

ORIGINAL



IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

STATE OF OKLAHOMA *ex rel.*
J. KEVIN STITT, in his official capacity as
Governor of the State of Oklahoma
Petitioner,

v.

CITY OF TULSA, a political subdivision
of the State of Oklahoma;
MONROE NICHOLS IV, in his official
capacity as Mayor of the City of Tulsa;
DENNIS LARSEN, in his official capacity
as Chief of Police, Tulsa Police Department;
JACK BLAIR, in his official capacity as
City Attorney for the City of Tulsa;
Respondents.

#123368

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**BRIEF IN SUPPORT OF APPLICATION FOR ORIGINAL JURISDICTION AND
PETITION FOR A WRIT OF PROHIBITION AND INJUNCTIVE RELIEF**

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After repeatedly signaling his intention to “co-govern” the City of Tulsa with tribal nations,¹ City of Tulsa Mayor Monroe Nichols has now implemented a policy of refusing to exercise criminal jurisdiction over Indians within its municipal boundaries, including for non-major crimes that the State has clear authority to prosecute under binding precedent. This policy represents a sweeping and unlawful abandonment of the State’s sovereign police powers—powers that the State has delegated in part to municipalities, not surrendered to them.

This is not merely a dispute over a litigation settlement agreement. Rather, the City has publicly and affirmatively abdicated its state-delegated prosecutorial authority and is already declining enforcement of state criminal laws based on racial and political affiliation as a matter of policy. *See* App’x 8 at 2; App’x 9 at 5; App’x 10 at 5; App’x 11 at 4–6. The agreement between Tulsa and the Muscogee (Creek) Nation (“MCN”) underscores the real and ongoing implementation of a municipal policy that contravenes binding state and federal precedent. If left unchecked, Tulsa’s actions will undermine the uniform application of law, create uncertainty in criminal enforcement, endanger public safety, and encourage other municipalities to follow suit in unilaterally ceding jurisdiction without lawful authority.

This Court has both the duty and the constitutional power to intervene. The policy at issue implicates matters of statewide concern and constitutes a direct challenge to the State’s supremacy in criminal law enforcement. The State asks this Court to assume original jurisdiction and to issue declaratory and injunctive relief, and a writ of mandamus or prohibition, to restore lawful order.

STATEMENT OF FACTS

For more than a century, the City of Tulsa, like all municipalities in Oklahoma, exercised criminal jurisdiction derived from the State within its municipal boundaries—investigating,

¹ Monroe Nichols, MONROE FOR MAYOR, *Co-Govern with Tribal Nations*, available at <https://tinyurl.com/j5cj8bp5> (last visited Aug. 18, 2025); *see also* App’x 11 at 3.

responding to, and prosecuting violations of criminal misdemeanor and traffic laws regardless of the defendant's racial or political affiliation. *See McGirt v. Oklahoma*, 591 U.S. 894, 968 (2020) (Roberts, C.J., dissenting) ("Tulsa . . . has exercised jurisdiction over both Indians and non-Indians for more than a century on the understanding that it is not a reservation."). This longstanding enforcement practice is and was a core component of the State's broader administration of justice and, until recently, had persisted without significant interruption or controversy. That stability was disrupted throughout all of Oklahoma when the United States Supreme Court issued its 5-4 decision in *McGirt*, holding that the State lacked criminal jurisdiction over Indians committing crimes governed by the federal Major Crimes Act, 18 U.S.C. § 1153(a), in Indian Country. In the aftermath, however, decisions such as *Oklahoma v. Castro-Huerta*, 597 U.S. 629 (2022), clarified the scope of the State's retained jurisdiction and helped mitigate the vast uncertainty created by *McGirt*.

This year, the state of criminal enforcement in Tulsa shifted. Following a change in municipal leadership after the November 2024 election, Tulsa Officials began taking steps to discontinue the exercise of state-derived criminal jurisdiction over Indians for non-major crimes committed within the city limits and enter a new, unprecedented era of "co-governance" between the City of Tulsa and tribes. *See, e.g., supra* n.1.

