

TITLE 3 - CHILDREN

CHAPTER 2 - JUVENILE CURFEW

Legislative History: The "Juvenile Curfew Ordinance," Ordinance No. 96-001, was enacted and approved on April 8, 1996.

JUVENILE CURFEW ORDINANCE

CURFEW VIOLATION

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2 **A.** A person commits the offense of curfew violation if while he or she is the custodial
3 parent, legal guardian or other adult person having the care, custody, or supervision of a juvenile
4 under the age of eighteen (18) years, the juvenile is on or remains on or loiters in, about or upon
5 any place private or public within the Tohono O'odham Nation away from the dwelling house or
6 usual place of abode of the juvenile, between the hours of 9:00 o'clock P.M. and 6:00 o'clock
7 A.M. the following day.

8 **B.** The provisions of this ordinance shall not apply under the following circumstances:

9 1. When the juvenile is accompanied by his or her custodial parent, legal guardian or
10 other adult person having the care, custody, or supervision of the juvenile; or

11 2. Where the juvenile is on an emergency errand where the health or safety of an
12 individual is endangered; or

13 3. Where the juvenile is in transit from a public or private school event or function which

1 began prior to 9:00 o'clock P.M. of the same day and he or she is using the most direct route

2 from the event or function to his or her dwelling house or usual place of abode; or

3 4. Where the juvenile is lawfully employed and is en route to or from the employment or
4 is engaged in lawful activities related to the employment.

5 **C.** Any juvenile found to be in violation of the curfew hours as set forth in paragraph "A"

6 above may be detained and placed into protective custody by any law enforcement officer or

7 adult or juvenile probation or parole officer of the Tohono O'Odham Nation. If so detained, the

8 juvenile shall be immediately returned to the custody of the juvenile's custodial parent, legal

9 guardian, or other adult person having the care, custody, or supervision of the juvenile by the

10 detaining officer. If the whereabouts of the juvenile's custodial parent, legal guardian, or other

11 adult person having the care, custody, or supervision of the juvenile can not be immediately

12 determined by the detaining officer after reasonable efforts, the juvenile shall be turned over to

13 the care and custody of Tohono O'Odham Human Services, Child Welfare Division.

14 **D.** However, if the detaining officer has probable cause to believe that the juvenile has

15 committed an act or acts which if committed by an adult would be a violation or violations of the

1 Tohono O’Odham Criminal Code or federal law the juvenile shall be cited for the violation and
2 then immediately released into the custody of the juvenile’s custodial parent, legal guardian, or
3 other adult person having the care, custody, or supervision of the juvenile or to the custody of
4 Tohono O’Odham Human Services, Child Welfare Division if the whereabouts of the custodial
5 parent, legal guardian, or other adult person having the care, custody or supervision of the
6 juvenile can not be immediately determined unless the detaining officer has reasonable cause to
7 believe that a “cite and release” of the juvenile would result in property damage or would
8 endanger the health and safety of the juvenile or other individual. In determining reasonable
9 cause, the detaining officer may consider all information then available, including, but not
10 limited to, any statement by the juvenile, whether or not made in the presence of the juvenile’s
11 custodial parent, legal guardian, or other adult person having the care, custody or supervision of
12 the juvenile and all other facts or statements available to the officer, hearsay or not.

13 **E.** If the detaining officer determines that reasonable cause exists and the juvenile is not
14 immediately returned to the custody of his or her custodial parent, legal guardian, or other adult
15 person having the care, custody or supervision of the juvenile or to the custody of the Tohono

1 O'Odham Human Services, Child Welfare Division, the juvenile shall be delivered to and turned
2 over to the custody of the Tohono O'Odham Juvenile Detention Center (herein after "Center").

3 Upon the juvenile's delivery the Center shall retain custody of the juvenile until he or she is
4 returned to the custody of the custodial parent, legal guardian, or other adult person having the
5 care, custody, or supervision of the juvenile or custody is placed elsewhere by court order.

6 Immediately upon delivery of the juvenile to the Center, the detaining officer shall make every
7 reasonable effort to contact the juvenile's custodial parent, legal guardian, or other adult person
8 having the care, custody, or supervision of the juvenile and give notice that the juvenile is being
9 held in custody by the Center and that the juvenile must be turned over to the custody of the
10 custodial parent, legal guardian, or other adult person having the care, custody, or supervision of
11 the juvenile within forty-eight (48) hours of having had been delivered into the Center's custody.

12 The detaining officer shall continue to attempt to establish contact with juvenile's custodial
13 parent, legal guardian, or other adult person having the care, custody, or supervision of the
14 juvenile for the purpose of giving notice of the juvenile's custody by the Center even after
15 custody has been turned over to the Center.

1 **F.** If the custodial parent, legal guardian, or other adult person having the care, custody, or
2 supervision of the juvenile after receiving written or oral notice of the juvenile's custody by the
3 Center and the time limits of paragraph "E" above and he or she does not timely appear and take
4 custody of the detained juvenile, the Center shall so inform Tohono O'Odham Human Services,
5 Child Welfare Division and its designated legal representative so that an appropriate action in the
6 Tohono O'Odham Children's Court may be initiated.

7 **G.** If the custodial parent, legal guardian, or other adult person having the care, custody, or
8 supervision of the juvenile does not timely appear pursuant to the requirements of paragraph "E"
9 above, custody of the detained juvenile shall remain with the Center until released by an order of
10 the Tohono O'Odham Children's Court. A release order for a juvenile detained by the Center
11 under authority of this ordinance shall not issue unless the issuing judge has received a written
12 status report from Tohono O'Odham Human Services, Child Welfare Division concerning the
13 juvenile and the circumstances surrounding his or her detainment by the detaining officer.

