

# Understanding tribal legal systems increasingly important

By [Hilary Hudson Clifton](#)

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The Cherokee Nation Supreme Court recently ruled that the words “by blood” must be removed from the tribe’s constitution – a decision intended to afford full citizenship rights to descendants of individuals formerly enslaved by members of the tribe, known as Freedmen. The opinion is one of many recent examples demonstrating how Oklahoma’s intricate and often ugly history has led to the unique cultural and legal landscape in the state today. Practitioners need to be aware of both the history and trends to successfully guide clients.

Of course, the most notable piece of news from Indian Country in Oklahoma over the past year has been the U.S. Supreme Court decision in *McGirt v. Oklahoma*, which ruled that a large portion of eastern Oklahoma remains a reservation for the Creek Nation because it was never disestablished by Congress.

While *McGirt*'s implications are beyond the scope of this article, the Cherokee Nation's recent citizenship opinion highlights an equally interesting facet of Oklahoma's legal environment: Autonomous tribal court systems operate within the state, which gives rise to numerous jurisdictional issues. One likely effect of *McGirt* is that tribes will take an increasingly prominent role in negotiating and even regulating commercial activities across larger areas in Oklahoma. Those doing business with tribal nations may be asked to consent to tribal jurisdiction in certain circumstances. Accordingly, having at least a baseline understanding of tribal court systems, procedure, and bar requirements is becoming increasingly important.

In 1979, there were four Courts of Indian Offenses ("CFR Courts") operated by the U.S. Department of the Interior Bureau of Indian Affairs. These courts hear matters over which tribes that have not established court systems have jurisdiction. As tribes established their own justice systems, the CFR courts have been deactivated. Today, of Oklahoma's 39 federally recognized tribes, 22 currently have their own judicial systems, so only two CFR Courts serving 13 tribes currently exist. The Southern Plains Region CFR court hears matters on behalf of the Fort Sill Apache Tribe, the Kiowa Indian Tribe, and the Caddo Nation, among others, and the Eastern Oklahoma Region CFR Court hears matters on behalf of five tribes, including the Eastern Shawnee Tribe and the Ottawa Tribe. The history of the CFR courts in Oklahoma illustrates a distinct trend toward tribal self-governance, one that will continue to shape how Oklahoma residents, Native and non-Native, engage with the multiple justice systems operating in the state.

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