As one example, Tulsa agreed to settle a federal case brought by the Muscogee (Creek) Nation ("MCN") that challenged Tulsa's exercise of criminal jurisdiction over non-major crimes by Indians within the boundaries of the MCN Reservation. *See* App'x 6. The parties' agreement provides that Tulsa "will not exercise Criminal Jurisdiction over Indian Defendants on the Nation's Reservation." App'x 7 at 4. It defines both "Criminal Jurisdiction" and "Indian" extremely broadly, to encompass "criminal investigations, prosecutions, sentencing, or incarceration" of any "applicable criminal laws" and even non-member Indians. *Id.* at 2-3. It also requires the City to "dismiss with prejudice all pending prosecution in the City's court system ('Municipal Court')

against all known Indian defendants for conduct occurring on the Nation's Reservation" and to "not initiate prosecutions in Municipal Court or the Courts of the State of Oklahoma against known Indian defendants for conduct occurring on the Nation's reservation." *Id.* at 5. The agreement was executed only by the Mayor of Tulsa and does not bear the approval of the Tulsa City Council, the Governor, or the Joint Committee on State-Tribal Relations. *Id.* at 10.

Both the MCN and Tulsa have described this arrangement not as a settlement agreement, but "as a matter of municipal policy in the city of Tulsa" or "a policy determination not to exercise any jurisdiction that it may possess and instead to refer such cases to the Nation as part of the parties' commitment to cooperative criminal law enforcement" App'x 9 at 4; App'x 8 at 1. And that municipal policy is not just a pending possibility, it is actively being implemented. Even though Tulsa and the MCN sought and have not received federal court approval for the proposed settlement agreement, the MCN represented to another federal court in separate litigation that "the agreement calls for the City to commence the above-described actions on its effective date," June 25, 2025, and that "the City has been good to its word. It is no longer prosecuting Indians for crimes committed on the Nation's Reservation. Rather, it is referring such prosecutions to the Nation" App'x 10 at 5. Likewise, Tulsa confirmed this month that "[t]he agreement *formalizes* the City's *policy* of implementing a cooperative, inter-governmental approach to public safety on the reservation" and explained it had already dismissed multiple charges in municipal court against Indian defendants pursuant to that policy. App'x 11 at 4, 5–6 (emphasis added).

In sum, *as a matter of policy* and independent of any federal litigation or court approval of settlement agreements, Tulsa is actively ceasing criminal investigations, dismissing pending criminal prosecutions, and declining enforcement and prosecution of State-delegated criminal jurisdiction within its municipal boundaries involving Indians, whether they are members of the MCN or not.

ARGUMENT AND AUTHORITIES

I. THIS CASE PRESENTS A MATTER OF *PUBLICI JURIS* THAT WARRANTS THIS COURT'S ASSUMPTION OF ORIGINAL JURISDICTION.

The Oklahoma Constitution empowers this Court “to issue, hear and determine writs of . . . mandamus, . . . prohibition and such other remedial writs as may be provided by law” and provides that “[t]he original jurisdiction of the Supreme Court shall extend to a general superintending control over all inferior courts and all Agencies, Commissions and Boards created by law.” OKLA. CONST. art. VII, § 4. Consistent with that authority, “[t]his Court has the power on original jurisdiction to correct an abuse of discretion or compel action where the action taken is arbitrary even though the officer is vested with judgment and discretion.” *Maree v. Newirth*, 2016 OK 62, ¶ 6, 374 P.3d 750, 752.

To invoke this Court’s original jurisdiction, a petitioner must typically satisfy two criteria: the matter must involve a question of public interest and an urgent need for early resolution. *See Keating v. Johnson*, 1996 OK 61, ¶ 10, 918 P.2d 51, 56. This Court’s decisions underscore that original jurisdiction is most appropriately exercised in concrete disputes involving public officials and statewide concern, particularly where there is a breakdown in government function or an “intolerable conflict” between government entities. *Id.* at ¶ 12. As this Court recently emphasized, “[o]f course, the Court may assume jurisdiction to determine if a state board is complying with state statutes or the Oklahoma Constitution” *Indep. Sch. Dist. No. 12 of Okla. Cnty. v. State*, 2024 OK 39, ¶ 22, 565 P.3d 23, 32.

