

Cheyenne and Arapaho Tribal Court Assessment

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Cheyenne & Arapaho Tribes

TRIBAL COURT ASSESSMENT



Concho, Oklahoma

Initial Meeting: May 23 & August 3, 2022

On-Site Assessment: August 3-4 & August 8, 2022

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EXECUTIVE SUMMARY

This Cheyenne & Arapaho Tribes Tribal Court Assessment ("Assessment") was conducted using a modified model of the Trial Court Performance Standards ("TCPS"), and was adapted to the needs of the Cheyenne & Arapaho Tribes ("Tribes") and the Cheyenne & Arapaho Tribes' Tribal Court ("Tribal Court"). The Assessment seeks to provide an overview of the Tribe's justice system, recognize areas that function well, and identify areas for improvement. The Assessment has been engineered to comply with the specific statutory mandates for tribal court surveys as articulated in 25 U.S.C. Section 3612(b).

The Assessment focuses on five distinct areas: (1) Access to Justice; (2) Expedition and Timeliness; (3) Equality, Fairness, and Integrity; (4) Independence and Accountability; and (5) Specific Findings and Needs of the Cheyenne & Arapaho Tribes Tribal Court. At the end, the Assessment provides a Summary of Recommendations and Strategic Plan, including suggestions regarding where the Tribe can pursue funding or other support to accomplish each recommendation.

INTRODUCTION

The Assessment for the Cheyenne & Arapaho Tribes Tribal Court ("Cheyenne & Arapaho Court") was conducted at the request of Governor Reggie Wassana. The Assessment Team met with members of the Court Staff, Tribal Officials and Tribal Employees. The information gathering tasks were conducted at the Cheyenne & Arapaho Tribes Tribal facility located in Concho, Oklahoma on May 23, Aug. 3 - 4, & Aug. 8, 2022.

ACCESS TO JUSTICE

Access to Justice assesses whether court users are provided easy and safe access to the judicial system and determines ways to eliminate unnecessary barriers for litigants. These obstacles can include economic, procedural, physical or geographic barriers.

The Assessment Team identified the following positive themes:

- The Tribal Court is housed in a large new building with ample parking, that is easily accessible on the Cheyenne and Arapaho tribal complex.
- There are three handicap spaces and wheelchair access to the facility on one side of the parking lot. There is one handicap ramp to the courthouse with multiple marked handicap spaces in front of the courthouse.
- The courtroom doors are hinged so that both can open and allow wheel-chair access.

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- The Tribal Court's probation officer is available to interpret for Spanish-speaking litigants, and while the need has not arisen for native speakers, there are tribal language resources available.

- The Tribal Court Clerk has several Pro Se forms available upon request on the Tribal Court webpage located on the Tribal website and at the Court Clerk's office upon request.

The Assessment Team identified the following areas needing improvement:

- Tribal Court users do not currently have easy access, such as internet access, to Tribal Codes, the Constitution, or Court Rules.

EXPEDITION AND TIMELINESS

Expedition and timeliness are essential to the duties and responsibilities of courts and either positively or negatively affect the parties involved in court proceedings. Delays during court matters cause loss of the public's trust and jeopardizes the court's overall appearance.

The Assessment Team identified the following positive themes:

- The Tribal Court has a number of dockets per month, and have recently increased their district judges to three. Tribal prosecutors have been conducting reviews of cases to make sure there are no stale matters.
- There are a number of statutory provisions regarding court personnel duties, as well as a tribal court procedural manual, and a court clerk's manual.

The Assessment Team identified the following areas that need improvement:

- Code revision, enhancement, and publication is needed in a number of areas.
- A new case management system is desired to assist the Court in expeditiously handling its matters.

EQUALITY, FAIRNESS, AND INTEGRITY

A judicial system should provide equality and fairness to all who have business before it to the extent permitted by law. The court demonstrates equality, fairness, and integrity, and the judges maintain the same and is committed to the court.

The Assessment Team identified the following positive themes:

- The Tribal Constitution and codes provide a number of guarantees of impartiality and protection of civil rights to litigants.
- The Tribal Court has a reputation in the community of treating litigants fairly.
- The judges take time with litigants, particularly pro se litigants, to make sure that they understand their rights.

The Assessment Team identified the following areas that need improvement:

- Consistent, regular training for all Tribal Court Personnel should be provided to maintain the reputation of the Tribal Court.
- A new case management system is needed.
- There are some deficiencies in the existing tribal code.

INDEPENDENCE AND ACCOUNTABILITY

Judicial independence, trust and confidence are essential to the effectiveness of the court. The Court should assert and maintain its distinct character as an independent judiciary, separate from other Tribal functions, and that is capable of unbiased court decisions. A court possessing institutional independence and accountability protects judges from unwanted pressures and maintains equality, fairness and integrity of the Court.

The Assessment Team identified the following positive themes:

- There is separation of powers provisions within the Tribal Constitution and codes, and officials seemed to be cognizant of the need for judicial independence.
- Judges are selected by a statutory process and can only be removed for cause.
- The Supreme Court hires and supervises court personnel.
- The Court has its own procedural manual.

The Assessment Team identified the following areas that need improvement:

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- Interviewees expressed the desire for more training for Tribal Court Personnel and staff to maintain professionalism and best practices.
- Periodic reports to Tribal officials and citizenry would increase the transparency of the Court.

SPECIFIC FINDINGS AND NEEDS OF THE CHEYENNE & ARAPAHO TRIBES TRIBAL COURT

The Assessment Team identified the following specific findings and needs:

- The Tribal Code needs amendments and new provisions. The code needs to be consistent with numbering and titling. It should be kept current and published online in an easily accessible format.
- A new case management system is needed.
- Additional personnel would be beneficial in assisting the Court in handling all of its responsibilities and services.

SUMMARY OF RECOMMENDATIONS

While specific findings and recommendations are identified throughout the report and are summarized in the recommendation and strategic action plan, certain themes emerged during the Assessment and are listed below.

- Additional personnel, such as another armed bailiff, as well as more staff in some of the Court's services, are needed.
- A new case management system is desired.
- Code revision and publication is needed.

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A. Performance Standards

The Trial Court Performance Standards, originally developed for state trial courts, define optimal court performance and are viewed nationally as a blueprint for improving the administration of justice by focusing on performance, self-assessment, and self-improvement. An increasing number of tribal and state courts across the country have utilized the TCPS to improve the quality of justice in their courts. The TCPS are based on four related guiding principles and civil ideals:

- Courts are, first and foremost, accountable for their performance, for the benefits they achieve, not just the ways and means they use to achieve them.
- The focus of court accountability is the result or outcome of their programs and services for the participants in the programs or recipients of the services—the citizens.
- Courts are complex public organizations, not simply judges hearing cases, settling disputes, and issuing orders.
- Courts are crucial to the governance of the communities and the citizens in their jurisdiction.

The TCPS provide an outcome-oriented conceptual framework of performance areas, standards, and measures. It allows courts to assess their performance and to gauge the community perception of the court's performance as reflected in the breadth and depth of public trust and confidence in the courts. Utilizing the TCPS model enables courts to identify areas where the court is performing well and areas that need improvement. The TCPS can be a guide for setting performance targets, monitoring performance, evaluating performance, and using the feedback to improve or develop court practices and policies. Implementation of the TCPS leads to customer-based organization responsive to the community it serves. The TCPS provide a structure for defining the effectiveness of trial courts by focusing on performance, self-assessment, and self-improvement. The TCPS utilize 22 standards to establish goals for effective court performance in five areas: access to justice, expedition and timeliness; equality, fairness and integrity; independence and accountability; and public trust and confidence.

The development of the TCPS was a joint effort of the National Center for State Courts and the Bureau of Justice Assistance. Additionally, an advisory group, the Commission on Trial Court Performance Standards, composed of trial judges, court managers, and academic scholars worked on court-related issues.

The Team incorporates those areas, with modifications specific to tribal courts in general and to unique circumstances of the Tribe and its Court system. The TCPS standards originally have six performance areas, after input and feedback from non-Federal contractors utilizing the standards, TJS has consolidated some areas and measures to better adapt to Tribal Courts and avoid

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Disclaimer
Tribal court assessments are conducted by an independent non-Federal entity ("Assessment Team") pursuant to 25 U.S.C. § 3612. The assessment is a snapshot of a tribal court *in that particular moment and time*. An assessment report is for informational purposes only and intended for the use of the respective Tribe and its Court.

The Findings and Recommendations of the Assessment Team, a non-Federal entity, are designed to formulate a strategic action plan for a Tribal Court; and do not bind the Federal Government. One-time funding requests are dependent upon availability of budget.

I. Introduction

The Cheyenne & Arapaho Tribes' Governor, Reggie Wassana, requested a Tribal Court Assessment on March 14, 2022. At the meeting and assessment with the Tribe, the Assessment Team included Diane Hammont, Kimee Wind-Hammontbird and Trevor Hammont. All of the information contained in this Assessment was obtained directly from Tribal sources and stakeholders, unless otherwise cited.

