



NCA 21-084

CLASSIFICATION: #50. LIGHTHORSE POLICE

A LAW OF THE MUSCOGEE (CREEK) NATION REPEALING MCNCA TITLE 16, CHAPTER 4 AND CREATING NEW LAW IN A NEW TITLE 50, ENTITLED "LIGHTHORSE POLICE" AND AUTHORIZING AN APPROPRIATION FOR THE LIGHTHORSE POLICE COMMISSION

Be it enacted by the National Council of the Muscogee (Creek) Nation:

SECTION ONE. FINDINGS. The National Council finds that:

A. The National Council has the authority to legislate on matters creating authorities with attendant powers to achieve objectives allowed within the scope of the Constitution, as prescribed in Article VI, Section 7(i) of the Constitution of the Muscogee (Creek) Nation.

B. The Lighthouse Police Department is responsible for the public safety of the Nation and all citizens within the Nation, whether they be foreign or members of the Muscogee (Creek) Nation.

C. The Muscogee (Creek) Nation must have a Police Chief who is free to perform the duties prescribed by law, without political influence from the Principal Chief or National Council. To best establish that environment there is immediate need to create the Muscogee (Creek) Nation Lighthouse Police Commission.

SECTION TWO. REPEALER. MCNCA TITLE 16, Chapter 4 is hereby repealed in its entirety.

SECTION THREE. NEW LAW. The following new law shall be codified in Title 50 of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification of said new law and its inclusion in pocket parts for the Code of Laws of the Muscogee (Creek) Nation, the Attorney General is hereby authorized: (1) to approve any changes related to the manner in which sections, articles, chapters and sub-chapters are designated in this law in order to be consistent with the format in the Code of Laws published in 2010 by West Publishing Company; (2) to include footnoted references to the legislative history in said pocket parts to the Code of Laws; and (3) to note in said pocket parts any editorial correction of minor clerical or grammatical errors in the following new law:

TITLE 50. LIGHTHORSE POLICE

CHAPTER 1. LIGHTHORSE POLICE COMMISSION

§ 1-101. Short title and codification

This Act shall be known and may be cited as the Muscogee (Creek) Nation Lighthouse Police Commission Act and shall be codified as Chapter 1 in Title 50 of the Muscogee (Creek) Nation Code Annotated.

§ 1-102. Purpose

The purpose of the Lighthouse Police Commission Act is to provide for independent supervision of the Chief of Police of the Muscogee (Creek) Nation Lighthouse Police Department and provide oversight for the Muscogee (Creek) Nation Lighthouse Police Department, while supporting the Muscogee (Creek) Nation duty to maintain the health, safety, education and welfare of all members of the Tribe.

§ 1-103. Creation of the Muscogee (Creek) Nation Lighthouse Police Commission

The Lighthouse Police Commission is hereby established to provide oversight to the Lighthouse Police Department regarding the activities and actions of the law enforcement operations, to support the Muscogee (Creek) Nation goal of self-sufficiency and sovereignty through the implementation and enforcement of tribal laws, regulations and ordinances, to provide the community with a professional and effective law enforcement agency that is responsive and respectful while serving the community, to strengthen the relationship between the community and the police by providing an accessible and credible complaint review process and to provide an open and independent forum for the community to express concerns about police conduct.

§ 1-104. Definitions

- A. "Attorney General" means the Attorney General of the Muscogee (Creek) Nation.
- B. "Chief of Police" means the highest-ranking law enforcement officer of the Muscogee (Creek) Nation Lighthouse Police Department.
- C. "Commission" means Lighthouse Police Commission.
- D. "Commissioner" means a member of the Lighthouse Police Commission of the Muscogee (Creek) Nation.
- E. "Conflict of interest" means conflict of interest occurs when a Lighthouse Police Commissioner has a family relationship to or financial interest in any complaint or investigation.
- F. "Cross Deputization Agreement" otherwise known as "Mutual Aid

Agreement” or “Sharing of Powers Agreement” means an Agreement between the Muscogee (Creek) Nation and a political subdivision of the State of Oklahoma, including the State of Oklahoma, creating mutual obligations and giving both parties help in jurisdictional areas.

G. “Department” means the Muscogee (Creek) Nation Police Department.

H. “Internal Affairs” means the Internal Affairs officer of office of the Lighthorse Police Department responsible for conducting internal investigations of any Lighthorse personnel or activity as described in this law.

I. “Muscogee (Creek) Nation Reservation” means all lands defined in the Treaty of 1866 and any property which otherwise constitutes Indian country as that term is defined in 18 U.S.C. § 1151.

J. “Nation” means the Muscogee (Creek) Nation.

K. “National Council” means the legislative body of the Muscogee (Creek) Nation.

L. “Personnel” means all civilian personnel of the Muscogee (Creek) Nation Lighthorse Police Department.

M. “Police Officers” mean all qualified and sworn members of the Muscogee (Creek) Nation Lighthorse Police Department.

N. “Relative” means as defined in the latest version of the employee handbook or other existing tribal law, or as amended.

§ 1-105. Source of Authority

The Muscogee (Creek) Nation has inherent sovereign authority to govern and provide for the health and safety of its citizens, residents, visitors and territory, and through that authority has created the Muscogee (Creek) Nation Lighthorse Police Commission. This authority is derived from the Constitution of the Muscogee (Creek) Nation and affirmed by National Council laws enacted.

§ 1-106. Scope of Authority

The Muscogee (Creek) Nation Lighthorse Police Commission shall supervise the Chief of Police and oversee all complaints and disciplinary actions against the Chief of Police while also overseeing hearings of formal charges against Police Officers or Police Department Personnel as outlined herein and in certain instances hear appeals of personnel complaints as outlined herein. In addition, the Commission may also recommend Police Department policies and procedures or amendments thereto.

