, mars or harms petroglyphs, pictographs or any natural material found in any cave or cavern; or

2. Kills, harms or disturbs plant or animal life found in any cave or cavern containing antiquities, except for safety reasons; or

3. Disturbs or alters the natural condition of such petroglyph, pictograph, cave or cavern or takes into a cave or cavern any aerosol or other type of container containing paints, dyes or other coloring agents; or

4. Breaks, forces, tampers with, removes or otherwise disturbs a lock, gate, door or other structure or obstruction designed to prevent entrance to a cave or cavern containing antiquities whether or not entrance is gained.

B. A violation of this section is a Class 2 offense.

[History: YAN 5-7-709; 2-10-05]

SECTION 710. THEFT
A. A person commits the offense of Theft if, without lawful authority, such person knowingly does any of the following:

1. Controls property of another with the intent to deprive him of such property; or

2. Converts for an unauthorized term or use, the services or property of another entrusted to the defendant or placed in the defendant’s possession for a limited, authorized term or use; or

3. Obtains property or services of another person by means of any material misrepresentation with intent to deprive the other person of such property or services; or

4. Comes into control of lost, mislaid or mis-delivered property of another, under circumstances providing means of inquiry as to the true owner, and appropriates such property to his own or another’s use without reasonable efforts to notify the true owner; or

5. Obtains services known to the defendant to be available only for compensation without paying or an agreement to pay such compensation, or diverts another’s services to his own or another’s benefit without authority to do so.
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B. A violation of this section is a Class 2 offense if the property is a firearm, motor vehicle, or explosives regardless of the value of the property.

C. A violation of this section is a Class 2 offense if the value of the property or services involved exceeds $1,000.00.

D. Any violation not covered under subsections (B) and (C) is a Class 3 offense.

[History: YAN 5-7-710; 2-10-05]

SECTION 711. POSSESSION OR CONCEALMENT OF STOLEN PROPERTY
A. A person commits the offense of Possession or Concealment of Stolen Property by knowingly controlling, possessing, receiving, concealing or aiding in concealing or receiving any property, knowing the property to be stolen, embezzled, or obtained by fraud or false pretenses, robbery or burglary.

B. Violation of this section is a Class 3 offense.

C. Violation of this section is a Class 2 offense if either of the following apply:

1. The stolen property is a firearm, explosives, or a motor vehicle; or

2. The violation is part of a “course of conduct.”

[History: YAN 5-7-711; 2-10-05]

SECTION 712. SHOPLIFTING
A. A person commits the offense of Shoplifting if, while in an establishment in which merchandise is displayed for sale, such person knowingly obtains such goods of another with the intent to deprive him of such goods by or under any of the following circumstances:

1. Removing from the establishment any of the goods from the immediate display or from any other place within the establishment without paying the purchase price; or

2. Charging the purchase price of the goods to a fictitious person or any person without that person’s authority; or

3. Paying less than the purchase price of the goods by some trick or artifice such as altering, removing, substituting or otherwise disfiguring any label, price tag or marking; or

4. Transferring the goods from one container to another; or
5. Concealment. A presumption exists that the person intends to commit the offense of shoplifting if the person who knowingly conceals or attempts to conceal any unpurchased goods on his person or among his belongings, or on the person of another, is presumed to have taken possession of such goods with the intent to convert them to his own use without paying for them.

B. A law enforcement officer, merchant, or merchant’s employee who has reasonable cause to believe that a person has willfully taken possession of goods with the intent to convert them without paying for them may detain and interrogate the person in regard thereto in a reasonable manner and for a reasonable time. Reasonable cause is a defense to a civil or criminal action against a law enforcement officer, merchant or an agent or employee of such merchant for false arrest, false or unlawful imprisonment or wrongful detention.

C. If the value of the merchandise does not exceed $50, a Violation of this section is a Class 4 offense. If the value of the merchandise exceeds $50, violation of this section is a Class 3 offense. A second or subsequent violation of this section within a period of 24 months is a Class 2 offense.

[History: YAN 5-7-712; 2-10-05]

SECTION 713. VANDALIZING OR DAMAGING SPECIAL USE PROPERTY

A. A person commits the offense of Vandalizing or Damaging Special Use Property by knowingly vandalizing, damaging or in any way changing the appearance of any building, structure, personal property or place if committed without lawful authority or permission of the owner.

B. Special use property is defined as any property or structure:

1. Used for worship or any religious purpose;

2. Used as a school or educational facility; or

3. Used for the purpose of burial or memorializing the dead.

C. Violation of this section is a Class 2 offense.

[History: YAN 5-7-708; 2-10-05]
CHAPTER 8: PUBLIC ORDER OFFENSES

SECTION 801. DEFINITIONS

In this Chapter, unless the context requires otherwise:

1. **Correctional Facility** means any place used for the confinement or control of a person who has been charged with or convicted of an offense, held for extradition, or pursuant to a court order.

2. **Custody** means the imposition of actual or constructive restraint pursuant to an arrest or Court order.

3. **Material** means that which could have affected the course or outcome of any proceeding or transaction. Whether a statement is material in any given factual situation is a question of law.

4. **Operate and maintain** means to organize, design, perpetuate or control. Operate and maintain includes providing financial support by paying utilities, rent, maintenance costs or advertising costs, supervising activities or work schedule, and directing or furthering the aims of the enterprise.

5. **Public** means affecting or likely to affect a substantial group of persons.

6. **Statement** means any representation of fact and includes a representation of opinion, belief or other state of mind where the representation clearly relates to state of mind apart from or in addition to any facts which are the subject of the representation.

7. **Sworn statement** means any statement knowingly given under oath or affirmation attesting to the truth of what is stated, including a notarized statement whether or not given in connection with an official proceeding.

[History: YAN 5-8-801; 2-10-05]

SECTION 802. DISORDERLY CONDUCT

A. A person commits **Disorderly Conduct** if, with intent to disturb the peace or quiet of a neighborhood, business, family or person, or with knowledge of doing so, such person:

1. Engages in fighting, violent or seriously disruptive behavior; or

2. Makes unreasonable noise; or

3. Makes any protracted commotion, utterance or display with the intent to prevent the conduct of any lawful meeting, gathering or procession;

4. Refuses to obey a lawful order to disperse.
SECTION 803: RESISTING ARREST
A. A person commits Resisting Arrest by intentionally preventing or attempting to prevent a person reasonably known to the person to be a law enforcement officer, acting under color of such law enforcement officer’s official authority, from making an arrest by:

1. Using or threatening to use physical force against the law enforcement officer or another, or;

2. Using any other means which creates a substantial risk of causing physical injury or illness to the law enforcement officer or another.

B. A violation of this section is a class 3 offense.

C. It is no defense to prosecution that the law enforcement officer lacked legal authority to make the arrest if the officer was acting in good faith and under the color of the officer’s authority.

[History: YAN 5-8-803; 2-10-05]

SECTION 804, FUGITIVE FROM JUSTICE
A. Any person located within the boundaries of the Reservation, who is a member of a federally-recognized tribe, and who is wanted by off-Reservation law enforcement and for whom a criminal warrant of arrest has been issued and presented to the Yavapai-Apache Nation Police Department or Probation Department, shall be considered a Fugitive from Justice, and is subject to detention by authority of this statute.

B. Within 24 hours of detention, the person shall appear before the Tribal Court. The Tribal Court upon being presented with a criminal warrant from off-Reservation authorities for any person on the Reservation shall verify that the warrant is valid and that the person in custody is the person named in said warrant. Upon verification, the Tribal Court may issue a tribal fugitive warrant by the authority of this statute. The tribal warrant shall be issued by the Tribal Court and the person arrested on the tribal warrant shall be returned to tribal law enforcement for release to off-reservation authorities.