II. Mandate and Methodology

In 1993, Congress enacted the Indian Tribal Justice Act ("Act") and created within the Bureau of Indian Affairs, Office of Justice Services, the Tribal Justice Support Directorate (TJS) to "further the development, operation, and enhancement of tribal justice systems...".¹ TJS must, through independent non-Federal entities, conduct a survey of "conditions of tribal justice systems... to determine the resources and funding, including base support funding, needed to provide the expeditious and effective administration of justice."²

The Assessment must document the local conditions of each Tribe, including:
(1) the geographic area and population served;
(2) the levels of functioning and capacity of the tribal justice system;
(3) the volume and complexity of the caseloads;
(4) the facilities, including detention facilities, and program resources available;
(5) funding levels and personnel staffing requirements for the tribal justice system; and
(6) the training and technical assistance needs of the tribal justice system.³

As discussed further below, TJS has determined that the Trial Court Performance Standards ("TCPS") as adopted to the needs of tribal courts fulfill the statutory survey requirements of the Act. The TCPS are an effective mechanism to measure the six factors listed in Subsection (b) of the Act. Once complete, the Assessment is a tool to assist the Tribe and TJS to determine tribal justice resources, identify funding needs to provide expeditious and effective administration of justice, and to facilitate annual updates to the information and findings. Tribes are active participants in the Assessment process and have the opportunity to review and make recommendations regarding the findings.

¹ 25 U.S.C. § 3601.

² *Id.* at § 3612(a).

³ *Id.* at § 3612(a).

⁴ *Id.* at § 3612(b).

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duplication. This Assessment contains the Team's finding and recommendations in a slightly modified version of TCPS performance areas and an additional performance area that is unique to the Tribe and its Court system.

The TCPS standards are guiding principles and their analytical framework must be viewed as such. For example, several TCPS measures call for a simulation exercise where people unknown to the court attempt to obtain information about a case or anonymously participate in court activities. Given the unique familiarity of tribal-court employees with tribal members, this exercise was not undertaken. Several other measures called for large samples of cases to be pulled for evaluation and analysis. Sometimes, the Assessment process includes a community listening session to evaluate the public's perception of the Court. Based upon time constraints, the Assessment Team did not undertake this measure. Instead, the Team relied on interviews with key stakeholders to evaluate the public's perception of the Court.

B. Interviews

The specific sources of information for this Assessment are set forth below in greater detail. The Assessment Team conducted in-person interviews with the following departments and Personnel:

- Associate Judge
- Elected Official
- Legal Aid
- Court Administrator
- Tribal Prosecutors
- Court Clerk
- Guardian ad Litem
- Deputy Court Clerks
- Outside members of the Bar
- Litigant
- Indian Child Welfare
- Bailiff
- Adult Protective Services
- Court Office Staff

The Assessment Team was present during the Tribal Court's regular working hours and observed administrative and judicial Court functions. Additionally, the Assessment Team reviewed randomly selected Tribal Court records and approximately six case files. The Assessment Team also examined supplemental documentation such as the Tribe's foundational documents, Tribal codes and ordinances, previous TJS Tribal Court assessment from 2019, budget and financial documents, historic information, and other relevant documents.

C. Prior Court Assessments

A previous assessment was completed by Hammons and Associates in May of 2019. The previous report was reviewed by the current assessment team.

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III. Cheyenne & Arapaho Tribes Tribal Profile

Languages spoken: The language of the Cheyenne is Tséhéñestétoze and the language of the Arapaho is Hinom'etit. Both languages are Algonquian.

Unemployment rate: The Tribes do not maintain independent unemployment records for tribal citizens. The unemployment rate for Canadian County as of July 2022 is 2.7%.¹

The Cheyenne and Arapaho are two distinct tribes with distinct histories. The Cheyenne are descended from an ancient, Algonquin-language speaking tribe referred to as Chas.² They were also historically referred to as the Marsh People of the Great Lakes region, as they lived along the head of the Mississippi River in the central part of what is now Minnesota.³ The Cheyenne were initially sedentary people—farming and raising crops of their main food sources, such as corn, beans, and squash—before later becoming hunters and gatherers.⁴ In 1804, the Lewis and Clark Expedition encountered the Cheyenne living on the upper Missouri River.⁵

The Arapaho people lived in the Great Lakes region along the Mississippi River.⁶ Around 1680, they began to migrate out of the Great Lakes area after being forcibly moved out of their established territory by the whites and traditional enemy tribes.⁷ Their adaptation to newer lands on the vast Great Plains and their will to survive and advance their people included making weapons such as the bow and arrow and the spear.⁸ As the horse and the buffalo flourished, the Arapahos became self-sustaining in their new territory and remained migratory on the Great Plains.⁹

Around 1796, while living and hunting buffalo on the Central Great Plains, the Arapaho people migrated to camps along the Cheyenne River near the Black Hills in what is now South Dakota.¹⁰ It is said this is the area where the Cheyenne became allies with the Arapaho and, in the early 1800s, they began to camp, hunt, and live together.¹¹ The Cheyenne and Arapaho Tribes became allies and formed into one Nation.¹² However, they each continue to speak their

¹ Official Website of the Cheyenne and Arapaho at cheyenneandarapahotribes.org

² According to Oklahoma Employment Report: <http://oklahomaa.gov/center/das/4/units/documents/labor-market-reports/2022-county-employment-report-2022-06-31.pdf>

³ Official Website of the Cheyenne and Arapaho at cheyenneandarapahotribes.org

⁴ Id.

⁵ Id.

⁶ Id.

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ Id.

²¹ Id.

²² Id.

²³ Id.

²⁴ Id.

²⁵ Id.

²⁶ Id.

²⁷ Id.

²⁸ Id.

²⁹ Id.

³⁰ Id.

³¹ Id.

³² Id.

³³ Id.

³⁴ Id.

³⁵ Id.

³⁶ Id.

³⁷ Id.

³⁸ Id.

³⁹ Id.

⁴⁰ Id.

⁴¹ Id.

⁴² Id.

⁴³ Id.

⁴⁴ Id.

⁴⁵ Id.

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ Id.

⁵⁰ Id.

⁵¹ Id.

⁵² Id.

⁵³ Id.

⁵⁴ Id.

⁵⁵ Id.

⁵⁶ Id.

⁵⁷ Id.

⁵⁸ Id.

⁵⁹ Id.

⁶⁰ Id.

⁶¹ Id.

⁶² Id.

⁶³ Id.

⁶⁴ Id.

⁶⁵ Id.

⁶⁶ Id.

⁶⁷ Id.

⁶⁸ Id.

⁶⁹ Id.

⁷⁰ Id.

⁷¹ Id.

⁷² Id.

⁷³ Id.

⁷⁴ Id.

⁷⁵ Id.

⁷⁶ Id.

⁷⁷ Id.

⁷⁸ Id.

⁷⁹ Id.

⁸⁰ Id.

⁸¹ Id.

⁸² Id.

⁸³ Id.

⁸⁴ Id.

⁸⁵ Id.

⁸⁶ Id.

⁸⁷ Id.

⁸⁸ Id.

⁸⁹ Id.

⁹⁰ Id.

⁹¹ Id.

⁹² Id.

⁹³ Id.

⁹⁴ Id.

⁹⁵ Id.

⁹⁶ Id.

⁹⁷ Id.

⁹⁸ Id.

⁹⁹ Id.

¹⁰⁰ Id.

¹⁰¹ Id.

¹⁰² Id.

¹⁰³ Id.

¹⁰⁴ Id.

¹⁰⁵ Id.

¹⁰⁶ Id.

¹⁰⁷ Id.

¹⁰⁸ Id.

¹⁰⁹ Id.

¹¹⁰ Id.

¹¹¹ Id.

¹¹² Id.

¹¹³ Id.

¹¹⁴ Id.

¹¹⁵ Id.

¹¹⁶ Id.

¹¹⁷ Id.

¹¹⁸ Id.

¹¹⁹ Id.

¹²⁰ Id.

¹²¹ Id.

¹²² Id.

¹²³ Id.

¹²⁴ Id.

¹²⁵ Id.

¹²⁶ Id.

¹²⁷ Id.

¹²⁸ Id.

¹²⁹ Id.

¹³⁰ Id.

¹³¹ Id.

¹³² Id.

¹³³ Id.

¹³⁴ Id.

¹³⁵ Id.

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Uniform Fee Schedule

The fee schedule was last updated on July 1, 2014. Title II, Law and Order Code Subpart A, Section 304 (C) of the Cheyenne and Arapaho Tribes judicial code states:

The Court Clerk shall have the following powers and duties:

- (c) to collect all fines, fees, and costs authorized or required by law to be paid to the Courts, to receipt therefore, and to deliver them to the Tribal Treasurer for deposit in the Court fund.