§ 1-107. Commission Composition

A. The Commission shall consist of five (5) members, two (2) of whom shall be appointed by the Principal Chief and two (2) nominated and confirmed by the National Council by National Council Resolution. Once there are four seated Commissioners, they shall select the fifth member by a majority vote within forty-five (45) days.

B. Police membership requirements:

1. All Commission members and candidates shall be Muscogee (Creek) citizens:
 - a. be a full citizen of the Muscogee (Creek) Nation unless waived by two-thirds (2/3) vote of the full National Council.
 - b. possess a minimum of an associate degree plus ten (10) years of experience in law enforcement or twenty years of experience in law enforcement;
 - c. pass a drug test and criminal background check;
 - d. possess supervisory capability, with experience preferred;
 - e. possess relevant and significant qualifications and experience; areas of human resources, law and policing/public safety are preferred;
 - f. submit proof of supervisory training or willingness to take training within one (1) year; and
 - g. be willing to maintain communication through technology and be accessible.
2. All Commission members and candidates shall not:
 - a. have a felony conviction;
 - b. have been convicted of any misdemeanor offense with one (1) year of application and during tenure;
 - c. have been convicted of any drug or alcohol misdemeanor offense within the last five (5) years and during tenure;
 - d. have been convicted of any misdemeanor domestic violence or sexual assault convictions;
 - e. be currently employed by the Muscogee (Creek) Nation Lighthorse Police Department;
 - f. have been terminated for cause by any police department;
 - g. have resigned within the past year from a police department; and
 - h. be an immediate relative, as defined by the Muscogee (Creek) Nation Employee Handbook, to the Chief of Police.

C. Terms. The term of the board members shall be three (3) years and shall have no holdover. The board members' terms shall be staggered to guarantee board continuity.

1. Upon enactment of this law, the terms for the first Commission members shall be as follows:
 - a. the term for the National Council's first appointee shall be for five (5) years;
 - b. the term for the Principal Chief's Nation first appointee shall be for four (4) years;
 - c. the term for the National Council's second appointee shall be for three (3) years.
 - d. the term for the Principal Chief's Nation second appointee shall be for two (2) years; and
 - e. the term for the fifth member, selected by a majority of the other four members, shall be for one (1) year.

D. Election of Officers. The Commission members shall nominate a Chairperson by motion and majority vote. The Chairperson shall be the presiding officer at all meetings and shall perform duties pertaining to the office. The Chairperson's term shall be for one (1) year or until a successor is nominated. Failure of the Chairperson to perform his/her duties shall result in the Commission removing the Chairperson from his/her role and responsibility. The Chairperson is a voting member of the Commission, but he/she shall abstain from voting when there is a conflict of interest.

E. Insurance; Sovereign Immunity Extension. The Commission members shall obtain appropriate directors and officers insurance coverage. Notwithstanding insurance coverage, it is the intent of the Nation for the Commission members acting within the scope of their official capacities to be protected by the Nation's sovereign immunity from suit in any forum unless otherwise prescribed by law.

§ 1-108. Removal of Commissioners

A. The Commissioners shall not be subject to removal from the office at the will and pleasure of the Principal Chief or National Council, but may be removed from the Commission only for one or more of the following causes set forth in a written petition and proven by a preponderance of the evidence in the hearing provided for in § 1-108.C:

1. violation of any provisions contained in § 1-107.B.2;
2. failure to perform his or her duties as a Commissioner;
3. missing more than three (3) consecutive meetings in any twelve (12) month period without good cause;
4. continual failure to remove himself/herself from cases for a conflict of interest;

B. A petition for removal hereunder may be filed by the Principal Chief or the Business, Finance and Justice Committee upon a majority vote for removal by such Committee.

C. Any Commissioner accused of any of the foregoing causes shall be given a copy of the petition charging him or her and afforded the right to respond to the charges and present witnesses and other evidence in his or her defense at a hearing convened by the National Council. The petition shall state the cause or causes for removal with sufficient particularity to put the accused Commissioner on notice of the nature of the charges against him or her. Both the petitioner and the Commissioner so accused shall have the right to be represented by an attorney at the hearing, provided the Commissioner shall be responsible for paying his or her own attorney fees and other expenses in defending the petition. The petitioner shall be represented by the Attorney General or, upon the request of the petitioner, a special prosecutor appointed by the Attorney General. The National Council shall preside over the removal hearing and receive the evidence. Removal of the accused Commissioner shall require a majority vote of the National Council. The decision of the National Council shall be final and binding on the Muscogee (Creek) Nation and the Commissioner, and shall not be subject to judicial review.

§ 1-109. Conflict of interest

In the event a Commissioner possesses a conflict of interest on a particular issue, he or she shall disqualify himself/herself from the decision-making process. If the Commissioner fails to disqualify himself or herself and the conflict of interest is apparent to the remaining Commissioners, may recommend removal to the Principal Chief or the Business, Finance and Justice Committee in accordance with § 1-108.

§ 1-110. Confidentiality

All Commissioners shall not reveal any confidential information regarding personnel matters, investigations, and disciplinary hearings. Sharing of confidential information shall result in the removal pursuant to § 1-108.

§ 1-111. Duties of the Commission

A. The Commission shall appoint, supervise, discipline and terminate the Chief of Police of the Muscogee (Creek) Nation Lighthorse Police Department.

