

ORDINANCE OF THE PAPAGO TRIBAL COUNCIL

LAW and ORDER CODE - AMENDMENT

Chapter 1, Section 2 and Section 6

ORD. NO. 05-83

1 WHEREAS, Chapter 1, Section 2, of the Law and Order Code of the Papago Tribe
2 sets out the requirements for the appointment of judges to the
3 Papago Tribal Courts; and

4 WHEREAS, Chapter 1, Section 6, of the Law and Order Code of the Papago Tribe
5 provides for the establishment of an Appellate Court; and

6 WHEREAS, both Section 2 and Section 6 require revision to enable the Papago
7 Council to establish an Appellate Court and to appoint qualified
8 persons to the Court; and

9 WHEREAS, it is in the best interest of the Papago Tribe to have a function-
10 ing Appellate system with qualified judges.

11 NOW, THEREFORE, BE IT ORDAINED that Chapter 1, Section 2 and Section 6 of
12 the Papago Law and Order Code be amended to read as follows:

13 CHAPTER 1

14 Section 2 APPOINTMENT OF JUDGES

- 15 A. The Papago Tribal Courts shall consist of two regular judges whose
16 duties shall be regular and permanent, and two associate judges
17 who may be called to service when the occasion requires.
- 18 B. All judges of the Papago Tribal Courts shall be appointed by the
19 Papago Council, with the Chief Judge specifically appointed to
20 that office.
- 21 C. Each judge of the Papago Tribal Courts shall hold office for a
22 term of two (2) years and shall be eligible for reappointment to
23 successive terms of two (2) years.
- 24 D. A person shall be eligible to serve as a judge of the Papago Tribal
25 Courts if he/she:
- 26 (1) is a member of the Papago Tribe;
 - 27 (2) has never been convicted of a felony, or, within
28 the past year of a misdemeanor.
- 29 E. Judges of the Papago Tribal Courts shall be paid a salary or other-
30 wise compensated in such amounts as may be determined by the Papago
31 Council.
- 32 F. The Papago Council may remove any judge for cause on any ground
set forth and in accordance with the procedure prescribed for
removal of a judge.

Section 6 APPEALS COURT

A. General Provisions:

- (1) The Appellate power of the Papago Tribe shall be vested
in a Court of Appeals consisting of a Chief Judge and
two associate judges.
- (2) Each judge of the Court of Appeals shall hold office
for a term of two (2) years and shall be eligible for
reappointment to successive terms to two (2) years.
- (3) All judges of the Court of Appeals shall be appointed
by the Papago Council with the Chief Judge specifically
appointed to that office.

- 1 (4) The eligibility and qualification of a person to serve as a
2 Judge of the Court of appeals shall be the same as those
3 prescribed for judges of the Tribal Courts, except that
4 such persons may be a member of another federally recognized
5 tribe and except further that the Chief Judge should possess
6 substantial legal education or experience.
- 7 (5) The judges of the Court of Appeals shall be paid a salary or
8 otherwise compensated in such amounts and in such manner as
9 may be determined by the Papago Council. The rate and method
10 of compensation of judges of the Court of Appeals shall not
11 be reduced during their term of office.
- 12 (6) The Papago Council may remove any judge of the Court of
13 Appeals for cause on any of the grounds and in accordance
14 with the procedure prescribed for removal of a judge of the
15 Tribal Court.
- 16 (7) No judge of the Court of Appeals shall participate in any
17 proceeding if he has any interest, or any relationship with
18 any person by marriage or blood, in the first or second degree.

19 B. Procedure

- 20 (1) The Court of Appeals shall have appellate jurisdiction over
21 criminal and civil matters. Any party to any final order or
22 final judgment of the Tribal or Children's Court shall have
23 the right to petition for appeal of that order or judgment
24 to the Court of Appeals in accordance with the rules of
25 Appellate Procedure.
- 26 (2) The grounds for appeal shall be limited to the following:
- 27 (a) Lack of jurisdiction of the Tribal or Children's
28 Court;
 - 29 (b) Irregularities or improprieties in the proceedings,
30 or by the Tribal or Children's Court, the jury, any
31 witness, or any party substantially prejudicing the
32 rights of the petitioner;
 - (c) Any ruling, order, decision or abuse of discretion
which prevented a fair hearing or trial;
 - (d) Newly discovered material evidence which could not,
with reasonable care, have been produced at the
trial or hearing;
 - (e) Insufficient evidence to support the verdict, decision,
order or judgment of the jury or Tribal or Children's
Court;
 - (f) An error of law substantially prejudicing the rights
of the petitioner.
- (3) Upon receipt of the Petition for Appeal, the Court clerk shall
notify the Chief Judge of the Court of Appeals, which may
convene en banc to review the petition. If it appears to the
Court of Appeals, acting unanimously, that the Petition for
appeal on its face, under a liberal construction in favor of
the Appellant/Petitioner, has no merit or fails to state a
ground for a hearing, the petition shall be denied.

