

DEPARTMENT OF JUSTICE ACT

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GENERAL PROVISIONS

Section 1 Short Title

This Public Law may be cited as the “Department of Justice Act.”

Section 2 Governmental and Legislative Authority

- A. The Cheyenne and Arapaho Tribes has the inherent sovereign power to determine its form of government, administer its own lands, regulate persons and economic activities, protect persons and property, preserve law and order, and enact and enforce laws within the Indian country subject to the jurisdiction of the Cheyenne and Arapaho Tribes;
- B. The Cheyenne and Arapaho Tribes is a federally recognized tribe with a constitution approved by the Secretary of the Interior;
- C. The Department of Justice is created and established as an executive department and public agency of the government of the Cheyenne and Arapaho Tribes in accordance with Article VII of the Constitution of the Cheyenne and Arapaho Tribes.
- D. The Legislature of the Cheyenne and Arapaho Tribes, in accordance with the Constitution of the Cheyenne and Arapaho Tribes, in exercising the Tribes’ inherent sovereign and conferred powers of tribal self-government and economic self-sufficiency shall enact laws necessary and proper to protect and to promote the interests, general welfare, health, and safety of the Tribes;
- E. The Legislature of the Cheyenne and Arapaho Tribes is the duly designated representative body of the Cheyenne and Arapaho Tribes empowered to act and carry out the responsibilities pursuant to Article VI, Section 5, of the Constitution of the Cheyenne and Arapaho Tribes.

Section 3 Purpose and Mission

The purpose of the Department of Justice is to preserve and promote justice for all people; to ensure public safety and law and order within the territory and jurisdiction of the Cheyenne and Arapaho Tribes; and to promote and protect the full exercise of the inherent and conferred powers of tribal self-government for the people of the Cheyenne and Arapaho Tribes.

The mission of the Department of Justice is to enforce the laws and defend the interests of the Cheyenne and Arapaho Tribes according to law; to ensure public safety against threats foreign and domestic; to provide tribal leadership in preventing and controlling crime; to seek just punishment for those guilty of unlawful behaviors; and to ensure fair and impartial administration of justice for all persons.

Section 4 Establishment of the Department of Justice; Responsibilities

- A. There is hereby established within the Executive Branch of tribal government, a Department of Justice. It shall be the duty of all officers, attorneys, agents, and employees of the Department of Justice to serve the public by representing the interests of the Cheyenne and Arapaho Tribes by investigating and prosecuting violations of the tribal laws and to appear before such tribunals, forums, and agencies of the federal, tribal, state, and local governments as may be necessary to represent the interests of the Cheyenne and Arapaho Tribes.
- B. The Department of Justice, its officers, agents, and employees, have the primary responsibility to administer and enforce the criminal and juvenile laws, pursuant to the Constitution and laws of the Cheyenne and Arapaho Tribes. The Department of Justice shall have such powers, duties and responsibilities as ay be assigned under the Constitution, laws, regulations or executive orders of the Cheyenne and Arapaho Tribes.
- C. The Department of Justice shall be authorized and charged with the responsibility to develop and administer such policies and procedures as may be necessary to serve the needs of the Cheyenne and Arapaho Tribes.

Section 5 Standards for Attorneys of Department of Justice

- A. In all criminal investigations and prosecutions, in all juvenile investigation and litigation, and in all civil law enforcement investigations and proceedings, Department of Justice attorneys shall be subject to, and conform their conduct and activities to, the Cheyenne and Arapaho Tribes' rules and laws, and tribal court rules, governing attorneys to the same extent and in the same manner as other attorneys before the Courts of the Cheyenne and Arapaho Tribes.
- B. The Executive Director, with the assistance of the Attorney General, shall have the authority to prescribe and amend rules of the Department of Justice to assure compliance with this section.
- C. The Executive Director, with the assistance of the Attorney General, shall develop and prescribe standards of investigation and prosecution for attorneys of the Department of Justice.

