

Bureau of Indian Affairs, Interior

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AUTHORITY: 5 U.S.C. 301; R.S. 463, 25 U.S.C. 2; R.S. 465, 25 U.S.C. 9; 42 Stat. 208, 25 U.S.C. 13; 38 Stat. 586, 25 U.S.C. 200.

SOURCE: 58 FR 54411, Oct. 21, 1993, unless otherwise noted.

Subpart A—Application; Jurisdiction

§ 11.100 Listing of Courts of Indian Offenses.

(a) Except as otherwise provided in this title, the regulations under this part are applicable to the Indian country (as defined in 18 U.S.C. 1151) occupied by the following tribes:

- (1) Red Lake Band of Chippewa Indians (Minnesota).
- (2) Confederated Tribes of the Goshute Reservation (Nevada).
- (3) Lovelock Paiute Tribe (Nevada).
- (4) Te-Moak Band of Western Shoshone Indians (Nevada).
- (5) Yomba Shoshone Tribe (Nevada).
- (6) Kootenai Tribe (Idaho).
- (7) Shoalwater Bay Tribe (Washington).
- (8) Eastern Band of Cherokee Indians (North Carolina).

(9) For the following tribes located in the former Oklahoma Territory (Oklahoma):

- (i) Absentee Shawnee Tribe of Indians of Oklahoma
- (ii) Apache Tribe of Oklahoma
- (iii) Caddo Tribe of Oklahoma
- (iv) Cheyenne-Arapaho Tribe of Oklahoma
- (v) Citizen Band of Potawatomi Indians of Oklahoma
- (vi) Comanche Tribe of Oklahoma (except Comanche Children's Court)

- (vii) Delaware Tribe of Western Oklahoma
- (viii) Fort Sill Apache Tribe of Oklahoma
- (ix) Iowa Tribe of Oklahoma
- (x) Kaw Tribe of Oklahoma
- (xi) Kickapoo Tribe of Oklahoma
- (xii) Kiowa Tribe of Oklahoma
- (xiii) Otoe-Missouria Tribe of Oklahoma
- (xiv) Pawnee Tribe of Oklahoma
- (xv) Ponca Tribe of Oklahoma
- (xvi) Tonkawa Tribe of Oklahoma
- (xvii) Wichita and Affiliated Tribes of Oklahoma.

(10) Hoopa Valley Tribe, Yurok Tribe, and Coast Indian Community of California (California Jurisdiction limited to special fishing regulations).

(11) Louisiana Area (includes Coushatta and other tribes in the State of Louisiana which occupy Indian country and which accept the application of this part);

Provided that this part shall not apply to any Louisiana tribe other than the Coushatta Tribe until notice of such application has been published in the FEDERAL REGISTER.

(12) For the following tribes located in the former Indian Territory (Oklahoma):

- (i) Chickasaw Nation
- (ii) Choctaw Nation
- (iii) Thlopthlocco Tribal Town
- (iv) Seminole Nation
- (v) Eastern Shawnee Tribe
- (vi) Miami Tribe
- (vii) Modoc Tribe
- (viii) Ottawa Tribe
- (ix) Peoria Tribe
- (x) Quapaw Tribe
- (xi) Wyandotte Tribe
- (xii) Seneca-Cayuga Tribe
- (xiii) Osage Tribe.

(13) Ute Mountain Ute Tribe (Colorado).

(b) It is the purpose of the regulations in this part to provide adequate machinery for the administration of justice for Indian tribes in those areas of Indian country where tribes retain jurisdiction over Indians that is exclusive of state jurisdiction but where tribal courts have not been established to exercise that jurisdiction.

(c) The regulations in this part shall continue to apply to tribes listed under § 11.100(a) until a law and order code

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which includes the establishment of a court system has been adopted by the tribe in accordance with its constitution and by-laws or other governing documents, has become effective, and the Assistant Secretary—Indian Affairs or his or her designee has received a valid tribal enactment identifying the effective date of the code's implementation, and the name of the tribe has been deleted from the listing of Courts of Indian Offenses under § 11.100(a).

(d) For the purposes of the enforcement of the regulations in this part, an Indian is defined as a person who is a member of an Indian tribe which is recognized by the Federal Government as eligible for services from the BIA, and any other individual who is an "Indian" for purposes of 18 U.S.C. 1152-1153.

(e) The governing body of each tribe occupying the Indian country over which a Court of Indian Offenses has jurisdiction may enact ordinances which, when approved by the Assistant Secretary—Indian Affairs or his or her designee, shall be enforceable in the Court of Indian Offenses having jurisdiction over the Indian country occupied by that tribe, and shall supersede any conflicting regulation in this part.

(f) Each Court of Indian Offenses shall apply the customs of the tribe occupying the Indian country over which it has jurisdiction to the extent that they are consistent with the regulations of this part.

[58 FR 54411, Oct. 21, 1993, as amended at 59 FR 48722, Sept. 22, 1994; 61 FR 10674, Mar. 15, 1996]

§ 11.101 Prospective application of regulations.

Civil and criminal causes of actions arising prior to the effective date of these regulations shall not abate but shall be determined in accordance with the regulations in effect at the time the cause arose.

§ 11.102 Criminal jurisdiction; limitation of actions.

(a) Except as otherwise provided in this title, each Court of Indian Offenses shall have jurisdiction over any action by an Indian (hereafter referred to as

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person) that is made a criminal offense under this part and that occurred within the Indian country subject to the court's jurisdiction.

(b) No person shall be prosecuted, tried or punished for any offense unless the complaint is filed within five years after such offense shall have been committed.

§ 11.103 Civil jurisdiction; limitation of actions.

(a) Except as otherwise provided in this title, each Court of Indian Offenses shall have jurisdiction over any civil action arising within the territorial jurisdiction of the court in which the defendant is an Indian, and of all other suits between Indians and non-Indians which are brought before the court by stipulation of the parties.

(b) Any civil action commenced in a Court of Indian Offenses shall be barred unless the complaint is filed within three years after the right of action first accrues.

§ 11.104 Jurisdictional limitations.

(a) No Court of Indian Offenses may exercise any jurisdiction over a Federal or state official that it could not exercise if it were a tribal court.

(b) Unless otherwise provided by a resolution or ordinance of the tribal governing body of the tribe occupying the Indian country over which a Court of Indian Offenses has jurisdiction, no Court of Indian Offenses may adjudicate an election dispute or take jurisdiction over a suit against the tribe or adjudicate any internal tribal government dispute.

(c) The decision of the BIA on who is a tribal official is binding in a Court of Indian Offenses.

(d) The Department of the Interior will accord the same weight to decisions of a Court of Indian Offenses that it accords to decisions of a tribal court.

(e) A tribe may not be sued in a Court of Indian Offenses unless its tribal governing body explicitly waives its tribal immunity by tribal resolution or ordinance.