B. The Commission shall submit to the National Council and the Principal Chief quarterly reports concerning the state of the Lighthorse Police Department. This may be accomplished by and through the Chief of Police. However, the Commission is not excused from responding to National Council requests for attendance and may from time to time be required to provide additional reports.

C. The Commission shall review and recommend for approval of all policies and procedures of the Muscogee (Creek) Nation Lighthorse Police Department. Within 120 days of the adoption of this Act, the Commission shall conduct, or cause to be conducted, a complete review of existing Policies and Procedures, and, if necessary, make recommendations to amend such Policies and Procedures for consistency with this Act. All such Policies and Procedures shall be consistent with nationally acceptable police practices and the best interest of the Muscogee (Creek) Nation's goal of self-sufficiency and sovereignty through the implementation and enforcement of Tribal laws, regulations and ordinances. After the adoption, the Policies and Procedures may be amended under the following circumstances:

1. The Chief of Police may provide the Commission with any recommended or necessary additions or amendments to Department policies and procedures.
2. The Commission may also draft changes based upon issues identified by the community or the Commission.
3. Upon receiving any amendments to policies and procedures from the Chief of Police, the Commission shall have up to sixty (60) days to review and recommend adoption to the Principal Chief. Only upon the approval by the Principal Chief will any proposed policies and procedures then be submitted to the National Council for approval by Tribal Resolution.

D. Upon submission of the policies and procedures by the Principal Chief to the National Council, the policies and procedures shall be deemed within sixty (60) days unless the National Council votes to reject the new policies and procedures or request certain changes. If the National Council votes to reject the policies and procedures, the National Council shall give a written explanation to the Commission within ten (10) days of the rejection. If changes are requested, then the Commission shall determine whether to make further changes and resubmit to National Council within thirty (30) days of receiving such changes. Thereafter, National Council shall approve the policies and procedures within thirty (30) days.

E. A member of the Commission may participate in hiring and promotion decisions of the Police Department, but the Chief of Police retains the authority to select a candidate to hire or promote. The Chief of Police's actions must be consistent with departmental policies, the Nation's current policies and procedures including the Employee Handbook or any amendments thereto.

F. The Commission, with the input of the Chief of Police, may provide the Nation's Human Resources Division with proposed policies for the hiring, promotion, suspension and removal of personnel and officers of the Police Department.

G. The Commission shall oversee all complaints against the Chief of Police.

H. The Commission may be involved in complaints against Department Personnel and Officers as outlined in the Police Manual and herein at § 1-118. As outlined

in the Police Manual it may hear appeals regarding certain disciplinary decisions involving Police Personnel reporting directly to the Chief of Police. It shall not oversee any complaints involving conduct or discipline relating to the Nation's Employee Handbook unless such a review is outlined in the Nation's Employee Handbook.

I. The Commission shall make complaint forms accessible to the public and ensure all tribal agencies know the complaint process and where to submit a complaint form.

J. The Commission shall review all reports and audits conducted by the Bureau of Indian Affairs, or any other entity's reports or audits that are submitted to the Chief of Police.

K. The Commission shall review closed complaints and disciplinary cases involving conduct related to the Police Manual every six (6) months to determine whether improvements to Department policies and procedures are needed. The Commission shall not reopen closed cases but shall only review the cases to determine needed improvements in policies and procedures.

L. The Commission shall review the Department's annual proposed budget and shall provide recommendations to the Chief of Police regarding the Department's finances prior to its submission to the National Council for approval.

M. The Commission shall review all use of force reports, including shooting incidents, to keep track of when officers use force, which officers use force, and in what type of circumstances force is being used. The Commission shall identify patterns and trends and adjust policies and procedures to provide training when appropriate based on this review. The Commission shall work towards increasing public awareness of the Commission and the Police Department.

N. The Commission shall provide public notice of its monthly meetings, provided that all hearings involving disciplinary matters shall be held in executive session.

O. The Commission, with the assistance of the Chief of Police, shall develop programs aimed at interaction with and education of the community.

P. The Commission, for any reason, may retain an independent police auditor to monitor a particular complaint or investigation.

Q. The Commission shall provide a report to the National Council and the Principal Chief of its individual member's activities on a monthly basis. It shall also provide a monthly report to the National Council and the Principal Chief to include, but not limited to, statistics on the number of complaints and disciplinary actions it has heard, and any other issues the Commission or the National Council may deem important and appropriate.

R. The Commission shall conduct a yearly evaluation of the Department. It shall be submitted by February fifteenth (15th) of each year. The Commission may hire an outside evaluator to assist with it. The evaluation shall include, but is not limited to:

1. Interviews with Department personnel and officers.
2. Conduct an anonymous survey of all Department personnel and officers regarding working conditions and overall satisfaction with the Department.
3. A review of complaints and disciplinary actions regarding Department personnel and officers.
4. A review of policies and procedures.
5. A review of Department statistics, including statistics on the number of tribal criminal cases, major crimes cases, sexual assault cases, cases referred to the United States Attorney and cases referred to the state of Oklahoma.
6. A review of the Department's strategic plan including any implementation efforts.

S. To coincide with the Department's annual evaluation from § 1-111.S, the Commission shall submit to the National Council and the Principal Chief an annual report. The annual report shall include a summary of each member's individual activities and should include, but is not limited to, the number of complaints filed and resolved by the Commission, the number of disciplinary actions it oversaw, changes in policies and procedures or recommendations for such changes, goals and needed resources for the following year.

T. The Commission shall not respond to police scenes or calls for assistance.

§ 1-112. Commission Meetings

A. The Commission shall meet monthly and may meet virtually when necessary.

B. Meetings dates and times shall be made public.

C. The Commission Chair may also call special meetings to attend to urgent business. Minutes shall be kept by the Commission's Administrative Assistant, of every meeting which may be reviewed by the Commission and National Council or the Principal Chief.

