

United States Senate

WASHINGTON, DC 20510

June 8, 2026

The Honorable Markwayne Mullin
Secretary
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Avenue, SE
Washington, DC 20528

The Honorable Doug Burgum
Secretary
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Mullin and Secretary Burgum:

We write to advise you of our deep concerns over reports that immigration enforcement personnel have detained, or attempted to detain, enrolled Tribal citizens. During these encounters with Tribal citizens, Tribal government-issued identification (Tribal ID) was not consistently treated as valid proof of U.S. citizenship, despite a Dear Tribal Leader letter issued by Secretary Noem indicating a Department of Homeland Security (DHS) position to the contrary.¹ This raises questions regarding whether DHS personnel are properly trained to process Tribal IDs as proof of U.S. citizenship in light of the aforementioned agency policy on Tribal IDs. We are also concerned that efforts by U.S. Immigration and Customs Enforcement (ICE) to delegate its civil immigration enforcement responsibilities to non-federal law enforcement agencies raise the potential for the inappropriate exercise of federal civil authorities on Tribal lands. Recent actions by the agency exemplify DHS's lack of Tribal consultation on federal actions that affect Tribes and their citizens, which has created confusion and implementation concerns. We urge you to direct DHS and ICE to promptly engage in meaningful and robust Tribal consultation on these policies and any other new federal actions that have Tribal implications.

There is no requirement in law for U.S. citizens to carry identification to avoid arbitrary arrest and detention. The Immigration and Nationality Act (INA) gives immigration officials limited authority to question individuals whom an official has reason to believe are noncitizens as to their right to be or remain in the United States.² This authority allows such officials to briefly stop and question an individual and inquire about immigration status. If the person

¹ Kristi Noem, Sec'y of Homeland Sec., Letter to Tribal Leaders, Enrolled Members, and Citizens of Federally Recognized Tribes, *Statement to the Leaders, Citizens, and Members of Federally Recognized Tribal Nations* (Feb. 13, 2026).

establishes that they are a U.S. citizen, they must be free to go after a brief encounter.³ It is well-established law that Tribal citizens born within the United States are U.S. citizens,⁴ yet many Tribal citizens have met resistance from DHS personnel when attempting to establish their citizenship using their Tribal IDs.⁵ ICE’s responses to congressional and Tribal inquiries on these matters have been vague and, as a result, it is unclear whether ICE is making any efforts to develop guidance on Tribal IDs as proof of citizenship for immigration enforcement purposes. DHS appears to lack a clear policy on Tribal IDs as proof of citizenship other than the aforementioned unsigned Dear Tribal Leader letter from former Secretary Noem.⁶ Accordingly, we urge DHS promptly to adopt formal guidance that recognizes Tribal IDs as acceptable proof of U.S. citizenship, ensure immigration personnel are trained on such guidance, and share such guidance externally with Tribes.⁷

Tribes have a trust and treaty relationship with the United States rooted in the U.S. Constitution, federal statutes, and court decisions.⁸ Federal agencies are obligated to establish clear policies and engage in meaningful government-to-government consultation whenever federal decision-making affects Tribes. Despite this obligation, DHS has not engaged in meaningful consultation with Tribes on the use of Tribal IDs as proof of citizenship, nor, as DHS carries out expanded immigration enforcement efforts, how the agency will work with Tribes to respect Tribal inherent sovereignty over their lands and communities.⁹ We urge DHS to consult

² 8 U.S.C. § 1357(a)(1); *contrast* 8 U.S.C. §1304(e) (requiring noncitizens over the age of 18 to carry certain immigration documents).

³ *Vasquez Perdomo v. Dep’t of Homeland Security*, 606 U.S. ___, 5-6 (2025), https://www.supremecourt.gov/opinions/24pdf/25a169_5h25.pdf.

⁴ Pub. L. 68-175; 43 Stat. 253.

⁵ One agent reportedly told a Tribal citizen when she presented her Tribal ID that it looked “fake” and that “anyone can make that.” When she offered to contact her Tribe for additional documents, the ICE agent refused to consider supplemental identification. Such interactions underscore the need for the agency to develop internal guidance on Tribal IDs or other Tribally-issued documentation that fulfill ICE’s need to verify U.S. citizenship. Letter from Sens. Patty Murray *et al.* to Kristi Noem, Sec’y of Homeland Sec., re: ICE Recognition of Tribal Identification and Detention of Tribal Citizens (Dec. 11, 2025).

