



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

MUSKOGEE AREA OFFICE
101 N. 5TH STREET
MUSKOGEE, OK 74401-6206

IN REPLY REFER TO:

Tribal Operations
Area Special Officer

FILED

FEB 22 1994

OKLAHOMA SECRETARY
OF STATE

FEB 25 1994

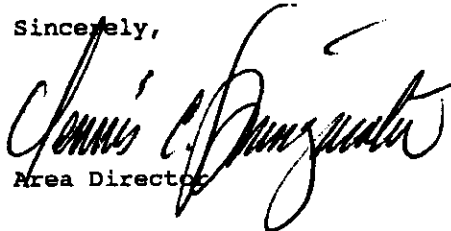
Mrs. Kathy Jekel
Office of the Secretary of State
101 State Capitol
Oklahoma City, OK 73105

Dear Ms. Jekel:

Enclosed is the Cross-Deputization Agreement between the City of Wewoka, Oklahoma, and the the Bureau of Indian Affairs. This document has received approval from all the appropriate parties. The agreement and the letter of approval must now be filed with your office.

We are furnishing a copy for your records, but must request that the original document in its entirety be returned to this office. Thank you for your cooperation.

Sincerely,



Dennis C. Singsaunders
Area Director

Enclosures

RECEIVED
FEB 18 1994
OKLAHOMA SECRETARY
OF STATE



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SUSAN B. LOVING
ATTORNEY GENERAL OF OKLAHOMA

February 7, 1994

FILED
FEB 22 1994

OKLAHOMA SECRETARY
OF STATE

United States Dept. of the Interior
Bureau of Indian Affairs
Muskogee Area Office
101 N. 5th Street
Muskogee, Oklahoma 74401-6206

Re: Proposed Cross-Deputization Agreement Between the City of Wewoka,
Oklahoma and the Bureau of Indian Affairs, ICA No. 94-002.

Dear Sir\Madam:

LETTER OF APPROVAL

The Attorney General has reviewed the referenced Agreement and found it to comply with the provisions of the Interlocal Cooperation Act. Pursuant to the provisions of 74 O.S. 1981, § 1004(f), the referenced Agreement is hereby officially APPROVED as of the date of the signature manifested hereon.

Please be advised that, before the Agreement may go into force, copies of the Agreement, and of this Letter of Approval, must be filed with the County Clerk and the Secretary of State.

Signed this 7th day of February, 1994.

Respectfully submitted,

SUSAN B. LOVING
ATTORNEY GENERAL OF OKLAHOMA

JOSEPH L. McCORMICK, IV
ASSISTANT ATTORNEY GENERAL

tr94-0002.10a



FILED

CROSS-DEPUTIZATION AGREEMENT

FEB 22 1994

PREAMBLE

OKLAHOMA SECRETARY
OF STATE

This Agreement is entered this 9th day of November, 1993, by and between the United States of America, acting through the Bureau of Indian Affairs, and the City of Wewoka, pursuant to the authority of the Indian Law Enforcement Reform Act, 25 U.S.C. §2801, et seq., and 74 O.S. §§1001, et seq., which provide for cooperative agreements to promote better law enforcement services.

The intent of this Agreement is to provide for the cross-deputization of law enforcement officers employed by the various agencies which are parties to this Agreement so that each agency's officers will be authorized to provide law enforcement services and to make lawful arrests in Indian Country within the City limits of the City of Wewoka. It is the express desire and intent of all parties to this Agreement to allow law enforcement officers to react immediately to observed violations of the law and other emergency situations without regard to whether they occur on or off Indian lands.

The parties to this Agreement recognize that when law enforcement officers arrest a criminal suspect, the officers may not know whether the suspect or the victim is an Indian or whether the arrest or the suspected crime has occurred in Indian Country, as defined by 18 U.S.C. §1151, and that therefore there is great difficulty in determining the proper jurisdiction for the filing of charges. It is further recognized that the official jurisdictional determination will be made by a prosecutor from one of the various jurisdictions, not by cross-deputized arresting officers who may

deliver the arrestees to the detention facilities of the parties to this Agreement.

