

INTERGOVERNMENTAL CROSS-DEPUTIZATION AGREEMENT
BETWEEN THE UNITED STATES,
THE MUSCOGEE (CREEK) NATION,
AND POLITICAL SUBDIVISIONS
OF THE STATE OF OKLAHOMA

RECITALS

WHEREAS, the United States Congress has authorized the Secretary of the Interior, acting through the Bureau of Indian Affairs, to enter into agreements with Indian tribes to aid in the enforcement or carrying out in Indian country the laws of either the United States and/or Indian tribe, pursuant to the Indian Law Enforcement Reform Act, 25 U.S.C. §§ 2801, *et seq.*, Public Law 101-379, 104 Stat. 473; and

WHEREAS, the Muscogee (Creek) Nation has enacted legislation authorizing the Nation to enter into cross-deputization agreements with federal, state and tribal governments pursuant to NCA 92-15 § 108; and

WHEREAS, the Legislature of the State of Oklahoma has authorized the State and its political subdivisions to enter into cooperative agreements with the State and its political subdivisions, the federal government and Indian tribal governments in accordance with the Oklahoma Inter-local Cooperation Act, 74 O.S. §§ 1221 *et seq.* (1985); and

WHEREAS, it is in the best interest of the United States of America, the Muscogee (Creek) Nation, the State of Oklahoma, and political subdivisions of the State of Oklahoma, that the parties hereto declare and agree that each government and agency under this Agreement shall fully cooperate with the other to provide efficient, effective and thorough law enforcement and crime prevention to all residents located on or near Indian lands within the Muscogee (Creek) Nation.

AGREEMENT

NOW, THEREFORE, the Muscogee (Creek) Nation, the United States Department of Interior by the through the Bureau of Indian Affairs, the County of _____, and any other county or municipality which subsequently becomes a party hereto, do hereby enter into this Intergovernmental Cross-deputization Agreement (hereinafter "Agreement").

Section 1. Purpose

The Purposes of Agreement are to:

- (1.) Provide for the cross-deputization of Officers employed by the various governmental agencies which are or shall become parties hereto; and
- (2.) Authorize commissioned Officers to provide law enforcement services and make lawful arrest on or near Indian country within the geographic area of the Muscogee (Creek) Nation reservation; and
- (3.) Authorize commissioned Officers to react immediately to observed violations of the law and other emergency situations regardless of whether such occurrences violate the criminal statutes of the Muscogee (Creek) Nation, the United State, and/or the State of Oklahoma; and
- (4.) Provide for efficient, effective and cooperative law enforcement efforts on or near Indian country in the geographic area of the Muscogee Nation within the State of Oklahoma; and
- (5.) Eliminate the uncertainties which have caused reluctance among various law enforcement agencies to provide services on or near Indian country for fear of being subjected to tort or civil rights suits as a consequence of the good-faith errors of Officers making arrests or quelling disturbances in Indian country; and
- (6.) Provide comprehensive law enforcement protection to citizens of the State of Oklahoma and the Muscogee Nation whether they be on or off of Indian country within the geographic area of the Muscogee (Creek) Nation including but not limited to responding to observed violations of the law, effecting arrests, responding to calls for assistance, performing investigations and providing other assistance such as dispatching and detention.

Section 2. Definitions

- A. “Agency” wherever used herein shall mean the government, department, or political subdivision which is or subsequently becomes a party to this Agreement.
- B. “Agreement” wherever used herein shall mean this Intergovernmental Cross-deputization Agreement between the Bureau of Indian Affairs, the Muscogee (Creek) Nation, and signatory political divisions of the State of Oklahoma.
- C. “Applicant Agency” wherever used herein shall mean the agency requesting a commission of its Officers.
- D. “BIA” wherever used herein shall mean the Bureau of Indian Affairs.