Recommendation: - The Tribal Court should consider updating its fee schedule based upon the needs of the Tribes and its patrons. The Tribal Court should consider posting the fees on its website. The fees cannot be found anywhere except for a physical list at the courthouse, making it hard for someone to know what fees to expect without coming to the Tribal Court. Some people like to know what they are expected to pay before making a trip to the Tribal Court, so they can be prepared.

Measure 1.5.4 Complexity of Court Procedures

Finding: The Assessment Team observed both Civil and Criminal proceedings. The court sessions that were observed were relatively simple in nature and seemed to be understood by the participants. The Trial Judge took pains to make sure that pro se litigants understood the nature

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Recommendation: The Court is to be commended on making regular case reviews to make sure that matters are steadily progressing. The Model Time Standards (below) may be used as a guideline in considering how long cases should typically remain open. The Model Time Standards set a 180-day time standard in which to dispose of 98% of the misdemeanor criminal cases filed. The Tribal Court should seek to meet or exceed the guidelines set by the Model Time Standards insofar as date of filing until date of adjudication is concerned. In civil cases, 75% of the cases should reach disposition within 180 days and 90% within 365 days. In cases involving family and juvenile matters, the timeline is accelerated. Due to the complex nature of family and juvenile cases, speedy case disposition is of utmost importance.

The Model Time Standards establish disposition guidelines at family cases of 75% within 120 days and 90% within 180 days. A 98% rate of family case disposition should be accomplished within 365 days. The swiftest rate of disposition is applied to juvenile cases. For youth in detention, 75% of the cases should be disposed of within 30 days, 90% within 45 days and 98% within 90 days. The disposition rate is delayed slightly for youth not in detention. In these matters, disposition rates are 75% within 60 days, 90% within 90 days, and 98% within 150 days.

TABLE OF MODEL TIME STANDARDS FOR STATE TRIAL COURTS					
Case Category	Case Type	COICA Standard	ABA Standard	Model Standard	
CRIMINAL	felony	- 100% within 180 days	90% within 120 days	75% within 60 days	
				90% within 180 days	90% within 180 days
				100% within 365 days	90% within 365 days
Misdemeanor	100% within 90 days	90% within 70 days	75% within 60 days	90% within 90 days	
				90% within 90 days	90% within 90 days
				100% within 90 days	90% within 90 days
Traffic and Land Ordinance			75% within 70 days	75% within 70 days	
				90% within 90 days	90% within 90 days
				90% within 150 days	90% within 150 days
Juvenile	Rehabilitative and Restorative Proceedings (including external jurisdiction)			90% within 180 days	
	General Civil	100% of new injury within 12 months	90% within 12 months	75% within 180 days	
			100% of new injury within 12 months	90% within 12 months	90% within 240 days
Family		100% of new injury within 12 months	100% within 12 months	100% within 180 days	
	Domestic Violence/Allocation of Parental Responsibility	100% unparented within 1 month	90% within 1 month	75% within 120 days	
			100% unparented within 4 months	90% within 4 months	90% within 360 days
Juvenile		Particular Offense	100% unparented within 4 months	90% within 12 months	90% within 360 days
	Dependency & Status Office	100% within 1 month	90% within 1 month	75% within 90 days	
			90% within 6 months	90% within 6 months	90% within 180 days
		90% within 12 months	90% within 12 months	90% within 180 days	
	90% within 18 months	90% within 18 months	90% within 180 days		

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appointed by the Court for the estate of the minor or incompetent person with adequate bond to secure any money released. In such cases, such money, or any portion thereof as the Court may direct, may be paid over to the guardian to be used exclusively for the support and education of such minor or incompetent person, subject to such restrictions and accounting as the Court shall direct.

And, in the "Civil Procedure Act," the following provision is found:

Section 803 Deposit in Court

In an action in which any part of the relief sought is a judgment for a sum of money or the disposition of a sum of money or the disposition of any other thing capable of delivery, a party, upon notice to every other party, and by leave of Court, may deposit with the Court all or any part of such sum or thing. Money paid into Court under this section shall be deposited and withdrawn in accordance with Tribal law detailing accounting procedures for the Court Clerk's Office, and if there be none, then in accordance with the Tribal procedure for the administration and accounting of federal grant monies, upon order of the Court.

The case management system records payments and makes receipt on all payments.

Recommendation: If a bank book is created, it might be beneficial to include some provisions regarding procedures for accounting for all monies. If the clerk's manual is updated, then money handling procedures and accounting should be included. When a new case management system is installed, it should be utilized to track all payments and monies owing.

Measure 2.2.2 Collection of Monies; Garnishment Rules and Practices

Finding: In the "Civil Procedure Act" title, the following subchapter is found, without any content:

SUBCHAPTER D: GARNISHMENT

RESERVED FOR FUTURE PROVISIONS RELATING TO GARNISHMENT.

There are other post-judgment provisions (such as replevin) included, but not garnishment.

Recommendation: When code revision is undertaken, consideration should be given to whether to include specific garnishment statutes. Things that could be addressed are types of garnishment allowable, how much may be garnished, what notice is required, etc.

Measure 2.2.3 Deposit of Monies

Finding: The Tribe will only accept payments from the Court once per month. The Clerk's office does not take cash, only checks, money orders, and credit cards. They can also take

payments over the phone. In between monthly deposits to the Tribe, all payments are kept in a lockbox.

Recommendation: If the Tribe ever changes in policies, deposits should probably occur more frequently than monthly. Even though no cash is accepted, and procedures are followed, keeping payments for that length of time just increases the chance that something could be misplaced.

Measure 2.2.4 Timely Reporting to Tribal and Federal Officials; Regularity of Contacts with the Tribal Government

Finding: The Clerk of the Court has the following statutory duties, as to reporting:

Section 423 Clerk to Keep Court Records, Books and Papers Statistical and Other Information

The Clerk shall keep the records and books and papers appertaining to the Court and record its proceedings, and exercise the powers and perform the duties imposed upon him by Tribal statute, order of the Court, or Court rule. The Clerk is directed to furnish annually, or at such times as shall be requested, without cost to the Supreme Court, the Governor and the Legislature, such statistical and other information as the Supreme Court, the Governor or the Legislature may require, including, but without being limited to, the number and classification of cases:

1. Filed with the Court.
2. Disposed of by the Court, and the manner of such disposition.
3. The number of cases pending before the Court.

Although there are no regular formalized reporting times, the Supreme Court keeps some court statistics.

Recommendation: The Court should follow its statutory duty for annual reporting, including the statistical information of member of cases filed with the Court, disposed of by the Court, and the number of open cases pending before the Court.

Standard 2.3 Prompt Implementation of Law and Procedure

A tribal court should promptly implement changes in law and procedure.

Performance Area 2 – Expedition and Timeliness

"Unnecessary delay causes injustice and hardship.
It is a primary cause of diminished public trust and confidence in a court."

Courts are entrusted with many duties and responsibilities that affect individuals and organizations involved with the judicial system, including litigants, jurors, attorneys, witnesses, criminal justice agencies, social service agencies, and members of the public subject to the tribal court's jurisdiction. The retribution from untimely court actions in any of these involvements can have serious consequences for the persons directly concerned, the court, allied agencies, and the community at large.

Standard 2.1 Case Processing

A tribal court should establish and comply with recognized guidelines for timely case processing, while at the same time keeping current with its incoming caseload.

Measure 2.1.1 Time from Filing to Disposition

Finding: The following random files were reviewed:

- CIV-2021-0118. Custody. Petition filed 12/17/21. Temp. Order – 1/5/22. O. min. – 4/16/22, case to be reset up only application if needed.
- CIV-2021-0015. Name change. Petition filed 3/16/21. Order changing name – 5/5/21 (after publication).
- CIV-2021-0058. Prob. Ord. Petition filed 6/24/21. Notices sent. Prot. Ord. entered 10/20/21.
- TLF-2022-0000. No LIL. Complaint filed 5/24/22. Guilty plea entered 6/2/22, \$100 fine + costs.
- CRM-2021-0042. Arrest 9/23/21, complaint filed 9/28/21. (still open). Defendant has been working on evaluations.
- CRM-2021-0059. Ticket 12/8/21, complaint filed 12/9/21 (still open). Discovery ongoing.

All of the cases reviewed were from the past two years, and two were still open. No older cases were observed during court observations, nor during the case review. As mentioned in Measure 2.1.3, below, the tribal prosecutors periodically review cases to make sure that they are being timely prosecuted.