Here, every consideration supports the exercise of this Court’s original jurisdiction. First, this case presents an intolerable conflict between the State and one of its political subdivisions—a direct and active standoff between the State of Oklahoma and the municipal leadership of the State’s second-largest city. Tulsa has adopted a policy and practice that effectively nullifies valid criminal laws within a portion of its territory. This is not a routine legal dispute, but a fundamental

challenge to the structure of Oklahoma's government and the supremacy of the State over her municipalities. When a municipality actively refuses to carry out State-delegated authority in the area of criminal enforcement, and instead seeks to realign its obligations under a separate, unauthorized compact, this Court's superintending authority is at its apex. The constitutional principle that municipalities are subordinate arms of the State is directly at issue, and the nature of the controversy calls for this Court's immediate attention, not adjudication in district court. This dispute is precisely the kind of crisis this Court's original jurisdiction was designed to address.

Second, this case involves matters of significant public interest: equal enforcement of the law, state sovereignty and supremacy, and public safety. Tulsa has ceased investigating and prosecuting certain criminal offenses based solely on the racial and political status of the offender and whether the person qualifies as Indian. That policy impacts not only criminal defendants but also victims, witnesses, and the broader public that depends on equal enforcement of the law. Public safety is among the most compelling interests the State can assert, and the scale of this policy, which affects thousands of residents and a major metropolitan area, raises the stakes exponentially. Tulsa is the second most populous city in Oklahoma, home to approximately 400,000 residents or 10% of the state's population. *See* U.S. CENSUS BUREAU, *Quick Facts: Tulsa city, Oklahoma & Oklahoma*.² A single non-prosecuted offense can have grave consequences. Systemic non-enforcement, even for so-called non-major crimes and traffic offenses, threatens the fabric of public trust in law enforcement and fundamentally erodes law and order. So too does a city's refusal to refer crimes to the county district attorney, and Tulsa has indicated *any* criminal offenses committed by Indians will be referred to the MCN without any signal that crimes are likewise being referred to State prosecutors. This case also presents significant questions of state sovereignty and supremacy over municipalities, which affects every citizen in the State.

² Available at <https://tinyurl.com/5bkc9maw> and <https://tinyurl.com/6rzascfm>.

Third, the controversy demands urgent resolution. This is not a speculative dispute or one dependent on future contingencies. Both Tulsa and the MCN have confirmed in recent federal court filings that Tulsa has already begun implementing its policy, even before receiving approval from the federal court. Tulsa is currently declining to prosecute Indian defendants within city limits for non-major criminal offenses. It has likely dismissed hundreds of pending criminal prosecutions as well. The harm to State interests is ongoing and accelerating. The normal pace of district court litigation—with its briefing schedules, hearings, and potential appeals—is far too slow and lacks the finality necessary to address the urgency of the situation. Even under the most expedited timeline, the State and public cannot afford to wait for relief to work its way up to this Court. Each day that Tulsa implements its cessation policy, crimes go unprosecuted, the State’s enforcement authority is diminished, and public trust in equal justice deteriorates. Even non-major crimes carry significant public safety implications: from offenses like driving under the influence and reckless driving to child endangerment and domestic assault and battery.³ And one lapse in prosecution does more than excuse the immediate offense. It erases a critical predicate for establishing repeat-offender status, enabling defendants to escape enhanced penalties for subsequent crimes and receive far more lenient treatment than the law intends. While an interim order of the district court could offer some relief, it cannot fully restore the lost deterrence or the erosion of sovereign power the State suffers each day Tulsa’s policy remains in effect. Only this Court’s prompt and authoritative intervention can deliver the full and timely relief this crisis requires.

