

AN AGREEMENT BETWEEN THE
NEW MEXICO STATE POLICE
AND
THE JICARILLA APACHE TRIBE



JULY 24 1979

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AND
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WHEREAS the Legislature of the State of New Mexico has granted authority to the Director of the State Police Division (hereinafter referred to as the "Chief of the New Mexico State Police") to issue commissions as New Mexico Peace Officers to members of the police or sheriff's department of any New Mexico Indian tribe or pueblo or a law enforcement officer employed by the Bureau of Indian Affairs, Section 29-1-11, N.M.S.A., 1978 Comp. (Laws of 1979, Chapter 39); and

WHEREAS the New Mexico State Police and the Jicarilla Apache Tribe (hereinafter referred to as the "Department") desire to effectuate such legislative authorization according to the terms and conditions contained in this Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual promises and conditions hereinafter set forth, the Chief of the New Mexico State Police and the duly authorized official or officials of the Department agree as follows:

Section 1 Commissions:

A. "Commission", as hereinafter referred to in this Agreement, shall mean a commission to act as a New Mexico Peace Officer issued by the Chief of the New Mexico State Police. Upon receiving a request from the Department, the Chief of the New Mexico State Police shall supply to the Department applications for commissions to act as New Mexico Peace Officers pursuant to this Agreement. These applications shall be completed and returned to the Chief of the New Mexico State Police who shall grant or deny each application within a reasonable period of time.

B. An application for a commission will not be granted by the Chief of the New Mexico State Police in the absence of compliance with the following requirements:

1) The applicant has complied with all of the prerequisites for permanent appointment as a police officer as set forth in Section 29-7-8A, N.M.S.A., 1978 Comp. (as amended by Laws of 1979, Chapter 202), said prerequisites being as follows:

a) is a citizen of the United States, and has reached the age of majority;

b) holds a High School diploma or equivalent;

c) has not been convicted of a felony or other crime involving moral turpitude;

d) is found, after examination by a licensed physician, to be free of any physical, emotional or mental condition which might adversely affect his or her performance as a police officer;

e) has met such other requirements as may be prescribed by the New Mexico Law Enforcement Academy Board; and

f) has previously been awarded a certificate by the Director of the New Mexico Law Enforcement Academy attesting to such applicant's satisfactory completion of an approved police officer basic training program.

2) The Department (unless said department is the Bureau of Indian Affairs) submits proof of adequate public liability and property damage insurance for vehicles operated by peace officers and police professional liability insurance covering the Department and each of its peace officers commissioned pursuant to this Agreement from a company licensed to sell insurance in the State of New Mexico. Such insurance policies, amendments thereto or applicable certificate of insurance shall contain a provision requiring the insurance company or appropriate agent thereof to give immediate notice to the Chief of New Mexico State Police of any cancellation or termination of the policy or policies. Such policies shall be exhibited to the Chief of the New Mexico State Police upon his request, are subject to his approval, and shall be in the amount and shall contain such terms and conditions as may be required by the Chief of the New Mexico State Police.

3) The applicant for a commission has successfully completed 240 hours of basic police training which has been approved by the Director of the New Mexico Law Enforcement Academy.

4) In addition to the 240 hours of required basic police training which has been approved by the Director of the New Mexico Law Enforcement Academy, the applicant for a commission has successfully completed the New Mexico State Police course for applicants for said commission consisting of approximately 40 hours of training. This training shall include instructions in the New Mexico Court system, New Mexico Motor Vehicle Code, New Mexico Criminal Code, New Mexico traffic and criminal procedures and other related matters as determined necessary by the New Mexico State Police. The Department agrees to reimburse the New Mexico State Police for reasonable costs incurred during this instruction process, e.g., reproduction costs, the necessary materials, supplies, etc., provided to the applicants or the Department by the New Mexico State Police. These costs are to be agreed upon by the Department and the Chief of the New Mexico State Police prior to the beginning of the 40 hour course of instruction or prior to said materials, supplies, etc., being provided to the applicants or the Department. There will be no charge by the New Mexico State Police for the necessary New Mexico State Police person-hours involved in the 40-hour training process.

c. After compliance with the prerequisites of Section 1, Commissions, Paragraph B, the Chief of the New Mexico State Police will issue a commission hereunder unless he determines, in his discretion, that grounds exist for denying the applicant a commission.

