



National
Congress of
American
Indians



ASSOCIATION ON AMERICAN INDIAN AFFAIRS
Protecting Sovereignty • Preserving Culture • Educating Youth • Building Capacity
SINCE 1922



ITAA
INTER TRIBAL ASSOCIATION
OF ARIZONA

August 13, 2020

The Honorable Jim Inhofe
United States Senate
Washington, DC 20510

Cc: The Honorable James Lankford
The Honorable Kevin Hern
The Honorable Markwayne Mullin
The Honorable Frank Lucas
The Honorable Tom Cole
The Honorable Kendra Horn

Re: Concerns about the establishment of a congressional working group undermining Tribal sovereignty and jurisdictional issues

Dear Senator Inhofe:

It has come to our attention that staff members of the Oklahoma congressional delegation have formed a working group with the ostensible purpose of establishing, in a matter of weeks, proposed legislation to abrogate the tribal sovereignty upheld by the Supreme Court in its July 9, 2020 decision in *McGirt v. Oklahoma*. We fear that any such bill could irreparably undermine the sovereignty of tribal nations across the country.

Many in Indian Country have characterized the Supreme Court's recent decision affirming the reservation boundary and sovereignty of the Muscogee (Creek) Nation as the most significant of our lifetime, calling it the "Unity Decision." The Court's decision brought jurisdictional clarity to questions that have persisted since Oklahoma statehood. This clarity creates renewed and expanded opportunities to improve the public safety and economic prosperity for Native citizens and their non-native neighbors alike.

We recognize there are many implications of the Supreme Court's recent decision. We believe the best way to address these implications is through conversations among governmental partners and other stakeholders to explore areas of need, understand the new opportunities that exist, and work toward new intergovernmental agreements that will realize the promise of those opportunities. We applaud the Muscogee (Creek) Nation, as well as other tribal nations in Oklahoma, for aggressively leading such efforts, as intergovernmental agreements are the hallmark of respect among sovereigns.

This process must be given time to work. So, we believe that any effort that begins with the preconceived goal of crafting federal legislation restricting tribal jurisdiction would be, by definition, dismissive of sovereignty and would replace respectful government to government negotiations with a harmful one-size-fits-all federal dictate. Rushed legislation, even if narrowly crafted, would create a dangerous blueprint and expectation that Congress should be engaging in diminishing tribal authority—instead of restoring or preserving it. Such a blueprint, predicated on the Court's historic decision in *McGirt*, would threaten the sovereignty of all of our tribal nations, and ultimately would undermine the safety and prosperity of all of those who live within or near a reservation.

In addition to questioning the goals of this working group, we believe that its limited geographic focus and the narrow list of participants misses the mark and will have unintended consequences.

The Court's affirmation of sovereignty was a win for every tribal nation in the United States, as well as communities that neighbor tribal nations. As such, an Oklahoma delegation-led effort to receive input primarily from corporations with Oklahoma interests is narrowly focused and fails to consider the impact that will occur from coast to coast.

The exclusion of tribal leaders from this dialogue is likewise problematic. The individuals invited to participate in the working group discussions should also reflect that any policies contemplated will affect all of Indian Country and those who do business with them.

From coast to coast, tribal governments routinely govern reservations within urban areas with high non-Indian populations. They have done so in a manner that promotes economic development to bring about prosperity for all. Just like all sovereign governments, tribal governments work to promote business and economic growth, while ensuring economic growth does not significantly undermine the health, safety, or welfare of those living within the sovereign's borders. Any working group tasked with discussing the realities of *McGirt* must and should include voices from both urban and rural reservations across the United States, where tribal leaders have succeeded in collaborating with local state governments to ensure the safety and welfare of all.

The forum for these discussions is equally as crucial as its scope and participants. It is our current understanding that the staff intends to receive input from individuals on a one-on-one basis. The lack of transparency afforded by this methodology would further limit this working group's effectiveness and seemingly leave the staff as the ultimate arbiters of the truth.

Last, three weeks is hardly sufficient time to fully consider an issue of such breadth and magnitude. An arbitrary timeline without justification for such urgency would seem to indicate a predetermined plan rather than an honest exploration of the matters and opportunities presented. Any conversation aimed at determining the future of all Indian Country should be open, transparent, and allow ample time for a robust public discussion between all those affected, not just those within the boundaries of one state.

The simple truth is that there is a better way. Tribes and the American people now have a possibility for a better future. The jurisdictional clarity provided by the "Unity Decision" paves the way for a new era of flexible, mutually beneficial intergovernmental agreements that will ensure more excellent public safety and economic prosperity for tribal nations and everyone in the regions surrounding the reservations.

We stand united in our pledge to work as partners and engage in conversations with any parties who wish to work together to ensure that the greater possibilities presented by the Court's historic decision become realities. But we stand equally united to any rushed process that limits discussion, limits participants, and drives towards a calculated goal of passing destructive federal legislation.

Sincerely and Respectfully,



President Fawn Sharp
National Congress of American Indians



Frank Ettawageshik
President of the Board for the
Association on American Indian Affairs



Chris James, President & CEO
The National Center for American Indian
Enterprise Development



President Shan Lewis
Inter Tribal Association of Arizona



Chairman Harold C. Frazier, Cheyenne
River Sioux Tribe
Chairman, Great Plains Tribal
Chairmen's Association, Inc



President Kirk Francis
United South and Eastern Tribes
Sovereignty Protection Fund



President Leonard Forsman
Affiliated Tribes of Northwest Indians



Chairman Aaron Payment,
Midwest Alliance of Sovereign Tribes