Fourth, special institutional considerations weigh heavily in favor of this Court resolving the presented dispute, not the district courts. A ruling from this Court carries with it a degree of

³ For example, *City of Tulsa v. O’Brien*, 2024 OK CR 31, ¶ 1, __ P.3d __ involved multiple alcohol-related misdemeanor traffic crimes including driving under the influence of alcohol and transporting an open container. Had Tulsa declined its duty at any stage, a drunk driver could have evaded accountability, endangering public safety and undermining the protective purposes of the law.

authoritative gravity and finality that is necessary to address Tulsa’s current defiance of State law and its ongoing effort to secure federal judicial approval of its cessation policy. The City has abandoned the State’s valid criminal jurisdiction and is openly acting in opposition to State authority. Under these circumstances, an order from a district court may lack the institutional weight to bring Tulsa into compliance. That weight is critical when at least one tribal nation has pursued aggressive litigation tactics against municipalities to pressure them into submission. *See, e.g., Muscogee (Creek) Nat. v. City of Tulsa*, No. 23-cv-490 (N.D. Okla. Nov. 15, 2023); *Muscogee (Creek) Nat. v. City of Henryetta*, No. 25-cv-227 (E.D. Okla. Jul. 8, 2025). And unlike the lower courts, this Court has the constitutional stature to speak definitively on the proper allocation of authority among state subdivisions. Moreover, the legal issues presented—touching on state sovereignty and supremacy, constitutional law, and Indian law—are precisely the kind of complex questions best suited to initial review by this Court. What’s more, this case presents a rare situation where meaningful comity with the Court of Criminal Appeals is implicated, a consideration this Court is better suited to fully respect than a district court.⁴ This Court should assume original jurisdiction.

II. THIS COURT SHOULD ISSUE DECLARATORY RELIEF AND A WRIT OF MANDAMUS BECAUSE TULSA’S CESSATION POLICY VIOLATES STATE LAW AND EXCEEDS MUNICIPAL AUTHORITY.

When determining whether to issue a writ of mandamus, this Court considers whether:

[1] the petitioner has a clear legal right to have the act performed; [2] the act arises from a duty of the respondent arising from an office, trust, or station; [3] the act does not involve the exercise of discretion; [4] the respondent has refused to perform the act; [5] the writ will provide adequate relief and no other adequate remedy at law exists.

City of Tulsa v. State, 2001 OK 23, ¶ 3, 20 P.3d 144, 147; *Maree*, 2016 OK 62 at ¶ 6. Here, all criteria

⁴ There can also be no doubt the State has constitutional standing, having suffered a real, concrete, actual, and imminent injury of which Tulsa is the direct and proximate cause. *See Matter of M.R.*, 2024 OK 28, ¶ 15, 548 P.3d 120, 127–28. And the Governor is undoubtedly a proper party to litigate the interests of the State here. *See, e.g., Cherokee Nat. v. U.S. Dep’t of the Interior*, 2025 OK 4, ¶¶ 29, 37 564 P.3d 58, 68.

are met, and this Court should compel Tulsa to cease its unlawful and *ultra vires* policy refusing to enforce State-delegated criminal jurisdiction.

A. It is a settled matter of state law that the State, and by extension her political subdivisions, has valid concurrent criminal jurisdiction over Indians committing non-major crimes.

As a threshold matter, it is a settled question of law in Oklahoma that the State retains criminal jurisdiction in Indian country over non-major crimes committed by Indians. That legal principle is neither ambiguous nor unsettled. It has been expressly affirmed as applying to municipalities acting as arms of the State, including Tulsa. In *City of Tulsa v. O'Brien*, 2024 OK CR 31, ¶ 35, ___ P.3d ___, the Oklahoma Court of Criminal Appeals confirmed that “the City of Tulsa has concurrent jurisdiction to proceed with the prosecution” of non-member Indians for non-major crimes. The court reaffirmed this position in *Stitt v. City of Tulsa*, 2025 OK CR 5, ¶ 8, 565 P.3d 857, 859–60, holding “that Oklahoma has concurrent criminal jurisdiction in Indian country over non-member Indian defendants accused of committing non-major crimes.”