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For youth not in detention:				
Negligent Abuse	90% within 3 months	Adjudicatory Hearing	75% within 90 days	90% within 90 days
	90% within 6 months	90% within 90 days	90% within 12 months	90% within 150 days
	100% within 12 months	100% within 12 months	100% within 180 days	100% within 180 days
Termination of Parental Rights	90% within 3 months	of a termination petition	75% within 180 days after the filing	90% within 180 days after the filing
	90% within 6 months	90% within 180 days after the filing	90% within 180 days after the filing	90% within 180 days after the filing
	100% within 12 months	100% within 12 months	100% within 180 days	100% within 180 days
PROBATE	Administrator of Estate	75% within 360 days	90% within 240 days	90% within 720 days
		90% within 340 days	90% within 230 days	90% within 710 days
	Guardian/Conservator of Incapacitated Adults	90% within 90 days		
	Civil Commitment	100% within 15 days		

Section 218 Motion Day

Unless conditions make it impractical, the Trial Court shall establish regular times and places, at intervals sufficiently frequent for the prompt dispatch of business, at which motions requiring notice and hearing may be heard and disposed of; but the Judge at any time or place, and on such notice, if any, as he considers reasonable, may make orders for the advancement, conduct, and hearing of actions, or, the Court may make provision by rule or order for the submission and determination of motions without oral hearing upon brief written statements of reasons in support and opposition.

And,

Section 716 Continuance

The trial of an action shall not be continued upon the stipulation of the parties alone, but may be continued upon order of the Court.

Recommendation: The Court should continue to abide by its statutory and regulatory duties regarding motion practice and the use of continuances.

Standard 2.2 Fulfillment of Fiduciary Duties of the Court

A tribal court should disburse funds promptly, provide reports and information according to required schedules, and respond to requests for information and other services on an established schedule that assures effective use.

Measure 2.2.1 Court's Prompt Payment of Entrusted Money; Handling of Payments

Finding: There are specific statutes regarding the handling of entrusted monies. One such section, found in the "Courts" title is:

Section 808 Conserving Money Obtained for Minors or Incompetent Persons

Moneys recovered in any Court proceeding by a next friend or guardian ad litem for or on behalf of a person who is less than eighteen (18) years of age or incompetent in excess of Five Hundred Dollars (\$500.00) over sums sufficient for paying costs and expenses including medical bills and attorney's fees shall, by order of the Court, be deposited in a banking or savings and loan institution, approved by the Court. Until the person becomes eighteen (18) years of age or competent to again handle his affairs, withdrawals of moneys from such account or accounts shall be solely pursuant to order of the Court made in the case in which recovery was had. When an application for the order is made by a person who is not represented by an attorney, the Judge of the Court shall prepare the order. This section shall not apply in cases where a legal guardian has been appointed.

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payments over the phone. In between monthly deposits to the Tribe, all payments are kept in a lockbox.

Recommendation: If the Tribe ever changes in policies, deposits should probably occur more frequently than monthly. Even though no cash is accepted, and procedures are followed, keeping payments for that length of time just increases the chance that something could be misplaced.

Measure 2.2.4 Timely Reporting to Tribal and Federal Officials; Regularity of Contacts with the Tribal Government

Finding: The Clerk of the Court has the following statutory duties, as to reporting:

Section 423 Clerk to Keep Court Records, Books and Papers Statistical and Other Information

The Clerk shall keep the records and books and papers appertaining to the Court and record its proceedings, and exercise the powers and perform the duties imposed upon him by Tribal statute, order of the Court, or Court rule. The Clerk is directed to furnish annually, or at such times as shall be requested, without cost to the Supreme Court, the Governor and the Legislature, such statistical and other information as the Supreme Court, the Governor or the Legislature may require, including, but without being limited to, the number and classification of cases:

- <ol style="list-style-type

Tribal Council meeting. If the Tribal Council fails to repeal such law or resolution at the next Tribal Council where the matter has been properly placed on the agenda for the Tribal Council meeting, such law or resolution shall become effective immediately.

- (v). The Office of Records Management shall compile all laws and Resolutions into a comprehensive Code in an orderly manner that shall be published annually.
- (vi). Any action by the Legislature which does not follow the Legislative Process shall be deemed void and shall not be implemented or enforced by the government, Governor, or any official or employee.

The Team was informed that tribal attorneys are working on code revision (including needed jury pool changes for VAWA implementation). Public hearings will take place on any proposed changes, then the legislature will consider the proposed changes, and any approved changes will then go the Governor to sign.

Recommendation: The Tribes are to be complemented on their transparent and inclusive process in drafting new laws. The code should be updated, expanded, codified with consistent titles and numbering throughout, and published on the Tribes' official website. It should then be kept current, with one or more employees tasked with that responsibility.

Measure 2.3.2 Implementation of Changes in Administrative Procedures/ Orders; Judicial Authority to Issue Administrative Rules

Finding: Judges have the statutory authority to make rules under the following section from the "Courts" title.

Section 208 Duties and Powers of Judges

- A. The Trial Court shall have the power to make findings of fact, to interpret the Constitution and laws of the Tribes, and to make conclusions of law. The Trial Court shall have the power to issue all remedies in law and in equity.
- B. The Trial Court shall have the power to declare the laws of the Tribes void if such laws are not in agreement with the Constitution.
- C. The Trial Court shall render a final disposition in all cases properly filed.
- D. All Judges of the Trial Court, and Special Judges in cases within their authority, shall have the duty and power to conduct all court proceedings, and issue all orders and papers incident thereto, in order to administer justice in all matters within the jurisdiction of the Court. In doing so the Court shall:

1. Be responsible for creating and maintaining rules of the Court, not in conflict with the Tribal Code or the Rules of the Supreme Court regulating conduct in the Trial Court, for the orderly and efficient

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administration of justice. Such rules must be filed in the Office of the Records Management and with the Trial Court Clerk before becoming effective;

2. Hold Court regularly at a designated time and place;
3. Have the power to administer oaths, conduct hearings, and otherwise all duties and exercise all authority of a judicial officer under the law;
4. Hear and decide all cases properly brought before the Court;
5. Enter all appropriate orders and judgments;
6. Issue all appropriate warrants and subpoenas;
7. Keep all Court and other records as may be required;
8. Perform the duties of the Clerk in his absence;
9. Appoint such Magistrates as may be necessary for the convenient functioning of the Court, subject to the confirmation of the Supreme Court. These Magistrates shall have the authority to issue arrest and search warrants, search warrants for the protection of children, emergency custody orders in children's cases, temporary commitments of persons accused of offenses, to conduct arraignments in criminal or juvenile dependency cases, and to act on such ex parte summary, or other matters as may be determined by rule of the Supreme Court. Magistrates shall meet the minimum qualifications for Associate Judges of the District Court;
10. Have the power to administer funds appropriated by law for the judicial branch; and
11. Unless a corner is appointed in accordance with the provisions of the Tribal Code, any Judge designated by the Chief Judge shall have the authority to perform the duties of a corner.

E. The Chief Judge of the Trial Court shall be the Director of the Trial Court.

(emphasis added).

Recommendation: The Court should follow the above requirements regarding judicially made rules. When made and approved, those rules could be posted on the court's website; they should be maintained and recorded in an easily accessible manner.

Measure 2.3.3 Creating and Implementing Policy & Procedures; Administrative Manuals

Finding: There is a court clerk manual but interviewees reported that it needs to be updated. There is also a tribal court procedures manual.

Recommendation: Funding should be sought for any personnel or services needed to update the clerk's manual. Other procedural manuals should be periodically reviewed to make sure that any needed changes or updates can be made.

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Measure 2.3.4 Implementation of the Tribal Law and Order Act's Enhanced Sentencing Provisions and/or the Special Domestic Violence Criminal Jurisdiction Provisions in the Violence Against Women Reauthorization Act of 2013

Finding: The Tribe has not yet adopted the expanded criminal jurisdiction sections available to Tribes under TLOA and VAWA. However, interviewees reported that they are working on needed code revisions for implementation.

Recommendation: Should the Court need my assistance in code development or other implementation of the enhanced provisions under TLOA and VAWA, there are a number of resources available⁶⁶ to assist in drafting codes, and taking any other necessary steps for implementation. Consideration should also be given to publishing the Code upon the Court's own website. Currently, the Code is only available through sites maintained by the Native American Rights Fund and Legal Aid Services of Oklahoma.

⁶⁶ See, e.g., <https://www.narf.org/vawava>
<https://www.justice.gov/tloa/2013-and-2017-criminalizing-violence-against-women-vaawa>
<https://www.narf.org/resource/book/safety-each-woman-can-and-american-indian-tribes>

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Performance Area 3 – Equality, Fairness, and Integrity

"There should be a fair and reliable judicial process that ensures equal justice for all under the law."

Tribal courts should provide due process and equal protection of the law to all who have business before them. Equality and fairness demand equal justice under law. Integrity should characterize the nature and substance of tribal court procedures and decisions, and the consequences of those decisions. The decisions and actions of a tribal court should adhere to the duties and obligations imposed on the court by relevant law as well as administrative rules, policies, and ethical and professional standards.