[History: RESOLUTION 33-94, SECTION 108.72]
SECTION 805. ESCAPE
A. A person commits Escape if the person knowingly departs or attempts to depart from law enforcement custody, including a police station, probation office, or court house in which a person is held or detained with knowledge that such departure is unpermitted; or

B. A violation of this section is a Class 3 offense.

C. If any weapon or dangerous instrument was possessed or used during the offense, or if any physical injury was caused to another person in the commission of the offense, a violation of this section is a Class 2 offense.

[History: YAN 5-8-805; 2-10-05]

SECTION 806. FAILURE TO APPEAR
A. A person commits Failure to Appear when by court order the person has been released from custody or allowed to remain at liberty, either upon bail or upon his or her own recognizance, upon condition that he will subsequently appear personally in connection with a charge against him, and when he does not appear personally on the required date or voluntarily within fifteen (15) days thereafter.

B. Violation is a Class 4 offense

SECTION 807. TAMPERING WITH PHYSICAL EVIDENCE
A. A person commits Tampering with Physical Evidence if, with intent that evidence becomes unavailable in an official proceeding which is then pending or which such person believes is about to be instituted, the person intentionally or knowingly:

1. Destroys, mutilates, alters, conceals or removes physical evidence with the intent to impair its verity or availability, or;

2. Knowingly makes, produces or offers any false physical evidence, or;

3. Prevents the production of physical evidence by an act of force, intimidation, or deception against any person

B. A violation of this section is a Class 3 offense.

C. It is not a defense to this charge that the evidence is inadmissible.

[History: YAN 5-8-807; 2-10-05]

SECTION 808. VIOLATION OF ORDER OF PROTECTION
A. A person commits the offense of Violation of an Order of Protection if the person, with knowledge of the order, purposely or knowingly violates a provision of an order for protection. It may be inferred that the defendant had knowledge of an order at the time of the
offense if the defendant had been served with the order before the time of the offense. Service of the order is not required upon a showing that the defendant had knowledge of the order and its contents.

B. Only the respondent under an order for protection may be cited for a violation of the order. The petitioner who filed an order for protection may not be cited for a violation of that order for protection.

C. A violation of this section is a Class 3 offense. If the violation results in physical injury to the person named in the Order of Protection, violation is a Class 2 offense. If the violation results in serious physical injury to the person named in the Order of Protection, violation is a Class 1 offense.

SECTION 809. CRIMINAL CONTEMPT OF COURT
A. A person commits Criminal Contempt of Court if the person knowingly:

1. Disobeys any order, subpoena, warrant, or command duly issued, made or given by the judiciary, or:

2. Engages in disorderly, disrespectful or insolent behavior during a session of the court which directly interrupts its proceedings or impairs the respect due to its authority, or;

B. A violation of this section is a Class 3 offense.

[History: YAN 5-8-809; 2-10-05]

SECTION 810. PERJURY
A. A person commits Perjury by knowingly:

1. Making a false, sworn statement in regard to a material issue, or;

2. Making a false unsworn declaration, certificate, verification or statement in regard to a material issue that the person subscribes as true under penalty of perjury, or;

B. A violation of this section is a Class 2 offense.

[History: YAN 5-8-810; 2-10-05]

SECTION 811. FALSE REPORTING
A. A person commits False Reporting by knowingly making to a law enforcement officer or agency:
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1. Any fraudulent report or statement to a law enforcement or first response officer or agency, or;

2. Any misrepresentation of the facts for the purpose of interfering with the orderly operation of a law enforcement agency or first response agency.

B. A violation of this section is a Class 3 offense.

C. A second or subsequent violation of this subsection within a 24 month period is a Class 2 offense.

SECTION 812. DENYING, HINDERING, OR DELAYING PROVISION OF EMERGENCY OR LAW ENFORCEMENT SERVICES

A. A person commits Denying, Hinder, or Delaying Provision of Emergency or Law Enforcement Services by

1. Using force, fear, or intimidation against another to prevent that person from contacting law enforcement services, emergency medical services, or the 911 reporting system to secure appropriate law enforcement or emergency services assistance on behalf of him-/herself or another; or

2. Destroying, disabling, concealing, or removing from the immediate premises any telephone or other telecommunications devices, or any motor vehicle or other means of transportation, with the intent to deny, hinder, delay, or prevent another from attempting to secure law enforcement or emergency services in a timely and expedient manner.

B. A violation of this section is a Class 3 offense.

C. If the violation occurs within a domestic violence relationship, as defined in Chapter 11 of this Code, violation is a Class 2 offense.

SECTION 813. WITNESS TAMPERING

A. A person commits Witness Tampering if, with intent that a witness becomes unavailable in an official proceeding which is then pending or which such person believes is about to be instituted, the person intentionally or knowingly induces, coerces, intimidates, menaces or otherwise causes a witness or informant to:

1. Testify or inform falsely; or

2. Withhold any testimony, information, document or other material evidence.

B. Violation of this section is a Class 3 offense.

C. If physical injury occurs, a violation is a Class 2 offense. If serious physical injury occurs, a violation is a Class 1 offense.
D. It is not a defense to this section that the victim was not actually being called as a witness and/or that the witness was not, in fact, tampered with.

**SECTION 814. BRIBERY**

A. A person commits *Bribery* if the person knowingly:

1. Gives or offers to give any money, property, services, or anything else of value to another person, with corrupt intent to influence another in the discharge of the other person’s public duties or conduct, or;

2. Accepts, agrees to accept, solicits or attempts to solicit any money, property, services, or anything else of value from another person in exchange for an understanding that the person’s vote, opinion, judgment, exercise of discretion or other action in carrying out the person’s public duties is to be influenced.

B. A violation of this section is a Class 2 offense.

C. It is not a defense that a person whom the offender sought to bribe was not qualified to act in the desired way.

[History: YAN 5-12-1205; 2-10-05]

**SECTION 815. PUBLIC INTOXICATION**

A. A person commits a *Public Intoxication* if, while the person is under the influence of alcohol, drugs, inhalants, or other intoxicants in public, the person poses a danger to themselves or to another person.

B. A violation of this section is a petty offense.

C. A second violation of this section within a 2 month period is a class 4 offense. A third violation within a 4 month period is a Class 3 offense.

[History: YAN 5-13-1303; 2-10-05]

**SECTION 816. CRIMINAL NUISANCE**

A. A person commits *Criminal Nuisance* if the person:

1. By conduct either unlawful in itself or unreasonable under the circumstances, recklessly creates or maintains a condition which endangers the safety or health of others, or;

2. Knowingly conducts or maintains any premises, place, or resort where persons gather for purposes of engaging in unlawful conduct, or;

B. A violation of this section is a class 4 offense.

[History: YAN 5-8-817; 2-10-05]
SECTION 817. CRIMINAL LITTERING OR POLLUTING
A. A person commits Criminal Littering or Polluting if the person without lawful authority:

1. Throws, places, drops, or permits to be dropped on public property or the property of another person which is not a lawful dump, any trash, litter, hazardous, destructive or injurious material which the person does not immediately remove, or;

2. Discharges or permits to be discharged any sewage, petroleum products, mining byproducts, or other hazardous or harmful substances into any waters or onto any shoreline belonging to the Nation, or;

3. Dumps any earth, soil stones, mining byproducts, ores, or minerals on any land.

B. A violation of this section is a class 4 offense if the littering or polluting is of non-hazardous materials.

C. A violation of this section is a class 1 offense if the littering or polluting is:

1. of sewage or other hazardous materials, or;

2. of any materials requiring mitigation and final site certification using specialized contractors certified or licensed by the Yavapai-Apache Nation, the U.S. Environmental Protection Agency, or any state equivalent.

