

Hooper FAQ

Q: What was the Hooper v. Tulsa case about and what does the ruling mean?

A: The U.S. Supreme Court, Congress and centuries of legal precedent recognize that U.S. states do not have legal jurisdiction to prosecute Indians on tribal land. In Hooper v. Tulsa, the city of Tulsa argued that the Curtis Act — an 1898 law concerning tribes in pre-statehood Oklahoma — grants the city criminal jurisdiction over Indians. The 10th U.S. Circuit Court of Appeals rejected these arguments.

Today, municipalities in the Cherokee Nation Reservation are still able to ticket or arrest Indians for crimes such as traffic violations committed on reservation land — however, their authority to do so comes from tribal-state cross-deputization agreements, not provisions of the Curtis Act.

Q: Are Native Americans being given special treatment on committing crimes?

A: Absolutely not. Native Americans have always been subject to stops by law enforcement and traffic fines. That has not changed. The U.S. Supreme Court's McGirt decision affirmed that Tribes are sovereign governments with jurisdiction over Indians who commit crimes on their reservations, including traffic citations.

All Native Americans who commit crimes are still subject to penalties for violating the law. Tribes are responsible for overseeing the charges against Indians in the Cherokee Nation District Court.

The Cherokee Nation has District Courts and thorough and enforceable criminal codes, which are nearly identical to those of the state of Oklahoma.

Q: Can tribal citizens drive 100 mph vs. the 65-mph speed limit?

A: No. The Cherokee Nation Motor Vehicle Title 47 code plainly requires drivers to operate their vehicles in a safe manner and in accordance with posted speed limits. As with Oklahoma law, there are fines that increase as the number of miles per hour over the posted speed limit increases. Tribal citizens committing speeding violations can expect to be pulled over by any of the 90 law enforcement agencies that have cross-deputization agreements in place with Cherokee Nation, which includes all cities and counties within the Cherokee Nation Reservation, as well as other federal and state agencies such as the Oklahoma Highway Patrol (OHP).

Q: Can police officers write tickets to tribal citizens?

A: Absolutely. Municipal police departments and OHP across the Cherokee Nation Reservation are cross-deputized with the Cherokee Nation and can ticket tribal citizens who commit crimes. The Cherokee Nation and the city of Tulsa have had a cross-deputization agreement since 2014 — well before the U.S. Supreme Court decided McGirt. There is no additional authority needed for municipal police to enforce the law. Any of the 90 law enforcement agencies that are cross-deputized with the Cherokee Nation can pull over a tribal citizen, issue a ticket, or make an arrest.

Q: If I'm a tribal citizen with a tribal car tag, can I run tolls?

A: No. Failure to pay tolls leads to fines. The Cherokee Nation has complied with the requirements of the motor vehicle tag compact that was recently extended by the Oklahoma legislature. Under that compact, the Cherokee Nation uploads all vehicle tag information into the Oklahoma Law

Enforcement Technology System (OLETS). Law enforcement have reported no challenges in accessing this information during traffic stops. Moreover, the Oklahoma Department of Public Safety (DPS) has unrestricted access to this data.

Q: If I'm a tribal citizen and I get stopped and given a ticket, how does that work? Should I tell the officer that I'm a tribal citizen? Where do I go to pay my fine?

A: It's important to cooperate with law enforcement any time you're stopped by police. Some police officers may ask if you're a citizen of a tribe, and some may not. If you're an Indian on the Cherokee Nation Reservation, inform the officer of that fact. If the ticketing agency has a MOA with the Cherokee Nation, the driver will receive a court date at the municipal court and will be able to pay their traffic ticket there. If the city or town does not have an MOA, the driver will receive a court date at the Cherokee Nation District Court and the driver may appear at their court date or pay their ticket before their court date by mail, phone, or in person in Tahlequah. If the officer writes a state ticket, simply take the ticket and provide the evidence you have of your Indian status to the city prosecutor or court. The case should be dismissed and sent to the Cherokee Nation for prosecution.

Q: What are Cherokee Nation municipality agreements?

A: In May 2020, the Council of the Cherokee Nation approved granting authority to enter into agreements, which are intended to ensure city municipalities do not lose funding sources after the U.S. Supreme Court's McGirt ruling and subsequent Hogner ruling. Cities with agreements retain the money from traffic fines and fees by Indians who are pulled over in their municipalities. To date, 25 cities have agreements in place and more cities continue to reach out with interest. For a list of cities with agreements, please visit: <https://attorneygeneral.cherokee.org/legal-status-of-the-cherokee-nation-reservation/>

Q: Before these agreements, did cities send all their tickets and ticket revenue to the Cherokee Nation, per the McGirt ruling?

A: The McGirt and subsequent Hogner decision recognized the existence of the Cherokee Nation Reservation. Most municipalities immediately began sending tickets written to Indians to the Cherokee Nation District Court. Only a few cities, including the city of Tulsa, argued that provisions of an 1898 pre-statehood law known as the Curtis Act granted it the power to criminally prosecute Indians living on reservations. All cities, including the city of Tulsa, have continuously sent at least some cases to the Cherokee Nation in the years since McGirt was decided. And many cities have sent every case involving an Indian to the Nation for prosecution.

Q: How much money do the cities with agreements retain from traffic fines?

A: The Cherokee Nation retains \$30 from all traffic fines, an administrative fee similar to what the state of Oklahoma collects for Council on Law Enforcement Education and Training (CLEET). All remaining fees are retained by the municipality.

Q: Will cities go bankrupt from collecting fewer fines?

A: The Cherokee Nation recognized the potential impact of a drop-in fines levied by municipalities, and we addressed this early on with municipal agreements that would allow cities to retain money from fines in a similar manner as they do with the state of Oklahoma. The Cherokee Nation values its

partnerships with our communities and law enforcement, and we believe in upholding public safety. Cities and towns that entered into these agreements can retain nearly all the revenue raised from traffic fines. Additionally, Cherokee Nation routinely provides monetary funds and equipment to local law enforcement agencies and recently opened a public safety grant program providing up to \$50,000 for every law enforcement agency and other emergency services agency in the Cherokee Nation Reservation.

Q: If Tulsa police are cross-deputized and are still able to arrest tribal citizens, why is Mayor Bynum appealing the decision in Hooper?

A: We encourage the city of Tulsa NOT to appeal the decision in Hooper and to work cooperatively with the tribe on a municipal agreement that will save Tulsa money — not cost taxpayers more legal fees — as dozens of cities within the Cherokee Nation Reservation have already done.

We encourage all state officials and cities to join in cooperative efforts to promote public safety on behalf of all Oklahomans.