



STEPHEN A. KUNZWEILER
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TULSA COUNTY COURTHOUSE
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Monroe Nichols, Mayor
City of Tulsa, Mayor's Office
One Williams Center
175 East Second Street
Tulsa, OK 74103

January 8, 2025

Dear Mayor Nichols:

Recently, I wrote separate letters to each of the law enforcement agencies within Tulsa County which provide criminal case referrals to the State of Oklahoma for review and potential prosecution. A copy of my letter to Tulsa Police Department Chief Dennis Larsen is attached. The purpose of these letters was to inform Tulsa area law enforcement agencies of the jurisdictional decision handed down by the Oklahoma Court of Criminal Appeals in *City of Tulsa v. O'Brien*, 24 OK CR 31 (published December 5, 2024).

As you are aware, your legal division persuasively argued that a municipality such as the City of Tulsa maintained concurrent jurisdiction to prosecute non-tribal member Indians who commit municipal crimes on an Indian reservation – not their own reservation (i.e., an Inuit Indian committing crimes on the Cherokee reservation). This was an important decision because it recognized the inherent rights of municipalities (and by extension the State of Oklahoma) to hold law breakers accountable within their jurisdictional borders. This decision did not take away the rights of the Cherokee Nation or the Muscogee-Creek Nation to prosecute violations of their own tribal laws. Each of these tribal governments still has the right to prosecute these cases concurrently with the State of Oklahoma.

As the designated authority for the prosecution of state crimes, the Tulsa County District Attorneys Office will pursue prosecutions of crimes on behalf of the State of Oklahoma which are not preempted by the United States federal government. I have witnessed the chaos and havoc inflicted upon citizen-victims in Tulsa County following the United States Supreme Court's decision in *McGirt v. Oklahoma*, 591 U.S. 894 (2020). Despite assurances that cases would be handled, and

justice would be meted out, the reality is that public safety has waned, and victims have suffered in the post *McGirt* era.

With this restored authority I will not allow the voices of domestic violence victims to go unheard. My intention is to re-instill the confidence of our communities in the criminal justice system. Area businesses have been taken advantage of in the post *McGirt* era. I will make sure that their voices are heard as well. Likewise, I will enforce Oklahoma's laws which deal with crimes such as drinking and driving and illegal drug distribution.

To emphasize this point, the District Attorney prosecuting these cases in no way prohibits one of the Tribes from prosecuting the same case. This is the beauty of concurrent jurisdiction. Each entity can exercise their jurisdiction's interests, not to the exclusion of the other, but in tandem.

For over 110 years the citizens of this State were properly protected by the State of Oklahoma's exercise of its inherent concurrent jurisdictional rights in the enforcement of criminal laws. The *O'Brien* decision, fought for by the legal advisors for the City of Tulsa, restores the confidence of our citizens that if a crime is committed, it will be competently prosecuted.

I respectfully urge you to protect your community. I respectfully urge you to protect domestic violence victims. I respectfully urge you to protect local businesses. I respectfully urge you to facilitate the delivery of criminal case referrals to the Tulsa County District Attorney's Office for review and potential prosecution by the State of Oklahoma.

Sincerely,

A handwritten signature in blue ink that reads "Steve Kunzweiler". The signature is fluid and cursive, with a long horizontal stroke at the end.

Stephen A. Kunzweiler
District Attorney, Tulsa County



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December 10, 2024

Chief Dennis Larsen
Tulsa Police Department
600 Civic Center
Tulsa, OK 74103

Dear Chief Larsen:

This letter is in response to the recent decision of the Oklahoma Court of Criminal Appeals (attached) in *City of Tulsa v. Nicholas Ryan O'Brien*, 2024 OK CR 31, published on December 5, 2024. As a post *McGirt* ruling, the Oklahoma Court of Criminal Appeals definitively answers a lingering question: Does the State of Oklahoma have concurrent jurisdiction to prosecute a non-member Indian who commits a “non-major” crime in Indian Country? The answer to this question is “Yes”.

For the purposes of this correspondence, Indian Country encompasses all of Tulsa County wherein the Cherokee Nation covers the northern half of the county and the Muscogee-Creek Nation covers the southern half of the county. A non-member Indian may be a member of a federally recognized tribal nation – but not a member of the tribe upon whose reservation the crime is alleged to be committed. For example – An Indian who is a member of the Inuit tribal nation, but who commits a crime on the Cherokee Nation, is considered a “non-member” of the Cherokee Nation. This person’s criminal investigation may now be referred to the Tulsa County District Attorney’s Office for a review of charges.

Therefore, you are urged to bring all applicable non-major crimes investigated by your agency to the Tulsa County District Attorney’s Office for review and charging decision. This is a return to how cases were historically handled in Tulsa County. *Please note* - Municipal investigations need to remain within your jurisdiction’s municipal court (traffic related matters, etc.). Applicable

predicate crimes (such as domestic violence, protective order violations, various theft offenses, DUI offenses, etc.,) should be referred to our office for prosecution unless your municipality is a court of record.

The only exception under current caselaw are investigations related to major crimes committed by an Indian on an Indian reservation. Presently, it appears that the United States government may have preemptive jurisdiction over those cases.

To reiterate – all misdemeanor and felony non-major crimes may now also be submitted to the Tulsa County District Attorney’s Office for consideration of filing formal charges in state court. Your prompt attention to this matter is sincerely appreciated.

Sincerely,

Stephen A. Kunzweiler
District Attorney, Tulsa County