[History: YAN 5-8-818; 2-10-05]

SECTION 818. TERRORISM
A. A person commits Terrorism when he or she intentionally:

1. Threatens to destroy or damage any structure, conveyance, or other real or personal property within the Reservation boundaries;

2. Attempts or conspires to destroy or damage any structure, conveyance, or other real or personal property within the Reservation boundaries; or

3. Creates a substantial risk of serious physical injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the Reservation boundaries.

B. A violation of this section is a Class 1 offense

SECTION 819. MISUSE OF TRIBAL FUNDS, COMMODITIES, OR ARTICLES
A. A person commits Misuse of Tribal Funds, Commodities, or Articles if the person knowingly:
1. Fails or neglects to properly expend funds awarded to the person either for the person’s welfare and relief, or;

2. Improperly disposes of commodities or articles awarded to the person for the person’s individual use, or;

3. Makes false claims to any YAN agency in an attempt to gain payment, reimbursement, or other consideration not properly payable to the person.

B. A violation of this section is a class 4 offense.

SECTION 820. CRUELTY TO ANIMALS
A. A person commits *Cruelty to Animals* by knowingly torturing or mistreating any animal.

B. A violation of this section is a Class 4 offense.

[History: YAN 5-13-1304; 2-10-05]
CHAPTER 9: DRUG OFFENSES

SECTION 901. DEFINITIONS

In this Chapter, unless the context requires otherwise, the definitions of the most current edition of the Arizona Revised Statute section 13-3401 are adopted in full.

In addition, the following expanded definitions shall apply:

1. Impairment means a person's faculties are reduced, to include a reduction in the ability to see, hear, talk, walk, stand, calculate, function, judge distances, or otherwise function normally.

2. Possess or Possession means knowingly having substantial physical possession or otherwise to substantially exercise dominion or control over property.

3. Produce or production includes knowingly growing, cultivating, manufacturing, delivering, expediting, or coordinating delivery of drugs, precursor materials, or equipment used in the production of drugs.

4. Use or usage includes residues or bodily fluid detections. If there is no other presence of the drug at the time of the contact with the person, the charging shall be at the lowest class for that drug unless otherwise indicated in a section.

[History: YAN 5-9-901; 2-10-05]

SECTION 902. MARIJUANA OFFENSES

A. A person commits a Marijuana offense by knowingly possessing, using, transporting, or producing marijuana, hashish or hashish oil.

B. Possession, use, transport, or production of less than 0.10 ounce (2.8 grams) is a Petty Offense.

C. Possession, use, transport, or production of 0.10 ounces (2.8 grams) up to 4.0 ounces (114 grams) is a Class 2 Offense.

D. Possession, use, transport, or production of 4.0 ounces (114 grams) or more is a Class 1 Offense.

E. Possession of any number of living marijuana plants is a Class 3 offense.

F. It is a rebuttable presumption that possession of 4 ounces or more of marijuana is "for sale" within the meaning of section 903.
SECTION 903. DRUG SALES OFFENSE
A. A person commits a Drug Sales Offense by knowingly producing, transporting, offering to transport, advertising, or presenting for sale any quantity of a substance that is prohibited in this Chapter. This is a separate offense from possession or use.

B. Violation of this section is a Class 1 offense.

C. A person who has been convicted of a second violation of the section within 3 years of the date of the prior violation shall be sentenced to a minimum of 9 months imprisonment.

SECTION 904. DANGEROUS DRUG OFFENSES
A. A person commits a Dangerous Drug offense by knowingly possessing, using, transporting, producing or administering any “dangerous drug,” as defined in the current A.R.S. section 13-3401(6).

B. Violation of this section is a Class 1 offense.

[History: YAN 5-9-904; 2-10-05]

SECTION 905. SYNTHETIC CANNABINOID (“SPICE”) OFFENSES
A. A person commits a Synthetic Cannabinoid offense by knowingly possessing, using, transporting, manufacturing, or producing any synthetic cannabinoid, as defined in the current A.R.S. section 13-3401(6)(b).

B. Violation of this section is a Class 1 Offense.

SECTION 906. NARCOTIC DRUG OFFENSES
A. A person commits a Narcotic Drug offense by knowingly possessing, using, transporting, producing or administering any “narcotic drug,” as defined in the current A.R.S. section 13-3401(20).

B. Violation of this section is a Class 1 offense

[History: YAN 5-9-906; 2-10-05]

SECTION 907. SYNTHETIC/SUBSTITUTED CATHINONE (“BATH SALTS”) OFFENSES
A. A person commits a Synthetic/substituted Cathinone offense by knowingly possessing, using, transporting, manufacturing, producing or administering any synthetic or substituted cathine,
synthetic or substituted cathinone, or “cathinomimetic substance,” as defined in the current A.R.S. section 13-3401.

B. Violation of this section is a Class 1 offense.

SECTION 908. PEYOTE OFFENSES
A. A person commits a Peyote offense by knowingly possessing, using, transporting, producing or administering any form of peyote.

B. It is a defense to prosecution that the peyote is used or is intended for use:
   1. In connection with the bona fide practice of religious belief, and
   2. As an integral part of a religious exercise, and
   3. In a manner not dangerous to public health or safety.

C. A violation of this section is a Class 1 offense

[History: YAN 5-9-908; 2-10-05]

SECTION 909. TOXIC INHALANT OFFENSES
A. A person commits a Toxic Inhalant offense by knowingly possessing, using, inhaling, transporting, producing, giving, or administering any form of toxic inhalant.

B. For the purposes of this section, a “toxic inhalant” is equivalent to a “vapor-releasing substance containing a toxic substance” as defined in the current A.R.S. section 13-3401(38).

C. Legal possession of a toxic inhalant for sale or use as the manufacturer intended is not a violation of this section.

D. A violation of this section is a Class 1 offense.

[History: YAN 5-9-909; 2-10-05]

SECTION 910. PRESCRIPTION-ONLY DRUG OFFENSES
A. A person commits a Prescription-only Drug offense if, without lawful authority, the person:
   1. Knowingly possesses, uses, transports, produces or administers any prescription-only drug; or

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2. Obtains a prescription-only drug by fraud, deceit, forgery, or misrepresentation.

B. Violation of this section is a Class 1 offense.

C. This section does not apply to any person who obtains and uses the prescription-only drug pursuant to a valid and current prescription from a prescriber licensed by the Yavapai-Apache Nation, the United States, or any state.

D. It is a rebuttable presumption that possession of 6 or more units of one kind of drug, or any quantity of two or more kinds of drugs, is “for sale” within the meaning of section 903. For purposes of this section, a “unit” is one pill, one capsule or 5 milliliters of liquid.

E. Civil Sanction: Any authorized or licensed person who illegally prescribes or otherwise abuses their privilege to prescribe prescription-only drugs violates this section. In addition to any possible criminal sanction, a civil sanction including fines and exclusion from the Yavapai-Apache Nation may be applied.

SECTION 911. INJURY DURING DRUG MANUFACTURING OFFENSES
A. A person commits an Injury During Drug Manufacturing offense by causing the injury of any other person while manufacturing, producing, or storing any illegally-manufactured drug.

B. A violation of this section is a Class 3 offense for any physical injury or impairment, however slight.

C. A violation of this section is a Class 2 offense for any serious physical injury.

D. A violation of this section is a Class 1 offense if any physical injury is to a child under the age of 18.

SECTION 912. DRUG PARAPHERNALIA OFFENSES
A. A person commits a Drug Paraphernalia offense by knowingly possessing, using, transporting, selling, producing, advertising, transferring, or giving any form of drug paraphernalia.

