



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
MUSKOGEE AREA OFFICE  
MUSKOGEE, OKLAHOMA 74401

IN REPLY REFER TO:

Tribal Operations  
Area Special Officer

RECEIVED  
MAY 02 1994  
OFFICE OF THE  
GOVERNOR

APR 29 1994

Ms. Susan Conyers  
General Counsel  
Office of the Governor  
State Capitol Building, Room 212  
Oklahoma City, OK 73105

Dear Ms. Conyers:

Enclosed please find the Cross-Deputization Agreement between the City of Durant, Oklahoma, the Bureau of Indian Affairs (BIA), and the Choctaw Nation of Oklahoma. We have recently been in the process of getting similar two-party agreements approved and in compliance with the Oklahoma Interlocal Cooperation Act where they have involved state agencies and the BIA. As the enclosed agreement involves the Choctaw Nation of Oklahoma, we also seek to enter this agreement pursuant to the authority of the Oklahoma State Tribal Relations Act, 74 O.S. § 1221, et. seq.

This document has been reviewed for legal sufficiency and form, and we have secured all approval signatures up to this point. We request now that the Joint Committee on State-Tribal Relations and the Governor or his named designee please review and sign this original agreement. We are furnishing a copy for your records, but request that the original document in its entirety be returned to this office.

After visiting with one of the Senate Staff Attorneys, this office was informed that the agreements are approved by the Governor prior to being submitted to the Joint Committee on State-Tribal Relations for approval and are then submitted to the Secretary of State for filing. We understand that your office will handle these administrative duties that occur at the State Capitol.

After this original agreement is filed with the Secretary of State, this office will submit it to our Agency Superintendent who will take care of filing it with the Bryan County Clerk's Office so that it may be in full compliance and force with the Oklahoma Interlocal Cooperation Act. We hope this arrangement will work in getting this agreement in operation as expeditiously as possible.

Thank you for your cooperation in this matter.

Sincerely,

*[Handwritten signature]*  
Director

FILED

Enclosures

JUL 12 1994

OKLAHOMA SECRETARY  
OF STATE



SUSAN B. LOVING  
ATTORNEY GENERAL OF OKLAHOMA

April 1, 1994

**FILED**

JUL 12 1994

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

OKLAHOMA SECRETARY  
OF STATE

Re: Proposed Cross-Deputization Agreement Between the City of Durant, the Bureau of Indian Affairs, and the Choctaw Nation of Oklahoma, ICA No. 94-0007.

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 1 day of April, 1994.

Respectfully submitted,

SUSAN B. LOVING  
ATTORNEY GENERAL OF OKLAHOMA

  
JOSEPH L. McCORMICK, IV  
ASSISTANT ATTORNEY GENERAL

m94-0007.1oa

**FILED**

JUL 12 1994

OKLAHOMA SECRETARY  
OF STATE

CROSS-DEPUTIZATION AGREEMENT  
BETWEEN THE CITY OF DURANT, OKLAHOMA,  
THE BUREAU OF INDIAN AFFAIRS, AND  
THE CHOCTAW NATION OF OKLAHOMA

This Agreement is entered pursuant to the authority of the Indian Law Enforcement Reform Act, 25 U.S.C. Section 2801, et seq., the Oklahoma State Tribal Relations Act, 74 O.S. §§ 1221, et seq., and the Oklahoma Interlocal Cooperation Act, 74 O.S. Sections 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 make lawful arrests in Indian Country within the geographic area of the City of Durant, Oklahoma. 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.

All 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. Section 1151, and, 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 various agencies which are 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 to 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. Section 2401, 2671-2680, as amended.

The parties to this Agreement, therefore agree as follows:

1. Duration

This Agreement shall be in effect for a period of one year from and after its approval. It shall continue in effect from year to year, unless any party gives written notice of intent not to renew at least thirty days prior to the expiration in any given year, or unless sooner terminated by the thirty day termination period.

Any party to this Agreement may terminate this Agreement by giving thirty days written notice of termination to all other parties setting out the effective date of termination.

2. Organization

No separate legal or administrative entity is to be created hereby.

3. Purpose

The purpose of this Agreement is to provide for efficient, effective, and cooperative law enforcement efforts in and around Indian Country in Durant, Oklahoma, and its terms should be interpreted in that spirit. Accordingly, all 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 from other law enforcement officers, performing investigations and providing other assistance such as dispatching and detention in the City of Durant, Oklahoma.

4. Financing

Activities of each of the respective parties will be financed by each of the respective parties except as expressly provided herein.