Although it is not clear whether this Court is formally bound by those decisions, they are nonetheless entitled to comity and respect, particularly where they speak directly to the uniform application of law across jurisdictions. As this Court recognized in *State v. Sneed*, 1930 OK 248, ¶ 3, 287 P. 1021, 1022, comity among coordinate courts serves to “prevent unseemly conflicts, and to preserve uniformity of decision and harmony of action.” Moreover, regardless of whether those decisions bind this Court, there is no doubt they are binding on the City of Tulsa. The *O'Brien* and *Stitt* decisions confirm that Oklahoma—and, by extension, her municipalities—possesses valid concurrent criminal jurisdiction in Indian country to prosecute *at least* non-member Indian defendants for non-major crimes, and their reasoning compels the same result for member Indians.

If this binding state-level authority were not sufficient, *Oklahoma v. Castro-Huerta*, 597 U.S. 629, 636 (2022), likewise confirms that “the [U.S.] Constitution allows a State to exercise

jurisdiction in Indian country[.]” and that “as a matter of state sovereignty, a State has jurisdiction over all of its territory, including Indian country.” The U.S. Supreme Court stated unequivocally that “a State has jurisdiction to prosecute crimes committed in Indian country unless state jurisdiction is preempted.” *Id.* at 655; *see also id.* at 638. Likewise, this Court has declined to extend *McGirt*, recognizing that “[t]he United States Supreme Court expressly limited *McGirt* to the narrow issue of criminal jurisdiction under the Major Crimes Act.” *Matter of Stroble*, 2025 OK 48, ¶ 10–11, ___ P.3d ___. Accordingly, criminal jurisdiction over non-major crimes remains a valid exercise of Oklahoma’s sovereign police powers. As the U.S. Supreme Court explained: “the default is that States may exercise criminal jurisdiction within their territory. . . . States do not need a permission slip from Congress to exercise their sovereign authority.” *Castro-Huerta*, 597 U.S. at 653.⁵

To the extent Tulsa contends that *McGirt v. Oklahoma*, 591 U.S. 894 (2020) unsettled the State’s jurisdiction, that argument is misplaced. *McGirt* does not speak to state or municipal authority to prosecute non-major crimes in Indian country. Indeed, the five-justice majority opinion in *McGirt* expressly limited that decisions holding to the Major Crimes Act. *See id.* at 935 (“The only question before us, however, concerns the statutory definition of ‘Indian country’ as it applies in federal criminal law under the MCA”). Tulsa’s cessation policy clearly sweeps far beyond those crimes governed by the federal Major Crimes Act. *See App’x 7 at 2.* Moreover, *Castro-Huerta*, *Stroble*, *O’Brien*, and *Stitt* expressly reject any reading of *McGirt* that would support such a broad claim of exclusive tribal or federal jurisdiction, including over non-member Indians.⁶

⁵ Along similar lines, the State of Oklahoma, and its political subdivisions, “vested as [they are] with general police power, require no specific grant of authority in the Federal Constitution to legislate with respect to matters traditionally within the scope of the police power,” including “the authority to provide for the public health, safety, and morals.” *Dodger’s Bar & Grill, Inc. v. Johnson Cnty. Bd. of Cnty. Comm’rs*, 32 F.3d 1436, 1441 (10th Cir. 1994) (citation omitted); *see also City of El Paso v. Simmons*, 379 U.S. 497, 508–09 (1965).

⁶ *Hooper v. City of Tulsa*, 71 F.4th 1270 (10th Cir. 2023) does not provide otherwise, having answered the narrow question of whether the Curtis Act provided municipalities concurrent jurisdiction. *Id.* at 1272–73. *Hooper* expressly left unresolved the question of whether Oklahoma has inherent jurisdiction under *Castro-Huerta* and has “conferred that jurisdiction on Tulsa here.” *Id.* at 1276 n.5.

In sum, this is not an unresolved legal question. The concurrent criminal jurisdiction of the State—and by extension her political subdivisions—to prosecute non-major crimes committed by Indians in Indian country is firmly established under both state and federal law. For additional reasons that follow, Tulsa has no legal basis to disregard that authority.