B. For purposes of this section, “Drug paraphernalia” means all equipment, products, containers and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body any drug prohibited by this chapter.

C. A violation of this section is a Class 4 offense.
SECTION 913. INVOLVING OR USING A MINOR IN DRUG TRANSACTIONS OFFENSES
A. A person commits an Involving or Using a Minor in Drug Transactions offense by:

1. Hiring, employing, or using a minor to engage in any conduct prohibited by this chapter that is completed, preparatory, or inchoate;

2. Selling, transferring, or offering to sell or transfer to a minor any substance or item if its possession is prohibited by this chapter.

B. A violation of this section is a Class 1 offense.

C. A person who has been convicted of a second violation of this section, and if that second violation occurs within 3 years from the date of the prior violation, the person shall be sentenced to a minimum of 9 months imprisonment.

SECTION 914. DRUG-FREE SCHOOL ZONES
A. A person commits a Drug-Free School Zone offense by committing any offense prohibited by this chapter within 300 feet of any school, its grounds, or a school bus stop.

B. A violation of this section is a Class 1 offense.

C. A person who has been convicted of a second violation of this section, and if that second violation occurs within 3 years from the date of the prior violation, the person shall be sentenced to a minimum of 9 months imprisonment.
SECTION 1001. DEFINITIONS
In this chapter, unless the context requires otherwise:

1. Child means any individual who is under eighteen years of age.

2. Elder means any individual who is 62 years of age or older.

3. Vulnerable Adult means an individual who is eighteen years of age or older and who is unable to protect himself or herself from abuse, neglect, or exploitation by others because of a mental or physical impairment.

[History: YAN 5-10-1001; 2-10-05]

SECTION 1002. ENDANGERING WELFARE OF A CHILD
A. A person commits Endangering the Welfare of a Child by knowingly:

1. Acting in a manner likely to be injurious to the physical, mental, or moral welfare of a child; or

2. Commits a crime of domestic violence, as defined in Title 23, in the presence of a child; or

3. Permits a child to enter or remain in a place where unlawful narcotic or dangerous drug activity is maintained or conducted; or

4. Induces, causes or permits a child to participate in gambling as defined in this Chapter, or

5. Sells, or causes to be sold, tobacco in any form to child.

B. A violation of this section is a Class 3 offense.

[History: YAN 5-10-1005; 2-10-05]

SECTION 1003. VULNERABLE VICTIM ABUSE
A. A person commits Vulnerable Victim Abuse by having the care or custody of a “child,” “elder” or “vulnerable adult” and causes the child, elder or vulnerable adult to suffer physical injury, or who permits the moral or mental health of the child, elder or vulnerable adult to be injured or who causes the child, elder or vulnerable adult to be placed in a situation where their health is endangered.

B. A violation of this section is a Class 1 offense if done intentionally or knowingly.
C. A violation of this section is a Class 2 offense if done recklessly or with criminal negligence.

[History: YAN 5-10-1005; 2-10-05]

SECTION 1004. CONTRIBUTING TO THE DELINQUENCY OR DEPENDENCY OF A MINOR
A. A person commits Contributing to the Delinquency or Dependency of a Minor if the person:

1. Causes, encourages, or contributes in any manner which tends to debase or injure the health, safety, welfare, or morals of a minor under the age of 18, or;

2. Acts to cause, encourage, or contribute in any manner to the destitution, vagrancy, begging, or homelessness of a minor under the age of 18, or;

3. Furnishes alcohol, drugs, inhalants, tobacco, firearms or explosives to a minor under the age of 18, or;

4. Has care or custody of a dependent minor under the age of 16 and fails, neglects, or refuses to make diligent efforts to send said minor to school.

B. A violation of this section is a class 3 offense.

C. It is an affirmative defense to subsection (4) that:

1. The minor is absent from the school either with the school’s permission or as a result of suspension or expulsion; or

2. The minor is engaged in a cultural activity authorized by the parent or guardian; or

3. The minor is being home-schooled.

[History: YAN 5-10-1004; 2-10-05]

SECTION 1005. UNDERAGE CONSUMPTION
A. A person commits Underage Consumption when, under the age of 21:

1. The person possesses or consumes any alcoholic beverage in any form, or;

2. The person misrepresents his age in an attempt to obtain any alcoholic beverage.

B. A violation of this section is a Petty Offense. A second violation of this section is a Class 4 offense, and the punishment must include an alcohol substance abuse assessment by Yavapai-Apache Nation or other appropriate agency.

[History: YAN 5-13-1301; 2-10-05]
SECTION 1006. UNDERAGE GAMBLING

A. A person commits Underage Gambling when the person is under 21 years of age and engages in gambling. Gambling is defined as risking or giving something of value for the opportunity to obtain a benefit from a game or contest or chance or skill or a future contingent event but does not include bona fide business transactions which are valid under the laws.

B. A violation of this section is a Petty Offense. If within twelve months of the date of first violation, a person allegedly commits a second violation, the second or subsequent violation is a Class 3 offense.

[History: YAN 5-13-1302; 2-10-05]
Reserved. See Yavapai-Apache Nation Domestic Violence Code, Title 23.
CHAPTER 12—SEX CRIMES

SECTION 1201. DEFINITIONS

In this chapter, unless the context requires otherwise:

1. Sexual Intercourse means penetration, however slight, of the anus, vulva or genital opening of another by any part of the body or by any object.

2. Oral Sexual Contact means contact between the mouth and the penis, the mouth and the anus, or the mouth and the vulva or vagina.

3. Anal Sexual Contact means contact between the penis and the anus.

4. Sexual Contact means any direct or indirect touching, fondling or manipulating of any part of the genitals, anus, buttocks or female breast by any part of the body or by any object or causing a person to engage in such contact.

5. Lack of Consent. Lack of consent results from
   a. Force as defined by the totality of the circumstances, including, but not limited to: use or threatened use of a weapon; sufficient physical force to overcome, restrain or injure a person, including body weight; any assault, as defined in Chapter Six of this code; or victim’s knowledge of prior assaults by the defendant; or
   b. Incapacity to consent; or
   c. Where the offense charged is Sexual Abuse, any circumstances in addition to force or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the offender’s conduct; or
   d. Where the offense charged is Rape in the Second Degree, any circumstances which, at the time of the sexual act, the victim clearly expressed that he or she did not consent to engage in such act and a reasonable person in the offender’s situation would have understood such person’s words and / or acts as an expression of lack of consent to such act under all the circumstances.

6. A person is deemed incapable of consent when he or she is:
   a. 15 years old or less; or
   b. Mentally disabled; or
   c. Mentally incapacitated; or
   d. Physically helpless.

7. Prostitution means engaging in or agreeing or offering to engage in sexual contact with another person under a fee arrangement with that person or any other person.

[History: YAN 5-12-1201; 2-10-05]
SECTION 1202. NO MARITAL DEFENSE
It is not a defense to prosecution under this Chapter that the offender was legally married, by a court of competent jurisdiction, to the victim.

SECTION 1203. RAPE
A. A person commits Rape by intentionally or knowingly engaging, or attempting to engage, in sexual intercourse, oral sexual contact or anal sexual contact with another person under any of the following circumstances:

1. By using force against that other person; or

2. By a threat, express or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person; or

3. By rendering another person unconscious; or

4. By administering to another person by force or threat of force, or without knowledge or permission of that person, a drug, intoxicant, or other similar substance; or

5. If the victim is physically helpless; or

6. If the victim is under the age of 15; or

7. Where the victim does not expressly or impliedly consent to the offender’s conduct, and a reasonable person would have known that the victim did not consent; or

8. Where the victim is intentionally deceived as to the identity of the defendant; or

9. Where the victim is incapable of consent by reason of mental disorder, mental defect, drugs, alcohol, sleep or any other similar impairment of cognition and such condition is known or should have reasonably been known to the defendant.