Integrity refers not only to the lawfulness of court actions (e.g., compliance with constitutional rights to bail, legal representation, a jury trial, and a record of legal proceeding) but also to the results or consequences of its orders. A tribal court's performance is diminished when, or its mechanisms and procedures are ineffective or noncompliant. Performance also is diminished when summonses, notices, and orders for payment of fines or restitution are routinely ignored. There should be a fair and reliable judicial process that ensures equal justice for all under the law.

Standard 3.1 Fair and Reliable Judicial Process

Tribal court procedures should faithfully adhere to relevant laws, procedural rules, and established policies.

Measure 3.1.1 Service of Process; Overview of Law and Practice

Finding: Service of process is the delivery of a writ, summons, or other legal papers to the person required to respond to them.⁶⁷ The Cheyenne and Arapaho Tribal Code details the process for perfecting service. The Code provides, "[u]pon filing of the complaint the Court Clerk shall forthwith issue a summons and deliver it for service with a copy of the complaint to the plaintiff's attorney, Chief of Tribal Police or a person specially appointed by the Court to serve it."⁶⁸ The Code also allows for service of process by certified mail and publication.⁶⁹

Recommendation: The Assessment team observed that the Court ensured that service had been perfected in each and every hearing the team observed. The Court should consider

⁶⁷ <https://legaldictionary.net/service-of-process/>

⁶⁸ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A, Section 201.

⁶⁹ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A, Sections 204 and 205.

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compiling a list of licensed service providers in those instances where litigants live far from the reservation and service is hard to perfect.

Measure 3.1.2 Assurance of Due Process in Criminal Matters

Finding: Due Process is defined as a guarantee that all legal proceedings will be fair and that one will be given notice of the proceedings and an opportunity to be heard before a government acts to deprive one's life, liberty, or property; it also guarantees that a law shall not be unreasonable, arbitrary, or capricious.⁷⁰ The Cheyenne and Arapaho Code provides that "[n]o person shall be punished for an offense except upon a legal conviction, including a plea or admission of guilt or nolo contendere in open court, by a court of competent jurisdiction...".⁷¹ Further the Cheyenne and Arapaho Code ("Criminal Procedure Code") provides detailed procedures for Criminal Offenses. The Criminal Procedure Code is divided into the following chapters: I. Preliminary Provisions 2. Procedures before Court Appearance 3. Citation, Summons and Arrest Warrant 4. Proceedings for Trial 5. Trial 6. Post Trial Motions 7. Sentencing and Judgment 8. Appeals.⁷²

Recommendation: The Court does a good job of ensuring that there is a consistent and detailed process for criminal matters, however there is some confusion as to what version of the Tribal Code is correct and up to date. There is a version on the NARF website and another version on Oklaw.org, and there is no version on the Court's website. The Court should determine the current and complete version of the tribal code and publish it on the Court's website.

Measure 3.1.3 Recognition of Defendant's Rights in Criminal Matters; Courtroom Observation and File Review

Finding: The Cheyenne and Arapaho Criminal Code provides a list of Defendant's rights. The first right is to appear and defend in person or by counsel (except certain traffic offenses). The Code allows the Defendant to represent themselves, by counsel, or an enrolled tribal member with leave of the Court.⁷³ The Code expressly does not provide for the appointment of counsel paid for by the Tribe, unless the Court grants such representation in the rules of the Court.⁷⁴ The remaining rights guaranteed by the Code are: 1. To be informed of the charges and be provided with a written copy thereof 2. To testify or not testify on one's behalf 3. To confront and cross-examine witnesses 4. To subpoena witnesses 5. To have a speedy trial 6. The right to

⁷⁰ <https://legaldictionary.net/the-prosecution/>

⁷¹ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart C, Section 101.

⁷² Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart C.

⁷³ *Id.* at Section 102(A)(1).

⁷⁴ *Id.* at Section 102(A)(2).

⁷⁵ *Id.* at Section 102(B)-1.

⁷⁶ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁷⁷ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁷⁸ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁷⁹ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁸⁰ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁸¹ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁸² Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁸³ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁸⁴ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁸⁵ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁸⁶ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁸⁷ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁸⁸ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁸⁹ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁹⁰ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁹¹ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁹² Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁹³ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁹⁴ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁹⁵ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁹⁶ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁹⁷ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁹⁸ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

⁹⁹ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹⁰⁰ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹⁰¹ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹⁰² Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹⁰³ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹⁰⁴ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹⁰⁵ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹⁰⁶ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹⁰⁷ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹⁰⁸ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹⁰⁹ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹¹⁰ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹¹¹ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹¹² Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹¹³ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹¹⁴ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹¹⁵ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹¹⁶ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹¹⁷ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹¹⁸ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹¹⁹ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹²⁰ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹²¹ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹²² Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹²³ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹²⁴ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹²⁵ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹²⁶ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

¹²⁷ Cheyenne and Arapaho Tribal Code, Chapter 2, Subpart A.

Recommendation: The Court should consider making a bail/bond offense chart for non-traffic offenses in order to further ensure that bail/bond amounts are applied fairly and consistently.

Measure 3.4.6 Means of Exhausting Tribal Court Remedies [Appellate Court]

Finding: The Tribal Code establishes a lower court (District Court) and upper court (Supreme Court).³⁵ The Supreme Court may "...hear appeals resulting from all final orders or judgments rendered by the District Court, appeals of other orders of the District Court subject to interlocutory appeal by law, and such original actions as may be provided by tribal law."³⁶ The Supreme Court is made up of one Chief Justice and four (4) associate justices.³⁷

Recommendation: The Court should post on the Court's website, forms, instructions, and rules for filing appeals from the District Court.

Standard 3.5 Clarity

A tribal court should render clear decisions and judgments, as well as clearly indicate how compliance can be achieved.

Measure 3.5.1 Clarity of Criminal Orders and Judgments; Ease of Implementing

Finding: Upon file review, it was noted that criminal orders were easily understood. As the Tribal Court now uses electronic filing, court minutes are generated from the bench and are legible.

Recommendation: The Court should continue its process of quickly and efficiently getting Orders out to the litigants. If there is a change in case management software, the Court should develop written procedures for how Orders are entered.

Measure 3.5.2 Clarity of Civil Orders and Judgments; Ease of Implementing

Finding: Upon file review, it was noted that civil orders were easily understood. As the Tribal Court now uses electronic filing, court minutes are generated from the bench and are legible.

Recommendation: Judgments should continue to be entered pursuant to the provisions of the Civil Procedure Code and if there is a change in case management software, the Court should develop written procedures for how Orders are entered.

³⁵ Cheyenne and Arapaho Tribal Code Title 2, Subpart A, Section 1.

³⁶ Cheyenne and Arapaho Tribal Code Title 2, Subpart A, Section 218.

³⁷ Id. at Section 202.

Measure 3.7.4 Reliability of Document Processing

Finding: Deficiencies or concerns with document processing were not noted by the Assessment team. Interviewees expressed all documents are processed faster as a result of the judicial electronic entry of the Tribal Court minutes. Interviewees expressed the need for a new case management system.

Recommendation: Periodic reviews of the current case management and document system should occur to maintain optimal efficiency. If the Court changes case management software then the Court should develop written procedures to ensure that documents are securely and efficiently produced and stored.

Measure 3.7.5 Verbatim Records of Proceedings; Court Recording System and Backup

Finding: Every Tribal Court session is recorded both audibly and visually by microphones and cameras in the courtroom. The recordings are saved to a zip drive where they are later categorized and dated. Interviewees express that the current system is outdated (and was a concern during the last assessment) and an updated system would be helpful. If a court reporter is needed, a professional is brought pursuant to contract with a service in Oklahoma City.

Recommendation: The Court should research audio/visual recording software and if a new system is selected, then the Court should develop written procedures/instructions for using and maintaining the system.

Standard 3.6 Responsibility for Enforcement

A tribal court should take appropriate responsibility for enforcement of its orders.

Measure 3.6.1 Payment of Fines, Costs, Restitution, and Other Orders

Finding: The Tribal Court takes debit/credit cards, money orders, not cash or checks. A credit/debit machine is utilized. No issues are reported by interviewees regarding the collection or payment of fines and costs. Monies are secured and regularly transported to the Tribal Treasury.

Recommendation: The Tribal Court should maintain its procedure for the handling of payment of monies and should review its written procedures for fines/payments to ensure they are current. If the Court switches case management software, new, detailed procedures should be developed and maintained in the Court Clerk Manual.

Measure 3.6.2 Child Support Enforcement; Overview of Tribal Child-Support Law and Staff

Finding: At the Assessment, the Court was contracted with the Modoc Tribe for Child Support enforcement. The Modoc Child Support team is well versed in the law and provides services, under contract, to a number of Tribes. Additionally, the Tribal Court had available flyers about those child support services.

