



Muscogee (Creek) National Council  
**FACT-FINDING & INVESTIGATIONS COMMITTEE**

**Johnnie Greene, Vice- Chair**

**Creek District**

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David Hill (Alternate)

**McIntosh District**

Darrell Proctor  
Adam Jones (Alternate)

**Muskogee District**

Pete Beaver  
Joyce C. Deere (Alternate)

**Okfuskee District**

Franklin Coachman  
Mitch Jack (Alternate)

**Okmulgee District**

James Jennings  
David Nichols (Alternate)

**Tukvvtce District**

Shirlene Ade

**Tulsa District**

Lucian Tiger III  
Robert Hufft (Alternate)

**Wagoner/Rogers/Mays District**

Johnnie Greene  
Mark Randolph (Alternate)

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## **FACT-FINDING COMMITTEE HEARING REPORT**

### **USE OF FUNDS INVESTIGATION**

#### **INTRODUCTION**

The Fact-Finding Committee of the Muscogee (Creek) National Council presents this report, at their request, to the National Council to summarize its findings from an investigation stemming from the embezzlement of funds by the Office of the Second Chief (former Second Chief Roger Barnett), and the use of funds in other departments, divisions, and entities of the Nation. A forensic audit was commenced and conducted at the National Council regarding the embezzlement and to analyze other possible misuse of funds. The forensic audit, from an accounting perspective, was highly successful with identifying the issues that gave rise to the embezzlement.

In addition, the forensic audit was able to identify a number of issues in a number of the Nation's departments and programs including housing, accounting of funds, human resources, and with the Office of the Principal and Second Chief. This secondary investigation of the Fact-Finding Committee was initiated and conducted to investigate matters that the forensic audit was not able to investigate; namely laws, processes, policies, and procedures currently in place and how they were avoided or were simply inadequate to prevent occurrences and deviations in the use of funds. The findings from the forensic audit then required the National Council, in upholding its obligations and duties to the Nation's citizens, to investigate further to see how these issues could be addressed legislatively.

As stated in this report, the Fact-Finding Committee was able to conduct hearings, listen to testimony, and review documents beginning in May 2015 in an effort to analyze what went wrong, what is currently wrong, and how it can be fixed. The Fact-Finding Committee was hopeful to have additional information to share with the National Council but after conducting hearings in June 2015 and issuing additional subpoenas for August 2015, the Executive Branch

challenged the additional subpoenas issued by the Fact-Finding Committee and those issues remained unresolved within the District Court of the Nation

### **SUMMARIZATION OF TESTIMONY AND FINDINGS**

The Fact-Finding Committee issued for subpoenas, during the course of its investigation, for over 30 individuals comprising of current employees of the Nation, former employees of the Nation, and current members of the Principal Chief's cabinet ranging from information technology, housing, finance, and businesses of the Nation.

The following general questions were asked of each witness and there may or may not have been follow-up or additional questions to the witnesses depending on the responses elicited from the witnesses. The Fact-Finding Committee asked these questions of each witness to ensure some level of consistency in the questioning whether or not each witness was expected to answer any of the these questions in the affirmative or have any direct knowledge of occurrences:

Did anyone ask you to do something that you knew or thought was illegal?

Did you ever witness any illegal transactions take place?

Where you ever asked to destroy documents?

Do you have specific knowledge of any National Council representative receiving preferential treatment through your department?

Did anyone ask you to do things that were against policy and procedures?

Do you have knowledge of any specific abuse of travel or mileage?

Were you a witness to, or a victim of sexual harassment that was not addressed by your manager or human relations department?

The Fact-Finding Committee hearings and the testimony proffered during the hearings generated hundred pages of testimony for review. The findings listed below reflect the general nature of testimony.

## **FINDINGS OF THE COMMITTEE**

### **Business Entities**

- The current administration interacts with the Nation's business entities too often despite the independent nature and statutory provisions providing for separating the politics out of business and too often attempts to direct businesses to go a certain direction despite advice to the contrary.

