

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

MUSCOGEE (CREEK) NATION,  
a federally recognized Indian Tribe,

*Plaintiff,*

v.

CITY OF TULSA; G.T. BYNUM, in his  
official capacity as Mayor of City of Tulsa;  
WENDELL FRANKLIN, in his official  
capacity as Chief of Police, Tulsa Police  
Department; and JACK BLAIR, in his official  
capacity as City Attorney for City of Tulsa,

*Defendants.*

Case No. 23-cv-00490-SH

**DECLARATION OF AMANDA SWOPE**

I, Amanda Swope, declare the following on the basis of personal knowledge to which I am competent to testify:

1. I am the Director of the Muscogee (Creek) Nation's (MCN) Tribal Juvenile Justice (TJJ) Program and serve in the Oklahoma House of Representatives, where I represent Oklahoma's 71st District. As a Representative, I serve on the Elections and Ethics Committee, Administrative Rules Committee, State Powers Committee, Rules Committee, and Public Safety Appropriations and Budget Committee.
2. Prior to my role as TJJ Director and Oklahoma Representative, I earned a Masters of Public Administration from the University of Oklahoma and, thereafter, began working at MCN as a Self-Governance Analyst, where I negotiated federal compacts and identified ways to enhance the Nation's exercise of its governmental responsibilities.
3. Additionally, I have served as the Development Director for several non-profit social services organizations and have volunteered with organizations such as the Community Service Council, Junior League of Tulsa, Tulsa Young Professionals, Junior Achievement, Little Blue House, and the Terence Crutcher Foundation.
4. As Director of MCN's TJJ Program, I oversee the implementation and expansion of the TJJ Program. My responsibilities include, but are not limited to, managing TJJ's contracts with various service organizations and facilities; managing TJJ's personnel and hiring; and working with various Nation

Departments, including the Attorney General's Office, MCN Juvenile Court, Lighthorse police force, and Indian Child Welfare.

5. As TJJ Director, I have developed the Nation's ten-year juvenile justice strategic plan, which maps out the manner in which the Nation will expand the direct services that TJJ provides to juveniles who are alleged to have committed a delinquent act or status offense. I have also advised the Nation's Council on many of the reforms that are reflected in the Nation's juvenile delinquency code.<sup>1</sup> I further serve as a recognized speaker and educator on tribal juvenile justice issues. Most recently, I presented on two panels hosted by the U.S. Office of Juvenile Justice and Delinquency Prevention of the U.S. Department of Justice.
6. I have reviewed the affidavit of Wendell Franklin, Chief of the Tulsa Police Department, that was filed in *Stitt v. City of Tulsa*, Case No. M-2022-984 (Okla. Crim. App. Oct. 19, 2023).<sup>2</sup> In that affidavit, Chief Franklin states that "the most urgent jurisdictional gap are the crimes committed by Indian juveniles which neither the Federal nor Tribal governments have the capacity to address." *Id.* ¶ 26. Given my intimate familiarity with the Nation's juvenile justice system, I understand Chief Franklin's statements to be without basis. The Nation's dedication to public safety includes the prosecution of crimes by juveniles and a commitment to juvenile rehabilitation.

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<sup>1</sup> <https://www.creeksupremecourt.com/wp-content/uploads/NCA-23-084.pdf>.

<sup>2</sup> <https://drive.google.com/file/d/1L8f8ytB7teTysqf-MjtIRalcZfqDL7Jo/view>.

### **The Nation's Juvenile Justice System**

7. The Nation has enacted a robust juvenile delinquency code, which sets forth the rules governing law enforcement interactions with juveniles, certain aspects of the TJJ Program, proceedings against juveniles, and adjudications against juveniles. Most juveniles who encounter the Nation's juvenile justice system are Indian except where the juvenile, through his conduct, is subject to tribal jurisdiction over non-Indians under the provisions of the Violence Against Women Act, 25 U.S.C. § 1304.
8. The Nation's Lighthorse police force and cross-deputized, non-tribal officers are permitted to respond to instances where they have reason to believe that a juvenile has committed a delinquent act or status offense (i.e., underage drinking). Lighthorse officers and cross-deputized, non-tribal officers are permitted in such circumstances to question juveniles and detain them or take them into custody pursuant to the procedures set out in the Nation's juvenile delinquency code.
9. The TJJ Program contacts juveniles after referrals from either law enforcement or the Attorney General's Office. TJJ's role is to recommend to the Juvenile Prosecutor in the Attorney General's Office how best to proceed with each juvenile's case. TJJ is also responsible for coordinating diversion and rehabilitation services for juveniles who fall under the Nation's juvenile delinquency code and for ensuring that juveniles and their parents or guardians comply with any conditions that are part of the juvenile's treatment plan or deferred sentence, where applicable. In carrying out these activities, TJJ acts as an unbiased liaison between the juvenile; the juvenile's parents or guardians; law

enforcement, including Lighthorse and cross-deputized officers; various MCN agencies; the victims or community members affected by the juvenile's conduct; the Juvenile Prosecutor; and the MCN Juvenile Court.

