

Cherokee Nation expands criminal justice capabilities

On July 9, 2020, the U.S. Supreme Court held in *McGirt v. Oklahoma* that the Muscogee reservation remains Indian Country for purposes of criminal jurisdiction. On March 11, 2021, the Oklahoma Court of Criminal Appeals applied that ruling to the Cherokee Nation.

As a result of these rulings, the Cherokee Nation and federal governments have jurisdiction over crimes involving Indians throughout the whole Cherokee Nation, and Oklahoma has jurisdiction over crimes only involving non-Indians in that same area. Put another way, the ruling expanded the geographic reach of the Cherokee Nation criminal jurisdiction to the entire 7,000 square miles of Cherokee Nation Reservation.

On August 13, 2020 – a month after the U.S. Supreme Court ruling came down – Principal Chief Chuck Hoskin, Jr. issued an executive order affirming the need for an interdisciplinary approach to collaborate, coordinate, identify, analyze and examine McGirt related issues and develop ways to strengthen partnerships that protect the Cherokee Nation, our sovereignty and everyone living within our boundaries.

In addition to his executive order, Chief Hoskin also proposed the Cherokee Nation Reservation, Judicial Expansion and Sovereignty Protection Act, which was unanimously approved by the Tribal Council. “We must begin taking steps to expand our Marshal Service, Attorney General's Office, detention and probation budgets, our tribal court system and other areas, while staying engaged in any congressional response to legislation that protects our tribal sovereignty, keeps this historic ruling intact and ensures criminals that commit violent acts on Cherokee Nation reservation lands do not go free,” said Chief Hoskin. “This court decision is the largest victory for Indian Country in our lifetime, but also represents new challenges for the Cherokee Nation, so we are preparing vigorously for what we anticipate is coming.”

One example of that cooperation is seen in criminal prosecution by the Cherokee Nation Attorney General's Office. Reviewing data from March 11, 2021, through March 10, 2022, the Office of the Attorney General filed 3,700 cases with the tribal court. That number includes 533 domestic violence cases. In 106 of those cases, roughly 20%, the non-Indian defendant was charged under the Cherokee Nation's special domestic violence jurisdiction. In addition, there have been 2,314 tickets filed with the Cherokee Nation District Court. Three jury dockets have been held since the decision in *Hogner*, and impaneled juries heard both juvenile deprived and criminal cases.

The majority of the cases filed in the Cherokee Nation began with arrests and investigations done by state and county police under cross-deputation agreements entered into between the Cherokee Nation and city, county and state law enforcement agencies. Today, the Cherokee Nation has entered into 90 such agreements. These numbers demonstrate the substantive cross-jurisdictional collaboration that is both necessary for effective law enforcement and is happening every day within the Cherokee Nation.

There are also intergovernmental agreements between the Cherokee Nation and municipalities. Under these agreements, cities within the boundaries of the Cherokee Nation Reservation can accept guilty pleas and payments from Indians who commit citation offenses under Cherokee Nation law. The municipality keeps all but thirty dollars of the fine. To date, 18 municipalities

have entered into municipal agreements with the Cherokee Nation. Through these agreements, thousands of dollars have been donated by the Cherokee Nation to fund local policing in municipalities across the reservation.

Law enforcement

Relationships with local law enforcement agencies established long before the Supreme Court ruling paved the way for a transition to this understanding of Reservation and criminal jurisdiction.

Cherokee Marshal Service Police have hired 13 new Marshals as well as two additional staff, and the Cherokee Nation Attorney General's Office has hired two new investigators and two probation officers.

Prosecution

The Office of the Attorney General has added 8 full time prosecutors to reinforce and expand the Cherokee Nation's prosecution team post-McGirt/Hogner, and thirty other new employees including paralegals, clerks, juvenile justice professionals and victim advocates.

The Cherokee Nation created a new juvenile justice department, which received 567 referrals over the last year, and has recently initiated truancy dockets. Cherokee Nation's juvenile justice department works directly with school resource officers and educational advocates to ensure that schools and police have the support they need from the Cherokee Nation. When necessary, the Cherokee Nation has contracts with multiple juvenile facilities who can hold juveniles who may present a danger to themselves or the public.

Criminal justice – courts and detention

The Cherokee Nation has also worked with area counties, municipalities, and other organizations to expand options for adult detention.

To manage persons in our custody, both pre-trial and post-conviction, the Cherokee Nation worked collaboratively with counties and cities throughout the reservation. Currently, the Cherokee Nation has contracts with the 15 adult detention facilities in thirteen counties. The Nation pays the facility per inmate, per night. This additional tribal revenue helps support these facilities, which provide an important public service.

The Courts have also expanded, adding two District Court Judges and four court clerks since March of 2021. There have also been expansion and improvements to infrastructure. A new juvenile court office is already in use in Muskogee, and a satellite court in Jay will open soon.

Victim's Services

The Cherokee Nation has been upgrading its ONE FIRE program, which provides victim services and domestic violence prevention services to individuals throughout the reservation, in multiple ways. This program was recognized and received high honors from the Harvard Honoring Nations

program in November of 2021. The year that *McGirt* was decided, call volume to the ONE FIRE Office increased by 25%. ONE FIRE provides comprehensive services and access to resources, including law enforcement protection, civil legal assistance, housing aid, job placement, educational assistance, health care and counseling. From March 11, 2021, to March 10, 2022, ONE FIRE served 499 clients. Of those served, 121 were non-Indian victims.

The Cherokee Nation has been investing heavily in expanding ONE FIRE. Shortly after the decision in *McGirt*, the Cherokee Nation broke ground on a new ONE FIRE victim services headquarters in Tahlequah, and a new transitional housing center in Stilwell. The victim's services headquarters is currently in operation, and the opening of the new transitional housing center is scheduled for spring of 2022.

Commitment to working together for public safety

“Cherokee Nation has committed tens of millions of new dollars aimed at building the country’s best criminal justice system. We are prosecuting thousands of cases, bringing justice and protecting victims,” said Chief Hoskin. “Just about every leader involved in this issue rolls up their sleeves with the understanding that we should work alongside each other for the common good. My experience across 15 years in elected or appointed office in Cherokee Nation is that almost every local, county and state official understands that we go further by working together.”

“This moment calls for cooperation and leadership from tribes and the state. We can build criminal justice systems that are the envy of the country. We must continue giving Oklahoma a regional and national edge in economic development. We all have an interest in funding investments for the common good. On so many issues, we have so much to gain from working together.”