Section 6 Rulemaking Authority

The Department of Justice shall be authorized and charged with the responsibility to promulgate and enforce such rules and regulations as may be necessary to administer its authority, duties, and responsibilities. Such rules and regulations shall be effective upon being filed in the Office of Records Management, with the Department of Administration and with the Court Clerk of the Cheyenne and Arapaho Tribes.

Section 7 Executive Director Appointment; Executive Director Vacancy

- A. The Department of Justice, and its officers, agents, and employees, shall be under the supervision and authority of the Executive Director of the Department of Justice. The Executive Director of the Department of Justice shall have all of the authority, duties, and responsibilities as provided by law and shall serve as an officer of the courts of the Cheyenne and Arapaho Tribes.
- B. The Governor shall have the power to nominate the Executive Director of the Department of Justice subject to confirmation by the Legislature, provided that if no confirmation vote is taken by the Legislature within ninety (90) days of nomination, the nominee shall be deemed confirmed. The Governor of the Cheyenne and Arapaho Tribes shall serve as Executive Director of the Department of Justice until such position has been confirmed.
- C. Any vacancy in the office of the Executive Director of the Department of Justice shall be filled in the same manner as the original appointment is made.

Section 8 Powers and Duties of the Executive Director

- A. The Executive Director shall execute the lawful orders of the Courts of the Cheyenne and Arapaho Tribes.
- B. The Executive Director, as the chief law officer, is hereby vested with the power and is charged with the duty of observing, administering, and enforcing the provisions of this Act, and of all laws, rules and regulations, the administration and enforcement of which are now or hereafter vested in the Justice Department.
- C. The principal authority, duties, and responsibilities of the Executive Director are to:
 1. supervise and direct the administration and operation of the offices, divisions, and bureaus that comprise the Department of Justice;
 2. supervise Department programs, personnel, and finances, including planning, organizing and directing all programs and ensuring enforcement of and compliance with all laws, policies, and procedures.
 3. furnish recommendations, advice, and opinions, formal and informal, on criminal and juvenile matters to the Governor, the Legislature, and to executive departments and agencies;
 4. appear and represent or supervise the representation of the Cheyenne and Arapaho Tribes in criminal and juvenile proceedings in which the interests of the Tribes or of the people of the Tribes are at issue;
 5. coordinate the investigation and prosecution of all crimes with federal, tribal, state and local authorities;
 6. represent the Tribes in all child welfare custody proceedings in tribal and state courts;
 7. represent the Tribes in all juvenile delinquency proceedings in tribal court;
 8. appear and represent or supervise the representation of the Cheyenne and Arapaho Tribes in civil law enforcement investigations and proceedings;
 9. employ or appoint attorneys to advise or represent the Tribes in matters in which the Department of Justice is authorized to act;
 10. coordinate with tribal departments and other attorneys providing legal services to the Cheyenne and Arapaho Tribes;