§ 1-113. Funding

A. Commissioners shall receive a stipend of \$750.00 for attendance at each duly called meeting of the Commission or duly called meeting of the National Council, provided that to receive a stipend for attendance at a National Council meeting the

Commission's attendance must be requested either by the Speaker, Chairperson of the Business Finance and Justice Committee or the Principal Chief. In addition to a stipend, Commissioners shall receive mileage for attendance at meetings and conferences, provided attendance is in furtherance of a valid function of the Commission. All mileage reimbursement shall be at the Nation's current rate in accordance with the Nation's travel policies and procedures.

B. The Commission shall receive an annual budget every year, which may include funding for stipends, meetings, training, travel an administrative assistant, supplies, and a contract attorney or any other reasonable and necessary expense.

C. The Commission annual budget shall be approved by the Commission and be submitted to the Principal Chief for preparation of the Comprehensive Annual Budget, subject to review and approval by the National Council pursuant to Article V, § 3 of the Muscogee (Creek) Nation Constitution.

§ 1-114. Lighthouse Police Commission Personnel

A. The Commission may have the services of its own contract attorney, separate from the Attorney General's Office, during all officer or personnel disciplinary hearings to avoid any conflict of interest. Payment for the services of any contract attorney shall be included in the Commission's annual budget.

B. Administrative assistance shall be provided for the Commission. The assistant may be part-time or full-time, depending on the needs of the Commission.

§ 1-115. Appointment, Supervision, Discipline of the Chief of Police

A. The Commission appoints, supervises, disciplines and may terminate the Chief of Police.

B. The Commission shall use the following process for appointing the Chief of Police:

1. Upon a vacancy, the Commission shall appoint an interim Chief of Police while conducting a candidate search.
2. The Commission shall post the position in local or national newspapers, in addition to any other places, for no longer than thirty (30) days.
3. The Commission shall interview any candidates that meet the criteria for Chief of Police as per § 1-115. C.
4. Upon finding a qualified candidate, the Commission shall appoint a Chief of Police.

C. The Chief of Police must meet the requirements listed in § 2-104.B:

D. To coincide with the Department's annual evaluation from § 1-111.S, the Commission shall conduct a yearly evaluation of the Chief of Police. It shall be submitted by February fifteenth (15th) of each year. The Commission may hire an outside evaluator to assist with the evaluation. The evaluation shall include, but is not limited to:

1. Interviews with Department personnel and officers.
2. Conduct an anonymous survey of all Police Officers and Personnel to determine the overall satisfaction with the Chief of Police with a focus on whether he or she is adhering to the job description or duties listed in the Police Manual.
3. Conduct a review of complaints and/or disciplinary actions against the Chief of Police.
4. A review of any updated policies and procedures that the Chief of Police may have initiated.

E. Disciplinary charges against the Chief of Police may be filed by the Commission based upon an Internal Affairs investigation or as a result of the Commission's oversight of the Chief of Police.

1. Written notice of the charges shall be given to the Chief of Police, along with notice of a hearing to be held before the Commission. The notice shall include the right to cross examine witnesses, the right to present evidence, and the right to an attorney at his/her own expense.
2. The disciplinary hearing shall be heard by the Commission within thirty (30) days of the filing of the disciplinary charges.
3. The Commission shall determine which evidence is relevant and allowed at the hearing.
4. The Chief of Police may cross-examine evidence and offer any evidence to refute the charges.
5. The Commission shall decide whether the charges have been sustained based upon the evidence presented to them. The evidence may be offered by the Internal Affairs Officer or by the Commission's Chair or his/her designee. The burden of proof is preponderance of the evidence. The Commission may retire to executive session to discuss and decide the case.
6. Upon a finding the charges have been sustained, the Commission shall impose discipline, which may include, but is not limited to counseling, training, probation, suspension, or termination. The Commission shall issue a written decision for any discipline that involves termination or suspension.
7. Once the Commission has rendered a decision which involves a suspension or termination, the Chief of Police may appeal such decision within ten (10) business days of the decision being issued to the Muscogee (Creek) Nation Supreme Court on notice to the Commission. The Supreme Court shall determine whether the Commission's decision

was arbitrary and capricious based upon the record the Commission develops. After an appeal is filed, the Commission shall have ten (10) business days to submit a certified copy of the record with the Supreme Court and provide a copy to the Chief of Police. If the Commission's decision involves counseling, training, probation or anything other than suspension or termination, then the Commission's decision is final and the ability to appeal is not allowable.

F. The Chief of Police may be suspended with or without pay by the Commission during an investigation involving his/her conduct.

G. Any misconduct that is criminal in nature shall be referred to the tribal prosecutor and/or United States Attorney, whichever is deemed appropriate.

§ 1-116. Officers and Personnel

A. The Lighthorse Police's officers and personnel are employees of the Muscogee (Creek) Nation. As such, they are subject to the Nation's policies and procedures including the Employee Handbook with its amendments and the Whistleblower Policy. In addition, all Officers or personnel of the Lighthorse Police are subject to any ratified policies and procedures or Police Manual of the Department. For any conduct that is proscribed in the Nation's Employee Handbook it will control any complaint or disciplinary process and this Act may only apply if those specific rights are granted under the Employee Handbook. For any conduct that is proscribed under the Lighthorse Police's Police Manual it will control any complaint or disciplinary process and this Act may only apply if those specific rights are granted under the Police Manual.