B. Tulsa lacks authority to repudiate the State’s criminal jurisdiction, and the State retains both the authority and duty to compel equal enforcement of the law.

Oklahoma municipalities are subordinate governmental entities that derive all their power from the State. *See* OKLA. CONST. art. XVIII, § 3(a) (“Any city containing a population of more than two thousand inhabitants may frame a charter for its own government, **consistent with and subject to the Constitution and laws of this State**”) (emphasis added); *City of Sapulpa v. Land*, 1924 OK 92, ¶ 45, 223 P. 640, 646 (“In the absence of such a constitutional provision the right to municipal government would not necessarily exist” because “no inherent right to municipal government exists”). They possess no inherent sovereignty and may “exercise only those powers expressly or impliedly granted by the state.” *Toch, LLC v. City of Tulsa*, 2020 OK 81, ¶ 19, 474 P.3d 859, 866; *see also City of Sapulpa*, 1924 OK 92 at ¶ 40; *In re De-Annexation of Certain Real Prop. from City of Seminole*, 2004 OK 60, ¶ 10, 102 P.3d 120, 126. In the event “any fairly reasonable doubt exists as to the grant of the power, such doubt is resolved by the courts against the corporation, and the existence of the power is denied.” *Ex parte Holmes*, 1933 OK 62, ¶ 11, 18 P.2d 1053, 1054 (citation omitted). These holdings reflect that “there can be no absolute self-governing American cities, no matter how limited as to subject. To hold otherwise would be to attempt to establish the impossible, a sovereign within a sovereign.” *City of Sapulpa*, 1924 OK 92 at ¶ 41; *In re De-Annexation*, 2004 OK 60 at ¶ 10 (“There is only one sovereign power in state government.”).

These principles are especially pronounced with respect to police powers and public safety. After all, the enactment and enforcement of criminal law is a matter “of general public concern in which the sovereign, the state, has an interest, and . . . subject to control and regulation by the state

by general laws.” *City of Sapulpa*, 1924 OK 92 at ¶ 53. For example, the U.S. Supreme Court has long recognized that “[n]o one questions that States possess ‘a legitimate interest in the continued enforce[ment] of [their] own statutes.’” *Berger v. North Carolina State Conference of the NAACP*, 597 U.S. 179, 191 (2022) (citation omitted); see also *Dodger’s Bar & Grill, Inc. v. Johnson Cnty. Bd. of Cnty. Comm’rs*, 32 F.3d 1436, 1441 (10th Cir. 1994); *City of El Paso v. Simmons*, 379 U.S. 497, 508–09 (1965).

And over a century ago this Court recognized “the absolute supremacy of the Legislature in many matters of chiefly local interest, in which, nevertheless, the state has a sovereign interest, among which may be mentioned state control over local police protection.” *State v. Linn*, 1915 OK 1037, ¶ 8, 153 P. 826, 829. Naturally, the power to regulate crime and “[t]he power to regulate the use of the streets is a delegation of the police power of the state government.” *White v. City of Lawton*, 1961 OK 287, ¶ 9, 373 P.2d 25, 27 (citation omitted). Thus, the State of Oklahoma retains sovereign authority and supremacy over its police powers, and any delegated authority exerted by a municipality must be consistent with State law. Because this municipal authority is wholly derivative, municipalities may not decline to exercise that authority in defiance of State law.

Tulsa has previously acknowledged the derivative nature of its own criminal jurisdiction, as it must. In federal court filings, Tulsa stated that “[t]he State has, by its Constitution, permitted the City to exercise both criminal and traffic jurisdiction within the City limits.” App’x 3 at 4. Similarly, the MCN recognized that “Tulsa’s governmental powers are ‘derived solely’ from the State of Oklahoma,” which “includes its powers of criminal prosecution.” App’x 2 at 8. And here, Tulsa has enacted and is already implementing a policy that plainly and palpably contradicts Oklahoma law. Tulsa has “agree[d] that it will not exercise Criminal Jurisdiction over Indian Defendants on the Nation’s Reservation” and “will not initiate prosecutions in Municipal Court or the Courts of the State of Oklahoma against known Indian defendants for conduct occurring on the [MCN]’s reservation.” App’x 7 at 4–5. The broad definitions of criminal jurisdiction and Indian means the

policy encompasses non-member Indians and non-major crimes.

