

TITLE 6 - COURTS

CHAPTER 1 - COURTS AND PROCEDURES

Legislative History: Tohono O'odham Code Title 6, Chapter 1, Courts and Procedures was passed by the Legislative Council on December 5, 2008 pursuant to Resolution No.08-704 and was vetoed by the Nation's Chairman on December 12, 2008; veto overridden by Resolution No. 08-713 effective December 15, 2008. Courts and Procedures repeals Law and Order Code Chapter 1, "Papago Tribal Courts," as amended, and Ordinance No. 01-89, which was formerly compiled in this chapter.

Related history: Repealed Ordinance No. 01-89, "Designating Judicial Branch Rules and Procedures as Title II with the Enactment of Chapters 1 & 2," was approved on February 17, 1989 and codified as Title II of the Laws of the Tohono O'odham Nation. The Law and Order Code Chapter 1, "Papago Tribal Courts" was enacted by the Papago Council in 1945; amended in 1983 by Ordinance No. 05-83.

Note: Effective January 28, 2009, implementation of the following provisions of 6 T.O.C. Chapter 1 was preliminarily enjoined in In Re: Petition of the Judicial Branch, Case No. 2008-0283AV (Tohono O'odham Judicial Court, January 28, 2009): the final sentence of subsection 1102(B)(1); subsection 1103(D); subsection 1106(B) and the first sentence of subsection 1106(C); and subsection 1107(C).

Note: Resolution No. 08-704 provides that (1) Section 1103(C) shall apply only to judicial appointments made after the effective date of resolution and shall not be interpreted to remove any current Judicial Court judge from office, and (2) any references in the laws of the Nation to the provisions of Ordinance No. 01-89 shall be construed as referring to the corresponding, renumbered sections of Tohono O'odham Code Title 6, Chapter 1.

TITLE 6 - COURTS

CHAPTER 1 - COURTS AND PROCEDURES

TABLE OF CONTENTS

Article 1	Tohono O’odham Judicial Branch
Section 1101	Judicial Branch
Section 1102	Trial and Appellate Courts
Section 1103	Judges
Section 1104	Duties; Jurisdiction
Section 1105	Chief Judge
Section 1106	Rules of Court; Practice and Procedure
Section 1107	Records; Publication of Opinions
Section 1108	Right to Counsel
Section 1109	Disqualification
Article 2	Judicial Officers and Personnel
Section 1201	Appointment Pro Tempore Judges
Section 1202	Assignment of Work to Pro Tempore Judges
Section 1203	Qualifications of Pro Tempore Judges
Section 1204	Term of Office of Pro Tempore Judges
Section 1205	Compensation for a Pro Tempore Judges
Section 1206	Clerk of the Court
Section 1207	Powers, Duties; Bonds of Clerk of the Court
Section 1208	Court Commissioned Officer
Section 1209	Court Fees
Section 1210	Exemption of Government Agencies
Section 1211	Costs in the Judicial Court
Section 1212	Probation Officers
Section 1213	Powers and Duties
Section 1214	Judicial Employees

TITLE 6 - COURTS

CHAPTER 1 - COURTS AND PROCEDURES

ARTICLE 1 - TOHONO O'ODHAM JUDICIAL BRANCH

Section 1101 Judicial Branch.

The judicial power of the Tohono O'odham Nation shall be vested in an integrated Tohono O'odham Judicial Court consisting of trial courts, a court of appeals, and such inferior courts as may be provided by law.

Section 1102 Trial and Appellate Courts.

(A) The trial courts of the Judicial Court shall be divided into criminal, civil, juvenile and traffic divisions.

(B) Court of Appeals.

(1) The appellate power of the Tohono O'odham Nation shall be vested in the court of appeals, which shall have jurisdiction to hear all appeals from the Tohono O'odham Judicial Court trial courts. Decisions of the court of appeals on all matters within its jurisdiction shall be final. Each designated appellate panel shall meet promptly upon appointment in accordance with the appellate rules and shall convene at least once every calendar quarter until the final, written judgment is entered.