5. Termination

This Agreement may be terminated as provided in Paragraph 1, above.

6. Administration

The provisions of the Agreement shall be administered by a board comprised of the Superintendent, Talihina Agency, BIA, Talihina, Oklahoma, and the Chief of Police of Durant, Oklahoma, and the Chief of the Choctaw Nation of Oklahoma.

7. Property

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

8. Commissions

A. Each agency who is a party to this Agreement may, in its discretion, issue special law enforcement commissions to law enforcement officers of other agencies who are parties to this Agreement upon the application for such by an agency party. Except

that the Secretary may not use the personnel of a non-Federal agency in an area of Indian Country if the Indian tribe having jurisdiction over such area of Indian Country has adopted a resolution objecting to the use of the personnel of such agency. Such commissions shall grant the officers the same law enforcement authority as that of officers of the commissioning agency unless specifically limited by the terms of the commission. When an agency issues such a commission, it shall provide notice of that commission, including the name of the officer receiving the commission, to each of the other agencies who are parties to this Agreement.

B. A commission shall not be granted unless an officer has complied with all the prerequisites for appointment as a police officer as set forth in 70 O.S. Section 3311. or 68 BIA Manual Section 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 Effect His or Her performance as a Police Officer.

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

D. A commissioning agency may, at any time, suspend or revoke an officer's commission for reasons solely within its discretion. A 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.

#### 9. 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. Section 1153, and the Code of Indian Tribal Offenses in 25 CFR Part 11, where applicable, and (ii) Choctaw Nation tribal laws, where the Choctaw Nation has authorized the Secretary of the Interior to enforce such laws, and to make other arrests on Indian Land for criminal offenses where applicable.

B. Officers carrying commissions issued by a state agency, a sheriff's department, or a city police department are given the authority to enforce Oklahoma state criminal laws and city ordinances, 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 victim is Indian and that state laws have been held generally to be inapplicable to Indians in Indian Country; and 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.

#### 10. Disposition and Custody

A. Any person arrested by an Officer commissioned pursuant to this Agreement shall be turned over to a responsible official of the proper 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.

B. The prisoner shall be taken before a judge of the appropriate jurisdiction for initial appearance, bond setting, and probable cause hearing within forty-eight hours from the time of arrest.

C. Whenever feasible and practicable all medical and dental needs of Indian prisoners shall be provided by an Indian Health Service (IHS) facility or tribal health care facilities. A listing of those facilities appears below. The City of Durant shall promptly notify the tribal police of such needs, to afford the opportunity to arrange for the treatment and the transport to treatment or to otherwise advise The City of Durant on action to be taken. In cases of extreme emergency where it is not feasible or practicable to seek tribal police advice in advance, The City of Durant may obtain such care for prisoners at local, federal or state facilities as emergency needs dictate. In such instances, the care provider should be advised to contact the nearest IHS facility for further instructions and for claims advice within 72 hours of the first furnishing of care or treatment. The City of Durant shall promptly notify the tribal police of actions taken when such emergency circumstances occur. If for some reason IHS refuses to pay for such emergency medical care, the Tribe will take all appropriate and lawful action so that the burden of payment will not fall upon the City of Durant.

A listing of Indian Health Service and Indian tribal health care facilities in eastern Oklahoma follows:

Carl Albert Indian Hospital	Ada	(405) 436-3980+
Chickasaw Nation Health Clinic	Ardmore	(405) 226-8181*
Chickasaw Nation Health Care Center	Tishomingo	(405) 371-2392*
Claremore Indian Hospital	Claremore	(918) 341-8430+
Sam Hider Jay Community Clinic	Jay	(918) 253-4271*
PHS Indian Health Center	Miami	(918) 542-1655
Okemah Indian Health Center	Okemah	(918) 623-0555+*
Salina Community Clinic	Salina	(918) 434-5397*

Sapulpa Health Center/ Creek Nation of Oklahoma	Sapulpa	(918) 224-9310*
W.W. Hastings Indian Hospital Eufaula Health Center/ Creek Nation of Oklahoma	Tablequah	(918) 458-3100+
Cherokee Nation Health Clinic	Eufaula	(918) 689-2457*
Cherokee Nation Health Clinic	Sallisaw	(918) 775-9159*
Choctaw Nation Health Services Authority	Stillwell	(918) 696-6911*
Choctaw Nation Health Center	Talihina	(918) 567-2211+*
Hugo Health Center	Broken Bow	(405) 584-2740*
McAlester Health Center	Hugo	(405) 326-7561*
PHS Indian Health Center	McAlester	(918) 423-8440*
Lawton Indian Hospital	Wewoka	(405) 257-6281
	Lawton	(405) 353-0350+

+ Open 24 hours, 7 days per week

\* A tribally operated facility

IHS personnel shall be permitted to visit tribal prisoners as frequently as necessary to ensure that medical care including medication is being provided to the prisoner and that all available health services for which the prisoner is eligible are being utilized.

