

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

TERRY BAYLES;)
KERRY WELBORN;)
AUSTIN CLAYLON;)
CALEB BACON;)
TONY BLAKE;)
MISTY CAMPBELL;)
BILLY CHASE;)
JEREMIAH COLBERT;)
GEORGE DAVENPORT;)
CHRISTOPHER GRAY;)
JAMES HENSON;)
PEYTON JONES;)
JAMES GEOFFREY;)
SAWYER LOPEZ;)
ADELBY MARTINEZ;)
JAMES MCKIBBEN;)
Petitioners)
)
-vs-)
)
THE CHOCTAW NATION OF)
OKLAHOMA; CHOCTAW COUNTY)
SHERIFF, TERRY PARK, EX. REL.)
COUNTY JAIL)
Respondents)

No. 2025-_____
CIV-25-370-RAW

PETITION FOR WRIT OF HABEAS CORPUS

COMES NOW, the Petitioners, individually and collectively by and through their attorneys of record and in support of their cause of action over and against the Respondents jointly and severally and allege and state as follows:

This action for writ of habeas corpus is based upon Petitioner's allegations against the Choctaw Nation of Oklahoma (hereinafter, "CNO") and the Choctaw County Sheriff's Office ("Choctaw County Jail"), namely, that the CNO and Choctaw County Jail are actively denying, and have previously denied, defendants who are charged in the Choctaw Nation Court System,

and incarcerated on behalf of the CNO, due process and right to counsel as they defend themselves in tribal court.

CUSTODY

1. The individual Petitioners are all in the physical custody of the CNO and are all being housed in various county jails in the State of Oklahoma that are located within the boundaries of the Choctaw Nation (spanning eight (8) whole counties, and parts of five (5) other counties, divided respectively into twelve (12) CNO Council Districts). At the time of filing of this Petition, Petitioners are all detained by CNO and are under direct control of the Respondent and its agents. The Petitioners now incarcerated have been blocked by CNO from consulting with their attorneys during the preparation of this matter. Further, they are actively denying attorney client privilege and have forced them to disclose confidential correspondence and have threatened retaliation against them if they continue to pursue their participation in this matter against the CNO PD's Office.

JURISDICTION AND VENUE

2. The acts occurred within the boundaries of the CNO and are ongoing as of the date of the filing of this action. Jurisdiction and venue are proper, as the Petitioners are detained and reside within CNO boundaries, CNO and the Choctaw County Jail both fall within the jurisdictional boundaries of the Eastern District of Oklahoma. Further, this action arises under the Constitution of the United States, and the Choctaw Nation Constitution, and pursuant to the Tribal Law and Order Act (TLOA) of 2010, amending the Indian Civil Rights Act (ICRA), as well as 25 U.S.C. § 1303 et. seq. Therefore, this Court has jurisdiction over the matters at hand and venue is proper in the Eastern District of Oklahoma.

PARTIES

3. Petitioners Terry Bayles, Kerry Welborn, Austin Claylon, Caleb Bacon, Tony Blake, Misty Campbell, Billy Chase, Jeremiah Colbert, George Davenport, Christopher Gray, James Henson, Peyton Jones, James Geoffrey, Sawyer Lopez, Adelby Martinez, James McKibben are all defendants facing criminal charges in the CNO, and are all also being housed in the Choctaw County Jail on behalf of the CNO. All Petitioners are citizens of the United States, making jurisdiction in the Eastern District of Oklahoma proper.

4. Petitioners would give the Court notice that there are currently hundreds and potentially over a thousand persons actively represented by the Public Defender's office for the CNO and detained by the CNO that would be considered proper parties to this action. These individuals are all citizens of the United States and tribal CNO members and are currently awaiting trial at the CNO.

