

Cherokee Nation Code Annotated

Title 51: Officers and Employees

Chapter 7: Marshal Service

§ 405. Duties and authority of the Office of the Marshal

Cite as: 51 CNCA § 405

A. Pursuant to Article VII, Section 14 of the Cherokee Nation Constitution, the "duties and authority of the Marshal shall be prescribed by law." That section also empowers the Marshal to "deputize such officers as necessary to carry out the law enforcement needs of the Cherokee Nation."

B. In addition to the duties prescribed by the Constitution, the duties and authority of the Office of the Marshal shall be to:

1. Plan, develop, implement and manage an overall law enforcement strategy for the effective enforcement of Cherokee Nation law. Such additional duties shall include, but not be exclusive to, budgetary fiscal management; the creation of job duties, job requirements, and training requirements of employees; the hiring, firing and disciplining of employees of the Office of the Marshal to effectively preserve and protect the peace, the people and the property of Cherokee Nation within the Cherokee Nation Reservation, provided:

a. Consistent with the constitutional authority provided the Principal Chief, the "overall law enforcement strategy", as referenced in subsection (B)(l), shall be subject to approval of the Principal Chief and shall be summarized at least once per fiscal year within ninety (90) days of the commencement of the fiscal year, in a written report to the Principal Chief and which, upon his or her approval, shall be transmitted by the Principal Chief to the Speaker of the Council of the Cherokee Nation.

b. "Budgetary fiscal management", as referenced in subsection (B)(l) shall be consistent with all laws, policies, processes, and procedures required generally of Executive Branch departments as prescribed by the Principal Chief or his or her designee, including the Treasurer of the Cherokee Nation.

c. Any authority granted as it relates to "employees", as referenced in subsection (B)(l), including hiring, firing, and/or changes to an employee's terms and conditions of employment shall be subject to the policies, processes, and procedures as prescribed by the Principal Chief through Cherokee Nation Human Resources policies and procedures.

d. Nothing contained herein shall be construed to increase or diminish the constitutional authority granted to the Principal Chief or the Office of the Marshal, as a constitutional officer within the Executive Branch.

2. Deputize officers as needed to carry out the law enforcement activities of Cherokee Nation and authorize those deputies to carry firearms, wear prescribed uniforms, badges and credentials, execute or serve warrants, summons and other orders relating to a crime committed, investigate criminal offenses using all applicable laws and regulations, make an arrest with a warrant or without a warrant if the offense is committed in the deputy's presence or the offense is a felony and the deputy has reasonable grounds to believe the person being arrested has committed the felony and perform any other law enforcement-related duty;

3. Attend upon the courts, obey the court's orders, to serve all summons and other processes which may be placed in his hands according to the tenor of the mandates therein contained, and to take all necessary and lawful measures in the execution of the judgment of the courts committed to him to execute and to arrest and cause to be tried, all persons who may be charged with criminal offenses and to provide for bailiff services and protection of the court;

4. Promulgate such rules, regulations, policies and procedures as the Marshal deems necessary to fulfill the duties of the Office and the rules of conduct of employees of the Marshal Service, which may include rules for conduct and corresponding disciplinary actions for breaches of conduct which are to be reviewed annually and kept compliant with new enforcement codes and case laws;

5. Recommend to the Principal Chief a law enforcement strategy, requirements, standards, qualifications, compensation and budget that is compliant to Cherokee Nation laws and regulations and which meet or exceed prevailing standards for law enforcement professionals and law enforcement agency peers, including but not limited to that set forth under federal law, regulation and policy for law enforcement officers for the Bureau of Indian Affairs. When an arrest shall be made of a person charged with a crime, the Marshal or Deputy shall notify the Judge having jurisdiction of the case of such arrest without delay; provided, that any accused person shall be allowed to give bail for his appearance at court at the time set for his trial by giving bond to the Court, the amount to be fixed by the Judge presiding in that case.

6. Conduct, in coordination with the Cherokee Nation Human Resources Department and the Principal Chief and consistent with paragraph 5, above, market study report with respect to compensation for Marshal Service staff on no less than a bi-annual basis, with said inaugural report due no later than December 31, 2025, which shall include in said

inaugural report a "Special Addendum on Marshal Service Retirement," examining present and potential future retirement benefits for Marshal Service Staff that meets the purposes and policies of this Act, including paragraph 5, above.

7. Recommend to the Principal Chief that the Nation enter written agreements, renegotiate agreements, or withdraw from agreements with other law enforcement agencies and jurisdictions as the Marshal deems necessary to extend police protection for Cherokee Nation property and citizens across jurisdictional lines and shall perform all functions and duties as needed;

8. Board and care for prisoners of Cherokee Nation and negotiate and enter contracts therefor;

9. Coordinate investigations with the Cherokee Nation Office of Attorney General and other applicable federal and state prosecuting attorney's office to provide for effective enforcement of applicable laws;

10. Preserve the peace, protect the property of Cherokee Nation and the property of those living within the Nation's jurisdiction and protect the people within the Cherokee Nation Reservation;

11. Maintain responsibility for and have charge over all Cherokee Nation police functions within the Cherokee Nation Reservation to prevent and suppress all affrays, breaches of the peace, riots, and insurrections which may come to the knowledge of the Marshal;

12. Designate an individual to act as Marshal in the absence of the Marshal so long as said designation does not exceed one month, subject to the authority of the Principal Chief to designate an Acting Marshal pursuant to this Act;

13. Keep a complete office file of all cases and investigations handled by the Marshal Service on behalf of the Cherokee Nation;

14. Oversee the Security Department of the Executive Branch of the Nation, not to include those security departments operated by the Nation's government-owned companies;

15. Establish, oversee, regulate and license registered security officers and promulgate such rules, regulations and policies as necessary;

16. Perform all other duties and functions which may be prescribed by Cherokee law, rule or regulation.

Historical Data

LA 17–07, eff. April 23, 2007. Amended LA 35–12, eff. October 19, 2012. Amended LA 42–24, eff. November 12, 2024.