#### 11. Detention, Travel and Expenses

A. If Indian prisoners are detained in the Durant City jail, they shall be detained in accordance with Oklahoma laws, rules, regulations and jail standards applicable to jails in the State of Oklahoma. The Sheriff or Chief of Police, pursuant to Oklahoma law, shall continue to exercise exclusive control of the operation of local jails.

B. All travel and transportation of prisoners necessary for court appearances in Federal or CFR Courts and all necessary transportation of prisoners for health care except local emergency health care, shall be performed by the Tribal police.

Any necessary travel performed by the City of Durant personnel in court attendances may be reimbursed to the City of Durant by the Tribe at the rate provided by the Oklahoma State Travel Reimbursement Act (74 O.S. 500.2 et. seq.) upon the filing of an appropriate claim with the Tribe. Reimbursement shall be subject to the Tribe's approval and further subject to the availability of funds for such purposes.

C. In the event it becomes necessary to provide guard security for an Indian prisoner at a health facility or any place other than the Durant City jail, it shall be the responsibility of the Tribe to provide such service.

D. In the event an emergency mental or psychiatric situation arises with an Indian prisoner, it shall be the responsibility of the Tribe to immediately take custody of said prisoner for appropriate action pursuant to applicable law.

E. In the event of a major crime investigation on Indian land participated in by the City of Durant personnel, all items of evidence shall be turned over to BIA officers who shall be responsible for it and for any expert tests or analyses to be performed.

## 12. 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 who have been commissioned pursuant to this Agreement.

### 13. 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 carrying a DSO performing any act within Indian Country will be afforded the protection of the Federal Tort Claims Act while acting within the scope of his employment as a Federal officer pursuant to the provisions of the Federal Tort Claims Act and pursuant to the provisions of the Indian Law Enforcement Reform Act, 25 U.S.C. § 2804(f).

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 defence of qualified immunity.

D. Nothing in this Agreement shall be construed as a waiver of any government's sovereign immunity, not otherwise expressly waived by legislative act.

### 14. Additional Parties

It is understood by the parties to this Agreement that additional agencies with law enforcement responsibilities may choose to join as parties hereto but that no amendment will be made to the terms of this Agreement without the agreement of all the parties signatory to it.

15. Approval

This Agreement shall be effective when approved by the Attorney General as provided in 74 O.S. § 1004(f), when approved by the Governor and by the State Tribal Relations Committee as provided in 74 O.S. § 1221 et seq., when signed by authorized officials of the Tribe's governing body, when signed by authorized officials of the City of Durant, Oklahoma, when signed by the Area Director, Bureau of Indian Affairs and when filed of record as provided by 74 O.S. § 1001 et seq. Copies of the resolutions of the governing body of the City of Durant, Oklahoma, authorizing entry into this Agreement are attached to this Agreement.

16. Indian County Identification

The Bureau of Indian Affairs or the Tribe shall prepare and furnish to the City of Durant, Oklahoma, a map and legal descriptions of all known Indian land within the City of Durant, Oklahoma.

17. Laws Applicable to Indian Country

The Bureau of Indian Affairs shall provide the City of Durant, Oklahoma, with an officer's manual containing all laws to be enforced on Indian land including tribal laws.

Approved as to proper form and compatibility with the laws of the State of Oklahoma

*Assistant* Joseph McCaughy  
ATTORNEY GENERAL

4/1/44  
DATE

APPROVED:

Steve Wright  
MAYOR - CITY OF DURANT, OKLAHOMA

1-21-94  
DATE

ATTEST:

Tommy Bealbeem  
CITY CLERK - CITY OF DURANT, OKLAHOMA

1-21-94  
DATE

APPROVED:

[Signature]  
AREA DIRECTOR, MUSKOGEE AREA OFFICE,  
BUREAU OF INDIAN AFFAIRS

2-03-94  
DATE

APPROVED:

[Signature]  
CHIEF, CHOCTAW NATION OF OKLAHOMA

1-22-94  
DATE

APPROVED AS TO PROPER FORM AND LEGAL SUFFICIENCY:

