

Episode: *Author Interview: “McGirt v Oklahoma and What Clinicians Should Know About Present-Day Child Abuse and Legacies of Forced Migration”*

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TIM HOFF: Welcome to another episode of the *Author Interview* series from the *American Medical Association Journal of Ethics*. I'm your host, Tim Hoff. This series provides an alternative way to access the interesting and important work being done by Journal contributors each month. Joining me on this episode is Amy Hendrix-Dicken, the Senior Staff Research Assistant in the Department of Pediatrics at the Oklahoma University Tulsa School of Community Medicine. She's here to discuss her article, coauthored with Drs Sarah Passmore, Michael Baxter, and Lauren Conway, “McGirt v Oklahoma and What Clinicians Should Know About Present-Day Child Abuse and Legacies of Forced Migration,” in the February 2023 issue of the Journal, [Child Abuse and Neglect](#). Amy, thank you so much for being on the podcast today. [music fades]

DR AMY HENDRIX-DICKEN: Tim, thanks so much for having me.

HOFF: So, what's the main ethics point that you and your coauthors are making in this article?

HENDRIX: So, for this paper we reflected really on the 2020 SCOTUS decision related to the *McGirt v Oklahoma* case. And so, in this case, McGirt argued that the state of Oklahoma lacked the jurisdiction to convict him due to his status as a tribal citizen and because the crimes he committed took place on tribal land. And so, ultimately, SCOTUS sided with McGirt, and they basically cited that Congress had never disestablished reservations with regard to the Major Crimes Act. So, the Major Crimes Act basically gave the federal court system, not the state court system, which was the court system that originally convicted McGirt, jurisdiction over major felony crimes like child maltreatment perpetrated by Native Americans on reservations. While this decision kind of took place, there was really this just sudden seismic shift in workloads that no one was really prepared for at the federal, state, or tribal level. And so, our child abuse pediatricians were really kind of in the eye of that storm, so to speak, as they continued their work and their advocacy for children suspected of experiencing maltreatment.

And so, I think this particular case kind of reflects a lot of what we're seeing lately in regard to just medicine is kind of increasingly being impacted by decisions in the legal sphere, which can really negatively impact the care patients receive. The article really highlights the importance of beneficence in medicine. And the actions and the extra steps the child abuse pediatricians took not only prevented harm, but they were also actively promoting the welfare of the children they provide care to, which is just so incredibly important, particularly in pediatrics, where kids don't have a voice necessarily to advocate for themselves. And so, this was also just really important, given that level of disruption and all the subsequent adjustments, just having our eyes and our focus on those kids and what could we do to make sure that they were receiving the best care and getting the best processes during a really stressful time in their life.

HOFF: And so, what's the most important thing for health professions students and trainees to take from your article?

HENDRIX: So, I think we spend a lot of time— You know, I'm from the School of Community Medicine. So, one of the things that we focus on at our school is really social determinants of health and the outside factors that can really influence the health, the well-being, the lives of the individuals that we serve. So, it's really crucial for health professionals to be aware of issues happening outside of the medical field that may impact the populations they serve. And as these forces outside the health care field kind of converge on service delivery, providers need to be able to adapt to prevent negative outcomes on the individuals that they're helping. And really, everyone in the health care field, regardless of their role or their level of training, needs to keep the safety and wellbeing of their patients at the forefront of everything that they do.

HOFF: And finally, if you could add a point to your article that you didn't have the time or space to fully explore, what would that be?

HENDRIX: Well, once everyone was able to kind of find their footing on the *McGirt* ruling and things began to normalize in relation to all the challenges we were facing originally, there was a new Supreme Court ruling that happened a few months ago. And that was *Oklahoma versus Castro-Huerta*. And actually, for this, SCOTUS actually sided with the state of Oklahoma, and it's once again changed jurisdiction on cases where a non-Native American is accused of a major crime. And so, basically, if a crime, in this case, is perpetuated against a Native American on tribal land by a non-Native American, jurisdiction is now shared between the state, the federal government, and the tribal nation. Justice Gorsuch, who has experience presiding over cases related to tribal sovereignty and jurisdiction while he served on the 10th Circuit Court of Appeals, wrote in his dissent that, "Truly a more ahistorical and mistaken statement of Indian law would be hard to fathom." And I think that that's the crux of the issue. It's just something that the United States and tribal nations have had to grapple with for decades now.

Many individuals still think tribal sovereignty is determined by race, when in fact, it's a unique political classification given to tribal members. And as a Cherokee Nation citizen living in Oklahoma and researching child maltreatment and kind of watching all of these unfold, it has really become evident to me that people really do lack that basic understanding of jurisdiction. So, if individuals are going to be working particularly with citizens of tribal nations, it's really important to be very well-versed and educated when it comes to sovereignty and kind of the history behind all of these things that have happened. And quite frankly, right now, we're not sure the full ramifications of the most recent decision. We're still kind of in the weeds on that. So, hopefully, within a year we'll be able to adapt to that like we have *McGirt* and make sure that we're providing the best care and services we can for these kids. [theme music returns]

HOFF: Amy, thank you so much for your time on the podcast today, and thanks to you and your coauthors for your contribution to the Journal this month.

HENDRIX: Thank you so much, Tim.

HOFF: To read the full article as well as the rest of this month's issue for free, visit our site, [JournalofEthics.org](https://www.journalofethics.org). We'll be back soon with more *Ethics Talk* from the *American Medical Association Journal of Ethics*.