(2) The court of appeals shall consist of three Judicial Court judges designated by the chief judge to serve on the court of appeals, none of whom shall have presided at the trial of the case appealed; provided that no judge shall be designated to hear any matter in which he or she has a conflict of interest.

Section 1103 Judges.

(A) Terms. The trial court shall consist of at least six judges appointed by the Tohono O'odham Legislative Council, provided that the number of judges may be increased by law. The trial court judges' terms of office shall be staggered, with two judges' terms expiring every odd-numbered year. Trial court judges shall serve six-year terms, provided that an appointment to fill a vacancy occurring before the expiration of a term shall be made only for the remaining balance of that term.

(B) Continuance in Office. A judge shall continue to discharge the duties of that office, although the judge's term has expired, until a successor is appointed and sworn in.

(C) Qualifications.

(1) Preference shall be given to candidates for Judicial Court judge who are qualified, enrolled members of federally recognized Indian tribes, with first preference given to qualified, enrolled members of the Tohono O'odham Nation.

(2) A person shall be eligible to serve as a judge of the Judicial Court if he or she

(a) has never been convicted of a felony; and

(b) has not been convicted of a misdemeanor (other than a non-moving traffic violation) within the past year.

(3) In addition to the qualifications required in Section (C)(2), a candidate for Judicial Court judge shall

(a) be admitted to, and a member in good standing with, a state bar and federal bar; possess a juris doctorate degree, and have at least three years of experience as a practicing attorney in the field of Indian law, or

(b) possess a bachelor's degree and at least six years of work experience and training in a judicial or law-related field which provides the desired knowledge, skills and abilities.

(D) Compensation.

(1) The judges of the Tohono O'odham Judicial Court shall receive for their services a compensation to be established by the Legislative Council, which shall not be diminished during their continuance in office, provided, however, that a judge shall not receive his or her salary until such judge either:

(a) has certified in the previous month that no cause before such judge remains pending and undetermined for 60 days after it has been submitted for decision or

(b) the chief judge submits a certification that such judge has been physically disabled during the preceding 60 days or that good and sufficient cause exists to excuse the application of this section to particularly identified litigation then pending.

(2) Any certification submitted by the chief judge pursuant to this subsection (D) shall set forth in detail the nature and duration of the physical disability involved or reason why subsection (D)(1) should not apply to the specified pending litigation.

(3) Any judicial branch employee or official who issues or causes to be issued any check or payment to a judge knowing that, pursuant to this subsection, such judge should

not receive his or her salary shall be guilty of a civil offense and fined an amount equal to the check or payment issued.

(4) The chief judge shall, on June 30 and December 30 of each year, certify in writing to the Legislative Council and Chairperson of the Nation that all trial court, appellate, and pro tempore judges are in compliance with § 1103(D) of this Article or provide written notice of any noncompliance and circumstance thereof.

(E) Removal. A Judicial Court judge may be removed from office in accordance with the provisions of Article XIII of the Constitution of the Tohono O'odham Nation and Article IX of the Uniform Election Ordinance, as amended.

Section 1104 Duties; Jurisdiction.

(A) The Judicial Court shall carry out the duties mandated and exercise the jurisdiction conferred by the Constitution and laws of the Tohono O'odham Nation.

(B) The judicial power of the Tohono O'odham Judicial Court shall extend to all cases and matters in law and equity arising under the Nation's Constitution, laws of or applicable to the Nation, and Tohono O'odham customs. The Judicial Court shall have the power to:

(1) Interpret, construe and apply the laws of, or applicable to, the Tohono O'odham Nation.

(2) Declare the laws of the Tohono O'odham Nation void if such laws are not in agreement with the Nation's Constitution.

(3) Issue injunctions, attachments, writs of mandamus, quo warranto, review, certiorari and prohibition, and to issue writs of habeas corpus to any part of the Tohono O'odham Nation upon petition by, or on behalf of, any person held in actual custody.