- E. "Commissioning Agency" wherever used herein shall mean that the agency which is a party hereto and which issues a law enforcement commission to an Officer of an Applicant Agency.
- F. "Indian country" wherever used herein shall mean Indian country as defined by 18 U.S.C. § 1151 located within the boundaries of Muscogee (Creek) Nation as described in the Treaty of 1866, 14 Stat. 785.
- G. "Nation" wherever used herein shall refer to Muscogee (Creek) Nation.
- H. "Officer" wherever used herein shall mean law enforcement officers and criminal investigators.
- I. "State" OR "State Agency" wherever used herein shall mean Agency which is a political subdivision of the State of Oklahoma, including counties and municipalities, and may include the State of Oklahoma when and if it becomes a party to this Agreement.

Section 3. Addition of Parties: Termination of Earlier Agreements

- A. The BIA will initially enter into this Agreement with one or more of the following:
 - (1.) The Nation; and/or
 - (2.) A State Agency as defined by Section 2 (I) of this Agreement; provide that if the Nation is not yet a party to this Agreement, the BIA will notify the Nation by certified mail, return receipt requested, of its intent to negotiate and enter into this Agreement with a State Agency and offer the Nation an opportunity to consult with the BIA as required by 25 U.S.C. § 2804 (c) during which time the Nation may offer comments concerning the proposed Agreement.
- B. By entering into this Agreement, each party to this Agreement expressly authorizes any other political subdivisions of the State of Oklahoma, including the State of Oklahoma, to become a party to this Agreement after this Agreement goes into effect. The State of Oklahoma or other political subdivisions of the State of Oklahoma may become parties to this Agreement by executing addendum forms substantially similar to those attached hereto as Exhibits A, B or C.
- C. The subsequent addition of parties to this Agreement shall not require any separate or additional approval by existing parties and signatories to this Agreement. The parties hereby agree to extend the provisions of and to be

mutually bound by this Agreement with each party to the Agreement, whether an original party or a new party.

- D. This Agreement, when effective as to a specific State Agency, shall replace and supersede any pre-existing intergovernmental cross-deputization agreement between said State Agency and the Nation, and when effective as between the BIA and Nation, shall replace and supersede any pre-existing government cross-deputization agreement between the BIA and the Nation. The parties shall take any steps necessary to formally terminate any such pre-existing agreement and to issue replacement commission of Officers commissioned under the pre-existing agreement.

Section 4. Term; Withdrawal; Amendments

- A. The initial term of this Agreement shall be for a period of two (2) years commencing on the Effective Date as provided in Section 15 hereof. Thereafter, this Agreement shall be automatically renewed for each party for successive one-year periods commencing on the anniversary of the Effective Date hereof unless prior to a renewal any party gives written notice to all other parties that the Agreement shall not be renewed as to the non-renewing party.
- B. Notwithstanding the foregoing, any Agency may withdraw as a party to this Agreement, with or without cause, upon giving the other parties sixty (60) days' within notice of intent to withdraw. Such notice shall be served by certified mail and shall be deemed served on the date the notice is deposited, postage prepaid, in the U.S. mail. Withdrawal from this Agreement by any Agency shall not terminate this Agreement as to Agencies which continue to be parties hereto.
- C. With the exception of the addition of Agencies to the Agreement, this Agreement shall not be amended unless such amendment is in writing and executed by each party hereto. It is expressly agreed by the parties to this Agreement without the requirement of approval by the existing parties hereto.

Section 5. Coordination; Supervision; Status of Parties

- A. No separate legal or administrative entity is created by this Agreement.
- B. The provisions of this Agreement shall be administered by a board comprised of the Chief of the Nation's Police Department, the District Commander of the Office of Law Enforcement Services of the BIA and the Chief Law Enforcement Officer of each State Agency which is or subsequently may become a party of this Agency.

- C. Notwithstanding any other provision in this Agreement, the respective Commissioning Agencies of the Nation, State and BIA, including their agents, employees and insurers, shall not have any authority or right whatsoever to control in any manner the day to day discharge of the duties and/or activities of the Officers of the other Agencies who have been commissioned pursuant to this Agreement except when an Officer is acting under a commission issued under the authority of the Agreement, No provision of this Agreement shall impair or affect the existing status of each Agency nor the sovereignty of each government as established under the Laws of the Muscogee (Creek) Nation, the United States, and the State of Oklahoma.