B. It is not a defense to this section that the Victim became voluntarily intoxicated.

C. No physical evidence of trauma or physical injury is required.

D. No corroboration is specifically required.

E. Violation of this section is a Class 1 offense.

[History: 5-6-611; 2-10-05; and 6-5-612, 2-10-05]
SECTION 1204. SEXUAL CONDUCT WITH A MINOR

A. A person commits Sexual Conduct with a Minor if the person is eighteen years of age or older and intentionally or knowingly engages in sexual intercourse, oral sexual contact, anal sexual contact, or sexual contact with any person who is fifteen years of age or younger.

B. It is a defense to a prosecution under this section if the victim’s lack of consent is based solely on incapacity to consent based on age, and the defendant is no more than thirty-six months older than the victim and the conduct is non-forcible.

C. It is a defense to a prosecution under this section if the victim’s lack of consent is based solely on incapacity to consent based on age, and the defendant is legally married to the victim.

D. A violation of this section is a Class 2 offense.

E. If the child is 14 years of age or younger, a violation of this section is a Class 1 offense.

F. It is a defense to this section that the offender’s conduct was for a lawful purpose or not motivated by sexual interest.

[History: 5-6-613, 2-10-05; 5-10-1002, 2-10-05; 5-10-1003, 2-10-05]

SECTION 1205. SEXUAL ABUSE

A. A person commits Sexual Abuse by intentionally or knowingly engaging in sexual contact with another person without consent. Touching could be directly or over the clothing.

B. It is a defense to this section that the offender’s conduct was for a lawful purpose or not motivated by sexual interest.

C. A violation of this section is a Class 2 offense.

[History: 5-6-612; 2-10-05]

SECTION 1206. CHILD PORNOGRAPHY

A. A person commits Child Pornography by knowingly:

1. Recording, filming, photographing, developing or duplicating any visual depiction in which a minor is engaged in exploitative exhibition or other sexual conduct, whether actual or simulated.

2. Distributing, transporting, exhibiting, receiving, selling, purchasing, electronically transmitting, possessing or exchanging any visual depiction in which a minor is engaged in exploitative exhibition or other sexual conduct.
B. If any visual depiction of child pornography is admitted into evidence, the court shall seal that evidence at the conclusion of any grand jury proceeding, hearing or trial.

C. A violation of this section is a Class 1 offense.

[History: YAN 5-10-1007; 2-10-05]

SECTION 1207. CHILD PROSTITUTION
A. A person commits Child Prostitution by knowingly:

1. Causing any minor to engage in “prostitution”; or

2. Using any minor for purposes of prostitution; or

3. Having custody or control of a person under 18 years old, and permitting said person to engage in prostitution; or

4. Receiving any benefit pursuant to an agreement to participate in the proceeds of prostitution of a person under 18 years old; or

5. Financing, managing, supervising, controlling or owning, either alone or in association with others, prostitution activity involving a person under 18 years old; or

6. Transporting or financing the transportation of any person under 18 years old across jurisdictional lines with the intent that such person engage in prostitution.

B. A violation of this section is a Class 1 offense.

[History: YAN 5-12-1204; 2-10-05]

SECTION 1208. VOYEURISM
A. A person commits Voyeurism by knowingly:

1. Invading the privacy of another person without the knowledge of the other person for the purpose of sexual stimulation; or

2. Disclosing, displaying, distributing or publishing a photograph, videotape, film or digital recording that is made in violation of subsection A above without the consent or knowledge of the person depicted.

B. For the purposes of this section, a person’s privacy is invaded if both of the following apply:

1. The person has a reasonable expectation that the person will not be photographed, videotaped, filmed, digitally recorded or otherwise viewed or recorded; and

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2. The person is photographed, videotaped, filmed, digitally recorded or otherwise viewed, with or without a device either:
   
a. While the person is in a state of undress or partial dress; or

b. While the person is engaged in sexual intercourse or sexual contact; or

c. While the person is urinating or defecating; or

d. In a manner that directly or indirectly captures or allows the viewing of the person’s genitalia, buttock, or female breast, whether clothed or unclothed, that is not otherwise visible to the public.

C. This section does not apply to either of the following:

1. Photographing, videotaping, filming or digitally recording for security purposes if notice of the use of photographing, videotaping, filming or digital recording equipment is clearly posted in the location and location is one in which the person has a reasonable expectation of privacy; or

2. Photographing, videotaping, filming or digitally recording by law enforcement officers acting in their official capacity.

D. Violation of this section is a Class 2 offense.

SECTION 1209. VICTIM’S RIGHTS, SEXUALLY TRANSMITTED INFECTIONS

A. A defendant, including a defendant who is a minor, who is alleged to have committed a sexual offense or another offense involving significant exposure to bodily fluid is subject to a court order that requires the defendant to submit to testing for the human immunodeficiency virus (HIV) and other sexually transmitted infections (STIs) and to release the test results to the Defendant, Victim Advocate and Victim.

B. Pursuant to subsection A of this section, the Prosecutor shall petition the Court for an order requiring that the person submit a specimen, to be determined by the submitting entity, for laboratory testing for the presence of the HIV or other STIs.

1. If the alleged act committed against the victim is a sexual offense, it shall be ordered by the Court that testing be performed.

2. If the alleged act committed against the victim is not a sexual offense, the court, up to ten (10) days, shall determine if sufficient evidence exists to indicate that “significant exposure” occurred. If the Court makes this finding, it shall be ordered by the Court that testing be performed.

C. For the purposes of this section:
1. **STIs** include but are not limited to: Chlamydia, Genital herpes, Gonorrhea, Syphilis, Hepatitis, and Trichomonas.

2. **Significant Exposure** means contact of the victim's ruptured or broken skin or mucous membranes with a person's blood or bodily fluids.

D. Testing results obtained pursuant to this Section shall not be used against the Defendant in the case number, or current case, under which the testing was ordered.

**SECTION 1210. ADMISSIBILITY OF MINOR'S STATEMENT**

A. Notwithstanding any other provision of the law, a statement made by a minor who is under the age of ten years old describing any sexual offense or physical abuse performed with, on, or witnessed by the minor, which is not otherwise admissible by statute or court rule, is admissible in evidence in any criminal or civil proceeding if both of the following are true:

1. The Court finds, in an in camera hearing, that the time, content and circumstances of the statement provide sufficient indicia of reliability; and

   a. Either of the following are true:

      (1) The minor testifies at the proceedings or

      (2) The minor is unavailable as a witness, provided that if the minor is unavailable as a witness, the statement may be admitted only if there is corroborative evidence of the statement.

B. A statement shall not be admitted under this section unless the proponent of the statement makes known to the adverse party his intention to offer the statement and the particulars of the statement sufficiently in advance of the proceedings to provide the adverse party with a fair opportunity to prepare to meet the statement.

**SECTION 1211. SEX OFFENDER REGISTRATION**

A defendant convicted under this chapter must register as a sex offender under Yavapai-Apache Nation Title 24, and Arizona Revised Statutes § 13-3281.
CHAPTER 13: WEAPONS OFFENSES

SECTION 1301. DEFINITIONS

In this Chapter, unless the context requires otherwise:

1. **Deface** means to remove, alter, or destroy the manufacturer’s serial number.

2. **Deadly weapon** means anything designed or intended for lethal use. The term includes a firearm.

3. **Explosive** means any dynamite, nitroglycerine, black powder or other similar explosives but does not mean or include ammunition or ammunition components such as primers, percussion caps, smokeless powder, black powder and black powder substitutes used for loading purposes.