⁶ *Id.*; *But see*, U.S. Citizenship and Immigration Services, *7.2 Native Americans*, <https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274/70-evidence-of-employment-authorization-for-certain-categories/72-native-americans> (last visited June 1, 2026).

⁷ Amid the lack of clear guidance on whether ICE (or state and county law enforcement deputized under 287(g) agreements) will accept Tribal IDs, reports of Tribal citizens choosing to forego critical federal services, including health care, out of fear of being harassed or being put in danger by immigration enforcement outside their reservations, are increasing. Confidential Communication from Member of the Public to Staff, S. Comm. on Indian Affs. (Feb. 4, 2026) (on file with the S. Comm. on Indian Affs.).

⁸ Felix S. Cohen’s *Handbook of Federal Indian Law* § 5.01[1][b] (Nell Jessup Newton *et al.* eds., 2024 ed.).

⁹ *See* Santee Sioux Nation, Letter from Kameron Runnels, Vice Chairman, to Sen. Deb Fischer, Sen. Pete Ricketts, & Rep. Adrian Smith re Detention of Tribal Members by U.S. Immigration & Customs Enforcement (Jan. 24, 2026); Letter from Sens. Martin Heinrich *et al.* to Kristi Noem, Sec’y of Homeland Sec., re ICE Treatment of Tribal Citizens (Feb. 18, 2025); Letter from Sens. Patty Murray *et al.* to Kristi Noem, Sec’y of Homeland Sec., re ICE Recognition of Tribal Identification and Detention of Tribal Citizens (Dec. 11, 2025) (asking the Department to issue guidance and training to ICE agents on acceptable forms of Tribal identification as proof of U.S. citizenship, and to consult with Tribes on any changes in policy).

with Tribes on the use of Tribal IDs and expanded immigration enforcement activities, and to integrate Tribal feedback into agency guidance, training, and policies affecting Tribes.

We are also concerned that ICE has reportedly attempted to enter into agreements with Tribal entities to engage in civil immigration enforcement activities.¹⁰ To date, we are unaware of any Tribe or Bureau of Indian Affairs (BIA) law enforcement agency that has entered into an INA section 287(g) or 25 U.S.C. 2804(e) law enforcement agreement; nor is any such entity listed on ICE's website as participating in such agreements.¹¹ Nonetheless, Tribes have reported pressure from ICE to sign such agreements,¹² particularly as states and counties are increasingly party to section 287(g) agreements across the country in regions with Tribal lands and in major cities where Tribal citizens live.¹³ We are deeply concerned that these agreements may allow for the inappropriate exercise of civil immigration authorities on Tribal lands. We seek additional transparency on agreements between DHS, ICE, and Tribes to ensure the laws that protect Tribal sovereignty and Tribal citizens are upheld.

Accordingly, we request that DHS, ICE, and the BIA provide written responses to the following questions. Please provide a complete written response to each question no later than 30 days.

1. Please describe the guidance and training provided to DHS (both ICE and U.S. Customs and Border Protection) agents and officers regarding Tribal citizenship and Tribal IDs.
 - a. What guidance does DHS provide to agents and officers regarding Tribal IDs as acceptable proof of U.S. citizenship?
 - b. Did DHS consult or work with Tribal entities to develop this guidance?
2. Is DHS, any component of DHS, and/or the BIA actively encouraging Tribes to enter into INA section 287(g) agreements? If so, please identify the legal basis for that position, including by providing any legal opinions, memorandums, or interpretive guidance.

¹⁰ Confidential Communication from Member of the Public to Staff, S. Comm. on Indian Affs. (Feb. 4, 2026) (on file with the S. Comm. on Indian Affs.); Note that Immigration and Nationality Act section 287(g) only expressly authorizes the Attorney General to enter into agreements with "States or any political subdivision of a State" to delegate their law enforcement officers the authority to perform functions of a federal immigration officer. 8 U.S.C. § 1357(g). The law is silent as to Tribes, which are not State or political subdivisions of a State, but separate sovereigns exercising inherent authority over their citizens and lands. *Nevada v. Hicks*, 533 U.S. 353 (2001); *United States v. Wheeler*, 435 U.S. 313 (1978); *Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978).

