

OFFICE OF INTERNAL AUDIT AND ETHICS
Ethics Investigations Report
February 23, 2022

Case Numbers: 21-11-0003, 21-11-0004, 21-11-0005, 21-11-0006, 21-11-0007

Date Filed: November 9, 2021

Complainants: [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED] and [REDACTED]

Respondent: Teresa McCoy

I. ALLEGATION

The above-named respondent, Ms. McCoy a Tribal Council Representative for the Big Cove Community, violated Cherokee Code Section 117.45 Standards of Ethical Conduct when she exhibited unprofessional conduct during a verbal altercation with the Pageant Board.

II. RELEVANT CHEROKEE CODE SECTIONS

Section 117-45.3(d) Code of Ethics

“(1) Tribal officials of the EBCI shall treat service to the EBCI as a sacred public trust with fiduciary responsibility to the EBCI, which requires upholding and acting in accordance with the laws of the EBCI and engaging in the proper governance of the EBCI in a manner, which is placed above personal and private gain.

“(3) Tribal officials of the EBCI shall protect and conserve Tribal resources and ensure the appropriate use of Tribal resources falling under the scope of the office of the Tribal official.

“(4) Tribal officials of the EBCI shall provide every enrolled member a time to be heard on a Tribal issue that falls under the scope of the Tribal official’s duties. This paragraph shall not supersede C.C. Section 117-16.

“(5) Tribal officials of the EBCI shall not use the prestige of the office to advance personal interest of others or themselves.

“(6) Tribal officials of the EBCI shall disclose instances when they believe there has been fraud, waste, abuse, corruption, or violations of this chapter to the Office of Internal Audit and Ethics.

“(7) Tribal officials of the EBCI shall respect and honor the customs and traditions of the EBCI.

“(10) Tribal officials of the EBCI shall not act individually, jointly or through another, threaten, intimidate, or discipline any person as reprisal for any legitimate action taken by the person.

“(13) No Tribal official of the EBCI shall take any official action or participate in a decision with respect to a matter if it will have a direct and predictable effect on the financial interest, personal interest, or present a conflict of interest for the official or employee or his or her immediate family member. Any official in such situation shall recuse himself or herself from participating in a discussion and/or vote on the matter giving rise to such conflict.

“(15) Tribal officials shall maintain or enhance the honesty and integrity of their respective offices; and safeguard the reputation of the EBCI as a whole.

III. INVESTIGATION PROCESS

The Office of Internal Audit and Ethics received five complaints regarding this incident. The initial complaint was received on November 9, 2021. The complainants each provided a statement of the events that occurred at the Council House on the morning of November 3, 2021.

The complaints were determined to be complete and within the jurisdiction of the Office of Internal Audit and Ethics. A copy of the complaints was sent to the respondent Ms. McCoy on November 15, 2021. A response was received from Ms. McCoy on December 13, 2021.

The Ethics Review Committee reviewed the complaints and response in a special called meeting, on January 10, 2022. The Committee approved for Ethics staff to proceed with an investigation to include complaints 21-11-0003:0007. (See Resolution ERC 22-03)

Interviews were conducted. Witnesses [REDACTED] and [REDACTED] were interviewed on January 25, 2022. Complainants [REDACTED] and [REDACTED] were interviewed on January 25, 2022. Complainants [REDACTED], [REDACTED], [REDACTED] and [REDACTED] were interviewed on January 26, 2022. Witness [REDACTED] was interviewed on February 1, 2022. Respondent Big Cove Representative Teresa McCoy was interviewed on February 1, 2022. These interviews were conducted to obtain more information in understanding the events as stated in the complaints. The November 3, 2021, video footage obtained from the Council House surveillance cameras was reviewed on February 8, 2022, and a timeline was created.

IV. FINDINGS OF FACT

1. The respondent is a Tribal Official as defined in Cherokee Code Section 117-45.1(a).
2. The complainant(s) were present outside the Council House on the morning of November 3, 2021.
3. The complainant(s) and respondent engaged in a verbal altercation outside the Council House on the morning of November 3, 2021.

V. ANALYSIS

The five complaints (consolidated) allege that the respondent violated nine sections of Cherokee Code Section 117-45.3(d). An analysis of each of those sections is outlined below.

1. *It is alleged that the respondent failed to act in a manner that places the interest of the EBCI above their own or failed to comply with the laws of the EBCI. (Section 117-45.3(d)(1))*

Dismissed. There was not sufficient evidence to support this allegation.

2. *It is alleged that the respondent failed to protect, conserve, and/or ensure the appropriate use of Tribal resources. (Section 117-45.3(d)(3))*

Dismissed. There was not sufficient evidence to support this allegation.