Recommendation: In the event that the Tribe chooses to expand its jurisdiction by providing its own child support department and enforcement, there are a number of resources available to assist in establishing a program. See <https://www.acf.hhs.gov/csc/child-support-professionals/tribal-agencies>

Measure 3.6.3 Civil Judgment Enforcement

Finding: The Civil Procedure Code provides, "...the Court shall promptly approve the form of the judgment and the clerk shall thereupon enter it."³⁸ The Civil Procedure Code provides for how default judgments, offers of judgment, declaratory, and summary judgment is to be accomplished.³⁹

³⁸ Cheyenne and Arapaho Tribal Code, Title 2, Subpart B, Section 907(a).

³⁹ Id. at Section 802-906.

Recommendation: The Civil Procedure Code is very thorough, however a review should be conducted to ensure the Code is current with the current practices of the Court as the Code has not been updated in several years.

Standard 3.7 Production and Preservation of Records

Records of all relevant court decisions and actions should be accurate and properly preserved.

Measure 3.7.1 Overview of System; Reliability of File Control System

Finding: The file system is redundant in that both physical and electronic files are maintained. The physical files are kept in fire-proof file cabinets. The judges enter the court minutes electronically into the Tribal Court's data system. Currently there are adequate metal filing cabinets for the storage of the physical files, but space may become an issue as the caseload grows. The Civil Procedure Code provides that documents may be destroyed after five (5) years, as long as there is one physical copy and one electronic copy.⁴⁰

Recommendation: The Court should evaluate its document retention policy to ensure it is consistent with the Tribal Code and/or change the tribal code to meet current and future document retention needs.

Measure 3.7.2 Adequate Storage and Preservation of Physical Records of the Case Docket System

Finding: The Court has fireproof file cabinets and currently has adequate physical space for the storage of physical files.

Recommendation: The Court should continuously evaluate its space needs as the Court grows and additional categories of cases are added to the Court's dockets.

Measure 3.7.3 Case File Integrity

Finding: Tribal Court staff maintain the files in a locked records room that is only accessible by key card. Files are only removed from the records room when they are needed for hearings and are expeditiously returned after any necessary orders are added.

Recommendation: Tribal Court staff should remain diligent about the protection and handling of case files.

⁴⁰ Cheyenne and Arapaho Tribal Code, Title 2, Subchapter A, Section 113(a).

any other branch of Government except as expressly directed or permitted by this Constitution.

Recommendation: The Court and Tribe are to be applauded for their clear separation of powers constitutional provisions. The Court should continue to maintain a clear separation of powers.

Measure 4.1.2 Comity and Full Faith & Credit; Law and Practice for Tribal Court Recognition of State Court Orders as well as State Court Recognition of Tribal Court Orders

Finding: The Tribe has the following specific provisions regarding foreign judgments in its "Civil Procedure Act."

SUBCHAPTER A: FOREIGN JUDGMENTS	142
Section 921 Definition	142
Section 922 Filing and Status of Foreign Judgments	142
Section 923 Grounds for Non-Recognition	142
Section 924 Notice of Filing	143
Section 925 Stay of Execution of Foreign Judgment	143
Section 926 Fees	143
Section 927 Optional Procedure	143
Section 928 Reserved	144
Section 929 Reserved	144
Section 930 Reserved	144

Section 922 states:

Section 922 Filing and Status of Foreign Judgments

A copy of any foreign judgment authenticated in accordance with the applicable act of Congress or of the statutes of the Tribe may be filed in the office of the Court Clerk. The clerk shall treat the foreign judgment in the same manner as a judgment of the Trial Court. A judgment so filed has the same effect and is subject to the same processes, defenses, and proceedings for reserving, vacating, or staying as a judgment of the Trial Court and may be enforced or satisfied in like manner.

Provided, however, that no such filed foreign judgment shall be a lien on real estate of the judgment debtor until a certified copy of the judgment so filed is also filed in the office of the Court Clerk as provided by law in the land record record book.

In addition, the State of Oklahoma has granted reciprocity to Tribes that register with the courts for some. The Rule provides in part:

A. Recognition of Tribal Judgments-Full Faith and Credit.

The district courts of the State of Oklahoma shall grant full faith and credit and cause to be enforced any tribal judgment where the tribal court that issued the judgment grants reciprocity to judgments of the courts of the State of Oklahoma, provided, a tribal court judgment shall receive no greater effect or full faith and credit under this rule than would a similar or comparable judgment of a sister state.

The Cheyenne and Arapaho Tribal Court registered with the Administrative Office of the Oklahoma Supreme Court to receive reciprocity to Oklahoma State Courts on June 25, 2015⁴¹.

Recommendation: The Tribe should continue its practice of recognizing foreign judgments from the State and other Tribes.

Standard 4.2 Accountability for Public Resources

A tribal court should responsibly seek, use, and account for its public resources.

Measure 4.2.1 Allocation of Judicial Resources

Finding: The Court has recently expanded from two judges to three and there are at least four dockets per month. Interviewees stated that the added personnel has been an improvement.

Recommendation: The Tribe should continue to monitor its case numbers and data to ensure that the appropriate number of judges and support personnel are available to handle the court's business.

Measure 4.2.2 Allocation of Court Personnel

Finding: Interviewees reported that additional personnel would be helpful, particularly with the Legal Aid office, and with the Healing to Wellness Court. A HTWC representative and probation officer are always present during court sessions. The Legal Aid office, while technically not part of the court system, provides free legal services to tribal members within 11 counties, and is totally supported by tribal income. It presently needs more attorneys to handle its workload. The Team was also told that another build will be going to be hired.

Recommendation: Funding should be sought for additional needed personnel to handle the Court's various programs and responsibilities.

⁴¹ Rule 30, Rules for District Courts of Oklahoma, Title 12, Chapter 2.

Measure 4.3.3 Evaluation of the Court's Financial Auditing Practices

Finding: The Court is audited as part of the Tribe's regular annual audit; there is no separate audit for the Court.

Recommendation: Internal audits or reviews of the Court's monies might be helpful for budgeting and staffing purposes, in addition to enhancing security of the Court's financial transactions.

Standard 4.3 Personnel Practices and Decisions

A tribal court should use fair employment practices.

Measure 4.3.1 Hiring Practices; Judges, Court Administration, and Other Court Personnel

Finding: The Team was informed that the tribal Human Resources office takes the applications for court personnel. The Court Administrator then reviews the applications and selects 2 - 3 qualified candidates that are then submitted to the Supreme Court. The Supreme Court then makes the selection. This process is dictated by the Tribe's statutes and helps strengthen separation of powers.

The following section in the "Courts" title specifies how justices and judges are selected:

Section 205 Manner of Selection of Justices and Judges

- A. Each Judge and Justice shall be selected upon nomination by the Governor, subject to confirmation by the Legislature and approval by the Tribal Council, provided that, if the Legislature fails to approve or disapprove a nominee for Judge or Justice within thirty (30) days of nomination by the Governor, then the nominee shall be deemed confirmed by the Legislature, provided further, that if the Tribal Council fails to approve or disapprove a nominee who has been confirmed by the Legislature, or who has been denied confirmation by the Legislature, within sixty (60) days of confirmation by the Legislature, then the Judge or Justice shall be deemed approved by the Tribal Council.
- B. If the nominee for the Judicial Office is confirmed by the Legislature, the nominee shall be sworn into office by the Chief Justice, or the next ranking available Justice of the Supreme Court.
- C. If the nominee(s) is confirmed, the confirmation process shall continue until some nomine is confirmed.
- D. Upon the expiration of a judicial term of office, the Judicial Officer is entitled upon request, filed with the Governor not less than sixty (60) days prior to the expiration of his term, to be considered for nomination to a new term. The

outgoing judicial officer's term shall continue and expire upon confirmation of the new Justice or Judge.

And, also in the "Courts" title is this provision regarding the Court Clerk:

Section 401 Establishment

There is hereby established a Court Clerk's Office to be administered by one (1) Court Clerk and such Deputy Court Clerks as may be necessary. The Court Clerk shall be appointed by the Supreme Court, and Deputy Court Clerks shall be appointed by the Court Clerk, subject to the approval of the Supreme Court.

Recommendation: The Tribe should continue to follow its processes regarding the selection and supervision of judges, justices, and court employees.

Measure 4.3.2 Personnel Policies & Procedures

Finding: There is a "Tribal Court Operations and Procedures Manual," which is the tribal court operation and procedures manual; employees are also under the Tribe's overall policies and procedures.

Recommendation: Again, the Court is to be complemented on having clearly delineated requirements for its judicial staff. Very few tribes have a separate court procedures manual. Periodic review of the manual should occur to make sure that it stays timely and sufficient to assist court personnel.

Measure 4.3.3 Employee Morale

Finding: Employee morale seemed very positive. The Team was able to participate in a shared luncheon with many of the Court and Attorney General staff. It was a very congenial and welcoming atmosphere. No negative feedback was given to the Team regarding employee morale.