The parties further expressly recognize the manifest intent of the Indian Law Enforcement Reform Act to eliminate the uncertainties which previously resulted in the reluctance of various law enforcement agencies to provide services in Indian Country for fear of being subjected to tort and civil rights suits as a consequence of the good-faith errors of officers making arrests or quelling disturbances in Indian Country. To eliminate such concerns, the Bureau of Indian Affairs, to the maximum extent possible under applicable law, commits that if a state, local, or tribal officer holding a BIA Deputy Special Officer (DSO) commission makes a good-faith arrest of an Indian and delivers the arrestee to a detention facility or a prosecutor of the wrong jurisdiction through good-faith error, and is later sued in his personal capacity in an action sounding either in tort or in a civil rights violation, predicated upon the plaintiff's Indian descent, his arrest in Indian Country, and his delivery to the wrong jurisdiction, it will be the policy of the Bureau of Indian Affairs to provide such an officer with the same protections that would have been made available to a BIA law enforcement officer acting under like circumstances. Those protections shall include those provided by the Federal Tort Claims Act, 28 U.S.C. §§2401, 2671-2680, as amended, and by 43 CFR Part 22, as defined and permitted by federal law and regulation.

The parties to this Agreement therefore agree as follows:

1. PURPOSE:

The purpose of this Agreement is to provide for efficient, effective, and cooperative law enforcement efforts in and around Indian Country in the City of Wewoka, and its terms should be interpreted in that spirit. Accordingly, the parties to this Agreement shall cooperate with each other to provide comprehensive and thorough law enforcement protection, including but not limited to effecting arrests, responding to calls for assistance from all citizens and also from other law enforcement officers, performing investigations, providing technical and other assistance, dispatching, and detention.

2. COMMISSIONS:

A. Each party to this Agreement may, in its discretion, issue special law enforcement commissions to law enforcement officers of the other party, upon the application of such officers. Such commissions shall grant the officers the same law enforcement authority as that of officers of the commissioning party [unless specifically limited by the terms of the commission], as more specifically described in Section 3 of this Agreement. When an agency issues such a commission, it shall provide notice of that commission, including the name of the officer receiving the commission, to the other party to this Agreement.

B. A commission shall not be granted unless the applicant has complied with all the prerequisites for appointment as a police officer as set forth in 70 O.S. §3311, or 68 BIA Manual §9.1 et seq., and with the specific requirements of the

commissioning agency. Those prerequisites must include the following:

- (1) United States citizenship;
- (2) A high school diploma or equivalent;
- (3) No conviction for a felony or other crime involving moral turpitude;
- (4) Documentation of annual weapons qualifications;
- (5) A finding that the applicant is free of any physical, emotional, or mental condition which might adversely affect his or her performance as a police officer.

C. The commissioning agency may impose any other reasonable requirements that are uniformly applied to the commissioning agency's employees, including, for example, an orientation course on BIA, tribal, or state criminal procedures.

D. If requested by the commissioning agency, the applicant's agency shall provide a National Crime Information Center background check on the applicant.

E. If an agency denies an officer a commission, it shall disclose the grounds for such denial in writing to the agency which employs the applicant.

F. The commissioning agency may, at any time, suspend or revoke an officer's commission for reasons solely within its discretion. The commissioning agency shall notify the officer's agency in writing of the suspension or revocation and the reasons therefor. Within ten (10) days after such notification that agency shall cause the commission card and any other evidence of the commission to be returned to the commissioning agency.

G. If the officer's agency possesses any information on the officer which provides grounds for the suspension or revocation of the commission, it shall immediately notify the commissioning agency.

3. SCOPE OF POWERS GRANTED:

A. Officers carrying DSO commissions issued by the Bureau of Indian Affairs pursuant to this Agreement are given the power to enforce (i) all federal criminal laws applicable to Indian Country, including the Major Crimes Act, 18 U.S.C. §1153, and the Code of Indian Tribal Offenses in 25 CFR Part 11, where applicable, and (ii) Seminole tribal laws, where the Seminole Tribe has authorized the Secretary of the Interior to enforce any such laws.

