

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving the Application of the Tohono O'odham
Judiciary Crime Reduction Funds)

RES. NO. 91-401

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WHEREAS, the State of Arizona established a Criminal Justice Enhancement Fund consisting of funds collected as penalty assessments on every fine, penalty and forfeiture paid to the Courts; and

WHEREAS, a percentage of the funds are appropriated to the Supreme Court of Arizona for the purposes of reducing juvenile crime; and

WHEREAS, these juvenile crime reduction funds have been available to Tribal Courts since 1989, when the Chief Justice of the Supreme Court amended the requirements making Tribal Courts eligible for the funds; and

WHEREAS, the Tohono O'odham Judicial Branch did submit an application for continued funding of the Resource Intervention Program, under the Juvenile Crime Reduction Fund; and

WHEREAS, the Resource Intervention Program is designed to provide resource intervention services within designated schools and provides referral and intake services for referred youth; and

WHEREAS, the objectives of the project will be carried out by the Intervention Resource Officers assigned to work with designated schools; and

WHEREAS, the funds awarded by the Supreme Court will enable the hiring of the Intervention Resource Officers; and

WHEREAS, on August 20, 1991 the Legislative Judiciary Committee did review the proposed project and did recommend that the Tribal Attorney General review the Funding Agreement for Juvenile Crime Reduction Funds between the Tohono O'odham Judiciary and the Arizona

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Administrative Office of the Courts on behalf of the Arizona Supreme Court and further recommended the project be returned at a joint meeting of the Legislative Judiciary and Budget and Finance Committees held on the 26th of August, 1991; and

WHEREAS, the Attorney General has reviewed the funding agreement and has provided the following recommendations to amend the agreement:

(1) The preamble to the agreement should be changed to reflect that the legal party (Applicants) is the Tohono O'odham Nation, with administration of the Program vested in the Tohono O'odham Judicial Branch.

(2) The indemnification provision in paragraph 6 could be interpreted as a waiver of sovereign immunity. Other grant contracts between state executive programs and the Nation have a non-waiver clause.

Following with sentence at the end of paragraph 6:

"Nothing contained in this paragraph 6 or any other provision of the Agreement shall be construed as an express or implied waiver of the Applicant's immunity from suit nor as a consent to suit in any federal, state or other judicial or non-judicial forum."

(3) Adding a paragraph (or incorporate an exhibit) which describes the nature of the services and activities contemplated by the funded Resource Intervention Program.

(4) The Agreement must be approved by the Legislative Council pursuant to the Council's authority conferred by Article VI, Section 1(f) with respect to agreements between the Nation and the State. Since paragraph 8 of the Agreement waives indirect costs, Council consent to the waiver should be expressly stated in the approving Resolution.

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(5) In addition to the Chief Judge's signature, I recommend (Tribal Attorney General) execution of the Agreement by the Chairman of the Nation pursuant to his authority to implement Council Resolutions (in this case the Resolution approving the Agreement). e.g. Constitution, Article VII, Section 2 (c); and

WHEREAS, *the Legislative Judiciary and Budget and Finance Committees did meet to review and finalize the Resource Intervention Program and did review and consider the recommendations of the tribal Attorney General regarding the Agreement; and*

WHEREAS, *the Legislative Judiciary and Budget and Finance Committees did approve the Resource Intervention Program and budget contingent upon the finalization of the Agreement with the Arizona Supreme Court including the recommendations of the Tribal Attorney General; and*

WHEREAS, *the Chief Judge did meet with the Legal Department of the Arizona Supreme Court to review and negotiate the terms and conditions of the Agreement and the parties have accepted in its entirety the Tribal Attorney General recommendations; and*

WHEREAS, *paragraph 8 of the Agreement specifies that funds distributed pursuant to the Agreement are not to be expended for any indirect cost that may be incurred . . . ; and*

WHEREAS, *the Legislative Council in the previous two funding years has waived the indirect costs related to the Crime Reduction Funds.*

NOW, THEREFORE, BE IT RESOLVED *by the Tohono O'odham Legislative Council that it does hereby approve the application submitted by the Tohono*

O'odham Judicial Branch to receive Juvenile Crime Reduction Funds
for the Resource Intervention Program and authorizes the receipt of
such funds.