Section 6. Commissions

- A. Each Agency which is a party hereto may, in its discretion, issue special Law Enforcement Commissions to Law Enforcement Officers of the other Agencies which are to subsequently shall be parties hereto upon the application for such by the Applicant Agency. Such commissions issued hereunder shall be in writing and grant to the Officers the same Law Enforcement authority as that of Officers of the Commissioning Agency unless expressly limited by the terms if the commission.
- B. All Officers of the law enforcement Agencies which are or subsequently become parties of the Agreement shall not become automatically cross-deputized by virtue of the execution of this Agreement but must be commissioned on an individual basis, upon application by the Officer's employer Agency and approval of same by the Commissioning Agency.
- C. A commission granted by a Commissioning Agency to an Officer of another Agency pursuant to previously existing intergovernmental agreement authorizing the cross-deputization of Officers in effect on date of execution of this Agreement shall remain valid, unless suspended or revoked by the Commissioning Agency or unless the commission is returned to the Commissioning Agency as required by Section 7 (I) of this Agreement.

Section 7. Qualifications for Commission; Commission Cards; Suspension or Revocation of Commission

- A. A commission shall not be granted by the BIA or State to any Officer of an Applicant Agency unless the Officer meets all of the prerequisites for appointment as an Officer as set forth in 40 IAM and the applicable portions of

the BIA Law Enforcement Handbook, as well as any other specific requirements of the BIA, which shall include the following minimum prerequisites:

- (1.) United State citizenship, be at least 21 years of age and possess a valid driver's license;
 - (2.) A high school diploma or its equivalent;
 - (3.) The Officer has not ever been convicted of a felony; has not, within the one year period immediately preceding the issuance of the commission, been convicted of a misdemeanor offense, with the exception of minor traffic offenses; has not been convicted of a misdemeanor charge of domestic violence preventing the Officer from possessing a firearm in accordance with the Gun Control Act of 1968; and has not been the subject of a court order prohibiting him or her from possessing a firearm;
 - (4.) Within the period immediately preceding the issuance of the commission, the Officer has passed his or her department's firearms qualifications and continues to be certified semi-annually;
 - (5.) A finding that the applicant is free of any physical, emotional, or mental condition which might adversely affect his or her performance as an Officer.
 - (6.) The Officer meets State or Federal Peace Officer Standards and Training ("POST") requirements for certification as a bona fide full-time peace officer and has written proof of such certification.
- B. Upon the approval of such application by the BIA, the BIA, as the Commissioning Agency, will issue Deputy Special Officer ("DSO") commissions from the BIA to the selected Officer.
- C. A commission shall not be granted by the Muscogee (Creek) Nation unless an Officer meets with each of the six minimum prerequisites set forth in subsection A (1-6) of this section, and complies with any other specific requirements of the Muscogee (Creek) Nation.
- D. Upon the approval of such application by the Nation, the Nation, as the Commissioning Agency will issue commissions from the Nation to the selected Officers.
- E. Upon the approval of such application by the State Agency, the State Agency, as the Commissioning Agency, will issue commissions from the State Agency to the selected Officers.

- F. The Applicant Agency shall provide a National Crime Information Center background check on each Officer for whom a commission is requested in the application.
- G. The Commissioning Agency shall notify the Applicant Agency of the names of the Officers receiving commissions hereunder.
- H. Commission cards shall be issued to qualified Officers who are full-time employees of the Applicant Agency and who must agree in writing to return his or her commission card to the Commissioning Agency within ten (10) days following the occurrence of one or more of the following conditions:
 - (1.) The Officer terminates employment as a full-time Officer of the Agency for any reason; or
 - (2.) The Officer transfers to an area or jurisdiction outside of the jurisdiction area of the Nation in the case of the Nation's Officers or outside of the jurisdictional area of District 2, Law Enforcement Services, BIA, in the case of a BIA Officer, or in the case of a State Officer to an agency which is not party to this Agreement.
 - (3.) The Officer is suspended or terminated by his or her employing Agency for any reason; or
 - (4.) The Officer is indicted in state or federal court, or otherwise charged in tribal, federal or state court, with crime other than a minor traffic offense; or
 - (5.) The commission expires; or
 - (6.) This Agreement is terminated as to such Officer's Agency for any reason pursuant to Section 4 above; or
 - (7.) The commission is suspended or revoked pursuant to subsection J; or
 - (8.) If the Commissioning Agency ceases to have law enforcement powers under the law.
- I. The Commissioning Agency may at any time, with or without cause, suspend or revoke an Officer's commission for reasons solely within the Commissioning Agency's discretion. In such event:
 - (1.) The Commission Agency shall notify Officer's Agency in writing of the suspension or revocation and the reasons therefore, if any; and