(4) Establish court procedures for the Judicial Court in accordance with the Nation's Constitution.

Section 1105 Chief Judge.

(A) Selection. The judges of the Judicial Court shall select a chief judge from among their number, who shall be the chief administrative officer of the Tohono O'odham Judicial Court and shall serve in such capacity for two years or until a successor is elected.

(B) Authority. The chief judge shall exercise administrative supervision over the Judicial Court and shall have such other duties as provided by the Constitution and laws of the Tohono O'odham Nation.

Section 1106 Rules of Court; Practice and Procedure.

(A) The chief judge, by rules promulgated from time to time, shall regulate pleading, practice and procedure in judicial proceedings in all divisions of the Tohono O’odham Judicial Court to promote speedy determination of cases.

(B) In order to ensure that all persons appearing before the Court are guaranteed equal protection and due process of the law, the application of the rules of court shall not be discretionary but shall be applied by all judges to the matters before the Court. Court rules promulgated by another jurisdiction or entity and adopted by the chief judge that directly conflict with a Tohono O’odham Nation law or Judicial Court rule or order shall be inapplicable.

(C) All court rules shall be compiled in a single volume, shall be made available to the public in electronic and paper formats, and be distributed to all persons who practice before the Judicial Court. The Court may charge a reasonable fee for publishing and providing the rules of court, subject to the exemptions set forth in § 1210 of this Chapter.

Section 1107 Records; Publication of Opinions.

(A) In the determination of causes, all decisions of the Court shall be in writing, and the grounds of the decision shall be stated.

(B) The Judicial Court shall keep a record of all Court proceedings, which shall, at a minimum, reflect the title of the case, name of the parties, the substance of all witness testimony and evidence, the date of the hearing or trial, by whom conducted, the jury or Court’s findings, and the judgment, together with any other facts or circumstances deemed of importance to the case.

(C) Unless expressly prohibited by law, the Court shall, on an annual basis, publish and make available to the public all decisions of the court of appeals and trial court decisions of significant interest. The chief judge may adopt a rule of court not inconsistent with this Chapter governing the publication and availability of Court decisions.

Section 1108 Right to Counsel.

Any party to a matter before the Court shall have the right to assistance of counsel at his or her own expense, provided that such counsel, whether a licensed attorney or lay advocate, must be authorized to practice in accordance with any applicable law or court rule.

Section 1109 Disqualification.

A party to any civil or criminal action shall have the opportunity to a change of judge as of right without cause and may move to disqualify a judge for cause.

ARTICLE 2 - JUDICIAL OFFICERS AND PERSONNEL

Section 1201 Appointment Pro Tempore Judges.

The Council may upon the recommendation of the chief judge appoint pro tempore judges to the Judicial Court without regard to the number of judges prescribed in Article I, subject to the qualifications, term, rate of compensation, and powers and duties set forth in this Chapter.

Section 1202 Assignment of Work to Pro Tempore Judges.

Division of work among the pro tempore judges of the Tohono O'odham Nation shall be the responsibility of the chief judge. The chief judge may assign cases or other matters to a judge pro tempore appointed by the Tohono O'odham Legislative Council.

Section 1203 Qualifications of Pro Tempore Judges.

Notwithstanding the provisions of Section 1103(C) of this Chapter, a judge pro tempore shall be of good moral character, a resident of Arizona for not less than five years, and admitted to the practice of law in any State for not less than three years preceding the appointment, except that pro tempore judges shall not hold an elected office with any government or hold an appointed position with the Tohono O'odham Nation or be employed by the Nation or any of its entities.

Section 1204 Term of Office of Pro Tempore Judges.

The term of a pro tempore judge shall be set forth in the resolution of the Legislative Council appointing the judge, but in no case shall the term be longer than six years, provided that the judicial powers of a pro tempore judge shall extend beyond the period of appointment for the purpose of hearing and determining any proceeding necessary to a final determination of a cause being heard by that judge.