D. The Chief of the New Mexico State Police may, at any time, suspend any commission for reasons solely within his discretion. Within ten (10) days of receipt of verbal or written notice of suspension from the Chief of the New Mexico State Police, the Department shall cause the commission to be returned to the Chief of the New Mexico State Police, unless otherwise directed by the Chief of the

New Mexico State Police. The reasons for suspension include, but are not limited to, the following:

1) Termination of the peace officer, voluntarily or involuntarily, from the Department's law enforcement unit or agency.

2) Transfer or reassignment of the peace officer out of the area which is coextensive with the exterior boundaries of the Department's reservation or, if the department is the Bureau of Indian Affairs, transfer or reassignment out of the area which is coextensive with the boundaries of the reservation or reservations to which the law enforcement officer employed by the Bureau of Indian Affairs is assigned.

3) Conviction of the peace officer of a felony or other crime involving moral turpitude.

4) Upon examination by a licensed physician, the peace officer is found not to be free of any physical, emotional or mental condition which might adversely affect his or her performance as a peace officer.

E. The Department shall inform the Chief of the New Mexico State Police of the existence of any grounds, including those set forth under Section 1, Commissions, Paragraph D., of this Agreement, for suspending a commission.

F. The ~~Department~~ will receive written notice from the Chief of the New Mexico State Police if a commission is denied or suspended as provided in this Agreement with the reason stated therein. The decision of the Chief of the New Mexico State Police to suspend a commission, whether temporarily, indefinitely or permanently, shall be final.

G. This Agreement, or any commission issued pursuant to it, shall not confer any authority on a Tribal court or other Tribal authority which that court or authority would not otherwise have.

Section 2, Territorial Limitation:

The Authority conferred by this Agreement shall be coextensive with the exterior boundaries of the Department's (unless the department is the Bureau of Indian Affairs) reservation boundaries. If the department is the Bureau of Indian Affairs, the authority conferred by this Agreement shall be coextensive with the boundaries of the reservation or reservations to which the law enforcement officer employed by the Bureau of Indian Affairs is assigned. An exception to the provisions herein contained concerning territorial limitation is that a peace officer commissioned under this Agreement may proceed in hot pursuit of an offender beyond the exterior boundaries of the reservation or reservations.

Section 3, Scope of Powers Granted:

A. Peace Officers commissioned pursuant to this Agreement shall have the power:

1) To enforce the New Mexico Motor Vehicle Code and arrest for violations as necessary.

2) To enforce the New Mexico Criminal Code and arrest for violations as necessary.

B. Peace Officers commissioned pursuant to this Agreement shall comply with the applicable statutory provisions concerning enforcement of the New Mexico Motor Vehicle Code and the New Mexico Criminal Code.

Section 4, Uniform Traffic Citations:

A. Peace officers commissioned pursuant to this Agreement, when acting pursuant to said commission, shall use the New Mexico Uniform Traffic Citation when issuing traffic citations for violations of the New Mexico Motor Vehicle Code.

B. The Department agrees to reimburse the New Mexico State Police for the cost of New Mexico Uniform Traffic Citation forms provided to the Department by the New Mexico State Police.

C. The Department's law enforcement unit or agency shall issue, keep a record of and require a receipt for, each serially numbered citation issued by individual Peace Officers commissioned pursuant to this Agreement.

D. The goldenrod-colored Officer's second copy of any citation issued pursuant to a commission authorized by this Agreement must be submitted within five (5) days to the Chief of the New Mexico State Police or his authorized agent.

E. Any citation issued pursuant to a commission issued pursuant to this Agreement shall be to a Magistrate Court of the State of New Mexico, except that any citation issued to Indians within the exterior boundaries of an Indian reservation shall be to Tribal Court.

