



**THE
MUSCOGEE (CREEK) NATION**

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Feb. 15, 2022

Sheriff Marcia Maxwell
Hughes County Sheriff's Office
201 N. Broadway
Holdenville, OK 74848

I am writing in response to your letter of Feb. 8, 2022, addressed to whom it may concern, announcing your intent to discontinue honoring the cross-deputization agreement with the Muscogee (Creek) Nation Lighthorse Police. Under terms of our agreement, we interpret your letter as your 60-day notice to terminate the agreement – an agreement that we desire to preserve in support of public safety.

I assure you that the Muscogee (Creek) Nation takes this issue with the utmost seriousness. Ending our cross-deputization agreement threatens the safety of victims, law-enforcement officers, and all members of the public in the substantial portion of Hughes County that is within our reservation. Your decision may also subject your officers to potential civil liability as they will not be protected by the good faith exception in the performance of their duties. Furthermore, I cannot see how termination of a shared law enforcement agreement is a cost-saving measure for Hughes County. Irrespective of your decision, your duties remain unchanged. Any refusal of the Hughes County Sheriff's Office to arrest suspects or aid our Lighthorse officers is a violation of their duty to the public and their oath as law-enforcement officers.

Without a cross-deputization agreement, justice is less likely to be served. Cross-deputization agreements ensure that law-enforcement officers can work together from the time a crime is reported until the suspect is apprehended. These agreements have no effect on the Muscogee (Creek) Nation's jurisdiction to prosecute and sentence Indian suspects for crimes committed upon our reservation, as confirmed by the U.S. Supreme Court.

What you seek to abort is a long-standing, mutually beneficial partnership between the Muscogee (Creek) Nation and the Hughes County Sheriff's Office. Residents of Hughes County have enjoyed the benefit of this cross-deputization agreement since the early 1990s, with the most recent agreement dated 2017.

I want to underscore that the Supreme Court's *McGirt* ruling in 2020 changed nothing about the mutual responsibilities of our cross-deputization agreement in the service of public safety. You regain nothing by terminating the agreement.

As the Muscogee (Creek) Nation will continue to have public-safety responsibilities in the portions of Hughes County within our Reservation boundaries, we would like to understand your plan for maintaining public safety with fewer law-enforcement resources that would result with the termination of our agreement.

Indeed, the relationship between our two entities began decades ago with the Hughes County Sheriff's Office recognition that it could address manpower deficiencies by adding, through agreement, officers from our Lighthorse Police. Likewise, the Muscogee (Creek) Nation benefitted with the addition of commissioned officers from the Sheriff's Office.

Clearly, an effective cross-deputation agreement depends on mutual trust and open lines of communication. Despite our efforts over many months, that is not the case here.

We were confused by your statements reported in the news media that Lighthorse failed to show up for recent meetings with you at the Sheriff's Office. We share your frustration that the scheduled meetings were thwarted by unexpected emergency calls, but we are perplexed that you omitted reference to the fact that you received direct, real-time communications from one of our Lighthorse captains who shared that the officers had been diverted en-route to your office to respond to emergency public-safety calls. As you are undoubtedly familiar through your own experience, the occurrence and duration of these public-safety emergencies is unpredictable – but require our full attention and appropriate response.

The fact that we first learned through the news media – and not directly from you – about your concerns and your plan to end the cross-deputization agreement is unhelpful, unfortunate and fosters speculation about motives that are more political than one of public service.

The Muscogee (Creek) Nation enjoys long-standing, productive working relationships with the two largest cities in Hughes County – Holdenville, home to the Sheriff's Office, and Wetumka. Our cross-deputization agreements with those cities remain in force. Your intention to end the Hughes County Sheriff's Office cross-deputization agreement – with no alternate plan for ensuring public safety – is likely to create confusion and prompt concerns with those two cities, as well as others.

For residents and visitors to Hughes County, the end of the cross-deputization agreement raises new concerns about what happens when a citizen calls 9-1-1 in need of a law-enforcement response. Is it your plan to have 9-1-1 dispatchers terminate or transfer any emergency call based on questions regarding callers' self-described racial identity? That would be an affront to all of us in law-enforcement who take an oath to serve all in the name of public safety. It may also be a violation of that caller's civil rights. Additionally, the admissibility of evidence gathered in the absence of a cross-deputation agreement will likely be challenged during prosecution.