Section 1205 Compensation for a Pro Tempore Judge.

The rate of compensation for a judge pro tempore shall be not less than \$250.00 per day for each day the judge holds court or presides over any proceeding plus a per diem and mileage.

Section 1206 Clerk of the Court.

The chief judge shall, in accordance with the Judicial Court's personnel policies, employ a clerk of the court and assistants thereto who shall have such power and perform such duties as may be provided herein or by rule of the Judicial Court.

Section 1207 Powers, Duties; Bond of Clerk of the Court.

(A) The Clerk of the Court shall have the administrative duties and responsibilities of monitoring and managing the Judicial Branch's support staff and court records and performing other duties assigned by the chief judge.

(B) The clerk shall furnish a certified copy of any record or proceeding of the Court upon payment of any fee, except that no fee shall be required from the Nation or other official whose duties require such certified copy.

(C) Employee theft and dishonesty insurance covering the clerk of the Court and any other Court employee handling funds or property shall be maintained.

Section 1208 Court Commissioned Officer.

The chief judge may employ such juvenile and adult probation officers, juvenile detention officers, court security officers, and court officers as court commissioned officers as necessary to ensure the orderly transaction of the business of the Court. The chief judge shall prescribe the duties of the court commissioned officer.

Section 1209 Court Fees.

(A) The chief judge shall recommend reasonable filing, docketing, other court fees, and jury compensation rates, which shall be posted at the Court, provided that the Court shall adopt a rule and procedure for waiving or reducing fees for eligible persons. The amounts of such fees and compensation shall be subject to Legislative Council approval.

(B) The clerk shall transmit the monies collected pursuant to this paragraph to the tribal treasurer for deposit in the Judicial Court's fund.

(C) All fees are payable at the time the service is rendered, unless otherwise provided by order of the Court.

(D) The Court or any judge thereof may, for good cause shown, extend the time for paying any fees required by law, or may relieve a default caused by non-payment of a fee within the time provided by law, but no fees paid will be refunded.

Section 1210 Exemption of Government Agencies.

Court fees will not be charged to:

(A) The Tohono O'odham Nation, a district, or other political subdivision of the Nation.

(B) A commission, board, or department of the Nation.

(C) An official of the Nation or district, who is a party to any action in an official capacity.

Section 1211 Costs in the Judicial Court.

(A) Costs in the Judicial Court shall include:

- (1) fees of officers;
- (2) cost of certified copies of papers or records for background checks and other purposes; and
- (3) disbursements made or incurred as a result of an order or agreement of parties.

(B) There will also be included in final civil judgments and assessed as costs, a jury fee, which will be set by the Court at the time the judgment is given. The jury fee will be paid to the Clerk of the Court. An action to collect jury fees will be commenced only if the judgment fixing such jury fees is recorded in the judgment order.

Section 1212 Probation Officers.

The Court shall employ probation staff as necessary to provide services to the Judicial Court.

The salary of a probation officer shall be fixed in accordance with the salary schedule approved by the Legislative Council.

Section 1213 Powers and Duties.

Probation Officers employed pursuant to Section 1212 shall:

- (A) Make and maintain complete records of persons under suspended sentence, subject to control and direction by the Court.
- (B) Exercise general supervision and monitoring over persons under suspended sentence, subject to control and direction by the Court.
- (C) Serve warrants, make arrests and bring persons before the Court who are under suspended sentences.
- (D) Investigate cases referred to him/her for investigation by the Court and report to the Court.
- (E) Secure and keep a complete identification record of every person released under a suspended sentence and a written statement of the conditions of the suspension.
- (F) Obtain and maintain information concerning the conduct of persons placed under suspended sentence and report the information to the Court.

(G) Bring defaulting probationers into court when in the probation officer's judgment the conduct of the probationer justifies the Court to revoke suspension of sentence.

(H) Seize any contraband or other evidence related to probation or parole violations.

(I) Search the residence, property, or person of a probationer or parolee.

Section 1214 Judicial Employees.