B. The Human Resources Department is responsible for monitoring compliance with the Muscogee (Creek) Nation's Human Resource Employee Handbook, whereas the Tribal Chief of Police is responsible for maintaining compliance with the Police Manual and properly adopted Policies and Procedures while the Commission provides oversight. In limited circumstances, the Commission may be responsible for determining compliance with the Police Manual or properly adopted Policies and Procedures or as outlined in this Act.

C. Police Officer or Personnel complaints against the Chief of Police shall be filed with the Commission. The Commission's Chair or his/her designee shall oversee the investigation. If the Chair or the Commission determines it is necessary, another investigator may be appointed to assist in the investigation. The Commission shall notify the complainant in writing of the investigation. The Chair shall ensure the complaint is investigated and reported to the Commission. The Commission shall determine whether any disciplinary action needs to be taken and notify the complainant whether the complaint was sustained or unfounded pursuant to the procedures set forth above in § 1-115. E.

D. Police Officers and Personnel may also make any complaint about working

conditions to the Nation's Human Resources Department. No disciplinary action may be taken against a Police Officer or Personnel for making such a complaint. The Nation's Human Resource Department shall conduct the investigation. Any report shall be submitted to the Chief of Police who may share with the Commission, but in no way shall the Commission be involved in any action.

§ 1-117. Complaints from the public

A. All public complaints involving officers and personnel shall be filed in writing with the Office of Professional Standards at the Lighthorse Police Department. Once a complaint is received it will be classified as either an Internal Affairs, Office of Professional Standards or Human Resources matter. The classification will determine the type of investigation.

B. The Commission shall be notified of any Internal Affairs matter. The notification shall contain the name of the officer and/or employee but shall not include the details of the complaint. For any complaint investigated under the Office of Professional Standards, the Commission shall be notified if there is a formal or informal investigation. The notification shall contain the name of the officer or personnel but shall not include the details of the complaint.

C. The Chief of Police shall provide a monthly report to the Commission with the number of complaints filed, the number of complaints in each category and the status of the complaints. The report shall not discuss the details of any complaint.

D. Investigations involving excessive use of force shall be immediately reported to the Chairperson of the Commission. The Chairperson of the Commission, or his/her designee, shall oversee investigations involving excessive use of force.

E. Any investigation involving criminal activities shall be referred to the tribal prosecutor and/or the United States District Attorney or other law enforcement agency that is deemed appropriate.

F. The Chief of Police shall not discuss any ongoing investigation, except investigations involving excessive use of force, with the Commission. Ongoing investigations of excessive use of force shall be discussed only with the Commission.

G. Complaints against the Chief of Police shall be filed with the Commission who shall forward them to Internal Affairs to investigate, if warranted. If an investigation is warranted, the Commission's Chair or his/her designee shall oversee the investigation. If the Commission determines it is necessary, they may appoint another investigator. The Commission shall notify the complainant in writing of the investigation. Once an investigation is complete, the Commission shall determine whether any disciplinary action needs to be taken and notify the complainant whether the complaint was sustained or unfounded. The process outlined in § 1-115. E. shall apply to disciplinary actions against

the Chief of Police.

§ 1-118. Disciplinary hearing procedures involving Officers and Personnel, other than the Chief of Police

A. For Employee Handbook complaints, if discipline is imposed only those positions who directly report to the Chief of Police are entitled to appeal to the Commission. The Commission's review shall be limited to the record from the Nation's Human Resources department unless the Commission determines it needs to meet with the Officer or Personnel.

B. For Personnel Complaints, if after a formal investigation discipline is imposed only those positions outlined in the Police Manual are entitled to appeal to the Commission. The Commission's review shall be limited to the record from the disciplinary process unless the Commission determines it needs to meet with the Officer or Personnel.

C. Following an Internal Affairs investigation, the Chief of Police may do the following:

1. Invite the Police Officer or Personnel to agree to an informal resolution to the investigation;
2. If an informal resolution is reached it must be reduced to writing whereby any appeal is waived and the discipline outlined;
3. If an informal resolution is not reached or the Chief of Police decides an informal resolution is not appropriate, the Chief of Police shall bring formal disciplinary charges against the Police Officer or Personnel;
4. For formal charges before the Commission the following shall apply:
 - a. The Commission shall be notified when formal disciplinary charges are filed. The notification shall contain the name of the Police Officer and/or Personnel but shall not include the details of the complaint.
 - b. Upon the filing of formal disciplinary charges, the Police Officer or Personnel shall receive a copy of the charges in writing, along with notice of a hearing before the Commission. The notice shall include the right to cross-examine witnesses, the right to present evidence and the right to an attorney at his/her own expense.
 - c. The disciplinary hearing shall be heard by the Commission within thirty (30) days of the filing of the formal disciplinary charges.
 - d. The hearing shall not be open to the public.
 - e. The Chairperson shall not be involved in hearings involving an investigation overseen by him/her, unless it is a disciplinary action involving the Chief of Police.
 - f. The Commission shall determine which evidence is relevant and allowed at the hearing.
 - g. At the hearing, the Internal Affairs Officer shall present evidence to

prove the charges. The Police Department may be represented by the Nation's Attorney General. The burden of proof shall be a preponderance of the evidence. Past conduct may be offered if relevant to the current case.

