

TULALIP POLICE DEPARTMENT

Chris Sutter
Chief of Police

December 4, 2023

Honorable Harriet M. Hageman
Subcommittee on Indian and Insular Affairs Chair

Re: "Opportunities and Challenges for Improving Public Safety in Tribal Communities"

Dear Chairwoman Hageman,

Thank you for the opportunity to appear before the Subcommittee on Indian Affairs oversight hearing on Tuesday, November 14, 2023, and to present testimony on "Opportunities and Challenges for Improving Public Safety in Tribal Communities." I have included below my responses to questions asked by Rep. Westerman.

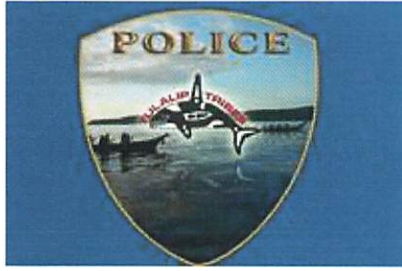
1. Your testimony mentioned that tribal search warrants are routinely denied or ignored under the Electronic Communications Act.

a. Can you provide instances in which your office needed to issue subpoenas to Facebook and other social media companies, and how the companies have responded?

The Tulalip Tribal Police Department in the course of investigating a Missing Murdered Indigenous Woman case submitted Tribal Court Search Warrants for electronic data from Facebook that would be crucial information in solving the case, in this situation the data provider denied the tribal court warrant. Because Tribal Court search warrants are being denied or ignored due to Tribal Courts not being considered courts of competent jurisdiction, our ability to investigate crimes is impeded due to lost time and a less effective investigation and evidence due to not having timely submission of the requested data.

b. What are the usual cases where the tribal authorities need to issue subpoenas?

Tribal police investigators utilize Tribal Court Search Warrants for electronic data in many types of felony criminal investigations including drug trafficking, missing person cases, controlled substance homicide cases, homicide cases, sexual assault cases, child abuse cases, and any case that may have electronic evidence from either the suspect or the victim. The need is heightened for drug trafficking, as social media platforms are how distributors connect with users. December 15, 2022, the Congressional Research Service (CRS) quoted the Drug Enforcement Administration (DEA) Administrator Ann Milgram who stated that "Snapchat and other social media platforms "the superhighway of drugs." Tribal law enforcement needs access to this information to effectively deal with the opioid pandemic on our reservations.



TULALIP POLICE DEPARTMENT

Chris Sutter
Chief of Police

C. When these companies do not respond, how do you obtain that information?

When a Tribal Court Search Warrant is denied or ignored, the only other option is to apply for a warrant from a County Court. The County Court Warrant with the same facts presented as the Tribal Court Warrant has been a workaround for tribal investigators to obtain the needed electronic information. Although utilizing a state court-issued search warrant may be an alternative, this is not optimum as the Tribal Court is the court of jurisdiction in most cases, and this takes additional time putting a criminal investigation at risk. Also, while our tribal jurisdiction has a decent working relationship with our county currently to accomplish this effort, this working relationship is not guaranteed. Moreover, a good working relationship between Indian tribes and the local jurisdictions is not the norm in other parts of Washington state and across the nation.

- 2. Your testimony mentioned that you've heard from other Tribal Chiefs of Police in the country that recruitment and retention of officers is one of the biggest challenges and that officers you train are sought after by other agencies. Have you heard from your officers that if they were able to have the same salary and benefits as these other agencies, they would continue to work for your tribal law enforcement?**

As a member of the International Association of Chiefs of Police, IACP, I sit on the Indian County Section Committee, in our October 2023 meeting, the Indian Country Section Committee comprised of Tribal Chiefs of Police from across the Country affirmed that recruitment, hiring, and retention was one of the most significant problems facing Indian Country Law Enforcement. I also communicate with several Tribal Police Chiefs from Washington state who also share that they are not able to retain trained certified officers who are recruited away from tribal policing by outside agencies. At the Tulalip Tribal Police Department, we have lost approximately 50% of our commissioned law enforcement staffing due to officers being recruited away and offered higher salaries, benefits, and pension programs. Tribal law enforcement officers have directly stated that they love working for the tribal community because of the community support and relationships that are developed, among other things, but they cannot afford to remain in their tribal positions due to a lack of competitive salaries, lower and more costly benefits such as health insurance, and the fact that Tribal law enforcement officers cannot participate in either the state or federal retirement system. These officers were hired, trained, and certified at the Tribe's expense and then we lose them to outside agencies who offer increased salaries, benefits, and a retirement program. This constant hiring, training, and certification process to end up losing talented officers is significantly weakening and hindering tribal law enforcement's ability to not only retain officers but to provide the level of service needed to protect tribal communities.



TULALIP POLICE DEPARTMENT

Chris Sutter

Chief of Police

3. How has the Tulalip Tribal Police Department been able to have any immediate impact on the opioid fentanyl epidemic on the Tulalip reservation and the local surrounding community?