B. Officers carrying commissions issued by the City of Wewoka Police Department are given the power to enforce Oklahoma state criminal laws, where applicable.

C. The parties to this Agreement note that the applicability of federal and tribal laws in Indian Country may depend on whether the suspect or the victim is Indian, and that state laws have been held generally to be inapplicable to Indians in Indian Country. The parties agree that nothing in this Agreement makes any law applicable to a certain person or certain conduct where it would not otherwise be applicable. Accordingly, the purpose of this Agreement is to provide cross-deputized officers with the authority to enforce applicable law only.

D. Nothing in this Agreement alters or conveys any judicial jurisdiction, including the authority to issue warrants for arrest or search and seizure, or to issue service of process.

Similarly, nothing in this Agreement is intended to impair, limit, or affect the status of any agency or the sovereignty of any government.

4. DISPOSITION AND CUSTODY:

A. Any person arrested by an officer commissioned pursuant to this Agreement shall be taken immediately to a responsible official of the apparent prosecuting jurisdiction. In order to ascertain the proper prosecuting jurisdiction, the officer shall ask the arrestee, where practicable, whether he or she is Indian or non-Indian, and shall rely on that representation. The official determination of proper jurisdiction, however, will be made by a prosecutor, not a law enforcement officer commissioned under this Agreement.

B. The jailer or penal institution administrator to whom the custody of the arrestee is entrusted shall cause the arrestee to appear within a reasonable amount of time, not to exceed twenty-four (24) hours, before a judge of the appropriate jurisdiction for initial appearance and bond setting, unless the governing jurisdiction requires a shorter period of time.

C. In the event an Indian detainee or prisoner requires medical treatment, the law enforcement agency with custody may transport the detainee or prisoner to the nearest Indian Health Service or Seminole Tribal health care facility in order to avoid significant medical expense. In such event, tribal or BIA law enforcement officers shall be notified so that necessary protective services may be provided while the detainee or prisoner is admitted at such health facility.

5. SUPERVISION:

It is understood and agreed by the parties to this Agreement that the respective agencies, their agents, employees and insurers, have no authority nor any right whatsoever to control in any manner the day-to-day discharge of the duties of officers whom they have commissioned pursuant to this Agreement. However, it is understood to be a basic purpose of this Agreement that officers commissioned hereunder to provide law enforcement services in Indian Country shall respond to calls for assistance therein as they would in any other jurisdiction in which they exercise authority.

6. LIABILITIES AND IMMUNITIES:

A. It is understood and agreed that each agency which is a party to this Agreement, its agents, employees and insurers, do not, by virtue of this Agreement, assume any responsibility or liability for the actions of officers commissioned pursuant to this Agreement, which are performed outside the scope of their duties.

B. Notwithstanding subsection A, any officer holding a DSO issued by the BIA will be treated as a federal employee under the Federal Tort Claims Act and under 43 CFR Part 22 in connection with any exercise of law enforcement responsibility in Indian Country, as provided by federal law and regulations.

C. Nothing in this Agreement shall be read as waiving or limiting any defenses to claims of liability otherwise available to law enforcement officers, such as the defense of qualified immunity.

date and it shall be automatically extended from year to year unless cancelled by one of the parties. Either party may cancel the agreement by giving thirty days advance written notice to the other parties. No real or personal property is to be acquired by virtue of the agreement. Any personal property loaned by one party to another will be returned immediately to the loaning party upon the request of the loaning party. Except as otherwise specifically provided herein, each party hereto will finance its own activities.