5. Respondent and its agents operate within the boundaries of the thirteen (13) county span of land within the State of Oklahoma known as the Choctaw Nation and is located within the boundaries of the judicial district of the United States Court for the Eastern District of Oklahoma.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

6. For reasons outlined in the statement of facts below, the circumstances leading to the filing of this habeas action are such that an exception to the rule of exhaustion, that exhaustion of remedies is not required when the remedies provided are ineffective, futile, or meaningless, is triggered in this case. (*Wounded Knee v. Andera*, 416 F. Supp. 1236, 1239 (D.S.D. 1976)); *see also United States ex rel. Cobell v. Cobell*, 503 F.2d 790, 793-94 (9th Cir. 1974), cert. denied sub nom; and *Sharp v. Cobell*, 421 U.S. 999, 95 S. Ct. 2396, 44 L. Ed. 2d 666 (1975) (finding petitioner lacked a meaningful remedy in the tribal courts and, thus, had not failed to exhaust tribal remedies

when the remedies were available in theory, but not in fact). Further, “exhaustion is not required if an assertion of tribal jurisdiction is motivated by a desire to harass or is conducted in bad faith, if the action is patently violative of express jurisdictional prohibitions, or if exhaustion would be futile because of the lack of an adequate opportunity to challenge the court's jurisdiction.” *DeMent v. Oglala Sioux Tribal Court*, 874 F.2d 510, 516 (8th Cir. 1989) (citing *National Farmers Union Ins. Co. v. Crow Tribe*, 471 U.S. 845, 856 n. 21, 105 S. Ct. 2447, 85 L. Ed. 2d 818 (1985)).

7. Further, upon good faith information and belief, the CNO has contacted the Choctaw County jail where many CNO defendants are currently being housed and has instructed jail personnel to deny the attorneys bringing this cause of action reasonable access to individual Petitioners who have been adversely affected by the illegal acts of the CNO, despite that such individuals have indicated their wish to retain said attorneys to represent them in the instant matter. Further, the CNO has coerced and intimidated the Petitioners, taken pictures of protected correspondence and threatened to leave them unrepresented in their individual underlying criminal cases in the CNO, should they continue their participation in pursuing this matter and further exacerbates petitioners’ claims for denial of effective assistance of counsel, and hinders their pursuit of a legitimate cause of action. Given the nature of the Respondents’ actions and the sheer numbers of persons affected, it is the Petitioner’s intent to file the appropriate motion and to proceed this matter as a class action lawsuit.

STATEMENT OF FACTS

8. On October 14, 2020, the CNO enacted council Bill CB-13-21, known as the Public Defender Act, cited as Title 75, §§ 1355 through 1381, creating the CNO Public Defender’s Office. The purpose of the CNO Public Defender Office is to provide legal defense services to individual indigent persons charged with criminal defenses. Among other things, the Act, at Title 75 § 1358

(B.), provides that “The public defender shall at all times serve his or her clients independent of any political considerations or any private interests and provide legal services to indigent persons accused of crimes which are commensurate with those available to nonindigent persons.” Additionally, pursuant to Title 75 §§ 1357 and 1362, presumably to avoid conflicts of interest and political entanglements spoken of in the previous section, the Ethics Commission was specified as the governing body of the CNO Public Defender’s Office. Specifically, Title 75 § 1357 (A.) provides, “There is established the Office of the Choctaw Nation of Oklahoma Public Defender within the Executive Branch of the Choctaw Nation of Oklahoma government and under the oversight of the Ethics Commission of the Choctaw Nation of Oklahoma,” while § 1362 (A.) provides:

The Ethics Commission of the Choctaw Nation of Oklahoma shall govern the Office of the Choctaw Nation of Oklahoma Public Defender. The composition of the Ethics Commission, appointment of Ethics Commission members, terms of Ethics Commission members, and vacancies within the Ethics Commission shall be in accordance with the Choctaw Nation of Oklahoma Code of Ethics. (citing Choctaw Nation of Oklahoma Code of Ethics (2020)).

(*Id.* Emphasis added.)