- (2.) Within ten (10) days after such notification the receiving Agency shall return the commission card and any other evidence of the commission to the Commissioning Agency.
- J. The Commissioning Agency shall send written notice to the Applicant Agency if a commission is denied, suspended or revoked as provided herein with a reason stated therein. The decision of the Commissioning Agency to suspend a commission whether temporarily, indefinitely, or permanently shall be final. A commission hereunder shall carry no property right; rather, commissions issued pursuant to this Agreement shall be a privilege extended at the sole discretion of the Commissioning Agency, and may be modified, suspended, revoked at any time by the Commissioning Agency, in which event neither the Officer's Agency shall have any right of review or appeal.
- K. The BIA, the Nation and the State may independently or jointly evaluate the effectiveness of the use of the special law enforcement commissions provided for herein. The BIA, Nation and State shall cooperate in the investigation of any allegation that an Officer of the Nation, BIA or State commissioned pursuant to this Agreement exceeded the authority given to the Officer by the Commission.
- L. If an Officer's Agency possesses any information bearing on the Officer's fitness or eligibility to hold a commission issued hereunder, it shall immediately notify all other Commissioning Agencies.

Section 8. Scope of Powers Granted

- A. Officers of the BIA and State who receive commissions from the Nation shall have authority to respond to observed violation of the Nation's Criminal Code, and upon request by Officers of the Nation, investigate offenses and enforce the criminal laws enumerated in the Nation's Criminal Code and/or other criminal laws of the Nation.
- B. Officers from the Nation and the State who receive commissions from the BIA shall have authority to perform any activity authorized under 25 U.S.C. § 2803. Such Officers shall have the authority to assist the BIA and other federal law enforcement officials in the prevention, detection, and investigation of any federal offense committed within the Nation's Indian country. Such authority shall include the following activities: conducting preliminary investigations, reporting potential crimes, apprehending alleged offenders, detaining and delivering alleged offenders to appropriate authorities, securing crime scenes, contacting appropriate authorities, assisting any federal, tribal, state, or local law enforcement agency upon request, and notifying the Criminal Investigator of the BIA and the Federal Bureau of Investigation of activities relating to the enforcement of such federal laws and regulations. Officers of any other federally recognized tribe who have

entered into cross-deputization agreement with the BIA and who have received commissions from the BIA pursuant to their agreement shall have the authority to perform all federal law enforcement activities described in this sub-section within the Nation's jurisdiction, provided the Nation has consented to the assistance of such tribal officers by way of duly enacted ordinance or tribal resolution and has notified the BIA of such consent in writing.

- C. Officers of the Nation and the BIA who receive commissions from the State shall have authority to react to observed violations of the State's criminal laws, and upon request by Officers of a State Agency, investigate offenses and enforce the criminal laws enumerated in the Oklahoma Statutes and/or other laws of the State.
- D. The parties hereto acknowledge the applicability of Muscogee, federal and state laws in Indian country may depend on whether the suspect or victim is an Indian person and that state laws have been generally held to be inapplicable to Indians in Indian country. Furthermore, the parties agree that nothing in this Agreement shall make any law applicable to a certain person or to certain conduct where it would not otherwise be applicable. Accordingly, the purpose of this Agreement is to vest cross-deputized or commissioned Officers with authority to enforce only the applicable law(s).
- E. The Agencies which are or which subsequently become parties hereto agree to cooperate and share criminal information among themselves to the extent authorized by law.
- F. Nothing herein shall alter or convey any judicial jurisdictional, including the authority to issue warrants for arrest or search and seizure or to issue service of process. Similarly, nothing herein is intended to impair, limit or diminish that status of any Agency or the sovereignty of any government of which such Agencies are a part.