Recommendation: The Court should continue to be mindful of the morale of the people who work there. Regular trainings, professional development opportunities, and shared meals or gatherings are all means of maintaining good employee morale. Positive morale in the workplace has a direct effect on public perception.

Standard 4.4 Public Education

A tribal court should inform the community about its programs.

Measure 4.4.1 Court and Media Relations

Finding: All tribal court employees have to sign a non-disclosure agreement when they're hired. There is also a specific Tribal Court Personnel Policy & Procedures manual.

Recommendation: The internal court procedural manual should have provisions regarding court and media relations. Some items to be considered include who should respond to media inquiries, who can post what information to social media, etc.

Measure 4.4.2 Community Outreach Efforts

Finding: The Tribe has a Facebook page which it uses for community outreach, posting such things as any closings or delays due to inclement weather. Court closings are included in the posts. There have also been recent community survey about needs for the Court.

Recommendation: The Court might consider having its own dedicated social media pages. It should be commented on the community survey and should continue to seek input from the community about needs for the Court.

Standard 4.5 Response to Change

A tribal court should anticipate new conditions and emergent events and adjusts its operations as necessary.

Measure 4.5.1 Responsiveness to Past Issues; Past Court Assessments and Progress

Finding: There was a prior court assessment in 2019, which the Court has utilized in making some changes. It is apparent that there is an overall desire for continued improvement and development of the Court and its programs.

Recommendation: The Court should continue to seek input as to its operations and be responsive to recommendations.

Measure 4.5.2 Responsiveness to Emerging Issues

Finding: With its numerous services that it provides for the tribal community (Legal Aid, HTWC, etc.) it is apparent that the Tribe is committed to addressing issues that affect the population. The Court has also been having Zoom hearings in most cases, in order to help reduce the spikes in the COVID virus locally.

Recommendation: The Court should continue to be responsive to emerging issues and find ways to assist the community.

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Performance Area 5 – Tribal Specific Findings**Standard 5.1 Overall Public Trust and Confidence**

Finding: The Cheyenne and Arapaho District Court is well organized and dedicated to serving the citizens of the Tribe. The Court has adequate space and a beautiful new building which serves the Tribal Court, however additional designated parking spaces for handicap/Elder parking should be reserved. Tribal Personnel and litigants feel secure, however, additional Court personnel (bailiff) is needed to maintain access entry to the Court and provide security in the Courthouse. The Court is considering switching case management software to replace its outdated system and is also considering replacing the Court's audio/video recording software.

The Court should consider developing an Adult/Elder abuse code, as there is only a brief section in the Code on "incapacitated adults".

The Tribes' codes are well written and easy to follow and understand, however there are a few areas where Code revision would be appropriate (i.e. appointment of counsel, criminal and jury selection) and a general updating of the Codes would be beneficial as the Codes have not been updated for several years. The Code, current and complete, should be posted on the Tribes' website.

Recommendation: The Court should consider adding handicap/Elder parking spots. The Court should consider additional security personnel for hearing days. The Court should evaluate (case of me, cost, efficiency, meets the needs of the Court and Court users) case management software and then develop internal procedures regarding the use of the software.

The Tribe should consider amending the Code to develop vulnerable Adult/Elder Codes, updating Jury selection procedures, updating criminal codes, and allowing for lay advocate standards to be developed.

The Court should perform an overall Code audit and then publish a current and complete code on the Tribes' website.

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Summary of Recommendations/Strategic Action Plan

Categories	Recommendation	Measure No.
Activities	1. The Court's website could be utilized more, to provide more forms, appellate procedures, and a link to codes.	1.1.2,1.5.3, 2.3,2.4,6
Court Safety & Security	2. The Tribe's Emergency Management personnel should be consulted re: training for court personnel. 3. An additional bailiff present, particularly during court days, may be beneficial.	1.2.4 1.2.2, 1.2.3,5.1
Equipment	4. An appropriate case management system should be identified and purchased.	2.2.1, 3.7.4,5.1
Infrastructure	5. More handicap parking spaces may be desirable.	1.1.1,1.2.1, 1.3.7,5.1
Personnel & Positions	6. More personnel are needed, including an additional bailiff, HTWC staff, and Legal Aid attorneys.	1.2.5,4.2.2, 5.1
Polices, Procedures & Code Development	7. Code revision, expansion, publication, and distribution is needed.	1.3.3,1.5.1, 2.2.2,2.3.4, 3.1.2,3.2.2, 3.4.4,5.1

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Federal Funding Resources for Tribal Courts

The goal of this section is to collect and provide a list of federal funding resources to assist the Tribe in fulfilling those Recommendations it wishes to pursue. This list may not include all resources and is not a guarantee that funding will be available for all purposes or at a particular time.

While TJS is unable to fund all the needs it knows every tribal court has—including some that have been identified in this Assessment—TJS can provide one-time funds for many items, listed below. All that is required is a communication from the Tribe confirming which of these Recommendations the Tribe wishes to pursue. The Tribe must submit a one-time funding request via letter or email to TJS briefly explaining the reason for the request (or referring to the justification already in this Assessment), listing all associated costs, and attaching invoices or other quotes to support the request.

Below is a listing of current federal funding resources for tribal courts, basic program details, and contact information.

U.S. Department of the Interior, Bureau of Indian Affairs, Office of Justice Services, Tribal Justice Support Directorate (TJS)

TJS can provide one-time funds for tribal court staff trainings (including travel, tuition, transportation, accommodations, and per diem); equipment (such as date stamps, computers, printers, cameras, court-recording systems, etc.); office furniture; electronic case-management systems; certain contract positions (such as bailiffs, temporary filing clerks, process servers, etc.); consulting services (such as for courthouse security evaluations; code development; policies and procedures manuals; bench books; rules of procedure; or other materials); alcohol monitoring systems; and other qualifying items. In limited circumstances, TJS can also work with 638 tribes to increase base court funding levels. Tribes may submit one-time funding requests each year as qualifying needs arise. Contact (202) 208-5787 or email BIA_tribal_courts@bia.gov to obtain more information.

U.S. Department of Justice, Office on Violence Against Women (OVW) Grants to Tribal Governments to Exercise Special Domestic Violence Criminal Jurisdiction

The Tribal Jurisdiction Program is designed to assist Indian tribes in exercising SDVCJ. Through this grant program, Indian tribes will receive support and technical assistance for planning, developing and implementing changes in their criminal justice systems necessary to exercise SDVCJ. The program encourages collaborations among tribal leadership, tribal courts, tribal prosecutors, tribal attorneys, tribal defenders, law enforcement, probation, service providers, and other partners to ensure that non-Indians who commit crimes of domestic violence, dating violence, and violations of protection orders are held accountable. The Tribal Jurisdiction Program encourages the coordinated involvement of the entire tribal

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criminal justice system and victim service providers to incorporate systemic change that ensures victim safety and offender accountability.

See <https://www.justice.gov/ava/file/349836/download> for more information.

U.S. Department of Justice - Coordinated Tribal Assistance Solicitation (CTAS)

The Department of Justice launched its Coordinated Tribal Assistance Solicitation (CTAS) in Fiscal Year 2010 in direct response to concern raised by tribal leaders about the Department's grant process that did not provide the flexibility tribes needed to address their criminal justice and public safety needs. The grants provide millions of dollars to enhance law enforcement practices and sustain crime prevention and intervention efforts in nine purpose areas including public safety and community policing; justice systems planning; alcohol and substance abuse; corrections and correctional alternatives; violence against women; juvenile justice; and tribal youth programs.

The collaborative efforts across many department components, bureaus and offices includes:

- Bureau of Justice Assistance (BJA)
- Executive Office for United States Attorneys (EOUSA)
- Office of Community Oriented Policing Services (COPS)
- Office of Intergovernmental and Public Liaison (OIPL)
- Office of Justice Programs (OJP)
- Office of Juvenile Justice and Delinquency Prevention (OJJDP)
- Office of Tribal Justice (OTJ)
- Office for Victims of Crime (OVC) and
- Office on Violence Against Women (OVW)

Contact Information:

U.S. Department of Justice E-mail: tribalarm@doj.gov
950 Pennsylvania Ave., NW Website: <http://www.justice.gov/tribal/grants>
Washington, DC 20530-0001

The CTAS solicitation usually comes out in November with grant application due 90-days thereafter (approximately the following end of February or early March). Always check the actual solicitation for deadlines.

Online Guide: Preparing for the Coordinated Tribal Assistance Solicitation

This online guide was created by the Education Development Center in coordination with the Department of Justice to assist Tribes as they prepare for, write, and submit their applications for complex grants such as the Coordinated Tribal Assistance Solicitation. Available at http://tribaljustice.ed.gov/CTAS_Guide/story.html.