4. **Firearm** means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun, air rifle, or other weapon which is designed to, or may readily be converted to, expel a projectile by the action of an explosive or rapidly expanding gas, except that it does not include a firearm in a permanently inoperable condition.

5. **Occupied structure** means any structure in which one or more human beings either is or is likely to be present or so near as to be in equivalent danger at the time a discharge of a firearm occurs. The term includes any dwelling house, whether occupied, unoccupied or vacant.

6. **Pocket knife** is defined as a folding knife with a blade length of 4 inches or less.

7. **Possess** or **Possession** means knowingly having substantial physical possession or otherwise to substantially exercise dominion or control over property.

8. **Prohibited Possessor** means any person who has been prohibited by any court from possessing any deadly weapon and whose civil rights have not been restored.

9. **Prohibited Weapon** means a:
   a. Bomb, grenade, mine, or rocket having a propellant charge of more than four ounces, and that is explosive, incendiary or contains poisonous gas, or;
   b. Firearm that is capable of shooting more than one shot automatically by a single operation of the trigger, or;
   c. Rifle with a barrel length of less than 16 inches, or a shotgun with a barrel length of less than 18 inches (barrel length is measured from the muzzle to the rearmost portion of the firing chamber), or any firearm that is made from a rifle or shotgun and that, as modified, has an overall length of less than 26 inches, or;
   d. Breakable container that contains a flammable liquid with a flash point of 150 degrees F. or less and that has a wick or similar device capable of ignition, or;
10. **Stun Gun** means a Taser or equivalent weapon that applies a debilitating electrical charge to the target when discharged.

[History: YAN 5-8-811; 2-10-05]

**SECTION 1302. MISCONDUCT INVOLVING WEAPONS**

A. A person commits *Misconduct Involving Weapons* by knowingly and without lawful authority, under any of the following circumstances:

1. Manufacturing, possessing, transporting, selling, or transferring a deadly weapon that has been stolen, or;

2. Defacing a deadly weapon, or;

3. Possessing a defaced deadly weapon, or;

4. Using, carrying, or possessing, or assisting in the use, carrying, or possession, of a deadly weapon or stun gun during the commission of any Class 3, Class 4, or Petty offense, or;

5. Pointing a firearm, stun gun, or simulated firearm at any person, or;

6. Carrying a deadly weapon or stun gun, except a pocket knife, concealed upon the person, if the person is under the age of 18, or;

7. Carrying a deadly weapon while exhibiting any sign or symptom of impairment from alcohol or drug use, or;

8. Recklessly handling, displaying, or discharging a deadly weapon or dangerous instrument.

B. Violation of this section is a Class 3 offense.
SECTION 1303. AGGRAVATED MISCONDUCT INVOLVING WEAPONS

A. A person commits *Aggravated Misconduct Involving Weapons* by knowingly and without lawful authority, under any of the following circumstances:

1. Possessing a deadly weapon or stun gun if the person is a prohibited possessor, or;

2. Transferring any deadly weapon or stun gun to a prohibited possessor, or;

3. Using, carrying, or possessing, or assisting in the use, carrying, or possession, of a deadly weapon or stun gun during the commission of any Class 1 or Class 2 offense, or;

4. Discharging, either knowingly or recklessly, a firearm at, in the general direction of, or near any person, structure, property of a government or utility, vehicle, or;

5. Manufacturing, possessing, transporting, selling, or transferring a prohibited deadly weapon.

B. Violation of this section is a Class 1 offense.

C. Any deadly weapon involved in the violation of this section shall be seized and stored in a secure place by a law enforcement officer pending resolution of the case. The deadly weapon is subject to forfeiture.

SECTION 1304. PROHIBITED POSSESSOR

A. A person commits a *Prohibited Possessor* offense if, at the time of the person’s possession of a deadly weapon, the person:

1. Is presently deemed by any court to constitute a danger to himself or to others, or;

2. Has been convicted by the Tribal Court of a Class 1 or Class 2 offense on the Yavapai-Apache Nation, or a felony in any other jurisdiction, and whose civil right to possess or carry a deadly weapon has not been restored, or;

3. Is a named defendant in any jurisdiction on a current civil or criminal Order of Protection, Injunction Against Harassment, Temporary or Permanent Injunction, or other Court order involving Domestic Violence as defined in Title 23 of the Yavapai-Apache Code;
4. Is serving a term of supervised probation.

B. Violation of this section is a Class 1 offense.

C. Any deadly weapon involved in the violation of this section shall be seized and stored in a secure place by a law enforcement officer pending resolution of the case. The deadly weapon is subject to forfeiture.

SECTION 1305. MINOR IN POSSESSION OF A WEAPON
A. A person commits a Minor in Possession of a Weapon offense, if the person is under the age of 18 and possesses or owns any deadly weapon.

B. It is not a violation of this section if the minor is aged 14, 15, 16, or 17, and the deadly weapon the minor possesses or owns is a hunting rifle or shotgun, intended for hunting, target shooting, or an organized weapons activity, and the deadly weapon is secured at the residence of a parent, grandparent, or guardian when not in use. No member of the household where the weapon is secured can be a Prohibited Possessor. Handguns are excluded from this defense.

C. A first violation of this section is a Petty offense. A second violation of this section within 24 months is a Class 3 offense.

D. Any deadly weapon involved in the violation of this section shall be seized and stored in a secure place by a law enforcement officer pending resolution of the case. The deadly weapon is subject to forfeiture.

[History: YAN 5-8-813; 2-10-05]

SECTION 1306. DRIVE-BY SHOOTING
A. A person commits a Drive-by Shooting offense if the person intentionally discharges a deadly weapon from a vehicle at a person, another motor vehicle, any residence, or any occupied structure.

B. A violation of this section is a Class 1 offense.

C. Any deadly weapon involved in the violation of this section shall be seized and stored in a secure place by a law enforcement officer pending resolution of the case. The deadly weapon is subject to forfeiture.

[History: YAN 5-8-816; 2-10-05]
SECTION 1307. RIGHT TO BEAR ARMS
Except as specifically limited by the above sections, nothing in this Chapter shall be construed or interpreted to infringe upon the right of tribal members to keep and bear arms.
CHAPTER 14: FRAUD AND DECEPTION OFFENSES

SECTION 1401. DEFINITIONS

In this Chapter, unless the context requires otherwise:

A. Written or Electronic Instrument means any paper, document, instrument or article containing written, electronic or printed matter, or the equivalent thereof, whether complete or incomplete, used for the purpose of reciting, embodying, conveying or recording information or constituting a symbol of evidence of value, right privilege or identification, which is capable of being used to the advantage or disadvantage of some person.

B. Complete Written or Electronic Instrument means one which purports to be a genuine written or electronic instrument fully drawn with respect to every essential feature thereof.

C. Incomplete Written or Electronic Instrument means one which contains some matter by way of content or authentication but which requires additional matter in order to render it a complete written or electronic instrument.

D. To Falsely Make a written or electronic instrument means to make or draw a complete instrument in its entirety, or an incomplete instrument which purports to be an authentic creation of its ostensible maker but which is not, either because the ostensible maker is fictitious or because, if real, the ostensible maker did not authorize the making or drawing thereof.

E. To Falsely Complete a written or electronic instrument means to transform, by adding, inserting or changing matter, an incomplete written or electronic instrument into a complete one, without the authority of anyone entitled to grant the revision, so that the complete written or electronic instrument falsely appears or purports to be in all respects an authentic creation of its ostensible maker or authorized by the ostensible maker.

F. To Falsely Alter a written or electronic instrument means to change without authorization by anyone entitled to grant the change, a written or electronic instrument, whether complete or incomplete, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner, so that the instrument so altered falsely appears or purports to be in all respects an authentic creation of its ostensible maker or authorized by the ostensible maker.

