



the
Chickasaw
Nation HEADQUARTERS

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Bill Anoatubby
Governor

Jefferson Keel
Lieutenant
Governor

January 18, 2008

Mr. Joseph Little
Office of Justice Services
Bureau of Indian Affairs
1001 Indian School Road, N.W.
Albuquerque, NM 87104

Subject: Proposed BIA Changes to Courts of Indian Offenses Regulations

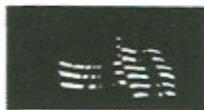
Dear Mr. Little:

Attached are comments from the Chickasaw Nation on the above referenced issue.

If you have any questions, please contact Ms. Deanna Hartley-Kelso, attorney general of the Chickasaw Nation, at 580-310-6410.

Sincerely,

Bill Anoatubby
Bill Anoatubby, Governor
The Chickasaw Nation



God Bless America!

COMMENTS ON PROPOSED BIA CHANGES TO COURTS OF INDIAN OFFENSES REGULATIONS

Proposed 11.116: This new language changes the civil jurisdiction of the court but leaves some ambiguity in the process. We recommend that the language be made clear as to the intent of whether claims against non-Indian defendants can be adjudicated or not. This language is somewhat ambiguous as written. It also is unclear whether a non-Indian claimant may bring a claim against a tribe pursuant to a tort claim under any gaming compact in a CFR court. This is a blossoming issue and should be dealt with clearly if or when amending these sections.

Proposed 11.118: This section deals with decisions over who is a tribal official. The new language will require the BIA to give "deference" to the rulings of CFR courts in determining who is a tribal official. Currently, and with this change, the CFR courts cannot hear election disputes without a resolution of the tribe vesting them with the authority. However, previously, the CFR court was bound by such a decision when made by the BIA. This removes that requirement. It seems that these changes could cause confusion in the recognition process.

Proposed 11.201(a): This section may be changed significantly if these changes are approved. The former provision required tribal approval of the magistrates appointed by the Assistant Secretary or his designee. The new amendments specify that the Assistant Secretary-Indian Affairs will "appoint each magistrate after *consultation* with the tribe or tribes as required" [emphasis added]. Consultation is much weaker and more malleable a requirement than an appointment that is "subject to confirmation by a majority vote of the tribal governing body of the tribe occupying the Indian country over which the court has jurisdiction..." This section should remain as is.

Proposed 11.314(c): This section increases a jury panel from 8 to "12 residents of the vicinity in which trial is held," I question whether this number may be unduly burdensome, particularly for those CFR courts functioning in rural or sparsely populated settings.

Proposed 11.315: This section brings fine and imprisonment limitations into conformance with those established in the Indian Civil Rights Act. This promotes consistency in sentencing between tribal courts and their CFR counterparts, not necessarily a bad thing.

The proposed changes also add new criminal offenses regarding use of psycho toxic chemicals, possession of controlled substances and prostitution, which should not present a problem. As well, new sections regarding Child protection and Domestic violence procedures (to obtain protective orders) have been added, also a good thing.