

Subchapter 7. Extradition

§ 1951. Indian committing crime outside Indian Country— Apprehension on Reservation

Whenever the President of the Navajo Nation is informed and believes that an Indian has committed a crime outside of Indian Country and is present in Navajo “Indian Country” and using it as an asylum from prosecution by the state, the President of the Navajo Nation may order any Navajo policeman to apprehend such Indian and deliver him or her to proper state authorities at the Reservation boundary.

HISTORY

CMY-38-70, Mary 14, 1970.

CJ-1-56, 1956 Res. p. 148, January 27, 1956.

ANNOTATIONS

Jurisdiction and government of Indian Reservation. With regard to the exercise of extradition jurisdiction over Indian residents of the Navajo Nation, the constitutional mandate requiring exercise of Arizona’s lawful jurisdiction in responding to extradition demands of sister states must be interpreted in light of the Treaty of 1868 and the long history of the principle of retained Tribal sovereignty. *State ex rel. Merrill v. Turtle* 413 F.2d 683 (1969).

In the absence of specific Congressional action limiting the power of the Navajo Tribal government to deal with extradition of Indians residing within the Reservation or granting to the State of Arizona the authority to exercise extradition jurisdiction over such residents Arizona’s right to exercise the jurisdiction claimed must be determined in light of whether such exercise would infringe on the right of Reservation Indians to make their own laws and be ruled by them. *Id.*

Arizona’s exercise of the claimed jurisdiction would clearly interfere with rights essential to the Navajo’s self-government. *Id.*

Arizona had no authority, and hence no duty, to exercise extradition jurisdiction over Indian residents of the Navajo Reservation. *Id.*

Tribal sovereignty has been modified to permit application of state law to Reservation Indians in matters not considered essential to Tribal self-government, but the basic principle that the Indian Tribes retain exclusive jurisdiction over essential matters of Reservation government, in the absence of specific Congressional limitation has remained. *Id.* See, also, *Ex parte Morgan*, 20 Fed. 298 (1883); *Ker v. Illinois* 119 U.S. 436, 7 S.Ct. 225 (1883); *United States v. House* 110 F.2d 797 (1940).

The Navajo Tribe has codified and does now exercise extradition power, and this power cannot now be assumed by or shared with the State of Arizona without infringing on the right of Reservation Indians to make their own laws and be ruled by them. *Id.* See, also, *Williams v. Lee*, 358 U.S. 217, 79 S.Ct. 269 (1959), 3 L.Ed.2d 251.

§ 1952. Hearing; release

If any person being arrested as provided in 17 NNC §1951 so demands, he or she shall be taken by the arresting policeman to the nearest Court of the Navajo Nation, where the judge shall hold a

hearing, and if it appears that there is no probable cause to believe the Indian guilty of the crime with which he or she is charged off the Reservation, or if it appears that the Indian probably will not receive a fair trial in the state court, the judge shall order the Indian released from custody.

HISTORY

CJ-1-56, 1956 Res. p. 148, January 27, 1956.

CROSS REFERENCES

Office of the Prosecutor, see 2 NNC §1972.

§ 1953. Office of the Prosecutor

The Office of the Prosecutor of the Navajo Nation shall represent the interests of the Navajo Nation at the hearing authorized under §1952 of this title.

HISTORY

CAP-9-79, April 18, 1979.

CROSS REFERENCES

Office of the Prosecutor, see 2 NNC §1972.

***Subchapter 8. Uniform Act to Secure the Attendance
of Witnesses from Without a State in Criminal
Proceedings***

§ 1970. Definitions

In this article, unless the context otherwise requires:

A. "Witness" includes a person whose testimony is desired in any proceeding or investigation by a grand jury or prosecutor or in a criminal action, prosecution or proceeding.

B. "State" includes any territory of the United States and the District of Columbia, or the Navajo Nation.

C. "Summons" includes a subpoena, order or other notice requiring the appearance of a witness.

HISTORY

CS-60-89, September 15, 1989, added Subchapter 8, §§1970–1974.

§ 1971. Summoning witness in the Navajo Nation to testify in another state

A. If a judge of a court of record in any state certifies under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within the Navajo Nation is a material