For our part, the Muscogee (Creek) Nation Lighthorse Police is committed to continuing to dispatch officers in response to any public-safety emergency that comes to us on our reservation. Our primary concern is public safety - we will sort out the jurisdiction and adjudication issues once safety is addressed.

While I want to direct the focus of my correspondence here on the larger matters of our agreement and public safety, I must divert attention to some of the allegations you broadly shared in your public letter.

Regarding your concern about the adjudication of individuals under tribal jurisdiction, the Muscogee (Creek) Nation has filed 4,721 criminal cases since the Supreme Court's July 2020

McGirt ruling across the 11 counties that are within our reservation. Our Nation is not alone in our efforts. The federal government continues to prosecute countless crimes on our reservation that fall under its jurisdiction. You can receive information on the status of any tribal-jurisdiction Hughes County case by calling the MCN Office of the Attorney General.

Your stated concerns about the absence of Sheriff's Office resources to respond to calls, make arrests, complete paperwork, detain arrestees and process transfers meet the definitional terms of basic law-enforcement responsibilities. Again, your duties remain unchanged with or without a cross-deputation agreement.

We have provided training and held numerous useful meetings with many cross-deputized agencies and discussed how to effectively make this process work as smoothly as possible. You have not accepted our offers of this training, but we remain ready to provide it.

Without the benefit of hearing from you in response to my request to you on Feb. 8 for case details, here is what I know about the two specific cases you described in your letter:

First, in the case where you indicate that the suspect in an assault on an elderly man "walked free" - the cross-deputization process worked as intended. As you noted in your letter, as a cross-deputized officer, you made the arrest of the alleged perpetrator of the assault, an Indian male. You also noted that "Lighthorse in that case took over immediately after I had the suspect in custody."

The Muscogee (Creek) Nation filed two criminal charges against that individual. The defendant bonded out of custody, as was his right, and thereafter violated the conditions of his bail-bond by failing to appear in court. As a result, there is an active bench warrant for his arrest. As you are well aware from your law-enforcement experience, this unfortunately sometimes happens. If you see this individual or any other suspect you believe is inappropriately "walking free," we invite you to pick up the phone and call the MCN Office of the Attorney General and inquire as to the status of his/her adjudication. With the knowledge that there is a warrant for his arrest, you and your commissioned officers have clear authority to arrest this fugitive and hold him for our Lighthorse officers to return him for prosecution. This process would certainly be easier with a valid cross-deputation agreement.

The other matter you generally described, a horrible crime of child rape, would clearly have been referred to federal authorities for prosecution. If you would provide me a name of the suspect I will follow up with federal authorities and get back with you as to the disposition of that case.

Toward our shared mission of public safety, we have taken steps over many years to develop a productive working relationship with the Hughes County Sheriff's Office. We are willing to try again to rebuild the historically effective lines of communication – if the Sheriff's Office is committed to doing so. We hope you will reconsider your decision to put personal politics over public safety. In the meantime, the Muscogee (Creek) Nation will continue our efforts to protect all people within our reservation.

It is of benefit to all residents for the Muscogee (Creek) Nation Lighthorse Police to have a stronger working relationship with the Hughes County Sheriff's Office. Its absence is a detriment to public safety.

Please consider this letter a formal request from me and the Lighthorse Police to meet with you as soon as is possible so that we can discuss our desired continuation of the cross-deputization agreement. Should you not wish to discuss continuation of the agreement, our request to meet stands as it will be important for us to learn more about your plan for coordinating with our offices in the absence of an agreement. You may contact me directly.

Sincerely,



Kyle B. Haskins
Interim Attorney General
Muscogee (Creek) Nation

cc: Paul Smith, Oklahoma District Attorney, District 22
Gary Phillips, District 1 Hughes County, Okla., Commissioner
Cole Dilday, District 2 Hughes County, Okla., Commissioner
John Massad, Mayor, Holdenville, Okla.
Norma Marshall, Mayor, Wetumka, Okla.