Section 9. Arrest Procedure and Facilities; Transportation; Medical Treatment

- A. After lawful arrest by an Officer commissioned pursuant to this Agreement, the prisoner shall be turned over to a responsible official of the United States, the BIA, the State or the Nation for purposes of detention and processing as provided by agreement. Prisoners arrested under federal authority shall be detained in a facility administrator unless otherwise provided by agreement. Prisoners arrested under federal authority shall be detained in a facility approved by the BIA for said prisoners. The Nation and any State Agency may enter into a written agreement for the detention of any Indian prisoners in custody for violation of the Nation's criminal laws.

- B. The official determination of the correct jurisdictional authority for purposes of prosecution shall be made by the United States Attorney, a Bureau of Indian Affairs Court of Indian Offenses prosecutor, a State prosecutor, and/or the Nation's Attorney General. Any necessary transfer of custody of the prisoner resulting from such determination shall be made at the earliest applicable time. All evidence and investigatory reports and products shall be turned over to the proper prosecuting authority at the earliest practicable time. The prisoner shall be taken before a judge of the appropriate jurisdiction within forty-eight hours after the time of arrest.
- C. In the event that an Indian prisoner is arrested by an Officer of a State Agency exercising his authority under a commission from the Nation of BIA and requires medical treatment, the Officers of said Agency shall have the power and authority to transport such prisoner to the nearest Indian Health Service or Muscogee (Creek) Nation health care facility to avoid any significant medical expenses.
- D. In cases of extreme emergency where it is not feasible or practicable to take the Indian prisoner to an HIS or tribal facility, the Indian prisoner may be treated at the appropriate local, federal or state health care facilities as emergency needs dictate. In such emergency cases, a sick or disabled Indian, or an individual or agency acting on behalf of the Indian, or the medical care provider shall, within 72 hours after the beginning of the treatment for the condition or after admission to a health care facility, notify the nearest HIS facility if the fact of the admission or treatment together with information necessary to determine the relative medical need for the services and the eligibility of the Indian prisoner for the services.
- E. In the event it becomes necessary to provide guard security for an Indian prisoner subject to federal or tribal court jurisdiction at a health facility or any place other than jail facilities, Officers of the BIA and the Nation shall have the power and authority to provide such service.
- F. In the event of an emergency mental or psychiatric condition arises with an Indian prisoner who has been arrested by a State Officer under a commission issued pursuant to this Agreement, the Officers of the BIA and the Nation shall have the power and authority to immediately take custody of said prisoner for appropriate action pursuant to applicable law.

Section 10. Orientation, Technical Assistance and Training

- A. Each party is responsible for providing to its full-time Officers a thorough orientation regarding the authority conferred by a commission issued pursuant to this Agreement.

- B. The Nation, BIA and State shall ensure that each of its Officers is qualified in the field of law enforcement and is well trained on and knowledgeable of arrest procedures, rules of evidence, crime scene search, preservation of evidence, writing reports, testifying in court and related police and detention functions.
- C. The Chief of the Nation's police department, the District Commander of the Office of Law Enforcement Services of the BIA and the chief law enforcement officer of each State Agency shall determine what other training or technical assistance is or may be required for commissioned Officers, particularly in the areas of jurisdiction and tribal, federal and state criminal laws and procedures.
- D. The BIA may provide technical assistance and assist in providing in-house training to Officers of the Nation, administrative personnel and others, depending upon the availability of resources.

Section 11. Property

No real or personal property is to be acquired or held under this Agreement. When personal property is loaned from one Agency to another Agency it shall be returned as soon as possible upon request of the owner-Agency.

Section 12. Reimbursement

Activities of the parties will be financed by the primary Agency of each of the commissioned Officers except as expressly provided herein, or pursuant to a subsequent agreement for which a particular assignment is executed.

Section 13. Conduct

Each Officer who is issued a commission pursuant to this Agreement shall follow the law enforcement code of conduct prescribed by the Commissioning Agency. The code will establish specific guidelines concerning conflicts of interest, employee conduct both on and off duty, impartiality and thoroughness in performance of duty, and acceptance of gifts or favors. Each Officer will acknowledge in writing that he or she has received and understand the code of conduct. The acknowledgement will remain in the file with the employing Agency as long as the Officer is employed with the Agency. Additionally, each Agency is responsible to see that training will be conducted in the code of conduct and ethics issues at least once a year in accordance with 25 CFR § 12.51 or corollary state or local requirements.