11. provide advice and counsel, interpretation of law, research, analysis and representation in mediation and administrative hearings;
 12. provide training and orientation in specific laws and areas of law;
 13. develop annual work plan and budget for the Department of Justice;
 14. attend meetings, training and seminars in support of continuing legal education requirements;
 15. prepare and submit activity reports as required;
 16. attend meetings and consultations with department or program directors, elected tribal officials and other individuals associated with tribal, local, state or federal government or other entities as may be deemed necessary, beneficial, and appropriate for the interests of the Cheyenne and Arapaho Tribes;
 17. establish offices, divisions, and bureaus as may be necessary for the proper and orderly administration of the Department of Justice;
 18. enforce the criminal and juvenile laws and to conduct investigations;
 19. require the aid and assistance of law enforcement and child welfare officials and tribal agencies in performing Department responsibilities; and
 20. coordinate the Department's responsibilities to protect persons and property and to preserve law and order.
- D. The Executive Director may appoint any employee of the Department to serve as the personal representative of the Executive Director for the purpose of fulfilling any such duty or combination of duties.
- E. The Executive Director shall supervise the personnel, conduct training, and oversee activities of the Department and is hereby authorized to adopt and enforce such rules, regulations, policies and procedures as may be necessary to carry out the provisions of this Act and any other laws the enforcement and administration of which are vested in the Justice Department, including, but not limited to, establishing a Code of Ethics and a Code of Professional Conduct for the Department of Justice, and take necessary disciplinary or other adverse department employee actions.
- F. The Executive Director shall have management and oversight responsibility for all operations, programs and services, including, but not limited to, the deployment of personnel and equipment.
- G. The Executive Director and the Governor may adopt an official seal for the use of the Department.
- H. The Executive Director shall prescribe and provide suitable forms of applications and all other forms requisite or deemed necessary to carry out the provisions of this Act and any other laws the enforcement and administration of which are vested in the Department.
- I. The Executive Director may appoint, employ and commission Department officers.
1. Upon appointment, each officer shall be given a written commission, with a photo identification and badge, evidencing the officer's appointment and authority. The form of this commission shall be prescribed by the Executive Director.
 2. The commission of a Department officer may be suspended or revoked by the Executive Director for just cause. The commission of an officer no longer employed by the department, or which is revoked, shall be immediately relinquished to the Executive Director at the time of cessation of employment or revocation. When a commission is revoked or relinquished, the Department shall

immediately take possession of all officer insignia, badges, identification cards, equipment, and supplies issued to the officer.

- J. It shall be the duty and responsibility of the Executive Director to:
1. carry out the law enforcement and general administrative functions of the department;
 2. administer, implement, and enforce the laws, rules, regulations, policies and procedures in criminal, juvenile, and law-related matters;
 3. see that the orders of the Courts are properly carried out;
 4. keep informed as to the efficiency and conduct of the officers, agents, and employees in the discharge of their duties, and be responsible for the scheduling, conduct, and efficiency of the officers and employees of the Department, giving them such instruction and advice as may be necessary;
 5. subject the officers, agents, and employees of the Department to regular inspections, inform them of their duties, and keep a strict accounting of the equipment issued them in connection with their official duties;
 6. report to the Governor and the Speaker of the Legislature all violations of law or regulation and any misconduct of any member of the Justice Department, investigate all reports and charges of misconduct on the part of the officers and employees of the Department, and exercise such proper disciplinary measures as may be consistent with existing tribal personnel policies and regulations;
 7. have general charge over the affairs and activities of the Department and Divisions and to supervise all Departmental and Division personnel of lesser rank;
 8. perform all administrative duties and responsibilities, including but not limited to, budgeting, personnel, and program operations in accordance with the policies and procedures of the Department and the Cheyenne and Arapaho Tribes, subject to prior limitations or authorization of a budget and in accordance with tribal property procurement policies; and
 9. convene grand juries in such manner and for such purpose as provided by law.
- K. The Executive Director is authorized to write, accept, and administer grants, allotments, gifts, devises, bequests, appropriations and other monies and property offered or given to the Department, or any component or agency thereof, by any agency of the federal or state government or any corporation or individual for the use of the Department, provided that all such property shall be held in the name of the Cheyenne and Arapaho Tribes for assignment and use by the Department.
- L. The appearance of the Department of Justice, or its officers, agents, and employees, in any matter, proceeding or action in any court or before any commission, board or officer, shall not be construed to waive the immunity of the Cheyenne and Arapaho Tribes from being sued.
- M. The Executive Director, or the Attorney General, may from time to time make such provisions as may be considered appropriate authorizing the performance by any other officer, employee, or agent of the Department of Justice of any function of the Executive Director or Attorney General.

CHAPTER ONE: OFFICE OF THE ATTORNEY GENERAL

Section 101 Establishment of the Office of the Attorney General

There is hereby established, within the Department of Justice, the Office of the Attorney General. The activities of the Office of Attorney General shall be directed by the Attorney General who shall be under the immediate supervision of the Executive Director of the Department of Justice.

Section 102 Appointment of Attorney General

The Executive Director shall have the power to hire, appoint, employ, or contract for the services of, the Attorney General.