14 Tohono O'Odham Human Services, Child Welfare Division shall file the written status report
15 with the Tohono O'Odham Children's Court within 24 hours of notice to the custodial parent,

1 legal guardian, or other adult person having the care, custody or supervision of the juvenile
2 pursuant to paragraph "E" above. The status report shall include all factual information needed
3 so that a petition for detention may be filed if deemed appropriate.

4 **H.** Any evidence and/or testimony admitted at any previous trial or hearing before any court
5 of competent jurisdiction, including the Tohono O'Odham Children's Court, may be introduced
6 as evidence at a trial for violation of this ordinance.

7 **I.** A custodial parent, legal guardian, or other adult person having the care, custody or
8 supervision of the juvenile found guilty of curfew violation shall be sentenced to the following:

9 1. For a first offense, a \$50.00 fine and counseling for the custodial parent, legal
10 guardian, or other adult person having care, custody or supervision of the juvenile and the
11 juvenile involved as directed by the Court in its discretion;

12 2. For a second offense, a \$200.00 fine and counseling for the custodial parent, legal
13 guardian, or other adult person having care, custody or supervision of the juvenile and the
14 juvenile involved as directed by the Court in its discretion;

15 3. For a third offense, a \$500.00 fine or imprisonment in jail for a period not to

1 exceed ninety (90) days or both;

2 4. For a fourth or subsequent offense, a \$500.00 fine or imprisonment in jail for a
3 period not to exceed one hundred eighty (180) days or both;

4 5. The above fines are mandatory and may not be suspended nor converted to
5 community service; and

6 6. The custodial parent, legal guardian, or other adult person having the care,
7 custody, or supervision of the juvenile shall be ordered to make restitution for any and all
8 damage done to public or private property by the juvenile during the time he or she was in
9 violation of this ordinance.

10 **(REVISED: 03-20-96)**

ORDINANCE OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(To Adopt the Juvenile Curfew Ordinance as a Nation's Ordinance)

ORDINANCE NO. 96-001

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4 **WHEREAS,** on Thursday, March 28, 1996, the Tohono O'odham Legislative
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6 Council's agenda was amended to include Sells District's supporting
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8 resolution to the proposed Curfew Ordinance presented by the
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10 Nation's Prosecutor's office to the Nation's eleven (11) districts; and

11 **WHEREAS,** the Sells District enacted resolution SD-11-96 to appropriate funding
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13 for an alternative center for juveniles in violation of said ordinance;
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15 and

16 **WHEREAS,** the Sells District and the Domestic Affairs Committee has advised the
17
18 council that the implementation of the Juvenile Curfew Ordinance
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20 by the Prosecutor's Office will be addressed at the May 1996 General
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22 Session after all presentations have been completed to all of the
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24 Nation's eleven (11) districts;

25 **WHEREAS,** all districts have been presented the proposed Juvenile Curfew
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27 Ordinance with the exception of one district; and

28 **WHEREAS,** the Sells District has voiced their concerns at a meeting held on
Wednesday, March 27, 1996 that the delay of implementing the

ORDINANCE NO. 96-001

(To adopt the Juvenile Curfew Ordinance as a Nation's Ordinance)

1 **Page 2 of 4**

2 Juvenile Curfew Ordinance would continue to increase juvenile
3 activity in the Sells District in which statistics provided are higher
4 than all other district's on the Nation; and
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7 **WHEREAS,** the crime activity such as vandalism, burglary, gang activity, etc.,
8 will continue to increase in the district if proposed ordinance is
9 delayed any further; and
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12 **WHEREAS,** after considerable discussion of the ordinance, the Tohono O'odham
13 Legislative Council has determined that the delay in implementing
14 the ordinance in May 1996 will continue to increase the crime
15 activity in Sells District and all districts of the Nation and hereby
16 enacts the said ordinance.
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19 **NOW, THEREFORE, BE IT RESOLVED** that the Tohono O'odham Legislative
20 Council hereby enacts the Juvenile Curfew Ordinance as an
21 Ordinance of the Tohono O'odham Nation.
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24 The foregoing Ordinance was passed by the Tohono O'Odham Council on the
25 28TH day of MARCH, 1996 at a meeting at which a quorum was present with a
26 vote 1,044.5 FOR; 499.0 AGAINST; 93.5 NOT VOTING; and 239.0 (11) ABSENT,
27 pursuant to the powers vested in the Council by Article VI, Section 1(c) (6),
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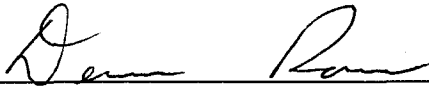
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2 Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the
3 Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy
4 Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to
5 Section 16 of the Act of June 18, 1934 (48 Stat. 984).

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7 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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10 _____
11 Dennis Ramon, Legislative Chairman

12 3rd day of April, 1996


13 **ATTEST:**

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16 _____
17 Frances Antone, Legislative Secretary

18 15th day of April, 1996

19 Said Resolution was submitted for approval to the office of the Chairman of the
20 Tohono O'Odham Nation on the 3rd day of April, 1996 at
21 9:18 o'clock, A.M., pursuant to the provisions of Section 5 of Article VII of
22 the Constitution and will become effective upon his approval or upon his failure
23 to either approve or disapprove it within 48 hours of submittal.

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25 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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28 _____
Dennis Ramon, Legislative Chairman


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APPROVED on the 8th day of April, 1996
 DISAPPROVED at 8:50 o'clock, A.M.


EDWARD D. MANUEL, Chairman
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 8th day of
April, 1996, at 9:00 o'clock, A.M.


Frances Antone, Legislative Secretary