- h. The Police Officer or Personnel may make a motion to disqualify a Commissioner for a conflict of interest. The challenged Commissioner may step down from the hearing or the Commission shall decide by majority vote whether to grant the motion.
- i. The Commission may question witnesses and request additional evidence.
- j. The Officer or Personnel may cross examine evidence and offer any evidence to refute the charges.
- k. The Commission shall decide whether the charges have been sustained based upon the evidence presented to them. They may retire to executive session to discuss and decide the case.
- l. Upon a finding the charges have been sustained, the Commission shall impose discipline based upon Department policies and procedures. The Commission shall review the personnel file for prior conduct and the officer or personnel may offer evidence of prior good conduct. Discipline may include, but is not limited to counseling, training, probation, suspension, and termination from the Department. The Commission shall ensure that any discipline is fair and commensurate with the violation and that all officers and personnel are disciplined equally.
- m. A Police Officer or Personnel may petition for a rehearing within sixty (60) days of the Commission's decision upon discovery of new evidence. The Commission shall grant a new hearing if the evidence is relevant to the charges and was not available at the initial hearing.
- n. If a Police Officer or Personnel is terminated or suspended without pay, he/she shall have the ability to appeal the Commission's decision to the Muscogee (Creek) Nation Supreme Court. Such an appeal must be filed within ten (10) days of the decision being issued on notice to the Commission. The Supreme Court shall determine whether the Commission's decision was arbitrary and capricious based upon the record the Commission develops. Once an appeal is filed, the Commission shall file within ten (10) business days a certified copy of the record with the Supreme Court on notice to the Officer or Personnel. If the Commission's decision involves counseling, training, probation or anything other than suspension or termination, the Commission's decision is final.

D. Any Commission findings shall remain in the employee's personnel files.

E. Commission files, including notes, regarding formal disciplinary hearings shall be kept in an organized manner and secured in a locked filing cabinet that is only

accessible by Commission members and its administrative assistant.

§ 1-119. Non-Tribal Law Enforcement Agencies

A. The Nation exercises a government-to-government relationship with all other governments. Due to this relationship, the Commission shall oversee all sharing of powers, mutual aid arrangements, and cross-deputization agreements by the Police Department with non-tribal law enforcement agencies.

B. A member of the Commission shall attend all meetings with non-tribal law enforcement agencies involving sharing of powers, mutual aid arrangement, cross-deputization agreements and any other cooperative agreements with outside law enforcement agencies. After enactment of this law, all cross-deputization agreements currently approved with non-tribal law enforcement agencies shall remain in full force and effect.

C. The Commission shall review any sharing of power agreements, mutual aid agreements, and cross-deputization agreements which are made between the Police Department and non-tribal law enforcement agencies or departments.

D. Upon the Commission's approval, these agreements shall be forwarded to the Muscogee (Creek) National Council for approval.

§ 1-120. Adoption and amendment of Act

Pursuant to the Muscogee (Creek) Nation Constitution and Laws enacted:

If any word, clause, phrase, sentence, subsection, section or other provision of this Act is held invalid by a court of competent jurisdiction, the invalidity shall not affect any other provisions or applications of this law that can be given effect without the invalid provision.

§ 1-121. Sovereign Immunity

Nothing in this Act shall be deemed as a waiver of the Nation's sovereign immunity.

§ 1-122. Severability

This Act may be amended by the National Council.

CHAPTER 2. LIGHTHORSE ADMINISTRATION

§ 2-101. Creation of Lighthouse Administration

There is hereby created the Lighthouse Administration independently supervised by the Lighthouse Police Commission.

§ 2-102. Background investigations

A background investigation of all candidates selected for employment by the Lighthorse Administration shall be obtained prior to the final hiring decision. All costs of the background investigation shall be borne by the Lighthorse Administration. No one shall be hired by the Lighthorse Administration who is currently on probation or who has a felony conviction or a misdemeanor conviction involving violence, theft, fraud, embezzlement, gaming related crimes or any crime of moral turpitude.

§ 2-103. Oath

All Lighthorse Administration employees shall be required to take an oath pledging to uphold all laws of the Muscogee (Creek) Nation and its Constitution. The oath of office for all police officers shall be given by a Justice of the Supreme Court or a District Trial Court Judge, either in person or virtually, before the officer may take office.

§ 2-104. Lighthorse Chief

A. Duties. In addition to the same powers and duties of the Lighthorse Police, the Lighthorse Chief shall be in charge of the Lighthorse Administration. The Lighthorse Chief shall hire a Lighthorse Deputy Chief of Police and a Deputy Chief of Special Operations and a Lighthorse Game Ranger, each of whom shall report directly to the Lighthorse Chief. The Lighthorse Chief is authorized to apply for appropriate grants to supplement the Lighthorse Administration's budget; provided National Council reviews, evaluates and approves the expenditure of the grant funds. After enactment of this law, the current Lighthorse Chief will remain in that position unless and until the Commission determines otherwise in accordance with this law.

B. Qualifications.

1. Shall have an Associate's degree;
2. Shall have Ten (10) years of law enforcement experience;
3. Shall have Five (5) years of supervisory or management experience;
4. Shall have CLEET Certification;
5. Federal Law Enforcement Certification is preferred, Oklahoma Peace Officer Certification shall not preclude anyone from applying; and
6. Shall be a Muscogee (Creek) citizen.

C. Appointment. The Lighthorse Chief shall be appointed by the Lighthorse Police Commission.

D. Background Investigation. A background investigation shall be conducted pursuant to § 2-102. The Attorney General shall provide the background investigation report to the Lighthorse Police Commission prior to appointment. The background investigation report shall be confidential and copies of the investigation report shall not be distributed to anyone other than Lighthorse Police Commission. Copies of the report shall not be retained after consideration of the appointment. The original report shall be kept in the office of the Lighthorse Police Commission.