Section 103 Attorney General; Qualifications

- A. The Executive Director of the Department of Justice shall appoint, designate, hire, or employ an Attorney General, who shall serve as the Department of Justice program administrator. The Attorney General may serve as the Deputy Director of the Department of Justice.
- B. The Attorney General may serve as the Executive Director of the Department of Justice.
- C. The Attorney General must have successfully completed a full course of study in a school of law accredited by the American Bar Association and possess a professional law degree (Juris Doctorate).
- D. The Attorney General must be licensed to practice law in Oklahoma and must be a member in good standing of the Oklahoma Bar Association.
- E. The Attorney General must be a member in good standing of the Cheyenne and Arapaho Bar, or must become such within thirty (30) days of being named Attorney General for the Cheyenne and Arapaho Tribes.
- F. The Attorney General shall be learned in the law and shall demonstrate knowledge or experience in Indian law, tribal jurisdiction, criminal law and procedure, and juvenile law and procedure.

Section 104 Powers and Duties of Attorney General

- A. The Attorney General shall represent the Cheyenne and Arapaho Tribes in the courts of the Cheyenne and Arapaho Tribes in criminal and juvenile actions and proceedings according to the laws of the Tribes.
- B. The Attorney General shall represent the interests of the Cheyenne and Arapaho Tribes in state courts, as needed, pursuant to the federal and state Indian Child Welfare Act.

- C. The Attorney General shall have the authority to conduct investigations, and it shall be the duty of the Department of Law Enforcement to assist in such investigations and to assemble evidence for the Attorney General in any cases to be tried or in any matter to be investigated.
- D. When the Attorney General considers it in the interests of the Cheyenne and Arapaho Tribes, he may personally conduct and argue any case in a court of the Cheyenne and Arapaho Tribes in which the Cheyenne and Arapaho Tribes is interested, or he may direct any officer of the Department of Justice to do so.
- E. The Attorney General shall be the immediate supervisor of, and provide advice and guidance to, the staff of the Office of the Attorney General, if any.
- F. The Attorney General shall have the power to appoint, hire, and employ an Assistant Attorney General and other support staff, as deemed necessary for the efficient administration of the Office of the Attorney General.
- G. The Attorney General shall have the power to develop and administer such policies and procedures for the Office of Attorney General as may be necessary to serve the needs of the Cheyenne and Arapaho Tribes in the administration of justice.
- H. The Attorney General shall have the power to exercise the authority, duties and responsibilities of the Executive Director unless such power or authority is required by law to be exercised by the Executive Director personally or has been specifically delegated to another Department official.

Section 105 Attorney General Responsibilities

It shall be the responsibility of the Attorney General to:

1. represent the interests of the Cheyenne and Arapaho Tribes in any criminal case or proceeding before the courts of the Cheyenne and Arapaho Tribes according to the laws of the Tribes;
2. represent the interests of the Cheyenne and Arapaho Tribes in any juvenile cause or proceeding before the courts of the Cheyenne and Arapaho Tribes according to the laws of the Tribes;
3. represent the interests of the Cheyenne and Arapaho Tribes in state courts, as needed, pursuant to the federal and state Indian Child Welfare Act;
4. gather, analyze, and present evidence in cases;
5. review pertinent decisions, policies, regulations, and other legal matters pertaining to cases;
6. provide legal advice and assistance and conduct legal or prosecutorial activities of the Cheyenne and Arapaho Tribes;
7. provide advice and guidance to the staff of the Department of Justice;
8. attend meetings and consultations with department or program directors, elected tribal officials and other individuals associated with tribal, local, state or federal government or other entities as may be deemed necessary, beneficial, and appropriate for the interests of the Cheyenne and Arapaho Tribes;
9. stay abreast of legislation, opinions, regulations, court decisions and other authoritative legal opinions necessary for goal and objective accomplishment;

