




NATION  
**JUSTICE CENTER**

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**MEMORANDUM**

TO: Legislative Branch, All Executive Departments, Programs & Districts

FROM: Hon. Donald Harvey, Chief Judge 

DATE: July 11, 2016

RE: Administrative Order 2016-02 and Administrative Order 2016-03

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On June 16, 2016, the Judicial Branch issued Administrative Order 2016-02, which suspended Rule 5(a) of the Tohono O'odham Rules of Criminal Procedure. Today, July 11, 2016, the Judicial Branch is issuing Administrative Order 2016-03, which rescinds the June Administrative Order since it is no longer necessary. Administrative Order 2016-03 will be effective on July 15, 2016. The following explains what each administrative order does.

**Administrative Order 2016-02: Suspension of Rule 5(a), Tohono O'odham Rules of Criminal Procedure**

**What did it do?**

Rule 5(a) of the Tohono O'odham Rules of Criminal Procedure requires criminal trials to be set within 120 days from the defendant's arraignment ("speedy trial"). As allowed by Criminal Rule 5(b)(4), Administrative Order 2016-02 extended the speedy trial time frame for current cases by 76 days.

**Who did it affect?**

People with a pending criminal case in the Tohono O'odham Criminal Court.

**Why was it issued?**

Due to a critical shortage of judges, the criminal court calendar had become congested so that there were problems setting the trials within the 120 day time frame. The Tohono

O'odham Constitution requires six (6) full time judges, but the Judicial Branch has not had six judges since 2008. In fact, from February to June of this year the Court only had three (3) judges. The extremely small number of judges, especially with only one judge qualified under both federal and Tohono O'odham law to handle cases where a defendant could be sentenced for more than one year in jail, meant that cases could not be heard as quickly.

**Administrative Order 2016-03: Rescission of Administrative Order 2016-02**

**What does it do?**

It rescinds (cancels) Administrative Order 2016-03 on July 15, 2016.

**Who does it affect?**

People with a pending criminal case in the Tohono O'odham Criminal Court.

**Why was it issued?**

Due to the start of a fourth judge in June, only thirty (30) days were needed to relieve the congestion of the criminal court calendar.

**What is the effect?**

The thirty (30) days between June 16, 2016 and July 15, 2016 will not be used in calculating the 120 day time frame between arraignment and trial in criminal cases. The practical effect is that defendants with pending criminal cases may have up to a 150 day speedy trial time frame.