The chief judge may employ such support staff as deemed necessary to carry out the business of the Tohono O'odham Judicial Court in accordance with the Court's personnel policies and subject to the appropriation and availability of funds.

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Repealing Papago Law and Order Code Chapter One and Ordinance No. 01-89 and
Enacting and Codifying Tohono O'odham Code Title 6, Chapter 1, Courts and
Procedures)

RESOLUTION NO. 08-704

- 1 **WHEREAS, the Constitution of the Tohono O'odham Nation vests the Tohono O'odham Legislative**
2 **Council with the power to set judicial compensation, appoint judges, approve Judicial**
3 **Branch budgets, and enact laws governing certain other aspects of the Nation's courts**
4 **(Constitution, Article V, Section 1, Article VI, Section 1 and Article VIII); and**
- 5 **WHEREAS, in 1945 the Papago Council enacted and adopted Law and Order Code Chapter 1,**
6 **"Papago Tribal Courts," to provide for the jurisdiction of the Nation's courts,**
7 **qualifications and appointment of judges, court procedures, and other matters**
8 **pertaining to the Judicial Branch; and**
- 9 **WHEREAS, in 1983 Law and Order Code Chapter 1 was amended by Ordinance No. 05-83 to revise**
10 **provisions governing the appointment of judges and the court of appeals; and**
- 11 **WHEREAS, Law and Order Code Chapter 1, as amended, was never repealed and several of its**
12 **provisions, such as the length of judicial terms and the Council's role in adopting**
13 **court procedures, conflict with the 1986 Constitution of the Tohono O'odham Nation;**
14 **and**
- 15 **WHEREAS, in 1989 Ordinance No. 01-89, "Designating Judicial Branch Rules and Procedures as**
16 **Title II with the Enactment of Chapters 1 & 2," was approved and codified as Title II**
17 **of the Laws of the Tohono O'odham Nation; and**
- 18 **WHEREAS, Ordinance No 01-89 addresses many of the same subjects appearing in Law and Order**
19 **Code Chapter 1, creating conflicts between these laws; and**
- 20 **WHEREAS, the Legislative Council Judiciary Committee has reviewed the Nation's Constitution**
21 **and existing court laws, and has redrafted and reorganized Ordinance No. 01-89 as**
22 **a new law that, if enacted, would be codified as Tohono O'odham Code as Title 6,**
23 **Chapter 1, Courts and Procedures; and**
- 24 **WHEREAS, on October 21, 2005, the Judicial Court submitted written comments on draft**
25 **amendments to Ordinance No. 01-89; and**
- 26 **WHEREAS, in March 2006, the Judiciary Committee provided a subsequent draft Title 6, Chapter**
27 **1, Courts and Procedures law to the Judicial Court and met the Court judges to**
28 **discuss issues raised in the draft; and**
- 29 **WHEREAS, the Committee provided the Court with an opportunity to submit additional**

RESOLUTION NO. 08-704

(Repealing Papago Law and Order Code Chapter One and Ordinance No. 01-89, and Enacting and Codifying Tohono O'odham Code Title 6, Chapter 1, Courts and Procedures)

Page 2 of 4

1 **comments, incorporated a number of suggested amendments into the draft law, and**
2 **on May 16, 2006 provided a written response to the Court's suggestions; and**

3 **WHEREAS, on August 15, 2006, a copy of the proposed Chapter 1, Courts and Procedures, was**
4 **provided to all districts with 30-day public notice requesting comments; and**

5 **WHEREAS, while the Legislative Council adopted Title 6, Chapter 1, by Resolution No. 06-818, the**
6 **resolution was vetoed and the veto was not overridden; and**

7 **WHEREAS, the Judiciary Committee subsequently met with the Judicial Court judges in 2007 and**
8 **2008 to discuss the Court's comments and make additional amendments which have**
9 **been incorporated into the revised Title 6, Chapter 1 that has now been presented to**
10 **the Legislative Council; and**