CITY OF WEWOKA, OKLAHOMA
A MUNICIPAL AUTHORITY

By: *Paul L. [Signature]*
MAYOR

ATTEST:

Karen Johnson
CITY CLERK

UNITED STATES OF AMERICA
ACTING THROUGH THE BUREAU
OF INDIAN AFFAIRS

By: *Annita C. [Signature]*
Area Director

*Approved as to legal efficiency and form:
Ernest H. [Signature], Asst. Regional Solicitor
Department of the Interior*

STATE OF OKLAHOMA] ss.
 :]
COUNTY OF SEMINOLE]

I, the undersigned, the duly qualified and acting Clerk of the City of Wewoka, Oklahoma, hereby certify that the foregoing is a true and complete copy of Resolution No. RS 93-94-2 authorizing the approval and adoption of a Cross-Deputization Agreement by and between the United States of America, acting through the Bureau of Indian Affairs, and the City of Wewoka, Oklahoma, for the purposes therein set out adopted by the governing body of said municipality and transcript of proceedings of said governing body at a regular meeting thereof, held on the date therein set out, insofar as the same relates to the introduction, reading and adoption thereof, as the same appears of record in my office.

I further certify that attached hereto is a true and complete copy of the public notice posted at the Council Chambers, the place of said meeting, in the City Hall of said municipality at least twenty-four (24) hours prior to the meeting wherein said Resolution was adopted, excluding Saturdays, Sundays and legal holidays.

WITNESS my hand and seal this 9th day of November, 1993.


CITY CLERK

(SEAL)

THE CITY COUNCIL OF THE CITY OF WEWOKA, STATE OF OKLAHOMA, MET IN REGULAR SESSION IN THE COUNCIL CHAMBERS AT THE CITY HALL IN SAID CITY ON THE 9TH DAY OF NOVEMBER, 1993, AT 7:00 P.M.

PRESENT: MAYOR BILL LANGLEY, EVELYN KING, PEGGY ELLWANGER,
MIKE ERVIN AND WARREN JONES

ABSENT: DON COOK

Notice of the schedule of 1993 regular meetings of the governing body of the municipality for the calendar year 1993 having been given in writing to the Clerk of the municipality and public notice of this meeting having been posted in prominent view at the Council Chambers twenty-four (24) hours prior to this meeting, excluding Saturdays, Sundays and legal holidays, all in compliance with the Oklahoma Open Meeting Act.

(Other Proceedings)

THEREUPON, the Mayor introduced a Resolution which was read in full by the Clerk and considered by sections, and upon motion by WARREN JONES, seconded by MIKE ERVIN, said Resolution was adopted by the following vote:

AYE: WARREN JONES, MIKE ERVIN, PEGGY ELLWANGER AND EVELYN KING

NAY: NONE

Said Resolution was thereupon signed by the Mayor, attested by the Clerk, sealed with the seal of said municipality, and is as follows:

RESOLUTION NO. RS-93-94-2

A RESOLUTION AUTHORIZING THE APPROVAL, ADOPTION AND EXECUTION OF A CROSS-DEPUTIZATION AGREEMENT BY AND BETWEEN THE UNITED STATES OF AMERICA, ACTING THROUGH THE BUREAU OF INDIAN AFFAIRS, AND THE CITY OF WEWOKA, OKLAHOMA,

WHEREAS, the City Council of the City of Wewoka, Oklahoma, has determined that it is in the best interest of the City of Wewoka, Oklahoma, to enter into a Cross-Deputization Agreement with the United States of America, acting through the Bureau of Indian Affairs, in order to provide for cooperative agreements to promote better law enforcement services for the citizens of the City of Wewoka, Oklahoma.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WEWOKA, OKLAHOMA:

Section 1. That the Mayor of said City be, and he is hereby authorized and directed to execute the Cross-Deputization Agreement with the United States of America, acting through the Bureau of Indian Affairs. in the form attached hereto.

Section 2. It is deemed and hereby declared necessary for the preservation of the public health, peace and safety that this resolution shall become operative immediately; wherefore, an emergency is hereby declared to exist and this resolution shall be in full force and effect immediately from and after its passage and approval.

PASSED AND APPROVED this 9th day of November, 1993.



MAYOR

ATTEST:



CITY CLERK