The DOJ provides training and technical-assistance (TTA) to further practical and specialized knowledge to implement and enhance justice system efforts. DOJ supports training and technical assistance that is both specifically geared toward tribes and across broader topic areas. A list of TTA providers is available at <https://www.justice.gov/tribal/training-and-technical-assistance/providers>.

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U.S. Department of Agriculture (USDA), Rural Development

COMMUNITY FACILITIES DIRECT LOAN & GRANT: This program provides affordable funding to develop essential community facilities in rural areas. An essential community facility is defined as a facility that provides an essential service to the local community for the orderly development of the community in a primarily rural area, and does not include private, commercial or business undertakings. Access the Fact Sheet on this opportunity at <http://www.rur.usda.gov/files/fact-sheet/RD-FactSheet-RHIS-CFDirect.pdf>.

U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA)

GRANTS TO EXPAND SUBSTANCE ABUSE TREATMENT CAPACITY IN ADULT TREATMENT DRUG COURTS AND ADULT TRIBAL HEALING TO WELLNESS COURTS: The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment (CSAT), operates a grant program to Expand Substance Abuse Treatment Capacity in Adult Treatment Drug Courts and Adult Tribal Healing to Wellness Courts. The purpose of this program is to expand and/or enhance substance use disorder treatment services in existing adult problem solving courts, and adult Tribal Healing to Wellness courts, which use the treatment drug court model in order to provide alcohol and drug treatment (including recovery support services, screening, assessment, case management, and program coordination) to defendants/offenders. Grantees will be expected to provide a coordinated, multi-system approach designed to combine the sanctioning power of treatment drug courts with effective substance use disorder treatment services to break the cycle of criminal behavior, alcohol and/or drug use, and incarceration or other penalties. Priority for use of grant funds should be given to addressing gaps in the continuum of treatment for individuals in these courts who have substance use disorders or co-occurring substance use and mental disorder (COD) treatment needs. Grant funds must be used to serve people diagnosed with a substance use disorder as their primary condition. SAMHSA will use discretion in allocating funding for these awards, taking into consideration the specific drug court model (Adult Treatment Drug Courts and Adult Tribal Healing to Wellness Courts), as appropriate, and the number of applications received per model type.

For more information visit <http://www.samhsa.gov/grants>.

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Training benefits

- \$46,400 and \$59,380 1st year salary with pay increases
- Growing industry nationwide and statewide
- OSHA 10/CDL
- Residential/Commercial certified
- Job placement opportunity
- 2 options for certifications: 1) Fiber Lineman 2) Splicer
- Training site is in Concho, OK
- 8 week short course with paid internship opportunity-Fiber Lineman certification
- 4 week short course-Splicing certification
- Stable career industry
- Open to everyone!



INSTITUTE OF TECHNOLOGY

Training brought to you by the Oklahoma State University Institute of Technology and the Cheyenne and Arapaho Tribes Judicial Branch.

Scan QR code below for application link



Classes starting soon!

FOR MORE INFORMATION CONTACT
(405) 422 7558

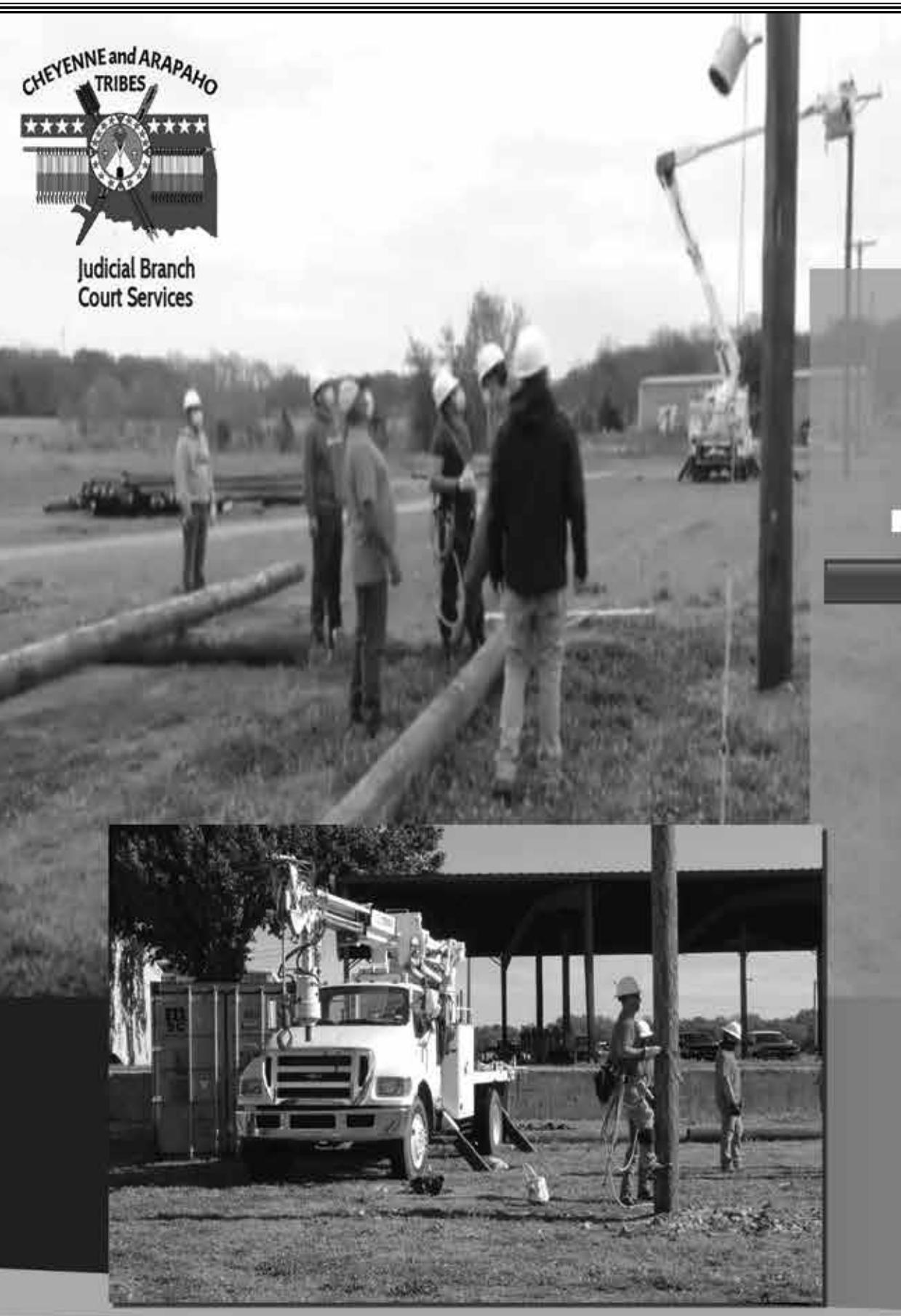


Talking Circles
“Recovery is not a destination, It’s a Lifestyle”

Zoom Meeting ID: **704 570 7818**
Passcode: **TOR2023**
ID:693 267 5740 Passcode:TOR22
January:
Mondays 2-3pm Zoom
Wednesday: 2-3PM
Thursdays(In-Person) 6-7pm
Friday 2-3pm Zoom

Please call or email if have need more info @
(405)-422-7452, (405)-422-7423
TOR@cheyenneandrapaho-nsn.gov





Join us and get Certified

Training Expectations

- * 100% attendance
- * applicants who are enrolled in a federally recognized tribe, apply for tuition assistance through your tribe.
- * Tuition assistance through OK Works for eligible participants. Applicant must be approved through OK Works prior to start date!!
- * Participants will be responsible for: climbing boots, no cut gloves, long sleeve shirts and hard hat
- * No medical marijuana cards accepted! Drug testing will be required.

Applications can be found at the Cheyenne and Arapaho Tribes Justice Center and online at <https://www.cheyenneandarapaho-nsn.gov/government/judicial#forms-and-files>

CONTACT US:



405-422-7558 cjames@c-a-tribes.org

120 E. Black Kettle, Concho, OK 73022



INSTITUTE OF TECHNOLOGY

Workforce & Economic Development

Fiber Optic Lineman TRAINING

Location: Concho, OK north of El Reno

Course Start Date: TBD
Application deadline: TBD

- * 8 week training course/\$3100 tuition
- * OSHA-10
- * Pole climbing
- * Jigging, pulling fiber
- * Residential/Commercial
- * Hanging strand and fiber lashing
- * Hanging self-support/sagging
- * Trouble shooting
- * 4 week paid internship

Application Requirements

- * Must be 18 years old
- * Copy of Driver's License, CDIB or State/Tribal picture ID
- * Copy of GED/HS Diploma or college transcript
- * Proof of vaccination or notarized statement for vaccination exemption.
- * Signed Self Pay form completed with funding sources or payment plan attached.
- * Application must have all required documents to be considered complete.
- * Cheyenne and Arapaho Preference
- * Open to all applicants Native and Non-native