9. Instead of the Ethics Commission (purportedly an impartial CNO Office) governing and directly supervising the CNO Public Defender’s Office, such an organizational structure does not exist, as the executive director of the CNO Legal Department and his staff directly supervise and oversee both the CNO Tribal Prosecutor’s Office, as well as the CNO Public Defender’s Office. Additionally, and both ministerial and substantive legal functions of the CNO Public Defender’s Office are also overseen by the Human Relations Department of the CNO tribe. In other words, *the same people who supervise and manage the CNO Public Defender’s Office also oversee and manage the CNO Tribal Prosecutor’s Office.* Additionally, personnel within the CNO Human Relations Department, which is involved in the management and oversight of the Public

Defender's Office, have no legal education or courtroom background experience, and no knowledge related to the ethical requirements and oaths that attorneys are subject to. Despite the conflict, CNO HR representatives are routinely consulted and asked to intervene and discipline CNO PD staff attorneys for purported "misconduct," which, by way of example, includes instances of filing 'improper' motion and/or other legal matters to which CNO HR supervisors have no direct knowledge of how such complaints and resulting discipline affects the impartiality of the CNO judicial system.

10. Pursuant to the Oklahoma Ethics Code, even the *appearance* of impropriety is sufficient to disqualify an attorney from representing a client. Here, given the obvious conflict having the same persons supervising both the CNO Prosecutor's Office and the CNO Public Defender's Office, actual and real impropriety exists that causes defendants represented by the CNO PD's office not to receive the quality of defense and due process to which they are entitled under the law.

11. Examples of the severe conflict as it stands are as follows (note that this list is not exhaustive):

- a. Client records for each individual defendant charged with a crime within the CNO are stored electronically in a computer software program known as Karpel, which is mandated by the CNO to be used by tribal judicial employees. Both the Public Defender's Office and the CNO Prosecutors have access to their own version of this program, which is purported to be separate programs maintained by each CNO office (Tribal Prosecutor's Office and Public Defender's Office, respectively) which purportedly, does not allow direct access by one CNO office to the other's system. However, mutual supervisors of the CNO Legal Department, which supervises both

offices, *has direct access to both Karpel systems*, which includes all client records, files, and attorney notes entered by CNO staff. In fact, the conflicted supervisors actively track the case progression of cases held by the Public Defender's Office, including the number of clients assigned to each attorney, motions filed in each case, case files, including private medical files and documents, attorney notes, and attorney actions taken on each case, as well as preliminary hearings held and other information relevant to the defense of persons assigned to the CNO Public Defender's Office. The actual and potential sharing of this information constitutes a breach of attorney/client confidentiality and further renders the defense provided to CNO defendants as ineffective and impermissible. Further, such access is prohibited by the CNO's own code, as Title 125, Section 1-404 provides that "No Covered Official shall use his or her position to access information, documents, or other materials which are not available to all citizens of the Nation generally, unless such access is necessitated by a Covered Official's position with the Nation." (Title 125, Section 1-403, Choctaw Nation Code of Ethics).

b. Similarly, CNO mandates that directly affect confidentiality are routinely implemented and forced upon CNO PD staff attorneys, which compromise representation of CNO defendants, including a mandate that every email sent by a CNO PD staff attorney include a carbon copy (cc) to an "all-tribal-prosecutor's email, meaning every email sent is also seen by the CNO Tribal Prosecutor staff of 30 people, most of whom have no reason to be involved or to see the substance and attachments of every email sent by a CNO PD staff attorney regarding a specific case. Such emails could include medical documents, or confidential discussions regarding settlement, that

are improper for non-attorneys, or attorneys not assigned to the specific case, to see. Overall, such mandates compromise confidentiality and representation of CNO indigent defendants.

c. Likewise, instances have occurred, presumably when CNO Tribal Prosecutors have not received the judicial ruling they wish, where CNO Tribal Prosecutors have gone *outside the court system* and contacted mutual supervisors within the CNO Legal Department to interfere with the defense of defendants. This severe type of ethical infraction has resulted in staff attorneys within the CNO Public Defender's Office being removed from certain cases.

