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Tribal Notification in Oklahoma

Okla. Statute: Title 10A Section 2-2-101(G)

G. As a part of the intake process, an employee of the Office of Juvenile Affairs or a county juvenile bureau shall inquire as to whether there is any American Indian lineage or ancestry that would make the child eligible for membership or citizenship in a federally recognized American Indian tribe or nation. If the employee of the Office of Juvenile Affairs or a county juvenile bureau determines that the child may have American Indian lineage or ancestry, the employee shall notify the primary tribe or nation of membership or citizenship within three (3) judicial days of completing an intake of such determination. Any information or records related to taking the child into custody shall be confidential, shall not be open to the general public, and shall not be inspected or their contents disclosed.

Cherokee Nation –Dept. of Juvenile Justice

- Context
 - Hogner decision
- History of the Process
 - Change in notification process

DJJ's approach

Mission

The mission of the Department of Juvenile Justice is to provide comprehensive, collaborative, supportive, and culturally-based services to tribal youth and their families. DJJ provides supervision, prevention, treatment, and education opportunities for at-risk youth on the reservation with the ultimate goal of rehabilitation.

Vision

DJJ's vision is to assist in shaping at-risk tribal youth to become resilient, successful, contributing members of their tribal communities.

Challenges and Opportunities

Jurisdiction

OK State Statute

“If the employee of the Office of Juvenile Affairs or a county juvenile bureau determines that the child may have American Indian lineage or ancestry, the employee shall notify the primary tribe or nation of membership or citizenship within three (3) judicial days of completing an intake of such determination”

CNCA Title 21 § 9 Indian defined

For the purposes of criminal prosecution and juvenile delinquency under the laws of the Cherokee Nation, the term “Indian” includes: A. Any person who is a citizen of the Cherokee Nation; B. Any person who is a citizen or member of any other federally recognized Indian tribe, including Alaska Native entities; C. Any person who is eligible to become a member of any federally recognized Indian tribe; and D. Any person who would be considered an “Indian” for the purposes of federal criminal prosecution under 18 U.S.C. § 1152 and/or 18 U.S.C. § 1153.

Vagueness of Statute

OK State Statute

- *“Any information or records related to taking the child into custody shall be confidential, shall not be open to the general public, and shall not be inspected or their contents disclosed.”*

Muscogee Nation Tribal Juvenile Justice

- **Pre McGirt FY 22 3/395**
- **Establishment of Tribal Juvenile Justice**
 - (a) The Juvenile Court shall have personal jurisdiction over any juvenile, regardless of whether he or she is domiciled within the territory of the Muscogee (Creek) Nation, that is alleged to have committed a delinquent act or status offense within the boundaries of the Muscogee (Creek) Reservation. In addition, the Juvenile Court may have personal jurisdiction over the parent, guardian, or custodian of a juvenile who is under the jurisdiction of the court if the parent, guardian, or custodian has been served with a summons pursuant to § 5.07.
 - (b) In determining whether the assertion of personal jurisdiction is fair, the court shall consider whether:
 - (1) the case relates to, or arises out of, contact, including minimal, isolated, or sporadic contact, with the Muscogee (Creek) Nation community;
 - (2) the person has purposefully availed themselves, or the child, of the privilege of conducting activities in or around the Muscogee (Creek) Nation, including invoking the benefits and protection of Muscogee (Creek) Nation law.



Muscogee Nation Tribal Juvenile Justice

- **TJJ's approach**
 - The Muscogee Nation Tribal Juvenile Justice Program provides case management services and behavior oversight for youthful offenders who are members of a federally recognized Tribe within Muscogee Nation's jurisdiction.
 - As the first point of contact when youth that commit crimes are apprehended, Tribal Juvenile Justice works in conjunction with the Office of the Attorney General to determine appropriate measures for holding youthful offenders accountable.
 - Case workers respond to juvenile delinquency by preparing deferred adjudication agreements, cultivating treatment plans, and identifying diversionary programs.
 - Tribal Juvenile Justice workers maintain regular contact with families throughout their engagement in the Muscogee Nation justice system to ensure completion of agreed upon plans and to identify further treatment or detainment needs.



Muscogee Nation Tribal Juvenile Justice

- Benefits
 - Restorative Justice
 - Connection to culture
 - Strengthening sovereignty
- Challenges
 - Notification/Transfer
 - Resources and bed availability
 - Consistent training and education



Questions?





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