Section 14 Liabilities and Immunities

- A. Officers of the Nation or State holding a commission from the BIA while performing any official act in Indian country under authority of said commission shall be afforded all protection afforded by applicable tribal, federal and state laws, and by the Indian Law Enforcement Reform Act, 25 U.S.C. § 2804, including coverage under the Federal Tort Claims Act or other applicable Federal law. Officers of the BIA or State holding a commission from the Nation while performing any official act in Indian country under authority of said commission shall be afforded all protection afforded all protection afforded by applicable tribal, federal and state law. Officers of the Nation or BIA holding a commission from the State while performing any official act in the State under authority of said commission shall be afforded all protections afforded by applicable tribal, federal and state laws.
- B. It is understood and agreed that the Nation, the BIA and the State, their agents, employees and insurers (if any), do not, by virtue of this Agreement, assume any responsibility or liability for the action of Officers commissioned pursuant to this Agreement which are performed outside the scope of authority granted by the commission under which they are acting. Each Agency agrees to be responsible for any and all employer obligations to its own Officers regardless of whether the Officer is acting on behalf of his or her employer-Agency or under a commission issued to him or her by another Agency pursuant to this Agreement. By way of example, and not limitation, these employer obligations include salary, taxes, workers compensation insurance, liability insurance, disability, insurance and retirement benefits. In no event shall a Commission Agency be responsible for another Agency's obligations as an employer to its own employee Officers.
- C. Nothing in this Agreement shall be read as waiving or limiting any defenses to claims of liability otherwise available to law enforcement Officers, including without limitation the defense of qualified immunity afforded under tribal, federal and/or state law.
- D. Nothing in this Agreement shall be construed as a waiver of any government's sovereign immunity.

Section 15. Effective Date

- A. This Agreement shall become effective on the last date of execution, after execution by all officials set forth on the following signature pages.

- B. With respect to Agencies which become parties hereto subsequent to the Effective Date set forth above, this Agreement shall become effective as to such subsequent Agencies on the date of execution of an Addendum to this Agreement by the appropriate officials of any such Agency.

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SIGNATURE PAGE FOR THE MUSCOGEE (CREEK) NATION

INTERGOVERNMENTAL CROSS-DEPUTIZATION AGREEMENT BETWEEN THE
UNITED STATES, THE MUSCOGEE (CREEK) NATION, AND POLITICAL
SUBDIVISIONS OF THE STATE OF OKLAHOMA

Approved:

Attorney General
Muscogee (Creek) Nation

Date

Approved:

Lighthorse Chief of Police

Date

EXHIBIT A

ADDENDUM

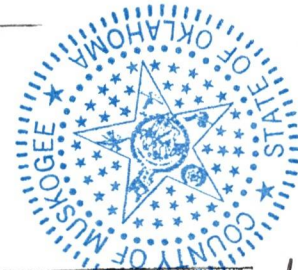
ADDITION OF POLITICAL SUBDIVISIONS OF THE STATE OF OKLAHOMA TO THE INTERGOVERNMENTAL CROSS-DEPUTIZATION AGREEMENT BETWEEN THE UNITED STATES, THE MUSCOGEE (CREEK) NATION AND POLITICAL SUBDIVISIONS OF THE STATE OF OKLAHOMA

The County of _____, Oklahoma, hereby enters into and agrees to be mutually bound by the terms of the Intergovernmental Cross-Deputization Agreement Between the United States, the Muscogee (Creek) Nation, and Political Subdivisions of the of the State of Oklahoma pursuant to Section 3 of said Agreement.

Effective this _____ day of _____, 20_____

Approved:

Kevin Byrd
Chairman, Board of County
Commissioners,
_____ County



10th day of May 2021
Chairman Kevin Byrd
Member KST
Member _____
Attest: Adey Johnson
County Clerk

Approved:

[Signature]
Assistant District Attorney

Date

Approved:

Sherriff, _____ County

Date

