

FEDERAL CROSS DEPUTIZATION OF LAW ENFORCEMENT IN INDIAN COUNTRY



Cross Deputization is a “Force Multiplier” that Benefits Public Safety:

1. Allows more authorized police officers to respond to a crime scene quickly, where resources are stretched thin, or where response times are long due to distance.
2. Provides officers legal authority at a location, such as Indian country, when outside their normal jurisdiction.
 - A **state** officer may be granted tribal and federal authority
 - A **tribal** officer may be granted state and federal authority
 - A **federal** officer may be granted state and tribal authority
3. Prevents officers from having to immediately determine jurisdiction from land status and the status of persons as to whether they are Indian or non-Indian.
4. Protects evidence collection from challenge in areas where Indian country lands are intermingled between municipal, state, tribal and federal jurisdictional areas.
5. Does not involve extra cost or expense for a police department, sheriff's office, or law enforcement agency.



In Indian country, without cross deputization, excepting federal offenses based on interstate commerce or other federal interests, for example:

- Tribal officers and tribal courts cannot arrest, charge, or prosecute non-Indians for crimes in Indian country (except under special domestic violence laws)
- Federal police officers and the federal courts have NO jurisdiction over non-Indian vs. non-Indian crimes or non-Indian victimless crimes committed in Indian country
- State officers have NO authority to charge for any offense by an Indian committed within Indian country or by a non-Indian against an Indian

Cross deputization can give officers in the field authority under state, tribal, and federal law all at the same time. In other words, a cross deputized officer can have authority to simultaneously act as an officer under the state's law, the tribe's law, and the federal government's law, ensuring that crime is quickly and adequately addressed to enhance public safety.



Cross deputization also legally protects officers who are responding by giving them the broadest range of authority in case they are sued or their authority is challenged in court.

What is Cross Deputization?

Such agreements are particularly important in Oklahoma where there are 38 federally recognized tribes and Indian country lands under federal and tribal authority are located throughout the state.

Cross Deputization or Deputation agreements between governments provide individual law enforcement officers a broader range of authority so that they can properly exercise jurisdiction when responding to crime.



Cross deputization only affects the authority of an INDIVIDUAL OFFICER, it does not change jurisdiction or alter which government (state, tribal, or federal) ultimately has prosecution authority in court.

Cross deputization does not involve “giving up” any sovereignty or authority, but rather protects the integrity of each government entity by recognizing one another's legitimate interest in public safety and governance.

Decisions about where charges are filed are left to the prosecutors, after a full investigation, thereby avoiding:

- loss of evidence because the officer did not have legal authority to investigate or collect evidence.
- possible civil rights liability for an officer taking action (arrest, evidence collection, use of force, etc.) where he or she was not legally authorized to investigate or respond to a crime.
- providing additional back up personnel, when needed, for officers with smaller police forces, limited resources, or where specialized K9s or other equipment is required
- additional assistance in emergency situations or critical incidents involving a major threat to public safety



Generally, federal cross deputization in Indian country is administered by the Bureau of Indian Affairs ("BIA") and need not be "one size fits all" approach but rather can be specifically tailored to the needs of individual jurisdictions based upon particular circumstances.

- An agreement can detail that state, tribal or federal/BIA police can only respond to certain types of crimes or the agreement can be limited as to specific locations (a casino, tribal land area, or business)
- the agreement can be limited to only emergency situations or when assistance is specifically requested

Because specific officers are cross deputized, not an entire police department, and because stringent background qualifications are required, each officer must have the requisite training and ability to carry out federal duties before any federal authority is granted. Generally only full time officers may receive federal authority.

- Local, state, and tribal officers that receive training equal to their federal counterparts are eligible
- Local, state and tribal officers must meet additional BIA requirements of to be granted federal authority
- Since deputization is linked to an individual officer, if any problems arise or corrective action is needed, the authority can be revoked for grounds shown

How Does Federal Cross Deputization Get Implemented in Oklahoma?

In Oklahoma, implementation of a federal cross deputization has been simplified, since there is now one base 2006 agreement which has been approved by the BIA, the Oklahoma Attorney General, the Governor's Office, and the State Legislature.

The base agreement can have addendum attached by the parties to the agreement to tailor it to their specific needs or agreed limitations. The agreement confirms each entity retains its own authority. Liability for actions taken rests with the



government under whose authority the officer was acting (e.g. if the state or tribal officer was acting under federal authority, he or she would be defended by the United States, if sued).

Once the base 2006 agreement has been adopted and addendums filed with the approval of municipal, county tribal or federal authorities, depending on the situation, then individual full time law enforcement officers can submit an application to the BIA to get their federal "Special Law Enforcement Commission" or SLEC for a 5 year renewable term. Each applicant must:

- complete and submit a written application to BIA
- provide a background investigation
- provide fingerprints to the FBI & obtain clearance
- provide a passing firearms course qualification
- verify police academy certification
- verify status as full time peace officer
- confirm no prior misdemeanor domestic violence convictions nor be subject to a court order prohibiting firearms possession
- Sign BIA Code of Conduct and Ethics documentation
- Provide a valid state drivers license and educational diploma proof
- take a 3 day course on "Criminal Justice in Indian Country" or "CJIC" on federal jurisdiction, law, and procedure and obtain a passing grade on a written exam

An SLEC permits the holder to enforce federal law within Indian country. In some cases, if the tribe so authorizes, it will also allow a holder to enforce tribal law in Indian country. Cross deputization has worked successfully around the nation and in Oklahoma in some areas for many decades.

Cross deputization by Indian tribes directly with state and local entities is also possible for the enforcement of tribal law, but involves a different process depending upon the tribal nation involved.

For Further Information Contact:

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