10. The Attorney General's Office employs a Juvenile Prosecutor as well as a public defender who is appointed to serve as the juvenile's counsel if needed. The Juvenile Prosecutor's responsibilities include, but are not limited to, conferring with the TJJ Program on the juvenile's case; initiating proceedings against the juvenile in MCN Juvenile Court; filing supervision and delinquency petitions in MCN Juvenile Court; and initiating requests where appropriate to transfer juveniles to (1) MCN Tribal Court to be tried as an adult, or (2) the courts of another tribe if the juvenile is a citizen of, or eligible to become a citizen of, that tribe and it enjoys concurrent jurisdiction with the Nation, or (3) federal court if the juvenile is alleged to have violated federal law.
11. MCN's Juvenile Court adjudicates juvenile cases filed by the Juvenile Prosecutor. Among other things, the Court holds adjudication hearings to determine whether the juvenile has committed a delinquent act or status offense; issues findings and orders in writing or dismisses petitions where the allegations have not been proven beyond a reasonable doubt; holds disposition hearings to determine whether the juvenile needs supervision, treatment, or rehabilitation, and issues related orders; and approves or denies petitions requesting that the juvenile be transferred to MCN Tribal Court to be tried as an adult.

### **Tribal Juvenile Justice Program**

12. In any given month, the TJJ Program has approximately 250 active juvenile cases where the juvenile received services through the TJJ Program pursuant to a TJJ case worker's recommendation, or where the juvenile has an active case in MCN Juvenile Court. Additionally, in any given month, the TJJ Program receives roughly thirty-five referrals for juvenile traffic citations. These numbers reflect referrals to the TJJ Program from numerous municipalities and agencies within the Nation's Reservation, including the Tulsa Police Department.
13. As noted, the TJJ Program case worker recommends to the Juvenile Prosecutor how best to proceed with each juvenile's case based on the case worker's findings during a preliminary investigation and informal conference with the juvenile and the juvenile's parents or guardians. The bases for TJJ's recommendations include the seriousness of the offense and the juvenile's history of offenses. That history includes offenses the juvenile has previously been charged with by other jurisdictions. Notwithstanding TJJ's recommendation, the Attorney General's Office has ultimate authority on how to proceed with each juvenile's case.
14. Some of the cases the TJJ Program receives are resolved without the need for an MCN Juvenile Court disposition or juvenile detention—they require non-judicial interventions to adjust behavioral issues, such as referrals to programs that provide behavioral health and mental health treatment to juveniles and their families. In these cases, the TJJ Program recommends that the Juvenile Prosecutor take no action and, if the Juvenile Prosecutor accepts the recommendation, the TJJ

Program case worker facilitates the connection between the juvenile and the juvenile's parents or guardians to appropriate social service providers.

15. In other cases, the TJJ Program case worker may recommend that the Juvenile Prosecutor initiate proceedings against the juvenile but enter into a diversion agreement whereby the juvenile is required to undergo psychological evaluation and treatment or rehabilitation programs, to take part in culturally based accountability measures or traditional Muscogee (Creek) dispute resolution systems, and/or to pay restitution to the victims.
16. However, in cases involving serious offenses, TJJ will recommend that the Juvenile Prosecutor file a delinquency petition and seek detention or in-home monitoring, as appropriate. For those juvenile offenders for whom incarceration is deemed necessary, the Nation's juvenile detention services are provided under contract with Creek County and the Sac and Fox Nation of Oklahoma. For juvenile offenders for whom detention is not available or appropriate but monitoring is deemed necessary, the Nation may rely on house arrest, and it requires such persons to wear an ankle monitor.

### **The Nation Continues to Expand its Tribal Juvenile Justice System**

17. Since *McGirt*, the Nation has invested significant resources into developing its juvenile delinquency code and the TJJ Program.
18. Shortly after *McGirt* was decided, the Nation contracted with the University of Las Vegas School of Law to conduct a comparative study of different approaches to juvenile justice. Based on this study, the Nation enacted a comprehensive juvenile delinquency code, which reflects current best practices from tribal and

non-tribal jurisdictions across the United States, including the City of Tulsa, and addresses the Nation's public safety needs, and the needs of juveniles and their families subject to the Nation's jurisdiction.

- a. The Nation's new juvenile delinquency code expands the prevention and intervention programs TJJ offers to juveniles and their families. This includes diversion to treatment and intervention resources, court-ordered treatment plans with a system of escalating penalties, and case management and monitored community supervision.
- b. The code also makes the resources of the MCN Juvenile Court, and thus the TJJ program, available to those who committed offenses as juveniles but would have otherwise aged out of the juvenile justice system when they reached majority age, which is eighteen. To do so, the code extends the MCN Juvenile Court's jurisdiction over any child adjudicated neglected or abused, in need of supervision, or delinquent until that child has reached the age of twenty-one.
- c. The code also recognizes that keeping young adults in the juvenile justice system may not always be appropriate and, therefore, permits a judge to transfer a juvenile to Tribal Court to be adjudicated as an adult when certain standards set out in the code are met. These standards include where there are no reasonable prospects that the juvenile will be rehabilitated through the Juvenile Court's resources and where the offenses demonstrate a pattern of conduct that constitutes a danger to the public.



19. Additionally, the TJJ Program is implementing the Nation's ten-year juvenile justice strategic plan. As part of this process, the TJJ Program will soon open a satellite office in Tulsa to provide services for juveniles and families in the northern portion of the Reservation. The Tulsa satellite office will close the transportation gap for families living in the northern portion of the Reservation because it will provide the full range of services that TJJ offers in Okmulgee, including case management, ankle monitoring, and internet access for video hearings. The TJJ Program will open its Tulsa satellite office by early December 2023.
20. The Nation also plans to hire law enforcement personnel who specialize in juvenile justice cases and hire additional juvenile justice staff. The TJJ Program expects that it will fill its law enforcement position within the next six months, and additional staff will be added as grant funding becomes available or as part of the FY 2025 budget, which will begin in October 2024.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 15, 2023

/s/Amanda Swope  
Amanda Swope