d. Of similarly egregious nature, relevant and exculpatory discovery has been removed from the attorney files of the CNO Public Defender's Office by the Director of the CNO PD's Office, *without permission of the assigned attorney*, which again denies defendants represented by the CNO PD's Office the benefit of zealous and impartial representation that is free from political and other outside considerations—representation that is guaranteed under the Constitution. (*See Article IV to the Choctaw Nation Constitution – Bill of Rights, Section 1, stating that “Nothing in this Constitution shall be interpreted in a way which would diminish the rights and privileges that tribal members have as citizens of this Nation, the State of Oklahoma, the United States of America or under any Act of the Congress of the United States.”*).

e. On another occasion, upon discovery that the CNO Prosecutor's Office failed to turn over discovery and misrepresented such failure to the CNO Court, a staff attorney for the CNO Public Defender's Office appropriately and in the best interest of the client filed a motion requesting sanctions for the infraction. In response, Mr. Blayne Allsup,

the Director of the Public Defender's Office, reprimanded the CNO PD attorney who discovered the concealment, removed that attorney off the case entirely, and indicated that such a motion (requesting sanctions) was inappropriate because it "embarrasses" the CNO Tribal Prosecutor's Office, which "embarrasses" the (CNO) Tribe. As a result, it was mandated by Mr. Allsup that the motion for sanctions be withdrawn. In effect, the conflict caused by the mutual unbiased supervision of the Public Defender's Office and by the biased supervision by the Director of the Public Defender's Office, in favor of the CNO over indigent defendants disqualifies the CNO PD's office from representing indigent, or any other client in the CNO court system, due to the severe nature of the conflict of interest and the unethical actions that happen on a daily basis with respect to the operation of the CNO PD's Office within its current structure within the Choctaw Nation.

f. The supervisory staff of the CNO PD's Office, namely Mr. Blayne Allsup and Mr. Timothy Beebe, generally operated in a manner as to intimidate and harass the CNO PD staff attorneys in an effort to ensure that all CNO employees fell in line with the system of providing a defense, so long as it did not embarrass or expose any wrongdoing by the CNO Tribe or the CNO Tribal Prosecutor's Office. In the event a staff attorney did not fall in line and asked questions regarding the apparent conflict and its effect on representation of defendants, or worse, if staff attorneys attempted 'zealous' representation of their clients, supervisory staff have, at times, created false accusations against said attorneys in a coordinated attempt to have such attorneys dismissed and/or fired from the CNO entirely. *Such behavior, again, is in violation of CNO's own Code*, pursuant to Title 125, § 1-404, which states that "No Covered

Official may retaliate against any person who files a complaint or provides evidence in support of a complaint under this Code.”

g. In addition to coercion and interference impressed upon staff attorneys by the impermissible structure, the CNO purposefully and chronically understaffs the CNO PD’s Office to the extent that it is difficult for staff attorneys to provide a zealous defense to clients, but *more importantly*, directly results in frequent delay in the administration of cases in a timely manner. By way of example, the CNO Prosecutor’s Office staffs roughly thirty (30) employees within its office, including attorneys, paralegals, victim coordinators, and investigators. By way of contrast, the CNO Public Defender’s Office, which is appointed to represent roughly 95% of defendants charged with a crime in the CNO Judicial System, is staffed with approximately ten (10) employees. In fact, CNO staff attorneys routinely have a rotating caseload of between 200-300 criminal cases each, to manage. Because the CNO PD’s office represents clients who reside and/or housed in over thirteen (13) counties (the size of a small state), travelling to interview and consult with clients given the chronic understaffing is near impossible for any attorney to provide an informed and cogent defense to every client. Similarly, chronic understaffing results in mandatory continuances of a CNO defendant’s case, if the assigned CNO PD staff attorney was not able to be in court (for example, if he or she was ill or requested vacation time). Additionally, the CNO court system has a mere three (3) jury trial sessions per year, and the overcrowded dockets coupled with a continuance for a specific case, often means a delay for a hearing for that specific case sometimes as much as three (3) to four (4) months. For those in custody, this practice results in an

unnecessarily protracted jail stay pending the next scheduled hearing for a CNO criminal defendant.