F. Additional requirements concerning the citations, including specific distribution and control procedures, as designated in the Uniform Traffic Citation Manual, may be issued to the Department by the Chief of the New Mexico State Police.

Section 5, Custody of Persons:

A. No person shall be detained by a Peace Officer commissioned pursuant to this Agreement for a period in excess of two (2) hours without oral notification to a Commissioned Officer of the New Mexico State Police.

B. Any person arrested by a Peace Officer commissioned pursuant to this Agreement shall be immediately taken to the nearest State of New Mexico Magistrate, State Police Commissioned Officer or County Sheriff for further proceedings in accordance with law.

C. Any person taken into custody by a Peace Officer commissioned pursuant to this Agreement shall be immediately informed of his or her United States Constitutional Rights by the Peace Officer as specified on a written form to be supplied by the Chief of the New Mexico State Police and that person shall also be afforded any other rights conferred by law.

Section 6, Indemnification:

The Department agrees to hold harmless and promptly indemnify and reimburse the State of New Mexico, the New Mexico State Police, their agents, employees and insurers from any claim, judgment or liability of any nature whatsoever which may arise out of the actions of a Department Peace Officer commissioned pursuant to this Agreement. This section is not applicable to the Bureau of Indian Affairs.

Section 7, Status of New Mexico Peace Officer:

The Department, its agents and employees, including Peace Officers commissioned pursuant to this Agreement, are not employees of the State of New Mexico and no insurance coverage, retirement benefits nor any other benefits afforded to the employees of the State of New Mexico shall be provided by the State of New Mexico or the New Mexico State Police to the Department, its agents and employees, including Peace Officers commissioned pursuant to this Agreement. It is understood and agreed by the parties to this Agreement that the State of New Mexico, the Criminal Justice Department and the New Mexico State Police, 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 the persons commissioned pursuant to this Agreement but rather that these persons are acting in a capacity of an independent contractor as an employee of the Department and that they are not an employee or agent of any kind of the State of New Mexico, the Criminal Justice Department and the New Mexico State Police. It is further understood and agreed that the State of New Mexico, the Criminal Justice Department and the New Mexico State Police, their agents, employees and insurers, do not, by this Agreement, assume any responsibility or liability for the actions of those persons provided commissions pursuant to this Agreement.

Section 8, Status of Department:

Nothing in this Agreement impairs or affects the existing status and sovereignty of the Department or members thereof as established under the laws of the United States.

Section 9, Suspension or Termination of Agreement:

A. If any provision of this Agreement is violated by the Department or any of its agents, the Chief of the New Mexico State Police shall suspend the Agreement on five (5) days verbal or written notice, which suspension shall last until the Chief of the New Mexico State Police is satisfied that the violation has been corrected and will not reoccur. Reinstatement of this Agreement may be made contingent upon satisfaction of such conditions as the Chief of the New Mexico State Police may specify.

B. Either the Department or the Chief of the New Mexico State Police may terminate this Agreement at any time by giving written notice to the other of such termination which shall be effective thirty (30) days after the date of receipt of said notice. Upon such termination, the Department shall forthwith return to the Chief of the New Mexico State Police all New Mexico Uniform Traffic Citation forms in its possession and be reimbursed therefor by the Chief of the New Mexico State Police and return all commissions issued pursuant to this Agreement.

Section 10, Amendments To And Enforcement Of The Agreement:

A. This agreement shall not be altered, changed or amended except by an instrument in writing executed by the Chief of the New Mexico State Police and the duly authorized official or officials of the Department.

B. This Agreement and any amendment hereto shall be governed by the laws of the State of New Mexico.

Section 11, Effective Date:

24th The effective date of this Agreement shall be the day of July, 1977, this being the date that the Chief of the New Mexico State Police executes the Agreement.


CHIEF, NEW MEXICO STATE POLICE JICARILLA APACHE TRIBE
BY: LEONARD ATOLE, PRESIDENT


Asst. Attorney General
NEW MEXICO ATTORNEY GENERAL

ATTESTED TO BY:


BARBARA GONZALEZ, SECRETARY
JICARILLA APACHE TRIBE