



October 4, 2023

Re: CHRI MOU Compliance Update –Fingerprinting TGRA Employees and Commissioners

Dear Tribal Gaming Regulator:

This letter updates the July 19, 2019, letter from Director of Compliance Dustin Thomas entitled “CHRI MOU Compliance Update –Immediate Discontinuation of Fingerprinting TGRA Employees and Commissioners.” The purpose of this letter is to update guidance to the Tribal Gaming Regulatory Authority (TGRA) regarding submitting fingerprints for TGRA employees and Commissioners through the NIGC for processing and access to Federal Bureau of Investigation (FBI) Criminal History Record Information (CHRI).

First, to submit fingerprints to the FBI through the NIGC to obtain and use CHRI, a tribe and NIGC must have executed a Criminal History Record Information Memorandum of Understanding (CHRI MOU). The sample MOU is located here: [CHRI MOU](#). CHRI MOU executed with NIGC since August 10, 2021 meet this requirement.

Second, NIGC’s authorization to disseminate FBI CHRI to tribes is contingent on a tribe’s participation in an official use of the CHRI. The official use of CHRI, as constrained by the recently updated NIGC regulations¹, is limited to individuals designated as key employees (KE) or primary management officials (PMO) who perform work functions for, or manage², the gaming operation or are the four persons most highly compensated by the gaming operation. Additionally, tribes may choose³ to designate through documentation any other employee of the gaming enterprise as a KE and/or any other employed management official of the gaming enterprise as a PMO.⁴ Gaming Enterprise is now defined in NIGC regulations as “the entities through which [the] Tribe conducts, regulates, and secures gaming . . .” Therefore, for a tribe to designate gaming

¹ NIGC’s final rulemaking for 25 C.F.R. parts 502, 556, and 558 is located here: [88-FR-55370](#) .

² Including the Chief Financial Officer (CFO), General Manager (GM), and positions with similar duties to either as well as any person who has the authority to hire and fire gaming operation employees or to establish policy for the gaming operation. See 25 C.F.R. § 502.19(b),(c) & (d).

³ To be clear, gaming enterprise key employee (KE) and primary management official (PMO) designations are optional, not required.

⁴ 25 C.F.R. §§ 502.14(d) and 502.19(e).

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enterprise employees or management officials as KE or PMO, respectively, the KE or PMO must work for a tribal entity that conducts, regulates, or secures the tribe's gaming. Examples of such include gaming operation employees, TGRA personnel, and IT personnel.

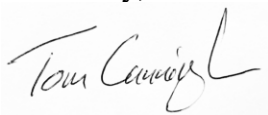
Third, a tribe must document gaming enterprise employees or management officials as KE or PMO, respectively, to come within the NIGC's official use of FBI CHRI. In other words, for licensing purposes, KE or PMO status does not automatically extend to TGRA employees and Commissioners unless a tribe has documented them as a KE or PMO. Examples of how a tribe can document TGRA employees and Commissioners as KEs or PMOs include but are not limited to: the gaming ordinance, gaming regulations, tribal gaming commission orders, licensing procedures, written job positions, employee handbook, and other written memoranda or lists.

If your tribal gaming ordinance and/or your state tribal gaming compact require TGRA employees and Commissioners to be licensed under 25 C.F.R. §§ 556 and 558, and you have executed the NIGC 2021 CHRI MOU, the NIGC can now process the fingerprints for your TGRA employees and Commissioners. However, if the tribe has not yet documented the TGRA employee or Commissioner as a KE or PMO in some manner, the NIGC remains unable to process their fingerprints and provide a CHRI for any purpose.

Finally, please know the NIGC has updated its training modules for Backgrounding and Licensing to include the above outlined information and will be providing training at future NIGC training events and during site specific training engagements. Be on the lookout for future training aids, updates, training opportunities and on-site discussions. The NIGC recognizes the access to CHRI it provides the TGRA is vital and we are willing to assist the TGRA in implementing or clarifying any requirements under the 2021 CHRI MOU or our updated definitions for KE and PMO.

Should you need further assistance, please do not hesitate to contact your Compliance Officer or Region Director.

Sincerely,



Tom Cunningham
Chief Compliance Officer
National Indian Gaming Commission

Resources: <https://www.nigc.gov/utility/video-library>
<https://www.nigc.gov/technology/cjis-resource-materials>