G. To Utter means to issue, deliver, publish, circulate, disseminate, transfer, or tender a written or electronic instrument or object to another.
SECTION 1402. FRAUD
A. A person commits *Fraud* by knowingly obtaining the property of another or services of another under any of the following circumstances:

1. Falsifying, concealing, or covering up by any trick, scheme or device a material fact; or
2. Making any materially false, fictitious, or fraudulent statement or misrepresentation; or
3. Making or using any false writing or document knowing the same to contain any material false, fictitious or fraudulent statement or entry.

B. A violation of this section is a Class 1 offense if committed against the Yavapai-Apache Nation.

C. A violation of this section is a class 2 offense if the value of the money, property, or services is $1000 or more.

D. A violation of this section is a class 3 offense if the value of the converted money, property, or services is less than $1000.

[History: YAN 5-7-713; 2-10-05]

SECTION 1403. APPROPRIATION OF TRIBAL RESOURCES
A. A person commits *Appropriation of Tribal Resources* if the person, having lawful or unlawful possession or control of any Tribal resource, fraudulently uses, converts, encumbers, or disposes of the Tribal resource to the person’s use or benefit, or to a third party’s use or benefit.

B. A violation of this section is a class 1 offense.

SECTION 1404. EMBEZZLEMENT
A. A person commits *Embezzlement* if the person, who has lawful possession of and has been entrusted with the property of another person or entity, fraudulently converts, encumbers, or disposes of the property to the person’s use or benefit, or to a third party’s use or benefit.

B. A violation of this section is a Class 1 offense if committed against the Yavapai-Apache Nation.

C. A violation of this section is a class 2 offense if the value of the converted property is $1000 or more.

D. A violation of this section is a class 3 offense if the value of the converted property is less than $1000.
SECTION 1405. FORGERY
A. A person commits *Forgery* if the person, with intent to injure or defraud:

1. Falsely makes, completes or alters a written or electronic instrument, or;

2. Utters a written or electronic instrument, whether accepted or not, which he knows to be forged or which contains false information, or;

3. Utters an electronic transaction, including credit card transactions, whether accepted or not, which the person knows to be forged or which contains false information, or;

B. A violation of this section is a Class 1 offense if the written or electronic instrument or electronic transaction is offered against the Yavapai-Apache Nation.

C. A violation of this section is a Class 2 offense when the value of the instrument or transaction, or the aggregate value of several instruments and transactions offered by the person within a 6 month period, is $1000 or more.

D. A violation of this section is a Class 2 offense when the written instrument or electronic transaction is or purports to be any of the following, regardless of value:

1. Part of an issue of money, securities, postage or revenue stamps, or other valuable instruments issued by a government or governmental agency, or;

2. Part of an issue of stock, bonds or other instruments representing interests in or claims against any property or person, or;

3. A deed, will, codicil, contract or assignment, or;

4. A check for $1,000 or more, a credit card purchase slip for $1,000 or more, or a combination of checks and credit card purchase slips that, in the aggregate, total $1,000 or more, or;

5. Any other commercial instrument or other document that does or may evidence, create, transfer, alter, terminate or otherwise affect a legal right, interest, obligation or status, or;

6. A public record.

E. A violation of this section is a Class 3 offense otherwise.

SECTION 1406. POSSESSION OF A FORGED INSTRUMENT
A. A person commits *Possession of a Forged Instrument* if, knowing it to be forged and with intent to utter the instrument, the person possesses the forged instrument.

B. A violation of this section is a Class 2 offense if the purported value is $1000 or more.
C. A violation of this section is otherwise a Class 3 if the purported value is less than $1000.

SECTION 1407. CRIMINAL IMPERSONATION
A. A person commits Criminal Impersonation if, with the intent to defraud another, the person:
   1. Assumes a false identity, or;
   2. Pretends to be a representative of some other person or organization, or;
   3. Pretends to be, or assumes a false identity of, an employee or a representative of some other person or organization with the intent to induce another person to provide or allow access to property.

B. A violation of this section is a Class 1 offense if committed against the Yavapai-Apache Nation.

C. A violation of this section is a Class 3 offense otherwise.

D. This section does not apply to law enforcement officers or their designates in the performance of law enforcement duties.

SECTION 1408. IDENTIFICATION THEFT
A. A person commits Identification Theft of a another person or entity if the person knowingly takes, purchases, manufactures, records, possesses or uses any identifying information of the other person or entity, including any real or fictitious person or entity, without the consent of the other person or entity, with the intent to obtain or use the other person’s or entity’s identity for any unlawful purpose, or to cause a loss to any person or entity, whether or not the other person or entity actually suffers any loss as a result of the offense.

B. A violation of this section is a Class 2 offense if the taking of the identity:
   1. Is from three or more persons, or;
   2. Causes any other person or entity to suffer a loss of $1000 or more, or;
   3. Is for the purpose of obtaining employment.

C. A violation of this section is a Class 3 offense otherwise.

D. This section does not apply to a person under the age of 21 who attempts to purchase alcohol.
SECTION 1409. CREDIT CARD FRAUD
A. A person commits a Credit Card Fraud if, without the cardholder’s consent and with intent to defraud, the person:

1. Possesses or controls another person’s or entity’s credit card, or;

2. Sells, transfers, or conveys a credit card, or;

3. Obtains possession, care, custody or control over a credit card as security for a debt, or;

4. Alters or falsely makes, manufactures, fabricates or produces any credit card or instrument or device purporting to be a credit card, or;

5. When authorized to provide goods or services, the person knowingly furnishes money, goods, or services upon presentation of a credit card the authorized person knows to be stolen, forged, expired, cancelled, or revoked, or;

6. Being a third party, the person obtains any benefit from the fraudulent use of another person’s credit card, or;

7. Unlawfully possesses a credit card scanning device or reencoder. Unauthorized possession of these devices provides an inference of the intent to defraud.

B. A violation of this section is a class 1 offense if committed against the Yavapai-Apache Nation.

C. A violation of this section is a class 3 offense otherwise

D. For the purposes of this section “control” includes unauthorized electronic transactions or attempted transactions involving credit card information.

SECTION 1410. COMPUTER TAMPERING
A. A person commits Computer Tampering if the person without authority, with or without intent to defraud:

1. Knowingly alters, damages, or destroys all or part of any computer, computer system or network, or;

2. Knowingly alters, damages, deletes, or destroys computer programs or data, or;

3. Knowingly introduces any computer contaminant into any computer, program, computer system or network, or;
4. Recklessly disrupts a computer, computer system or network to engage in a scheme or course of conduct directed at another person or entity and that reasonably and seriously alarms, torments, threatens or terrorizes the person or entity.

B. A violation of this section is a Class 1 offense if committed against the Yavapai-Apache Nation. A violation of this section is a Class 3 offense otherwise.
CHAPTER 15: TRAFFIC AND DRIVING UNDER THE INFLUENCE

SECTION 1501, GENERAL PROVISIONS
General Notice of Civil Liability: Any person, including persons not subject to the Tribal criminal jurisdiction of the Yavapai-Apache Nation, found responsible for a violation of this chapter shall be subject to other provisions of the Yavapai-Apache Nation including but not limited to:

1. Exclusion or expulsion from the Yavapai-Apache Nation, or;

2. Any other civil remedy available to the Yavapai-Apache Nation or Yavapai-Apache Nation members.

SECTION 1502, DEFINITIONS
In this chapter, unless the context requires otherwise:

1. Actual physical control means that a person who is under the influence of alcohol or drugs has the potential for operating a stopped vehicle under conditions that could present a danger to the person, property, or the public. When determining “actual physical control” the totality of the circumstances must be considered. Factors to be considered might include, but are not limited to: Indicators include the following:
   a. Whether the vehicle was running;
   b. Whether the ignition was on;
   c. Where the ignition key was located;
   d. Where and in what position the driver was found in the vehicle;
   e. Whether the person was awake or asleep;
   f. Whether the vehicle’s headlights were on;
   g. Where the vehicle was stopped;
   h. Whether the driver had voluntarily pulled off the road;
   i. Time of day;
   j. Weather conditions;
   k. Whether the heater or air conditioner was on;
   l. Whether the windows were up or down; or
   m. Any explanation of the circumstances shown by the evidence.

