

BENCH NOTES

Concealed Weapons on the Reservation

By Chief Tribal Judge
Katharine English

Last November the Court was approached by a tribal member who asked:

"I am in possession of a concealed weapon permit granted to me by Clackamas County. I'm worried about carrying the gun on reservation property because I received, along with my permit, a notice that tells me I can't carry the gun on the reservation without a Tribal Court Order allowing me to do so. What should I do?"

She is correct. There is, indeed, a federal regulation which prohibits people from carrying concealed weapons on Indian land unless a Tribal Court Judge allows it. A violation of that regulation is a Misdemeanor. The Clackamas County Sheriff was trying to warn her of the regulation by giving her the notice. Some counties grant permits without giving permit holders the warning. But is the law, and any Tribal Member or non-tribal member must get Court permission before carrying a concealed weapon on Indian land.

Now, this makes sense to me. While state and local governments have a right to decide who should be allowed to carry concealed weapons on state and county land, it is reasonable to allow the Tribe to decide who gets to carry concealed weapons on the reservation, and what restrictions, if any, should be placed on that privilege.

Your Tribal Council enacts your laws (called ordinances), which I, as your Judge must apply to the cases before the Court. Ultimately, the Tribal Council will pass appropriate laws governing the carrying of concealed weapons on Tribal property. At this time, however, the ordi-

nances are silent on this issue. The Tribal Council is in the process of determining what law will be best for the Tribe and Tribal members.

In the meantime, however, I, as your Judge, must determine how, and under what circumstances, to allow members to carry concealed weapons, so that I may grant permission to those of you who rightfully apply for a Court Order.

I met with the Tribal Court attorney, and the legal department staff, and have developed a temporary policy which will serve until the Tribal Council can formally enact the policy as law, or develop a different law, perhaps as part of a broader Public Safety Ordinance. With the Tribal Attorney Office's assistance, I have tried to develop a policy that fairly weighs The tribal members', non-tribal members', and visitors' right to carry their properly licensed concealed weapons, against the need to protect members, non-members, and visitors from intended, negligent, or accidental violence.

These new Temporary Regulations Regarding Concealed Weapons on Tribal Property are published in today's *Smoke Signals*. If you have a permit or license for a concealed weapon, and you wish to carry it on Tribal property, please apply to the Court for permission to do so. You may call the Court and request that an application form be sent to you, or you may pick one up at the Tribal Court Clerk's office.

As your Judge, I will be writing articles periodically for *Smoke Signals*, in an effort to familiarize you with your Tribal Court policies which may affect you. Please feel free to address any general questions about the Court in a letter to *Smoke Signals*, and I will attempt to answer your inquiries.

NOTICE TO ALL

CONCEALED HANDGUN LICENSE HOLDERS

The Tribal Court of the Confederated Tribes of the Grand Ronde Community promulgates the following Interim Policy regarding the possession of concealed weapons on Tribal property:

TEMPORARY REGULATIONS REGARDING CONCEALED WEAPONS ON TRIBAL PROPERTY

The Confederated Tribes of the Grand Ronde Community of Oregon promulgates the following temporary regulations regarding the possession of concealed weapons on Tribal property:

1. All persons who have been licensed to carry a concealed weapon, shall submit an application requesting permission to possess such weapon on Tribal Property, to the Tribal Court for the Confederated Tribes of the Grand Ronde Community of Oregon.
2. The application shall include, but not necessarily be limited to, the following information:
 - a. Applicant's name, address, and phone number;
 - b. Copy of photo identification (such as a driver's license, Oregon ID card, or Tribal ID), or copy of non-photo ID (such as a social security card), and a current photograph;
 - c. Proof of Tribal membership (if applicable);
 - d. Proof of Tribal employment (if applicable);
 - e. Copy of applicant's concealed weapons license;
 - f. Description of weapon; and
 - g. Statement as to why the applicant desires to carry the weapon on Tribal property.
3. The Tribal Judge shall review the application and inform the applicant, in writing, of the permission granted. Such permission shall state where and when the applicant is allowed to possess the weapon with the following exception: **No permission will be granted to possess a weapon in any Tribal Office Buildings, Spirit Mountain Casino, Spirit Mountain Lodge, Grand Ronde Gaming Commission Offices, Nanitch Sahallie Treatment Center, Grand Ronde Health and Wellness Center, or Tribal Community Center. Furthermore, no permission will be granted to possess the weapon at any tribal events held on tribal property (including, but not limited to, the Tribe's Annual Pow Wow, Veterans Pow Wow, and Spirit Mountain Stampede). During these events, the weapon must be kept in the licensee's locked vehicle, or in a locked recreational vehicle.**
4. The Tribal Court Clerk shall keep a record of all applications submitted, and copies of all written permissions granted to successful applicants.
5. The Tribal Court Judge may, for good cause, revoke the written permission granted to an applicant by serving upon the applicant a notice of revocation stating the grounds for revocation. If an applicant cannot be located, and good cause exists, the Tribal Judge may revoke applicant's permission absentia.

Tribal Council Actions

Wednesday, April 28, 1999

Tribal Council is currently meeting on Wednesdays, every two weeks. In the past, tribal members have asked to see how specific Council members vote on the motions and resolutions at the meetings. Votes are listed in the following order: yes-no-abstain. If all 8 votes are in favor of a motion, the Council members' names will not be listed, since they all voted the same way. If there is a no vote or an abstention, those members will be listed by name. Also, the Tribal Council Chairperson only votes in the event of a tie.

TRIBAL GOVERNMENT MANAGEMENT, AND BUDGET SUBCOMMITTEE

■ **Creation of Office of Museum Development:** Bob Haller moved, and Bob Mercier seconded a motion to adopt **Resolution # 051-99** to authorize the move of the Culture and Heritage program under the Tribal Government structure and rename it "Office of Museum Development." Motion carried, 8-0-0.

■ **Home Repair Grant and Down Payment Grant Programs:** Ed Pearsall moved, Ed Larsen seconded a motion to adopt **Resolution No. 052-99** approving policy amendments. 1. Home Repair Program — add a provision that applicants are ineligible if they received a Major Rehab or BIA HIP grant in the previous ten years, and 2. Down Payment Program — add a provision that applicants are ineligible if they previously received a Down Payment Grant (Tribe or BIA). Motion carried 8-0-0.

■ **Indian Housing Plan:** Bob Mercier moved, and Reyn Leno seconded a motion to adopt **Resolution # 053-99** approving the revisions to the 5-year and 1-year Indian Housing Plans and to approve the 2-year plan for submission to HUD. Motion carried 8-0-0.

■ **Easement with Water Association, Darrel Mercier Property:** Reyn Leno moved, Leon Tom seconded a motion to adopt **Resolution # 054-99** authorizing to share the Tribe's easement across Darrel Mercier's property with the Grand Ronde Community Water Association. The purpose of the resolution is to fulfill a Water Association condition for approval of water service to the Tribe's Elder Housing Project. Motion carried 7-0-1. Mark Mercier abstained.

■ **Oregon Legal Services contract renewal:** Ed Pearsall moved, Leon Tom seconded a motion to adopt **Resolution # 055-99** authorizing an increase in the contract amount of 9%, and renew the contract for an additional year. Motion carried 8-0-0.