E. Removal. The Lighthorse Chief shall be subject to removal for gross violations of the Lighthorse Administration's Policies and Procedures; violation of any tribal, state or federal law or conduct unbecoming of an officer. Removal shall be in accordance with the procedures set out in § 1-115. E. of this Title.

§ 2-105. Deputy Chief of Police

A. Qualifications.

1. Shall have Associate's Degree;
2. Shall have seven (7) years of experience in law enforcement, two (2) of which shall be in an administrative position and CLEET certified; and
3. Shall be a sworn police officer.

§ 2-106. Deputy Chief of Special Operations

A. Qualifications.

1. Shall have an Associate's Degree;
2. Shall have five (5) years of experience in law enforcement, two (2) of which shall be in an administrative position; and
3. Shall be a sworn police officer and CLEET certified.

§ 2-107. Police officer

A. Qualifications. In order to be qualified for the position of police officer, a person:

1. Shall be twenty-one (21) years of age;
2. Have a high school diploma or a GED;
3. Have fifteen (15) hours of college credit or shall have the two (2) years from date of hire to complete fifteen (15) college credit; and
4. Be CLEET certified within eighteen (18) months from date of employment.

B. Duties and Powers. Lighthorse Police Officers shall perform the following law enforcement functions within the Muscogee (Creek) Nation's jurisdiction, including activities authorized by intergovernmental cooperative agreements with other state, federal or Tribal agencies:

1. Apprehend and arrest on view or on warrant and bring to justice all Indian violators of Muscogee (Creek) Nation law;
2. Apprehend and arrest all persons violating federal and state law if authorized by a Cross-Deputization Agreement and turn them over to the proper authorities;
3. Suppress all riots, affrays, and unlawful assemblies that may come to their knowledge, and generally to keep the peace;
4. Serve all warrants, writs, executions, and other processes properly directed and delivered to them;
5. Carry out all orders of the District Court and the Supreme Court of the Muscogee (Creek) Nation; and
6. Perform all duties pertaining to the office of the police officer.

C. Uniforms. All police officers, unless in an undercover capacity, shall be clearly identified as Lighthorse Police Officers while on duty or when carrying a firearm in an official capacity. The Lighthorse Chief shall select the uniform to be worn by the Lighthorse Police Officers and furnish each member of the force with the necessary uniforms and arms. Such arms and uniform so furnished shall be carried by each officer and member of the Lighthorse Police in accordance with policies and procedures of the Department. The uniform of officers and members of the Muscogee (Creek) Nation Lighthorse Police shall bear a distinctive patch, pin or other emblem depicting the seal of the Muscogee (Creek) Nation and flag of the United States.

§ 2-108. Investigators

All investigators shall be under the immediate supervision of the Deputy Chief of Special Operations.

§ 2-109. Game Ranger

A. Qualifications.

1. Shall have an Associate's Degree;
2. Shall have seven (7) years of experience in law enforcement or wildlife conservation, two (2) of which shall be in an administrative position.
3. Shall be a sworn police officer and be CLEET certified within eighteen (18) months of employment; and
4. Shall be a Muscogee (Creek) citizen.

B. Powers and Duties. In addition to the duties and powers of Lighthorse Police Officers, the Game Ranger shall be primarily responsible for enforcing the Muscogee (Creek) Nation Conservation Code, MCNCA Title 23, § 2-101, et. seq.

§ 2-110. Cross-deputization agreements

The Lighthorse Chief and/or the Attorney General is authorized to enter into cross-deputization agreements or mutual aid agreements with state and federal law enforcement agencies operating within the Muscogee (Creek) Nation reservation, provided all agreements are reviewed by the Attorney General to ensure there are not attempted waivers of sovereign immunity and that the agreements comply with Tribal and federal law.

§ 2-111. Reciprocal agreement authority

A. The Muscogee (Creek) Nation hereby recognizes any valid concealed carry weapons permit or license issued by another Indian Nation, state or federal government where that government requires:

1. A criminal history records search on each applicant;
2. The prohibition of any person convicted of a felony offense from obtaining a concealed carry weapons permit or license;
3. Competent qualification or training with the firearms to be carried by the person.

B. Any person entering the Muscogee (Creek) Nation reservation in possession of a firearm authorized for concealed carry upon the authority of a reciprocal government is authorized to continue to carry a concealed firearm in the Muscogee (Creek) Nation; provided that the license from the issuing authority remains valid. The firearm must be carried fully concealed from detection and view and, upon coming in contact with any Lighthorse Officer of the Muscogee (Creek) Nation, the person must disclose the fact that he or she is in possession of a concealed firearm pursuant to a valid permit or license issued by a reciprocal government and, upon request, must provide for examination of the permit or license.

§ 2-112. Carrying of concealed weapons by active or retired law enforcement officers

A. Any Muscogee (Creek) Nation, state, municipal or federal law enforcement officer with proper identification may carry a concealed weapon within the Muscogee (Creek) Nation reservation.

B. A retired Muscogee (Creek) Nation, state or federal law enforcement officer with proper identification and authorization to carry, may

carry a concealed weapon within the Muscogee (Creek) Nation reservation. Retired peace officers may in times of great emergency or danger serve to enforce the law, keep the peace or protect the public in keeping with their availability and ability at the request of the Principal Chief.

§ 2-113. Law enforcement academy agreements or contracts

The Lighthouse Chief and/or Attorney General is authorized to enter into agreements or contracts with Tribal, state or federal law enforcement academies to obtain services, provided all such agreements or contracts are reviewed by the Attorney General to ensure there are no attempted waivers of sovereign immunity and that the agreements or contracts comply with Tribal and federal law.