11 **WHEREAS, if enacted, Title 6, Chapter 1, Courts and Procedures would**

- 12 • **create a "holdover" clause providing that sitting judges remain in office; after**
- 13 **the end of their respective terms until a successor is appointed and sworn in;**
- 14 • **set education and experience requirements for full-time judges;**
- 15 • **require that judges certify that their decisions are issued within 60 days;**
- 16 • **provide that court rules be published in a single volume and made available to**
- 17 **practitioners;**
- 18 • **require that court rules are enforced by all judges;**
- 19 • **require that appellate decisions and certain trial court decisions be published**
- 20 **annually;**
- 21 • **require that attorneys and lay advocates be authorized to practice;**
- 22 • **grant litigants the right "to a change of judge as of right without cause and**
- 23 **providing a process for disqualifying judges for cause";**
- 24 • **allow the Court to set reasonable fees, subject to Council approval;**
- 25 • **delete references to court-appointed commissioners, masters, and referees from**
- 26 **the existing law; and**

27 **WHEREAS, the Judiciary Committee has recommended (1) that Ordinance No. 01-89 be repealed**
28 **and replaced with "Tohono O'odham Code Title 6, Chapter 1, Courts and Procedures,"**
29 **which is incorporated by this reference and (2) that Law and Order Code Chapter 1,**
30 **"Papago Tribal Courts," and its amendments be repealed; and**

RESOLUTION NO. 08-704

(Repealing Papago Law and Order Code Chapter One and Ordinance No. 01-89, and Enacting and Codifying Tohono O'odham Code Title 6, Chapter 1, Courts and Procedures)

Page 3 of 4

1 **WHEREAS, the Judiciary Committee has also recommended that the minimum qualifications for**
2 **judges appearing in Section 1103(C) of Title 6, Chapter 1 should apply only to future**
3 **judicial appointments and should not be interpreted to remove any current Judicial**
4 **Court judge from office; and**

5 **WHEREAS, it is in the Nation's best interest to clarify the law governing the Nation's courts,**
6 **repeal conflicting and unconstitutional provisions of the law, and otherwise enact**
7 **Tohono O'odham Code Title 6, Chapter 1, Courts and Procedures.**

8 **NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that Law and**
9 **Order Code Chapter 1, "Papago Tribal Courts," as amended, and Ordinance No. 01-89**
10 **are hereby repealed.**

11 **BE IT FINALLY RESOLVED by the Tohono O'odham Legislative Council that Tohono O'odham Code**
12 **Title 6, Chapter 1, Courts and Procedures is hereby enacted; provided that (1) Section**
13 **1103(C) shall apply only to judicial appointments made after the effective date of this**
14 **resolution and shall not be interpreted to remove any current Judicial Court judge**
15 **from office, and (2) any references in the laws of the Nation to the provisions of**
16 **Ordinance No. 01-89 shall be construed as referring to the corresponding,**
17 **renumbered sections of Tohono O'odham Code Title 6, Chapter 1 as enacted by this**
18 **Resolution.**

19 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 05TH. Day**
20 **of DECEMBER, 2008 at a meeting at which a quorum was present with a vote of 2,534.5 FOR; -0-**
21 **AGAINST; -0- NOT VOTING; and [08] ABSENT, pursuant to the powers vested in the Council by**
22 **Section 1, of Article V, Section 1 of Article IV, and Article VIII of the Constitution of the Tohono**
23 **O'Odham Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by**
24 **the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to**
25 **Section 16 of the Act of June 18, 1934 (48 Stat. 984).**

26
27
28 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

29
30
31 
32 **Verlon M. Jose, Legislative Chairman**

33
34 10th day of December, 2008
35
36
37
38

RESOLUTION NO. 08-704

(Repealing Papago Law and Order Code Chapter One and Ordinance No. 01-89, and Enacting and Codifying Tohono O'odham Code Title 6, Chapter 1, Courts and Procedures)

Page 4 of 4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

ATTEST:

Lucille Lopez
Lucille Lopez, Acting Legislative Secretary

15 day of December, 2008.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 10th day of December, 2008 at 7:16 o'clock, P.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL

Felicia Huntz for
Verlon M. Jose, Legislative Chairman

APPROVED on the 12th day of December, 2008
 DISAPPROVED at 3:00 o'clock, P.M.