10. plan, direct, and supervise staff and coordinate the work within the Office of the Attorney General;
11. exercise the power and authority, except as assigned or reserved to the Executive Director, to take final action in matters pertaining to the appointment of special attorneys and special assistants to the Attorney General;
12. provide and conduct training for tribal officials and employees regarding their role in handling criminal or juvenile matters, as requested or as deemed necessary;
13. coordinate with the Tribal Police Department, Indian Child Welfare and other tribal, local, state, and federal agencies and officials for the proper investigation and handling of criminal or juvenile matters affecting the interests of the Cheyenne and Arapaho Tribes;
14. develop strategies, interview witnesses and handle other details in preparation for presentation or trial;
15. draft pleadings, legal opinions, briefs, and other legal documents;
16. advise and assist the Executive Director in formulating and implementing the Department policies and programs and in providing overall supervision and direction to all organizational units of the Department;
17. develop, implement, and maintain guidelines and procedures for Office of Attorney General operations;
18. establish and formulate goals and objectives for the Office of Attorney General and for each staff member within the office;
19. develop and implement long- and short-term plans within area of responsibility;
20. provide supervision and direction to subordinate staff in matters of office operations;
21. coordinate, assign, and delegate activities and functions to the appropriate staff members; and
22. communicate and report Office of Attorney General operational information and activities to the Executive Director of the Department of Justice and to the Governor, as appropriate..

Section 106 Assistant Attorney General; Qualifications; Duties

- A. The Attorney General may appoint, hire, or otherwise employ, attorneys to be Assistant Attorneys General.
- B. The Assistant Attorneys General shall be under the direct supervision of the Attorney General and shall be subordinate to the Attorney General.
- C. Each Assistant Attorney General shall be an attorney licensed to practice law in Oklahoma, be a member in good standing of the Oklahoma Bar Association, and apply for and obtain membership in the Cheyenne and Arapaho Bar within thirty (30) days of accepting the position as Assistant Attorney General.
- D. Each Assistant Attorney General shall assist the Attorney General in the performance of his duties and responsibilities and perform other Office of Attorney General tasks as assigned by the Attorney General.

- E. Each Assistant Attorney General may appear before the courts of the Cheyenne and Arapaho Tribes in criminal and juvenile proceedings and before state courts in juvenile proceedings subject to the state and federal Indian Child Welfare Acts in the same manner as the Attorney General.
- F. Each Assistant Attorney General shall advise and assist the Attorney General in the performance of Department of Justice duties and responsibilities, and formulation and implementation of Department of Justice policies and programs

Section 107 Legal Assistants and Clerical Support

- A. The Attorney General may appoint, hire, or otherwise employ, legal assistants and other clerical support.
- B. It shall be the responsibility of legal assistants or clerical support to:
 - 1. perform administrative supports tasks;
 - 2. conduct legal research;
 - 3. prepare pleadings, reports, letters and memoranda;
 - 4. provide clerical and communications support for the Department of Justice personnel; and
 - 5. perform related and necessary tasks as assigned.

CHAPTER TWO: MISCELLANEOUS PROVISIONS

Section 201 No Authority to Direct Contrary to Law

No tribal official shall have any power, right, or authority to command, order, or direct any officer, agent, or employee of the Department of Justice to perform any duty or service contrary to the provisions of this Act or any other applicable laws, or which is not associated with the administration of law and order, or which interferes with the purposes of this Act.

Section 202 Identification to Be Shown Upon Request

Every member of the Justice Department shall carry their commission (or other identification in the case of non-commissioned employees) and badge with them at all times when on active duty or off duty, and shall, as soon as reasonably practical under the circumstances, exhibit such commission or photo identification and give their name, title, and badge number upon request of any person.

Section 203 Immunity

No officer, agent, or employee of the Department of Justice, and no person acting at the request and direction of such member during an emergency or non-emergency situation, shall be held to answer for any personal civil or criminal liability for actions taken within the scope of the person's authority while in the discharge of the person's duties under the law.

Section 204 Severability

If any Chapter, section, clause, sentence, or provision of this Act, or its application to any person or circumstance, is held to be invalid, such holding shall not affect the validity of the remaining parts of this Act.