BE IT FURTHER RESOLVED by the Tohono O'odham Legislative Council that the
Tohono O'odham Nation's officials to wit: the Chairman, Vice
Chairman, and any designated official are hereby authorized to
negotiate any and all to execute the grant; provided however, that any
amendments affecting the funding or funding levels of the grant shall
be submitted for further prior approval by this Council.

The foregoing Resolution was passed by the Tohono O'Odham Legislative Council on
the 13th day of September, 1991 at a meeting at which a quorum was presented
with a vote of 1,481.0 FOR; -0- AGAINST; 136.0 NOT VOTING; and 107.0 [7]
ABSENT, pursuant to the powers vested in the Council by Section 1 (f) of Article VI
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

Mary Ann Antone
Mary Ann Antone, Legislative Chairwoman

16th day of September, 1991

ATTEST:

Rocinda Allen for:
Teresa M. Choyguha, Legislative Secretary

16th day of September, 1991.

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Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 16th day of September, 1991, at 2:47 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

Mary Ann Antone
Mary Ann Antone, Legislative Chairwoman

APPROVED on the 16 day of September, 1991
 DISAPPROVED) at 3:50 o'clock, P.M.

Josiah Moore
JOSIAH MOORE, Chairman
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 17th day of September,
1991, at 8:29 o'clock, A.M.

Teresa M. Choyguha for:
Teresa M. Choyguha, Legislative Secretary

MOVED: COUNCILMAN EARL A. FRANCISCOSUBJECT: APPROVING THE APPLICATION OF THE TOHONOSECOND: COUNCILMAN WILLARD ANITAO'ODHAM JUDICIARY CRIME REDUCTION FUNDSDATE: SEPTEMBER 13, 1991

DISTRICTS	REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 229.0	1. Earl A. Francisco (Kenneth Chico Sr.)	114.5	X			
	2. Frances Miguel ()	114.5	X			X
CHUKUT KUK 163.0	1. Kenneth Williams (Harriet Toro)	81.5	X			
	2. Alberta M. Lopez (Berdella Jose)	81.5	X			
GU ACHI 166.0	1. Alex Ramon (Fernando Joaquin)	83.0	X			X
	2. Willard Anita ()	83.0	X			
GU VO 114.0	1. Virgil Lewis (Michael Flores)	57.0			X	
	2. Emilio Lewis (Anthony Flores)	57.0	X			
HICKIWAN 125.0	1. Lloyd Francisco (Billy C. Manuel)	62.5	X			
	2. Manuel Osequeda Jr. ()	62.5	X			X
PISINEMO 119.0	1. Johnson Jose ()	59.5	X			X
	2. Chester Antone (Fernando Valentine)	59.5	X			
SAN LUCY 106.0	1. Albert Manuel Jr. (Max P. Jose)	53.0	X			
	2. John Reno ()	53.0	X			X
SAN XAVIER 127.0	1. Joanne C. Preston (Carmelita Mattias)	63.5	X			
	2. Eugene Enis, Sr. (Michael R. Rios)	63.5	X			
SCHUK TOAK 107.0	1. JoAnn Francisco (David Valenzuela Sr.)	53.5				X
	2. Frances Francisco (Joseph Juan)	53.5				X
SELLS 310.0	1. Joseph T. Joaquin (Larry Garcia)	155.0	X			
	2. Andrew Patricio (Lucille Encinas)	155.0	X			
SIF OIDAK 158.0	1. Mary Ann Antone (Nina Jose)	79.0	X			
	2. Willard Juan, Sr. (Delbert Thomas)	79.0			X	
TOTAL		1,724.0	1,481.0	-0-	136.0	107.0 [7]

**PASSED VOTES