The Court of Appeals shall state in writing its order of denial
and the reasons therefor, and shall direct that the order or
final judgment of the trial court be executed. Copies of the
order shall be served by the Court Clerk on all parties to the
proceedings.

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If it appears to one or more members of the Court of Appeals that the petition may have merit, it shall grant the petition and set the matter for hearing on a date no sooner than will permit the parties to the proceeding to have at least thirty (30) days notice of the hearing and no later than sixty (60) days after the petition is granted.

- (4) At any hearing of an appeal, each party to the appeal shall be granted an opportunity to present an oral argument on all issues raised by the petition for appeal, and to discuss and comment upon all evidence presented to or considered by the Tribal or Children's Court and all orders and findings of the Tribal or Children's Court, insofar as they pertain to the issues. The Court of Appeals shall not conduct a new trial; witnesses shall not appear before it to give testimony no new evidence shall be presented to it; and the appeal shall be limited to those issues raised by the Petition for appeal.
- (5) In deciding any appeal, the Court of Appeals shall prepare a written opinion and decision, setting forth its conclusions and orders, and the reasons therefor. Its decision shall be in the form of an Order.
- (6) The Chief Judge and the Associate Judges of the Court of Appeals may establish and promulgate rules of procedure for the conduct of its proceedings which are not inconsistent with other governing and applicable laws.

The foregoing Ordinance, being adopted as Chapter One of the Law and Order Code, was on September 16, 1983, duly adopted by the Papago Council by a vote of 1440.0 for; 0 against; 0 not voting; and 0 absent, pursuant to the authority vested in the Papago Council by Section 2 (m) and Section 3 (b) of Article V of the Constitution and By-laws of the Papago Tribe as amended, ratified by the Papago Tribe on December 12, 1936, and approved by the Secretary of the Interior on January 6, 1937, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984). Said Ordinance is effective as of the date of its approval by the Superintendent of the Papago Agency and is subject to rescission by the Secretary of the Interior, pursuant to Section 6, Article V of the Constitution and By-laws of the Papago Tribe.

THE PAPAGO COUNCIL



Josiah Moore
Josiah Moore, Chairman

ATTEST:

Ida L. Jose
Ida L. Jose,
Acting Tribal Secretary

ORDINANCE APPROVED this 26 day of Sept, 1983.

Curtis C. Nordwall
Curtis C. Nordwall,
Superintendent, Papago Agency

LAW and ORDER CODE - AMENDMENT
SUBJECT- Chapter 1, Section 2 and Section 6

Moved: Virgil Lewis

Second: Delma Garcia

Date: September 16, 1983

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Ordinance # 05-83

Districts	Representatives	No. of Votes	For	Against	Not Voting	Absent
BABOQUIVARI 203	1. Kenneth Chico, Sr. (Donald Harvey) 2. Joann Garcia (Edward N. Kisto)	101.5 101.5	X X			
CHUKUT KUK 138	1. Harriet Toro (Lawrence Jose) 2. Rosemary Lopez (Anita C. Clark)	69.0 69.0	X X			
GU ACHI 150	1. Fernando Joaquin (Fred Adams, Jr.) 2. Angelo J. Joaquin Sr. (Jonas R. Robles)	75.0 75.0	X X			
GU VO 107	1. Virgil Lewis (Henry F. Manuel) 2. Cross Antone (Fern E. Salcido)	53.5 53.5	X X			
HICKIWAN 122	1. Delma Garcia (Archie Pilone) 2. Henry A. Ramon (Pablo Baptisto)	61.0 61.0	X X			
PISINEMO 105	1. Johnson Jose (Frank Garcia) 2. Lamando Francisco (Chester Antone)	52.5 52.5	X X			
SAN LUCY 51	1. Albert Gomez (Jeannie Morris) 2. John Reno (Max P. Jose)	25.5 25.5	X X			
SAN XAVIER 121	1. Carmelita Mattias () 2. John B. Narcho (Austin Nunez)	60.5 60.5	X X			
SCHUK TOAK 103	1. Jo Ann Francisco (Priscilla G. Domingo) 2. XXXXXXXXXXXXXXXXXXXXXXXXXXXX (Joseph Juan)	51.5 51.5	X X			
SELLS 235	1. Fred Stevens (Dennis Jose) 2. Andrew M. Patricio (Nora Alvarez)	117.5 117.5	X X			
SIF OIDAK 105	1. Nicklos Jose (Alice Norris) 2. Elliot Lewis (Eugene F. Jose)	52.5 52.5	X X			
TOTALS		1440.0	1440.0	-0-	-0-	-0-