h. On another occasion in early 2025, one of the younger CNO PD staff attorneys was assigned to his first trial. During the course of preparation for said trial, it became obvious that the prosecution had withheld potentially exculpatory information admissible pursuant to *Giglio v. United States*, 405 US 150 (1972). Once the CNO PD supervisory staff learned of this, the young attorney was subsequently coerced not to file a motion for sanctions and further, not to use the exculpatory evidence at trial, or else the staff attorney would be reprimanded by way of a disciplinary write up for insubordination. In an effort not to lose his employment with the CNO, the staff attorney tried the case without using the information and still achieved a partial victory of the more severe charge. It is not known what the outcome of the remaining charge would have been had sanctions been issued and the information used, however it denied the defendant in that matter his right to a fair and zealous defense. It is also important to note that after the conclusion of the trial, the young attorney was told that if he had in fact used the *Giglio* information at trial, he would have been disciplined and potentially terminated for insubordination.

i. Another serious infraction that occurred in the same criminal matter, the defendant had been incarcerated prior to his trial for longer than the existing maximum penalty that could be imposed for the crime for which he was convicted. The CNO PD co-counsel moved to have the Defendant released immediately after trial, but the CNO Tribal Prosecutor wrongfully objected based on another non-related misdemeanor pending (there, the defendant had bonded out on the misdemeanor charge, said bond

had never been revoked, and no motion to revoke was filed). Despite the glaring issue, the CNO court refused to release the defendant. Importantly however, when CNO PD co-counsel proceeded to file a written motion to have the defendant released and pointing out the error in prosecution's argument, CNO PD supervisor Mr. Allsup and Mr. Beebe demanded the attorney withdraw the motion. Specifically, and despite that in an ensuing phone call between the directors and supervisors of the CNO Tribal Prosecutor's and CNO PD's office, the Chief Prosecutor agreed that in the heat of the moment he made an improper argument that was not legally correct, Mr. Allsup and Mr. Beebe ordered the motion withdrawn anyway, which resulted in the defendant in that case being wrongly incarcerated for an additional five (5) weeks for the sole purpose of covering up the Tribal Prosecutor's error and so as to not "embarrass" the (CNO) tribe. Here, rather than pressing to have the defendant immediately released (as was proper under the circumstances), the CNO PD's Office supervisors caused its own indigent client to spend over *five (5) more weeks* in jail, completely ignoring his Constitutional rights, and to his obvious detriment.

j. Additionally, the Choctaw Nation of Oklahoma court system is plagued by biased rulings and unconscionably and illegally excessive bond amounts. For example, over the approximately five (5) years that the CNO Judicial Court System was established and has operated, there has not been one dismissal at the preliminary hearing stage, meaning that every defendant in a period of over five (5) years has been bound over for trial. Such a level of biased rulings against the defendant is shocking. Despite such an obvious biased system, CNO PD supervisors Mr. Allsup and Mr. Beebe systematically refused to take the necessary actions, and disallowed other PD staff

attorneys from taking action, to move the issue of bias through the CNO court system by way of filing motions. When questioned by staff attorneys on the issue, CNO PD supervisors simply stated that the CNO did not have the staff or funds to pursue such an action, but moreover, such actions and allegations would inherently again “embarrass the tribe,” despite their legitimacy.

k. Similarly, the CNO often sets bond in amounts that are as much as ten (10) times the bond for similar cases in the Oklahoma State system. Given that the maximum charge for each case in the tribal court is merely three (3) years, the result of grossly high bail amounts in effect, means that the majority of CNO defendants are forced to remain incarcerated for lengthy periods which often approach or exceed the maximum penalties before their case ever comes before the CNO Court for trial. An additional effect of this is that CNO defendants overwhelmingly enter into settlements on the eve of trial, given the relatively little amount of time that can be imposed as punishment at such late stages of criminal procedure and on the eve of trial. Further, CNO PD attorneys are prevented from even attending arraignments to contest the excessive bonds, and CNO PD Supervisors consistently refuse to allow a CNO PD staff attorney to pursue a concerted appellate strategy to stop the illegal bail issue by legal means.

