




**“PROVIDING SAFE, SECURE
AND FAIR TRIBAL JUSTICE
FORUMS FOR VICTIMS OF
CRIME”**


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Courtroom Security

- Victims of crime deserve a court environment that is fair, and as free as possible from coercion, overt or implicit threat and potential violence
- Fear can prevent the search for the truth and subvert the ultimate quest for justice.



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- Tribal courts have a duty of fairness to all parties who participate in the tribal justice system which requires that the court be free of factors that undermine the delivery of equal justice



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THREE AREAS OF REVIEW

- The Physical Courtroom
- Court Rules and Decorum
- Procedural and Penal Codes




The Physical Courtroom

- Traditional vs. Modern Court Models
 - Healing/Restorative
 - Calming Physical Environment
 - Vulnerable
 - Control = Respect
 - Adversarial
 - Intense Physical Environment
 - Physical Security
 - Control = Physical Barriers/Show of Force





Comparison

Western Model	Traditional Model
Adversarial	Non-confrontational
Physical Barriers	No Barriers
Ceremonial Controls	Equality
Symbols of Authority	Respect
Show of Force	Cultural/Spiritual
Penal	Symbols
	Restorative

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Example – Physical Barriers



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Example-Traditional Court



 **Example – Traditional Court**



 **Example – Tribal Courtroom**



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Example – State Courtroom



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Example – Tribal Courtroom






Court Security Considerations

- Provide secure entrance and waiting room
- Provide an security escort if warranted
- The Court can close the proceedings
- The Court can exclude a Party or other persons
- The Court can take testimony in chambers and separate the parties
- The Court can impose sanctions for contempt



COURT RULES AND DECORUM

- Restrict to podium
- Plaintiff closest to trier of fact
- Exempt from the rule of sequestration
- Allow support personnel in the courtroom



EXAMPLE – COURT RULES


- The lectern is to be used when examining witnesses, making argument or examining prospective jurors, unless the hearing being held has been declared an informal hearing.
- Counsel for the Plaintiff or Prosecution Attorney shall occupy the table nearest the jury box and counsel for the Defendant shall occupy the table furthest from the jury box

Rules of the Muscogee District Court




Tribal Codes

- The Rule? Waiver for Victims
- Victim Support allowed in the Courtroom
- Penal Sanctions as Witness Protection
- Alternate forms of examination
 - Criminal/Civil Right of Confrontation




ICRA 1968

- 25 USC, Section 1302(a)
 - No Indian tribe in exercising powers of self-government shall –
 - (6) deny to any person in a criminal proceeding the right . . . to be confronted with the witnesses against him . . .




Testimony-Alternate Means

- Title 12 O.S., Section 2611.7 . . . In a Criminal Proceeding . .
- (A)(2) The child may testify other than face-to-face with the defendant if the judge or presiding officer finds by clear and convincing evidence that the child would suffer serious emotional trauma that would substantially impair the child's ability to communicate with the finder of fact . . .




Testimony-Alternative Means

- In a criminal proceeding, the child may have an advocate appointed by the court to monitor the potential for emotional trauma.



Testimony-Alternative Means

- Title 12 O.S., Section 2611.7
- (C) In a noncriminal proceeding, the judge or presiding officer may allow a child witness to testify by an alternative method if the judge or presiding officer finds by a preponderance of the evidence that allowing the child to testify by an alternative method is necessary to serve the best interests of the child or enable the child to communicate with the finder of fact.



EXAMPLE OF TRIBAL CODE –WITNESS THREAT

- Section 208.7. Assault or Battery or Assault and Battery upon Tribal Official, /Court Witness or Juror
Every person who commits any assault upon any Tribal Officer including the Business Committee, Election Committee, Grievance Committee, officer of a tribal or appellate court including but not limited to judges, bailiffs, court reporters, court clerks or deputy court clerks, or upon any court witness or juror, because of said person's service in such capacity or within six (6) months of said person's service in such capacity, shall be guilty of a crime punishable by imprisonment in jail for not more than one (1) year, by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such imprisonment ad fine.
Sac and Fox Code



Culture, Respect, Security

- Supportive Cultural Statements Supporting Legislation and Court Rules
 - Criminal Codes
 - Elder Codes
 - Domestic Violence Codes

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Taking Charge
artwork by Dana Tiger

Training & Technical Assistance
We are your first stop for all your training and technical assistance! We specialize in Indian Country services and issues.

Resources for Victims
We have the most current information and resources available for service providers and victims in Indian Country.

Resources for Capacity Building
We have a comprehensive list of resources to help organizations serving Indian Country to improve their capacity and sustainability.

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Thank you for your time and attention!

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