*Asst* [Signature]  
REGIONAL SOLICITOR  
DEPARTMENT OF THE INTERIOR

2-1-94  
DATE

David Walt  
GOVERNOR, STATE OF OKLAHOMA

6-10-94  
DATE

Terry J. Matlock  
CHAIRMAN, JOINT COMMITTEE ON STATE-TRIBAL  
RELATIONS

ATTEST: Ella Henley  
Secretary of State

12-94  
DATE



The City of Durant encourages participation from all its citizens. If participation at any public meeting is not possible due to a disability, notification to the City Clerk at least 48 hours prior to the scheduled meeting is encouraged to make the necessary accommodations. The City may waive the 48-hour rule if signing is not the necessary accommodation.

## CITY OF DURANT

### REGULAR COUNCIL MEETING

7:00 P.M.

COUNCIL CHAMBERS, CITY HALL

NOVEMBER 9, 1993

#### CALL TO ORDER

#### INVOCATION

#### ROLL CALL

#### PRESENTATIONS

- a. Award to City of Durant for most improved Wastewater Treatment Plant in the State of Oklahoma
- b. Award to Ken Johnson as Lab Technician of the Year in the State of Oklahoma

#### ORDER OF BUSINESS

1. Consideration Approval of Minutes of Regular Council Meeting of October 12, 1993
2. Public Hearing
  - a. Consideration Ordinance No. 1187 Approving Zoning Case No. 525 - Request by Joe and Keith Cavender to Rezone Property at 108-112 W. Poplar from C-3 to I-1
  - b. Grass and Weed Complaints
3. Consideration Approval to Make HOME Grant Application to the Oklahoma Department of Commerce
4. Consideration Proposal by Mr. Jerry Thrasher to Rent the Old Square Cafe Building for Retail Sales
5. Presentation of Audit for FY 1992-93
6. Further Consideration Ordinance No. 1184 Approving Deannexation of Property Owned by Reggie Sullivan Located on Westside Drive Near Washington Interchange of Highway 69/75
7. Consideration Closing of 3rd Street Between Evergreen and Beech for December 9th Christmas Parade Activities
8. Consideration Installation of Street Light at 12th and Texas
9. Consideration Approval of Christmas Bonus for City Employees

10. Consideration Approval of Cross-Deputization Agreement with Bureau of Indian Affairs, Choctaw Nation and City of Durant
11. Consideration Approval of Ordinance No. 1188 Adopting Code of Ordinances of the City of Durant
12. Consideration Approval of Resolution No. 1256 Directing Filing and Notification of the Publication of the Durant City Code
13. Consideration of Tort Claims
  - a. Consideration Tort Claim of Southwestern Bell
  - b. Consideration Tort Claim of Keith Jorgensen
14. Consideration Award of Bids on Following Projects and/or Purchases:
  - a. Reroofing of City Hall
  - b. Five-Year Lease of Land at Eaker Field Airport and 40-Acre Cemetery Site
  - c. Lease of 80-Acre Tract South of Airport
  - d. Hardware for GIS Mapping System for Building and Zoning Department and M & O Department
  - e. Networking System and Hardware for Durant Police Department
  - f. City of Durant's Contractor Equipment and Vehicle Fleet Insurance
15.
  - a. Consideration Executive Session to Discuss Status of Gobert v. City Lawsuit and Other Pending Litigation with City Attorney, as Authorized by Section 307 of Title 25 of Oklahoma State Statutes
  - b. Consideration Action Pursuant to Item 15(a) Above
16. Consent Items:
  - a. Consideration Authorization to Advertise for Bids for Three Polypropylene Tanks for Durant Fire Department
  - b. Consideration Approval of Bills for Mowing and Other Work on Private Property
  - c. Consideration Approval of Requisitions on Little Blue Reservoir Project
  - d. Consideration Approval of Claims
17. Information Items:
  - a. Lake Durant Dedication Set for November 20, 1993
  - b. Revised Census Count for 1990 Census
  - c. Budget Status and Report on Little Blue Reservoir Project
  - d. Building Permits for October, 1993
  - e. Water and Sewer Plant Monthly Operating Report for October, 1993
  - f. Monthly Fire Department Report for October, 1993
  - g. Monthly Police Department Report for September and October, 1993
  - h. Monthly Landfill Report for October, 1993

18. New Business

**ADJOURNMENT**

Posted on Durant City Hall  
Bulletin Board, 4:00 p.m.  
November 3, 1993

  
Tommy Bradburn, City Clerk/Treasurer