l. In another instance occurring in early 2025, after a former client of the PD’s office hired private counsel to pursue withdrawing a previous plea, CNO PD Supervisor Mr. Timothy Beebe violated the remaining fiduciary duty owed to the former client by advising the CNO Tribal Prosecutor that he should allow the plea withdrawal, and suggested refiling separate counts against the defendant (to increase her maximum incarceration period). At minimum, such behavior is unethical behavior acting in favor

of tribal interests over those of those to whom a duty was owed, which harmed the CNO defendant.

m. Lastly, (although many more examples of actual misconduct exist) the Public Defender's Office for the CNO frequently violates its duty to incompetent clients in order to save the CNO the expense of rehabilitation contrary to law. Specifically, after a short, abbreviated effort (conducted by CNO's own internal staff) when competency is not achieved, defendants are most often left languishing in a county jail with no trial forthcoming and no treatment. Specifically, Mr. Blayne Allsup assigns these cases himself to cover up the violation of law and the PD's complicity in not seeking treatment for its incompetent prisoners. *Briggs v. Slavonic*, 4:23-cv-00081, (N.D. Okla.) (concerning the Oklahoma's failure to provide timely competency restoration services to individuals found incompetent to stand trial. The case resulted in a settlement that mandates the state to reduce wait times for treatment, implement in-jail restoration programs, increase forensic beds, and improve training for professionals. The settlement also included a consent decree with a five-year term and an independent panel to monitor the state's compliance.).

12. The conduct of the CNO as alleged here violates, not only its own statutory provisions governing the PD's office, but also the Indian Civil Rights Act and the Oklahoma Rules of Ethics governing attorneys. As the only remedy here outside this court would be for the very party violating the rights of each defendant in the Choctaw Court System to file a motion disqualifying itself from further representation, it is plain to see that the tribal court system cannot provide an adequate remedy and that this court provides the correct forum to determine the issues as set forth herein.

CLAIMS FOR RELIEF

**COUNT ONE
CONSTITUTIONAL CLAIM**

13. Petitioners allege and incorporate by reference paragraphs 1. through 12. above.

14. Petitioners' detention and lack of impartial representation violate Petitioners' right to substantive and procedural due process guaranteed by the Fifth Amendment to the United States Constitution, and the Choctaw Nation Constitution.

**COUNT TWO
STATUTORY CLAIM**

15. Petitioners allege and incorporate by reference paragraphs 1. through 14. above.

16. Petitioners' continued detention violates the Choctaw Nation Tribal Code, as well as the United States Constitution and the Choctaw Nation Constitution.

COUNT THREE

17. Petitioners allege and incorporate by reference paragraphs 1. through 16. above.

18. If Petitioners prevail, Petitioners request attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412.

PRAYER FOR RELIEF

WHEREFORE, the Petitioners first pray that this Court enter an immediate Order preventing the CNO and the Choctaw County Sheriff/Jail from excluding attorneys from discussing legal grievances related to this matter with CNO tribal inmates being housed within the Choctaw Nation. Further, Petitioners pray that this honorable Court immediately order and injunction against the CNO PD's Office, barring it from representing all current CNO defendants in Tribal Court and requiring the CNO to hire and/or provide independent contracting attorneys as counsel to represent current CNO employees as necessary, as the attorney/client duties have been

irreparably damaged by the CNO's actions and the current CNO PD Office structure and acting supervisors compromise the integrity and impartiality of the CNO Judicial System. Further, that this Court order that the ban on representation of clients by the CNO PD's Office continue until such time as the CNO can make a specific showing to this Court that it has removed the CNO PD's Office from its supervision and control, allowing the CNO PD's Office to act independently of all CNO political pressure and to be supervised only by the Ethics Commission, as set forth in its own laws. That the CNO PD Supervisors (Mr. Blayne Allsup and Mr. Timothy Beebe) should be removed from the CNO Public Defender's Office and should be prohibited from defending further CNO defendants due to their ongoing systemic, habitual, and flagrant violation of CNO defendant's rights within the Choctaw Nation Judicial System.