2. For purposes of this section, a keyless ignition is considered always keycd unless any electronic fob has been relocated outside of the vehicle by the person.

3. Drive: means to operate or be in actual physical control of a motor vehicle.

4. Driver: means a person who drives or is in actual physical control of a vehicle.

5. Impairment means person’s faculties are reduced, to include a reduction in the ability to see, hear, talk, walk, stand, calculate, function, judge distances or otherwise function normally.
SECTION 1503, AGGRESSIVE DRIVING
A. A person commits an Aggressive Driving offense if a person does any of the following during a continuous course of conduct:

1. Commits a violation of posted speed limit restrictions;
2. Fails to obey a traffic control device, including signs;
3. Passes another vehicle on the right by driving off of the roadway;
4. Makes an unsafe lane change;
5. Follows another vehicle too closely;
6. Fails to yield the right-of-way.

B. A violation of this section is a Class 3 offense.

C. If a traffic accident results from Aggressive Driving, a violation of this section is a Class 2 offense.

SECTION 1504, RECKLESS DRIVING
A. A person commits Reckless Driving if the person drives a vehicle with a reckless disregard for the safety of persons or property.

B. A violation of this section is a Class 4 offense.

C. If a traffic accident results from Reckless Driving, a violation of this section is a Class 2 offense.

SECTION 1505, DISTRACTED DRIVING
A. A person commits Distracted Driving if the person:

1. Actively writes or reads a text message while operating a moving motor vehicle, or;
2. Uses two hands to operate a GPS locator, electronic device, computer, or telecommunications device while operating a moving motor vehicle, or;
3. Reads a newspaper, book, map, electronic reader, or other written material while operating a moving motor vehicle

B. A violation of this section is a Petty Offense.

C. A violation of this section is a Class 2 offense if an accident results from the violation.
D. A violation of this section is a Class 1 offense if any physical injury to another person results from the violation.

**SECTION 1506, DRIVING UNDER THE INFLUENCE**

A. It is unlawful for a person to drive or be in actual physical control of a vehicle under any of the following circumstances:

1. While under the influence of an intoxicating liquor, any drug, a vapor releasing substance, or any combination thereof, if the person is impaired to the slightest degree.

2. The person has an alcohol concentration of 0.10 or more within two hours of driving, and that alcohol concentration resulted from alcohol consumed before or while driving. A person with an alcohol concentration of 0.10 or more is deemed conclusively to be impaired if there is any other sign or symptom of impairment.

3. The person has an alcohol concentration of 0.08 to 0.099 within two hours of driving, and that alcohol concentration resulted from alcohol consumed before or while driving. A person with an alcohol concentration of 0.08 to 0.099 is presumed to be impaired.

4. While there is any drug or that drug’s metabolite, is in the person’s body and there is any other sign or symptom of impairment. For the purposes of this section, refer to the Yavapai-Nation Criminal Code Title 5, Chapter 9, Section 901 for the definition of “drug”.

B. For the purposes of this section, breath or body odor alone is not a sign or symptom of impairment.

C. It is not a defense to this offense that the person is prescribed or otherwise entitled to use a drug under the laws of the Yavapai-Apache Nation, the U.S., or the state of Arizona.

D. “Impairment” may be established by witness observation, National Highway Traffic Safety Administration field sobriety tests, horizontal gaze nystagmus examination, breath or bodily fluid examinations, or any other method generally accepted within the highway traffic safety or law enforcement professions.

**SECTION 1507, DRIVING UNDER THE INFLUENCE – FIRST OFFENSE**

A. A violation of *Driving Under the Influence - First Offense* is a Class 3 offense.

B. The person shall be sentenced to serve 30 days in jail. Up to 29 days of jail time may be suspended with proof of Yavapai-Apache Nation approved Alcohol and Substance Abuse program assessment, or an equivalent program approved by the Tribal Court, and successful completion of recommendations. There is a presumptive minimum jail time of 24 continuous hours upon conviction.

C. The person shall serve a minimum of six months of supervised probation.
D. The person shall pay a minimum fine of $300.

SECTION 1508, DRIVING UNDER THE INFLUENCE – SECOND OFFENSE
A. A violation of Driving Under the Influence - Second Offense is a Class 2 offense.

B. To be chargeable, the date of violation for the Second Offense shall occur within 36 months of the date of violation for the First Offense.

C. The person shall be sentenced to serve up to 45 days in jail. Up to 35 days of jail time may be suspended with proof of Yavapai-Apache Nation approved Alcohol and Substance Abuse program assessment, or equivalent program approved by Tribal Court, and successful completion of recommendations. There is a presumptive minimum jail time of 10 days upon conviction, excluding any time previously served.

D. Work time release may be directed by the Court. All hours out of custody shall be added to the time to be served.

E. The person shall serve a minimum of 12 months of supervised probation.

F. The person shall pay a minimum fine of $600.00.

SECTION 1509, DRIVING UNDER THE INFLUENCE – THIRD OFFENSE
A. A violation of Driving Under the Influence - Third Offense is a Class 1 offense.

B. To be chargeable, the date of violation for the Third Offense shall occur within 60 months of the date of violation for the First Offense.

C. The person shall be sentenced to serve a minimum of 120 days in jail upon conviction, excluding any time previously served.

D. Work time release is not allowed.

E. Upon release from jail,
   1. the person shall attend a Yavapai-Apache Nation approved Alcohol and Substance Abuse program assessment, or equivalent approved by the Tribal Court, and shall successfully complete the recommendations.
   2. the person shall only be allowed to drive:
      a. If the person has a valid driver license and,
      b. The person installs an approved ignition interlock device at the person’s cost on all vehicles that the person drives.
F. The person shall serve a minimum of 24 months of supervised probation.

G. The person shall pay a minimum fine of $1200.00.

**SECTION 1510, NEGLIGENT VEHICULAR ASSAULT**

A. A person commits *Negligent Vehicular Assault* if the person, while operating a motor vehicle, causes serious physical injury to another person under any of the following circumstances:

1. The person’s driving privilege is revoked or suspended for any reason or the person fraudulently obtains a driver’s license;

2. The person disobeys any traffic control police officer or device, including traffic signs, stop signs, school zone signs, speed limit signs and yield signs;

3. The person is driving in the wrong lane;

4. The person does not properly yield the right-of-way;

5. The person does not exercise due care to avoid colliding with any pedestrian;

6. The person does not exercise proper precaution on observing a child or a confused or incapacitated person on a roadway; or

7. The person does not yield for a stopped school bus.

B. A violation of this section is a Class 2 offense.

**SECTION 1511, TRANSPORTING HAZARDOUS MATERIALS**

A. A person commits *Transporting Hazardous Materials* if the person violates any traffic law in this chapter while operating a motor vehicle transporting any hazardous material, substance, or waste that requires placarding as prescribed by the Yavapai-Apache Nation, the State of Arizona, or the United States.

B. A violation of this section is a Class 3 offense.

C. If a traffic accident or discharge of hazardous material, substance or waste results from a violation of this section, such a violation is a Class 1 offense.