

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Adopting and Authorizing the Submission of Comments on the Proposed National
Guidelines for Sex Offender Registration and Notification)

RESOLUTION NO. 07-498

1 **WHEREAS, the Tohono O'odham Legislative Council is vested with the power to "govern the**
2 **conduct of members of the Tohono O'odham Nation and other persons within its**
3 **jurisdiction"; "promote, protect and provide for public health, peace, morals,**
4 **education and general welfare of the Tohono O'odham Nation and its members";**
5 **"provide for the maintenance of law and order and the administration of justice; to**
6 **establish law enforcement agencies; and to enact criminal and civil laws governing the**
7 **conduct of any person within the Tohono O'odham Nation consistent with federal law"**
8 **(Constitution of the Tohono O'odham Nation, Article VI, Section 1(c)(1), (2) and (6)); and**

9 **WHEREAS, in response to concerns for public safety and as an exercise of its inherent sovereign**
10 **governmental powers, on May 10, 2000 the Tohono O'odham Legislative Council**
11 **adopted the Nation's Sex Offender Registration and Notification Law as Ordinance No.**
12 **2000-02; and**

13 **WHEREAS, in the seven years since enacting Ordinance No. 2000-02, the Tohono O'odham Nation**
14 **has been fully operating its own jurisdiction-wide sex offender registry and**
15 **notification system and assigned a Tohono O'odham Police Department detective to**
16 **manage it full-time; and**

17 **WHEREAS, on July 27, 2006, the United States Congress enacted P.L. 109-248, the "Adam Walsh**
18 **Child Protection and Safety Act of 2006," including Subtitle A-Sex Offender**
19 **Registration and Notification, which is intended to establish a comprehensive**
20 **national system for registration and public awareness of sex offenders and offenders**
21 **against children to better protect the public from such predators; and**

22 **WHEREAS, Section 127 of Subtitle A requires that all federally recognized Indian tribes**
23 **affirmatively elect by July 27, 2007 to carry out the provisions of the subtitle as a**
24 **jurisdiction subject to its provisions *or* be treated by implication as having delegated**
25 **all such duties to the state; and**

26 **WHEREAS, the Tohono O'odham Nation is in substantial compliance with the requirements of the**
27 **Adam Walsh Act and has elected by Resolution No. 07-453 to carry out Subtitle A-Sex**

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1 **Offender Registration and Notification of the Adam Walsh Act subject to the**
2 **implementation deadlines provided in Section 124 of the Act; and**

3 **WHEREAS, the Attorney General of the United States has published proposed National Guidelines**
4 **for Sex Offender Registration and Notification to implement Subtitle A of the Adam**
5 **Walsh Act; and**

6 **WHEREAS, in their current form, the Guidelines**

7 **(1) allow the Attorney General to delegate a tribe's registration and notification**
8 **functions to a state government if the tribe has not substantially complied with**
9 **the requirements of the Act, but fails to provide a standard for measuring such**
10 **noncompliance;**

11 **(2) allow a registration jurisdiction to ignore tribal court sex offense convictions if**
12 **the jurisdiction determines the tribal court defendant was denied the right to**
13 **counsel despite the fact that the right to counsel is guaranteed by the Indian Civil**
14 **Rights Act;**

15 **(3) automatically classifies all tribal court sex offense conviction as "tier I" offenses,**
16 **the least dangerous classification; and**

17 **(4) does not require federal correctional facilities, where a large proportion of**
18 **Indian Country sex offenders are housed, to register sex offenders, despite the**
19 **fact that *all* corrections facilities must "ensure" registration of sex offenders**
20 **prior to their release under the Adam Walsh Act; and**

21 **WHEREAS, it is in the Nation's interest to comment on the Proposed National Guidelines for Sex**
22 **Offender Registration and Notification.**

23 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council hereby adopts**
24 **the Tohono O'odham Nation's Comments on the Proposed National Guidelines for Sex**
25 **Offender Registration and Notification substantially in the form attached hereto and**
26 **authorizes and directs the Nation's Chairman to submit the Nation's comments to the**
27 **Sex Offender Monitoring, Apprehending, Registering, and Tracking Office within the**
28 **United States Department of Justice.**

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The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 31ST. Day of JULY, 2007 at a meeting at which a quorum was present with a vote of 2,534.5 FOR; -0- AGAINST; -0- NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the Council by Article VI, Section 1(c)(1), (c)(2), and (c)(6) of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL

Felicia Nunez for
Verlon M. Jose, Legislative Chairman

31st day of July, 2007

ATTEST:

Lucille Lopez
Lucille Lopez, Acting Legislative Secretary

31 day of July, 2007.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 31st day of July, 2007 at 3:27 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 Nunez for
Verlon M. Jose, Legislative Chairman

APPROVED

on the 31 day of July, 2007

DISAPPROVED

at 3:35 o'clock, .M.

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

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Returned to the Legislative Secretary on the 31 day of

July, 2007, at 3:38 o'clock, P.M.


Lucille Lopez, Acting Legislative Secretary

ACTION: ADOPTING AND AUTHORIZING THE SUBMISSION OF COMMENTS ON THE PROPOSED NATIONAL GUIDELINES FOR SEX OFFENDER REGISTRATION AND NOTIFICATION

MOVED: COUNCILWOMAN ETHEL GARCIA

SECOND: COUNCILMAN TIMOTHY JOAQUIN

DATE: JULY 31, 2007

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 316.9	1. FRANCES MIGUEL (Roberta Harvey)	158.45	X			
	2. FRANCES G. ANTONE ()	158.45	X			
CHUKUT KUK 264.8	1. ETHEL GARCIA ()	132.40	X			
	2. VERLON M. JOSE ()	132.40	X			X
GU ACHI 227.9	1. TIMOTHY L. JOAQUIN (Louis L. Johnson)	113.95	X			
	2. CYNTHIA E. MANUEL ()	113.95	X			
GU VO 199.2	1. GRACE MANUEL ()	99.60	X			
	2. MICHAEL FLORES ()	99.60	X			X
HICKIWAN 172.0	1. MICHELLE ORTEGA ()	86.00	X			
	2. SANDRA ORTEGA ()	86.00	X			
PISINEMO 182.4	1. CHESTER ANTONE ()	91.20	X			
	2. GERALD FAYUANT ()	91.20	X			
SAN LUCY 181.1	1. LORRAINE EILER ()	90.55	X			
	2. GLORIA RAMIREZ ()	90.55	X			
SAN XAVIER 196.5	1. FELICIA NUÑEZ (Adam P. Andrews)	98.25	X			
	2. OLIVIA VILLEGAS-LISTON (Eileen A. Estrada-Lopez)	98.25	X			
SCHUK TOAK 154.6	1. FRANCES B. CONDE (Frederick Jose)	77.30	X			
	2. PHYLLIS CACHORA (Agnes Joaquin)	77.30	X			
SELLS 444.7	1. KIMBERLY LISTO ()	222.35	X			
	2. EVELYN B. JUAN MANUEL ()	222.35	X			
SIF OIDAK 194.4	1. WAVALENE ROMERO ()	97.20	X			
	2. MARY LOPEZ ()	97.20	X			
TOTAL		2,534.5	2,543.5	-0-	-0-	[02]

****PASSED VOTES**