Ned Norris, Jr.
NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 12 day of
December, 2008, at 3:02 o'clock, P.M.

Lucille Lopez
Lucille Lopez, Acting Legislative Secretary

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Overriding Veto of Resolution No. 08-704, "Repealing Papago Law and Order Code Chapter One and Ordinance No. 01-89, and Enacting and Codifying Tohono O'odham Code Title 6, Chapter 1, Courts and Procedures")

RESOLUTION NO. 08-713

1 **WHEREAS, the Constitution of the Tohono O'odham Nation vests the Tohono O'odham Legislative**
2 **Council with the power to set judicial compensation, appoint judges, approve Judicial**
3 **Branch budgets, and enact laws governing certain other aspects of the Nation's courts**
4 **(Constitution, Article V, Section 1, Article VI, Section 1 and Article VIII); and**

5 **WHEREAS, on December 5, 2008, the Tohono O'odham Legislative Council passed Resolution No.**
6 **08-704, "Repealing Papago Law and Order Code Chapter One and Ordinance No. 01-89,**
7 **and Enacting and Codifying Tohono O'odham Code Title 6, Chapter 1, Courts and**
8 **Procedures"; and**

9 **WHEREAS, pursuant to Article VII, Section 5 of the Nation's Constitution,**

10
11 **Every law, ordinance, resolution or separate appropriation item passed by the Tohono**
12 **O'odham Council shall be presented to the chairman for his approval before it**
13 **becomes effective. If he approves, he shall sign it. But if he disapproves, he shall**
14 **return it to the Tohono O'odham Council within forty-eight (48) hours, with his**
15 **objections. If after consideration, it again passes the council by a majority of two-**
16 **thirds (2/3) of the votes cast, it shall become law and he shall sign it notwithstanding**
17 **his objections.**

18
19 **WHEREAS, on December 12, 2008, the Nation's Chairman vetoed Resolution No. 08-704; and**

20 **WHEREAS, pursuant to Article IX, Section 2.A. of the Legislative Rules of the Tohono O'odham**
21 **Legislative Council, vetoed legislation shall be placed on the agenda of the next**
22 **legislative session and shall have priority over all other items.**

23 **NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that it hereby**
24 **overrides the veto of Resolution No. 08-704, "Repealing Papago Law and Order Code**
25 **Chapter One and Ordinance No. 01-89, and Enacting and Codifying Tohono O'odham**
26 **Code Title 6, Chapter 1, Courts and Procedures."**

27 **The foregoing Resolution was presented to the Tohono O'odham Legislative Council on the 15TH.**
28 **day of DECEMBER, 2008 at a meeting at which a quorum was present, and by a vote of 2,063.0 FOR;**
29 **471.5 AGAINST; -0- NOT VOTING; and 105] ABSENT, was passed by a vote of two-thirds (2/3) [1,689.7]**
30 **of the votes cast as required by Section 5 of Article VII of the Constitution of the Tohono O'Odham**
31 **Nation.**

32
33
34

RESOLUTION NO. 08-713

(Overriding Veto of Resolution No. 08-704, "Repealing Papago Law and Order Code Chapter One and Ordinance No. 01-89, and Enacting and Codifying Tohono O'odham Code Title 6, Chapter 1, Courts and Procedures")

Page 2 of 3

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

TOHONO O'ODHAM LEGISLATIVE COUNCIL



Verlon M. Jose, Legislative Chairman

ATTEST:



Lucille Lopez, Acting Legislative Secretary

SIGNED this 19th day of December, 2008 in accordance with the provisions of Article VII, Section 5 of the Constitution of the Tohono O'odham Nation.



NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION