

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

MUSCOGEE (CREEK) NATION,  
a federally recognized Indian Tribe,

*Plaintiff,*

v.

CITY OF TULSA; G.T. BYNUM, in his  
official capacity as Mayor of City of Tulsa;  
WENDELL FRANKLIN, in his official  
capacity as Chief of Police, Tulsa Police  
Department; and JACK BLAIR, in his official  
capacity as City Attorney for City of Tulsa,

*Defendants.*

Case No. 23-cv-00490-SH

**DECLARATION OF DANIEL WIND III, LIGHTHORSE DEPUTY CHIEF OF  
SPECIAL OPERATIONS**

I, Daniel Wind III, declare the following on the basis of personal knowledge to which I am competent to testify:

**General Information**

1. I am the Deputy Chief of Special Operations for the Muscogee (Creek) Nation's Lighthorse police force (Lighthorse). As Deputy Chief of Special Operations, I oversee the Lighthorse's Criminal Investigations Unit; the Sex Offender Registration and Notification Act (SORNA) Unit; the Special Operations Unit, which consists of the SWAT Unit, Search & Rescue Unit, Drone Unit, and Dive and Swift Water Rescue Teams; the Communications Unit, which includes our dispatchers and will include our Closed-Circuit Television (CCTV) team in the coming year; and our Community Resource Officer. I am also a certified instructor in criminal justice in Indian country, domestic violence, and First Aid/CPR/AED. I received my instructor certifications through the State of Oklahoma's Council on Law Enforcement Education and Training.
2. I have served in law enforcement for twenty-seven years. My tenure with Lighthorse began in 2005, when I joined the force as a patrol officer. Since that time, I have been promoted to various leadership positions, each with a corresponding increased level of responsibility. After serving as a patrol officer for two years, I was promoted to lead officer, where I assisted in supervising Lighthorse patrol officers. Thereafter, I was promoted to methamphetamine initiative officer. In 2016, I was appointed Deputy Chief of Police. At that time, the Deputy Chief of Police oversaw both the Lighthorse Patrol Unit and the Special Operations teams. And from June 2020 to December 2020, I served as the

Acting Chief of Police. My responsibilities as Acting Chief of Police began shortly before the United States Supreme Court decided *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020). When the decision issued, I immediately recognized the Nation's need to increase its law enforcement capacity and, accordingly, I created a separate Deputy Chief position to oversee special operations, which is the position I hold now.

3. Prior to joining the Lighthorse, I served as the Chief Probation and Parole Officer for the Reno-Sparks Indian Colony and as the Detention Officer and Assistant Chief of Security at the Okmulgee County Criminal Justice Authority. I have also volunteered as a reserve officer for McIntosh County and Okmulgee County.

#### **Lighthorse's Capacity to Address Crime Within the Nation**

4. The Lighthorse consists of a Patrol Unit, a K-9 Unit, a Criminal Investigations Unit, a SORNA Unit, a Communications Unit, a Domestic Violence Probation & Parole Unit, a SWAT Unit, a Search & Rescue Unit, a Drone Unit, Dive and Swift Water Rescue Teams, and a Community Resource Officer.
5. The Patrol Unit is primarily responsible for enforcing tribal, state, and federal law within the Nation's Reservation, which includes preventing, detecting, and investigating crimes, ticketing drivers, and apprehending offenders when officers observe criminal activity. The Patrol Unit currently employs eighty-nine uniformed officers, five of whom also serve as K-9 officers for the K-9 Unit. Nearly sixty of these positions were added since *McGirt*, and we anticipate adding more than ten new patrol officer positions in 2024.

6. Between January 1, 2023, and September 30, 2023, Lighthorse patrol officers made 800 arrests and issued 252 citations to both Indians and non-Indians.
7. The Criminal Investigations Unit is comprised of fourteen investigators that investigate major and non-major crimes that occur with the Nation's Reservation. We will fill two additional criminal investigator positions in 2024.
8. Between January 1, 2023, and September 30, 2023, the Criminal Investigations Unit investigated, and assisted other law enforcement agencies in investigating, 721 criminal cases.
9. The SORNA Unit is responsible for implementing the provisions of the Nation's sex offender registration code and the federal Sex Offender Registration and Notification Act, Pub. L. No. 109-248, tit. I, 120 Stat. 587, both of which apply to Indians and non-Indians. The SORNA Unit consists of three officers and an Intake Specialist. In the 2024 budget year, we will fill two additional SORNA positions. The SORNA Unit currently has a caseload of 420 offenders.
10. The Communications Unit receives radio and telephone requests for emergency and non-emergency services. Such requests come from all counties and cities within the Nation's Reservation. The Communications Unit also works with non-Nation law enforcement, within and outside of the Nation's Reservation boundaries. The Communications Unit employs twelve dispatchers, and two additional dispatchers will be added in 2024.
11. Between January 1, 2023, and September 30, 2023, Lighthorse dispatchers received 14,539 calls requesting Lighthorse or other law enforcement agency assistance. Most of the calls Lighthorse dispatchers receive do not result in arrest

because the caller either does not wish to press charges, the infraction does not warrant heightened law enforcement interventions (i.e., a noise complaint), or Lighthorse has been dispatched to serve as backup for non-Nation officers who effectuate the arrest.

12. In 2024, Lighthorse will implement its CCTV surveillance program by hiring eleven health and safety personnel who will monitor activity captured on the Nation's CCTV system. The Nation's CCTV system consists of more than 300 cameras that are installed in and near the Nation's buildings, which are located throughout the Reservation.

#### **Lighthorse Protocols Under Cross-Deputization Agreements – General Principles**

13. As set out in the Declaration of Attorney General Geraldine Wisner, the Nation has long cooperated with local, State, and Federal law enforcement agencies that exercise criminal jurisdiction within the Nation's Reservation boundaries. That cooperation has taken many forms.
14. Through cross-deputization and related intergovernmental agreements, Lighthorse officers are cross-commissioned to respond to observed violations of tribal, state, municipal, and federal laws and to follow ordinary protocols when they pull over, ticket, arrest, and detain drivers and offenders for violating such laws, regardless of that person's status as an Indian. Tulsa Cross Deputation Agreement, § 8(C) (2006); *id.* § 2(I).<sup>1</sup>
15. The protocols that cross-commissioned officers must follow when ticketing, arresting, and detaining persons who are within another sovereign's jurisdiction

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<sup>1</sup> <https://www.sos.ok.gov/documents/filelog/63941.pdf>.

are set out clearly in the cross-deputization agreements. Most parties to those agreements have significant experience implementing these protocols. Indeed, the Nation has been a party to these agreements for over two decades, and the City of Tulsa has been a party to its cross-deputization agreement with the Nation since 2006.

16. Prior to *McGirt*, cross-commissioned Lighthorse officers responded to any observed violations of tribal, state, or federal law. When encountering the suspect, the Lighthorse officer inquired into the person's Indian status. The suspect's answer and the nature of the offense determined whether the Lighthorse officer sent the matter to the Nation's Attorney General's Office, State or municipal prosecutors, or Federal prosecutors. Pursuant to cross-deputization agreements, either the Attorney General or the State prosecutor made "the official determination of the correct jurisdictional authority for purposes of prosecution[.]" Tulsa Cross-Deputization Agreement, § 9(B). If the suspect wished to challenge that determination, he could do so before the court of the prosecuting jurisdiction.
17. *McGirt* has not made it more difficult for our officers to carry out their responsibilities, including issuing tickets to non-Indians and referring them to the appropriate jurisdiction.
18. While there has been a significant increase in the number of cross-deputization agreements across the Reservation, the cross-deputization protocols remain largely the same, and cross-commissioned officers have continued to issue tickets and make arrests pursuant to those cross-deputization agreements.

19. Accordingly, Lighthorse officers utilize the same protocols today that they used before the *McGirt* ruling. The only difference is that after *McGirt*, officers today may also ask a suspect who claims to be Indian to provide further verification of his Indian status. If the officer is satisfied with the suspect's response, the officer will send the suspect's ticket or arrest report to the Nation's Attorney General's Office for prosecution. If the officer believes the suspect is not Indian, the officer will send the suspect's ticket or arrest report to the State prosecutor.
20. At bottom, each Lighthorse officer uses his or her own good judgment to determine where to send the suspect's ticket or arrest report. So while Lighthorse officers will make a reasonable inquiry to determine in the first instance which government likely has jurisdiction over the offense, Lighthorse officers do not stand at the side of the road or at the scene of a crime for extended periods, calling tribal enrollment offices to confirm the suspect's Indian status. They understand that a suspect's Indian status can be conclusively established at a later point: for example, when the Nation's Attorney General's Office confirms the person's Indian status before proceeding with a prosecution, or, in situations where the suspect has been referred for prosecution by a non-Nation prosecution, the suspect will have the opportunity to contest the prosecution and offer evidence of Indian status at what is known as a "*McGirt*" hearing.

#### **Implementation of Cross-Deputization Agreements in the City of Tulsa**

21. The officers who serve in Lighthorse's Patrol Unit are primarily responsible for the on-the-ground implementation of the Nation's responsibilities under the cross-

deputization agreements as they patrol the Nation's Reservation in marked police cruisers and ticket, arrest, and detain Indian and non-Indian suspects.

22. The Patrol Unit is separated into three divisions, and each division is assigned to a specific geographic area within the Nation's Reservation.
23. The Northern division covers the City of Tulsa. The Northern Patrol Division consists of a total of twenty-three officers, including two K-9 officers. Officers assigned to patrol Tulsa work out of the Tulsa Lighthorse police station.
24. Lighthorse officers who patrol the City of Tulsa work in close collaboration with the officers who serve the Tulsa Police Department. Indeed, there are numerous public accounts of the cooperative law enforcement that has occurred between the Lighthorse and the Tulsa police departments—and that cooperation ranges from routine traffic stops to more serious offenses.<sup>2</sup>
25. As explained above, cross-commissioned Lighthorse officers have continued to ticket and arrest non-Indians since *McGirt* and to refer those cases to the appropriate non-tribal jurisdictions for prosecution. This includes Lighthorse officers stationed in Tulsa. Lighthorse officers who patrol the City of Tulsa now utilize the same e-ticketing system as the Tulsa Police Department, and this system has been configured by Lighthorse to allow officers to transfer tickets

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<sup>2</sup> See, e.g., Molly Young, *McGirt v. Oklahoma, 3 Years Later: How Police Work on the Muscogee Nation Reservation*, The Oklahoman, July 9, 2023, <https://www.oklahoman.com/story/news/2023/07/09/muscogee-lighthorse-police-three-years-after-mcgirt-decision-us-supreme-court/70365754007/>; *Suspect Dies After Pursuit, Armed Confrontation with Tulsa Police*, KOCO News, Dec. 31, 2022, <https://www.koco.com/article/oklahoma-tulsa-police-suspect-dies-pursuit-shooting/42373288>.



electronically and seamlessly to the State prosecutor's office and Tulsa County court systems.

26. Between January 1, 2023, and October 31, 2023, Lighthorse stationed in Tulsa County issued more than 350 traffic tickets and referred them to the Tulsa County Court. This number includes traffic tickets that Lighthorse officers issued to drivers in the City of Tulsa.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 15, 2023

/s/Daniel Wind, III  
Daniel Wind, III