¹¹ Frank Star Comes Out, President, Oglala Sioux Tribe, *Amended Memorandum: Notice of Illegal Detention of Oglala Sioux Tribal Members by the U.S. Immigration and Customs Enforcement (ICE)*, to Doug Burgum, Sec'y of the Interior, Kristi Noem, Sec'y of Homeland Sec., Scott Davis, Senior Advisor to the Sec'y of the Interior, Olivia Steve, Reg'l Dir., Great Plains Region, Bureau of Indian Affs., & Gina Douville, Superintendent, Pine Ridge Agency, Bureau of Indian Affs. (Jan. 14, 2026).

¹² *Id.* (raising concerns that federal officials suggested that the Tribe would receive information on individuals/Tribal members detailed by ICE in Minneapolis, MN more readily if it had agreed to enter into a 287(g) immigration agreement).

¹³ U.S. Dep't of Homeland Sec., U.S. Immigration & Customs Enforcement, *Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act*, <https://www.ice.gov/identify-and-arrest/287g> (last visited May 29, 2026).

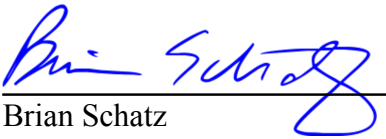
3. Are DHS and/or the BIA encouraging Tribes or local BIA law enforcement agencies to enter into agreements to conduct immigration enforcement for the purpose of enforcing federal immigration law on Tribal lands? If so, please identify the number of BIA law enforcement agencies and/or Tribes party to such agreements and the authority for such agreement.
4. Has DHS directed or otherwise informed state and/or local authorities operating under section 287(g) agreements that they are not authorized to exercise federal immigration authority on Tribal lands without being separately cross-deputized or authorized by the relevant Tribe?
5. Please describe the training DHS provides to state or local authorities operating under agreements to conduct civil immigration enforcement, including in P.L. 280 states, including regarding their authority to conduct such enforcement on Tribal lands.
6. Secretary Mullin committed during the nomination process that, once confirmed, he would ensure Tribal citizenship status is verified quickly and accurately with clear guidance and oversight. Please describe ICE's policies, training, and operational safeguards designed to quickly and accurately verify the U.S. citizenship of enrolled Tribal citizens with valid Tribal identification under Secretary Mullin's leadership.
7. Has DHS or ICE housed, detained, or transported arrested individuals to facilities on Tribal lands, or provided funding for construction of such facilities on Tribal lands, pursuant to authority and funding enacted as part of the "One Big Beautiful Bill Act"?¹⁴
 - a. Has DHS and/or ICE allocated any of these funds for pending Tribal agreements under section 287(g), Title 25, or any other authority? If so, how much? Please disaggregate funding amounts by agreement.
 - b. Has DHS or ICE allocated any of these funds to reimburse states, localities, or Tribes for immigration enforcement expenses on Tribal lands? If so, how much? Please disaggregate funding amounts by agreement.
 - c. Will DHS commit to engage in Tribal consultation before the Department deploys border infrastructure on Tribal or adjacent federal lands?
8. Please describe the Tribal consultations that DHS and BIA have conducted (or plan to conduct) regarding DHS and/or ICE efforts to expand civil immigration enforcement on or near Indian Country (including section 287(g) agreements) and how it is incorporating Tribal feedback on its efforts.
9. Will DHS and ICE require full consent from the applicable Tribal government(s) before conducting immigration enforcement activities or building and operating immigration detention facilities on Tribal lands?
10. What is the BIA protocol —
 - d. For working with DHS when Tribal members are detained, arrested, or questioned;

¹⁴ Pub. L. No. 119-21, §§ 90002(a)(4), 90003, 100052, 138 Stat. ____ (2025).

- e. For coordinating with DHS to notify relevant Tribes when Tribal members are detained, arrested, or questioned;
- f. For advocating for the proper processing of Tribal IDs as proof of citizenship by DHS; and
- g. For encouraging DHS to conduct Tribal consultations on its immigration enforcement efforts and policies?

We look forward to your prompt response.

Sincerely,



Brian Schatz
United States Senator
Vice Chairman, Committee
on Indian Affairs



Richard J. Durbin
United States Senator
Ranking Member, Senate
Committee on the Judiciary

CC: William Kirkland III, Assistant Secretary for Indian Affairs

David J. Venturella, Senior Official Performing the Duties of the Director, U.S. Immigration and Customs Enforcement

Rodney S. Scott, Commissioner, U.S. Customs and Border Protection