3. *It is alleged that the respondent failed to provide an enrolled member a time to be heard on a Tribal issue that falls under the scope of the Tribal Officials duties. (Section 117-45.3(d)(4))*

Dismissed. There was not sufficient evidence to support this allegation.

4. *It is alleged that the respondent used the prestige of their office to advance personal interest of other or themselves. (Section 117-45.3(d)(5))*

Dismissed. There was not sufficient evidence to support this allegation.

5. *It is alleged that the respondent failed to disclose any fraud, waste, abuse, corruption, or violations of the Code of Ethics. (Section 117-45.3(d)(6))*

Dismissed. There was not sufficient evidence to support this allegation.

6. *It is alleged that the respondent failed to honor the customs and traditions of the EBCI. (Section 117-45.3(d)(7))*

Dismissed. There was not sufficient evidence to support this allegation.

7. *It is alleged that the respondent acted individually, jointly, or through another to threaten, intimidate, or discipline any person as reprisal for any legitimate action taken by the person. (Section 117-45.3(d)(10))*

Violation. There is sufficient evidence to substantiate that Ms. McCoy's actions on the morning of November 3, 2021, were threatening and intimidating.

Ms. McCoy's tone and demeanor were described as aggressive when addressing the Pageant Board. This was substantiated through interviews and a review of video

footage. This verbal altercation escalated to the point that three different bystanders asked others to intervene in an attempt to diffuse the situation. These individuals felt it could have escalated into a physical altercation. One witness even stated, “when attempting to break Ms. McCoy and the Pageant Board up they intentionally did not place their body in between the two parties because they feared they could be assaulted.”

8. *It is alleged that the respondent participated in a decision that had a direct and predictable effect on the financial interest, personal interest, or presented a conflict of interest for the official or their immediate family. (Section 117-45.3(d)(13))*

Dismissed. There was not sufficient evidence to support this allegation.

9. *It is alleged that the respondent failed to maintain or enhance the honesty and integrity of their respective offices; and safeguard the reputation of the EBCI as a whole. (Section 117-45.3(d)(15))*

Violation. There is sufficient evidence to substantiate that Ms. McCoy’s actions on November 3, 2021, failed to maintain the integrity of her respective office, and that her actions did not safeguard the reputation of the EBCI as a whole.

Three individuals were approached to intervene in an attempt to de-escalate the situation. The actions of these individuals indicate they believed this incident was outside of a normal disagreement and could escalate into a volatile situation. In viewing the video no one involved in the altercation attempted to back away during the confrontation. The only time anyone left was when there was outside intervention. As a representative of the EBCI, Ms. McCoy should always conduct herself in a professional manner. The behavior exhibited by Ms. McCoy during this verbal altercation did not maintain the integrity of a Tribal Council Representative and did not safeguard the reputation of the EBCI as a whole.

VI. CONCLUSION AND RECOMMENDATION

There is probable cause of a Code of Ethics violation of Sections 117-45.3(d)(10) and 117-45.3(d)(15) for the reasons outlined in this report. It is recommended that this report be sent to the Executive Office, Tribal Council, the Attorney General’s Office, and the Tribal Prosecutor for the purposes of imposing the appropriate penalty as provided in Cherokee Code Chapter 117, Article IV.

Report prepared and submitted by:

Jaohuna Parker
Case Manager/Lead Investigator

2/23/22
Date

VII. REVIEW BY ETHICS REVIEW COMMITTEE

- ☒ Affirm probable cause determination
 - ☒ Issue this report to complainants and respondent as final decision
 - ☐ Issue revised report to complainants and respondent as final decision
- ☐ Deny probable cause determination
 - ☐ Request further investigation prior to further decision by the committee
 - ☐ Request hearing prior to further decision by the committee
- ☐ Complaint dismissed by a majority vote of the Ethics Review Committee

I hereby certify that the above decision was approved by majority of voting members of the Ethics Review Committee.

Jaohuna Parker
Ethics Review Committee Chair

2/23/22
Date

VIII. FINAL DECISION BY AUDIT AND ETHICS COMMITTEE

- ☒ Affirm decision of the Ethics Review Committee as final
- ☐ Request further investigation prior to decision
- ☐ Overturn decision of the Ethics Review Committee in part as described below
- ☐ Overturn decision of the Ethics Review Committee and dismiss the complaint in its entirety
- ☐ Other as described below

I hereby certify that the above decision was approved by majority of voting members of the Audit and Ethics Committee.

Lori Lambert
Audit and Ethics Committee Chair

3/3/2022
Date