### **Use of Credit Cards and Direct Assistance**

- The former Second Chief attempted on several occasions to use credit cards of the Nation for personal expenses and in some cases was successful in using Nation-issued credit cards for such personal expenses. Even in cases where employees reported suspicious activity of the former Second Chief, actions were not taken by the appropriate supervisors, managers, and cabinet members to address the issue; namely by the Office of the Controller.
- From the inception of his term of office, the former Second Chief routinely directed (aggressively in some cases) programs and businesses to provide direct and indirect assistance to citizen of the Nation (and/or vendors of the citizen). The direct assistance, however, was not necessarily directed to relatives or for any specific political favors. As time progressed, the direct assistance funds ended up being the avenue in which the former Second Chief would receive the majority of the embezzled funds. Documentation requested to confirm the expenditures would be lacking and never submitted by the Second Chief.
- Members of cabinet and other executive employees with credit card privileges, on more than one occasion, misused credit cards of the Nation for items such as airfare, hotels, and rental cars without prior approval as required by the finance policies and procedures of the Nation. Those cabinet members or employees were required to pay back such expenses but did not receive any sort of disciplinary action based upon their actions.

### **Use of the Nation's Fleet of Vehicles**

- Cabinet members and certain other employees utilized vehicles in the Nation's fleet in excess of what's permitted under tribal and federal policies. Use of Nation-owned vehicles outside of business purposes constitutes a taxable fringe benefit, but it was never documented in this matter. Generally the findings involved tribal employees driving such vehicles to and from work to their personal residence in cases where it did not appear to be necessary to use the Nation's vehicles for business related purposes.

### **Inconsistency with Personnel Issues and Sexual Harassment**

- With regard to personnel issues, there are many instances where employees from various departments (for example in the finance department and in the housing division) are requested to resign unfairly or are terminated without regard to progressive discipline. Such decisions are addressed in an “at-will” type scenario without the employees truly understanding what rights they have or don’t have despite policies dictating progressive discipline.
- In instances where sexual harassment may have allegedly occurred or did occur, the perpetrators were generally asked to simply resign instead of the matter being forwarded to the appropriate tribal officials and/or supervisors. In some instances even when the matter was forwarded to the appropriate official, nothing more was addressed with the matter resulting in some employees resigning their positions.

### **Forensic Audit Issues**

- Questionable roadblocks were initiated in the National Council’s efforts to gather information for the forensic audit and the National Council’s auditors were not permitted unfettered access to critical files per the direction of the Nation’s Attorney General.
- Testimony was received that a draft of the forensic audit was leaked from the National Council to the Principal Chief and was subsequently provided to others without express approval of the National Council or Fact-Finding Committee.

### **Principal Chief Waiver of Tribal Law with Housing**

- There were instances where the Principal Chief waived certain requirements for housing programs, mostly with regard to income guidelines, even though the laws of the Nation do not authorize or permit the Principal Chief to waive requirements in the law for housing. These waivers allowed citizens that would not have been otherwise eligible, to receive housing ahead of others on waiting lists.
- In one case, testimony revealed that the Principal Chief waived income requirements for a National Council representative for a new house despite the fact the National Council representative was over-income for the particular housing program. The National Council representatives’ home was in disrepair and would have otherwise qualified except the individual was over-income for that program and would not have been eligible.
- In other cases, testimony was received that relatives and friends of cabinet members of the current administration were provided housing ahead of others on waiting lists. In some cases relatives without children were provided housing when other citizens without cabinet members as relatives were not provided housing.

### **Questionable Budgetary Reclassifications**

- Instances were noted regarding questionable reclassifications of budgetary line items in the Principal Chief's budget to avoid having to request additional or supplemental funds from the National Council as required by law. Consultant contracts and tribal construction budgets were modified by tribal finance at the request of the Principal Chief to allow consultants to be paid without seeking additional funding from the National Council.

### **Mileage Discrepancies**

- Regarding mileage reimbursements for the National Council, instances were noted that a representative claimed a mileage reimbursement when that person did not actually drive but rode with another representative to a meeting.

### **CONCLUSION**

The initial findings of the Committee certainly warrant further investigation and creation of a plan to create, amend, and clarify laws to correct these issues. Unfortunately, as it current stands, the investigation and work of the Committee was cut short by challenges by the Principal Chief and Executive Branch to the subpoenas issued by the Committee. The Committee fully intends to continue with its investigation once the District Court issues a ruling on the request for a protective order in favor of the Committee.