But Oklahoma law and the City of Tulsa Municipal Charter (“Municipal Charter”) impose a clear, non-discretionary duty on municipal officials to enforce state and local laws, and that non-discretionary duty is not dependent upon whether a criminal Defendant is a member of a certain racial or political classification. *See supra* Section II(A). The power to enact laws necessarily comes with the duty to enforce those laws once enacted. As this Court made clear over 100 years ago, “the power to enforce obedience to its statutes is necessarily an inherent attribute in the power to enact them, for if it be once conceded that the state may not by proper measures enforce its regulations, the regulations themselves become futile and ineffective” *Linn*, 1915 OK 1037 at ¶ 23. Accordingly, and because “the state has a sovereign interest in local police regulation, . . . which it has not seen fit, either by the Constitution or by statutes, to completely surrender into the hands of the city officials,” “the state still has the right to compel an enforcement of its wholesome police regulations in each and every part of the state” *Id.* A rule otherwise would render state law “a dead letter, and their enforcement a farce,” and would

destroy[] the uniformity and efficiency of the police power of the state, leave[] these matters subject to the sole management of the local authorities, and would permit a condition to exist in a city with such charter entirely different from and at variance with the conditions in other parts of the state

Id. at ¶ 12.

Along similar lines, municipal officials are bound by Article XV, Section 1 of the Oklahoma Constitution, which requires that all officers take an oath to “support, obey, and defend the Constitution and laws of the United States, and the Constitution and laws of the State of Oklahoma.” *See also* MUNICIPAL CHARTER art. XII, § 10 (“Every person elected or appointed to an office in the city shall take the oath prescribed by the Constitution of Oklahoma.”). Tulsa’s refusal to enforce criminal laws based on racial or political classifications—a position rejected under binding Oklahoma precedent—cannot be reconciled with these obligations.

As to municipal law and ordinances, Oklahoma statutes require municipal mayors and chiefs of police to “enforce the city ordinances,” 11 O.S. §§ 9-105(4), 34-102(A), municipal courts “to hear and determine all prosecutions” for violations of municipal ordinances, 11 O.S. § 27-103, and municipal attorneys “to prosecute for the violations of any ordinance of the municipality[.]” 11 O.S. § 27-108. If that weren’t enough, again, the very passage of criminal municipal ordinances brings with it a clear and mandatory duty to enforce them uniformly—an enforcement duty likewise confirmed in Tulsa’s own charter. For example, the Municipal Charter confirms the Mayor’s duty to “[p]reserve the peace and enforce the provisions of this amended Charter and all ordinances, rules, and regulations” and the duty of the City Attorney to “[p]rosecute violators of the ordinances and of the laws of Oklahoma as is proper or required by law” MUNICIPAL CHARTER art. III, §§ 1.4(E), 4(G). Tulsa Municipal Ordinances, title 29 Section 105, similarly confirm “the duty of the Chief of Police to preserve the public peace, to prevent the commission of crime, to arrest offenders, to protect the rights of persons and property,” “to prevent and regulate the movement of vehicles in the streets and to prevent the violation of all laws and ordinances.”

The blanket cessation policy now being implemented by Tulsa violates these clear and express duties to enforce the law, exceeds the bounds of municipal authority, and contravenes the fundamental principle that the State may compel compliance with its laws across all subordinate jurisdictions. The State’s authority to enforce its criminal laws is not subject to local nullification or political discretion. Tulsa cannot lawfully abdicate its duty to enforce the law, nor can it assert any legitimate authority to decline enforcement of valid state criminal statutes based on racial or political affiliation. Tulsa’s cessation policy is an *ultra vires* act, and the Tulsa Officials lack authority to enact or enforce such a policy. See *Magnum Energy, Inc. v. Bd. of Adjustment for City of Norman*, 2022 OK 26, ¶ 6, 510 P.3d 818, 820 (“The general rule is that a municipal ordinance or portion thereof which is in conflict with state statutes is void.”) (citation omitted). This Court should therefore

issue the requested relief.