The ban imposed by this Court should continue for a period of no less than eighteen (18) months, whereupon the Respondent should show cause to this Court that it has (1.) implemented an organizational structure such that the CNO PD Office is overseen by an impartial and independent body such as the Ethics Commission, as mandated by CNO law, (2.) implemented a proper functioning and staffed CNO PD Office where CNO PD attorneys are assigned to no more than 75 cases at a time, (2.) implemented a system where CNO PD attorneys are given adequate time and resources to visit incarcerated CNO defendants no less than once per month, (3.) provided the CNO PD Office with enough resources that it has available appellate and research attorneys that can file appropriate motions and appeals, including but not limited to, the systemic issues regarding incompetent CNO defendants, potential bias of the CNO court system, and the current CNO bail system that is punitive and (in effect) used by the CNO Tribal Prosecutor's Office to coerce settlement after lengthy incarceration, and (4.) implemented and provided adequate policies

and protections to CNO PD staff, ensuring that they will not be threatened, coerced, or retaliated against for zealously advocating for CNO defendants during the course of their employment.

Additionally, Petitioners request that the plan imposed by this Court should ensure CNO funding of its judicial system that will properly compensate attorneys, with benefits, so that a competent staff can be hired, that an appropriate number of support staff including paralegals, legal secretaries, and investigators should be hired at competitive salaries with competitive benefits; that the PD's office should be provided with ample building space or funds to purchase building space separate and apart from CNO property in order to maintain confidentiality and independence from any CNO political influence; that the CNO PD Office should be structured such that CNO PD staff should at all times remain free from coercion or duress and threat of their jobs from the CNO as a result of the performance of their duties, particularly in performing a position that requires assertions to be made against the CNO.

Finally, Petitioners should be awarded compensation representing actual damages suffered as a result of the violations of law and duties owed to them in an amount exceeding the sum of \$75,000, along with all costs of this action, attorney's fees and to any other relief to which they may be entitled whether at equity or law. The Petitioners specifically represent to this Court that a motion to certify the class of plaintiffs that will be joined in this matter along with temporary injunctions preventing the CNO and jails from prohibiting contact with inmates and other class members at all times relevant hereto.

WHEREFORE, Petitioner prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Issue an Order directing Respondents to show cause why the writ should not be granted;

3. Issue an injunction against the Choctaw Nation of Oklahoma and the Choctaw County Jail from preventing attorneys from communicating and visiting with CNO tribal inmates regarding the instant matter, who are being housed within the Choctaw Nation and who may wish to join the instant matter as potential Plaintiffs;
4. Issue an injunction against the CNO PD's Office, barring it from representing all current CNO defendants in Tribal Court and requiring the CNO to hire and/or provide independent contracting attorneys as counsel to represent current CNO employees as necessary, until such time that the CNO is able to show that it has implemented an organizational structure and such necessary policies and procedures to ensure impartiality and independence of the CNO PD's Office, with oversight by the Ethics Commission or other independent body, as well as order the removal of CNO PD Supervisors Mr. Blayne Allsup and Mr. Timothy Beebe, who have participated and furthered ongoing infringements of CNO defendants' rights, and threatened and forced CNO PD staff to act against the interests of CNO defendants whom they represent.
5. Order the CNO to create procedures and policies which provide adequate resources for the CNO PD's Office to provide adequate and impartial representation of CNO criminal defendants and also protect CNO PD employees from harassment and coercion in performing the duties of a public defender.
6. Award Petitioners reasonable costs and attorney's fees; and,
7. Grant any other relief which this Court deems just and proper.

Respectfully Submitted,

/s/ Dale Ellis

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