CHAPTER 3. CONTRACTS WITH FEDERAL OR STATE AGENCIES

§ 3-101. Bureau of Indian Affairs

A. The Purpose of this subchapter with respect to dealing with the Bureau of Indian Affairs of the United States Department of the Interior is a request and resolution by the National Council of the Muscogee (Creek) Nation, the governing body of this Nation, declaring the Law Enforcement Department, Lighthouse Commission, to be the Tribal organization authorized to apply for, negotiate, and execute contracts with said Bureau.

B. The scope of activity shall be the providing of law enforcement and security in accordance with Bureau-approved Law Enforcement Code enacted by the Muscogee (Creek) National Council, laws and adopted state codes, the service of all civil and criminal process, writs, precepts and orders issued by lawful authorities to the Lighthouse Commission directed, and the Lighthouse Commission shall attend upon the courts of this Nation, the Lighthouse Commission shall keep and preserve the peace, quiet and suppress all affrays, riots and unlawful assemblies and insurrections, apprehend and secure any person for felony or breach of the peace, provide the necessary security for the assets and property of this Nation and perform any other duties set out in Chapter 2 of this Title (Title 50, § 2-101 et seq.). The Law Enforcement Department by and through the Lighthouse Commissioners, in official session and by majority approval shall review and make any amendments prior to execution of the contract. The Bureau should send copies of the contract documents and any correspondence to the Principal Chief, Speaker of the National Council and Law Enforcement Department, Lighthouse Commission, at the Muscogee (Creek) Nation Tribal Complex. The proposed term and date of each contract shall be immediately and in accordance with the applicable Bureau of Indian Affairs regulations. The Law Enforcement Department by and through the Lighthouse Commission shall have authority to access Bureau

records under 25 C.F.R. Ch. 1, Section 271.15, to recontract under 25 C.F.R. Ch. 1, Section 271.20, request to revise or amend a contract under 25 C.F.R. Ch. 1, Sections 271.61 and 271.62, to request contract retrocession under 25 C.F.R. Ch. 1, Sections 271.71 and 271.72, to appeal under 25 C.F.R. Ch. 1, Sections 271.81 and 271.82 and to request waivers of regulations under 25 C.F.R. Ch. 1, Section 271.15 (e). The authority granted under this section shall continue in effect until revoked by the National Council of the Muscogee (Creek) Nation as provided by the Constitution.

§ 3-102. Bank account

All contract or grant funds received by the Law Enforcement Department shall be deposited into a separate bank account which shall be established by the Controller of the Muscogee (Creek) Nation in a financial institution of the Controller's choice and no grant funds shall be commingled with any other monies. All monies expended shall be only upon the approval and order of the Lighthorse Commission. Expenditures shall follow the usual accounting procedures as set out by the laws of this Nation.

§ 3-103. Approval of grant proposals

All proposals to contract for or apply for grant funds shall require majority approval of the membership of the Lighthorse Commission in official session with recommendations to the National Council for approval.

§ 3-104. Budget modifications

Before the expenditure of any contract or grant funds by the Law Enforcement Department, a Lighthorse Commissioner shall meet with the Business Finance and Justice Committee to determine if modifications or amendments to the Comprehensive Budget of the Muscogee (Creek) Nation are required. Committees shall submit recommendations to the National Council for approval.

§ 3-105. Annual audit

All contract and grant funds received by the Law Enforcement Department shall be included in the annual audit of the Muscogee (Creek) Nation.

§ 3-106. Management of funds

All grant funds shall be managed according to generally accepted accounting procedures.

§ 3-107. Law enforcement academy agreements or contracts

All agreements or contracts with federal or state law enforcement academies

shall require majority approval of the Lighthouse Commission in official session.

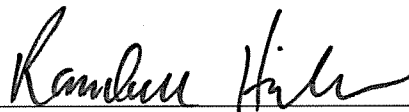
SECTION FOUR. APPROPRIATION. The sum of One Hundred Twelve Thousand, Three Hundred Seventy-Two and No/100 Dollars (\$112,372.00) is hereby appropriated from the Interest on Permanent Fund Account for the implementation of this Act. All unexpended funds appropriated by implementation of this Act shall be returned to the Tribal Treasury and shall be available for future appropriation by the National Council.

SECTION FIVE. AUTHORIZATION. The National Council hereby authorizes the Principal Chief or his designee to expend the sum of One Hundred Twelve Thousand, Three Hundred Seventy-Two and No/100 Dollars (\$112,372.00) from the Interest on the Permanent Fund Account in accordance with the attached budget.

SECTION SIX. EFFECTIVE DATE. This Act shall become effective immediately upon proper approval and execution in accordance with the requirements of the Muscogee (Creek) Nation Constitution.

ENACTED by the Muscogee (Creek) National Council on this **31st** day of **July, 2021.**

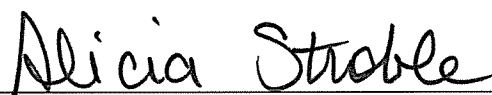
IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



Randall Hicks, Speaker
National Council
Muscogee (Creek) Nation

CERTIFICATION

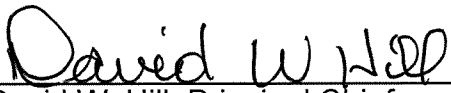
I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of Sixteen members with **Fourteen** members attending this meeting on the **31st** day of **July 2021** and that the above is in conformity with the provisions therein adopted by a vote of **13** in favor, **0** against and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.



Alicia Stroble, Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature on this 3rd day of August, 2021 to the above Law, **NCA 21-084** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.



David W. Hill, Principal Chief
Muscogee (Creek) Nation