C. *Tulsa failed to comply with mandatory legal requirements for enacting or altering municipal policy.*

Even if Tulsa had discretion to alter its enforcement posture, which it does not, it has failed to comply with the procedural safeguards imposed by law by enacting municipal policy through mayoral fiat. Because Tulsa's blanket cessation policy cannot be reconciled with express duties and requirements found in Tulsa's Municipal Charter and municipal ordinances, those charter provisions or ordinances must be amended or repealed to effectuate the policy. Repealing a municipal ordinance requires "[a] vote of a majority of all the members of the council" at a public meeting. 11 O.S. § 14-102. As this Court has made clear: "[t]he governing body of a municipality is its city council. The powers of a municipal government are exercised through the council as a whole rather than by any single council member or city official." *City of Midwest City v. House of Realty, Inc.*, 2008 OK 28, ¶ 35, 198 P.3d 886, 899. Nothing in state or municipal law permits Tulsa officials to circumvent these requirements under the guise of settling litigation. For this reason alone, the actions of the Tulsa Mayor are *ultra vires*.

Furthermore, amendments to the charter require voter approval and the Governor's approval. The Oklahoma Constitution confirms that after a charter amendment is approved by the people, "it shall thereafter be submitted to the Governor for his approval" OKLA. CONST. art. XVIII, § 3(a). The underlying agreement purporting to implement the policy was signed only by the Mayor. City officials have no unilateral authority to repeal or alter the municipal charter without the Governor's express approval. Accordingly, declaratory relief and a writ of mandamus should issue prohibiting Tulsa from enforcing its cessation policy.

D. *Tulsa entered into an unlawful intergovernmental cooperative agreement without the Governor's approval.*

By enacting and implementing the cessation policy, Tulsa also violated 74 O.S. § 1221.

Section 1221(D)(1) requires that any “intergovernmental cooperative agreements” negotiated and entered into on “behalf of the political subdivision, with a federally recognized Indian tribal government within this state” “shall be effective upon approval by the Joint Committee on State-Tribal Relations and the Governor, or the designee of the Governor.” *Id.* (emphasis added).⁷ The policy at issue was predicated upon an agreement between Tulsa and the MCN governed by Section 1221. The agreement is definitionally an “intergovernmental cooperative agreement[.]” something the agreement itself recognizes by repeatedly describing “a cooperative, inter-governmental approach[.]” a matter of “inter-governmental cooperation[.]” and furthering a “renewed focus on cooperative governance” App’x 7 at 4, 6–7. The agreement even commissions a working group to “recommend additional practices, policies, and cooperative agreements to achieve their joint public safety and law enforcement priorities.” *Id.* at 7 (emphases added). Similarly, Tulsa has described the agreement as “a cooperative, inter-governmental approach to public safety” App’x 11 at 4. Consequently, the absence of the Governor’s statutorily required approval renders the policy and agreement *ultra vires* and unenforceable.

CONCLUSION

Tulsa has unilaterally adopted a policy of selectively enforcing criminal laws based on racial and political affiliation in defiance of controlling precedent, clear and non-discretionary duties, statutory requirements, and constitutional limits on municipal power. This policy is unlawful in both substance and procedure. For the many reasons explained herein, the State through the Governor respectfully requests this Court assume original jurisdiction and grant the requested relief, including declaratory relief and a writ of mandamus to preserve uniform enforcement of law, protect state sovereignty and public safety, and uphold the rule of law.

⁷ Additionally, it is “[t]he governing board of a political subdivision” that is authorized to negotiate; not the Mayor or other city officials. 74 O.S. § 1221(D)(1).

Respectfully submitted,



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