As stated in our testimony, the Opioid Fentanyl Epidemic is placing extreme external pressure on Tulalip leadership, the police department, and the tribal community. At the time of our testimony, Tulalip had over 63 tribal member deaths attributed to Fentanyl overdoses since 2017. Unfortunately, we had another death caused by Fentanyl 10 days ago so the updated number is 64 tribal member deaths. Our Tribal Community's fentanyl overdose mortality rate is approximately 10 times greater than the general population. Tulalip Tribal Leadership has declared an opioid state of emergency due to community deaths and mass importation of fentanyl from outside drug trafficking organizations.

Additionally, the Tulalip Tribal Police Department has had some successes resulting in positive impacts on the opioid fentanyl epidemic on the Tulalip Reservation. Our proactive narcotics interdiction efforts include self-funding a Tribal Drug Task Force comprised of five full-time detectives to conduct narcotics investigations on the Tulalip Reservation. The Tulalip Drug Task Force is responsible for dozens of narcotics-related search warrants and seizures of large amounts of Fentanyl from the Reservation. Our self-funded narcotics K-9 detection team to focus and assist both Patrol and the Drug Task Force has helped with these arrests. The problem is, we cannot prosecute these individuals because they are largely non-Indian, and neither the U.S. Attorney nor the County is prosecuting these cases. Tulalip needs the ability to prosecute non-Indians for drug trafficking, and we are advocating for a legislative fix to do this, along with jurisdiction to prosecute the same individuals for gun possession "in furtherance" of the crime of drug trafficking. Until we can prosecute these individuals, or ability to effectively battle this epidemic is stunted.

. The Tulalip Tribal Police Department also has a Community Response Team to address Chronic Nuisance Properties often directly associated with narcotics use and sales. We also have a Victims of Crime Program to assist individuals and families impacted by crime and narcotics overdoses. We participate in the Tulalip Tribal Wellness Court, we assist our Probation Department when requested. We also participate with other Tribal Departments and service providers to identify and implement strategies to combat the Fentanyl epidemic.

4. Are there specific initiatives that have begun because of the tribal fentanyl summit, recently hosted by the Tulalip Tribes, and what impact do you expect them to have on the opioid crisis?

In addition to the efforts described directly above, Tulalip leadership hosts regular Opioid Task force meetings with upper management and those with technical expertise to develop an ongoing



TULALIP POLICE DEPARTMENT

Chris Sutter

Chief of Police

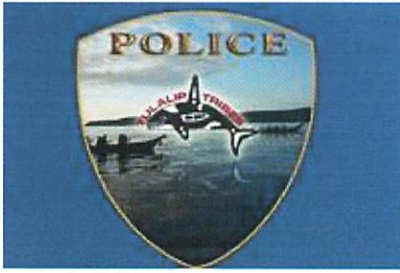
strategic plan. The Tulalip Tribes was integral in the planning of the Governor's Opioid Summit held in May, 2023, We also hosted the National Summit in August 2023 which around 1200 tribal leaders, industry experts, legislators and legislators attended. Tulalip also is piloting a Prevention Model Pilot program along with five other tribes by working with the Governor's office, Health Care Authority, Planet Youth, Northwest Portland Area Indian Health Board. Lastly, Tulalip has created multi-disciplinary response team to provide increased services and treatment options for our community specific to the Opioid Fentanyl Epidemic

With the issuance of the Public State of Emergency, the Chief of Police, Prosecutors office, and the Health Administrator meet weekly to identify key areas that need to be solved. They make recommendations to the Board of Directors to improve efficiency for our community. Tulalip also uses the Opioid task force to meet on a regular basis to continue to work on long term planning. We are also developing strategic plans to improve response time, public safety & policies.

The Tribal Fentanyl Summit focused on prevention, intervention, and treatment, along with a law enforcement track. Tulalip Tribal service providers attended their respective tracks and have begun planning and implementing strategies derived from the summit. The Summit resulted in a National Report to the tribes to identify and implement best practices. The Tulalip Tribes is implementing a prevention model discussed at the Summit, other initiatives include multi-agency coordinated response, traditional medicine, Department of Justice coordinated response, cross-jurisdictional deputization, increased law enforcement support, and resources, expanding culturally appropriate drug courts, increased support and funding for housing first initiatives. The Summit also identified the need for Congress to support Tribal Law Enforcement Parity Reforms and further extend criminal jurisdiction over drug-tracking offenses and drug-related crimes. As the Tribes work through and implement the numerous recommendations and best practices discussed at the Summit it is expected that these efforts will result in lives saved.

5. How has the Tulalip Tribes supplemented resources and funding that BIA provides for public justice services in your communities? And are there other funds or resources you've leveraged in your communities?

The Tulalip Tribes police department is over 90% self-funded through Tulalip tribal hard dollars from its economic enterprises. . Historically the BIA funding has only contributed approximately 5% of the overall Police Department's operating budget. In addition to the BIA self-governance funding, the Tulalip Tribes has leveraged some Federal grants to help support law enforcement and justice programs. These Federal grants have provided needed staffing for community policing programs, victims of crime programs, Tribal Court programs, and essential equipment and supplies.



TULALIP POLICE DEPARTMENT

Chris Sutter

Chief of Police

6. **What actions at a tribal, state, local, or federal level do you think can increase cooperation between law enforcement agencies? And what is the Tulalip Tribal Police Department doing to increase that capacity for your own tribal officers?**

Inter-agency cooperation at all levels between tribal, local, state, and federal law enforcement is critical for our ability to successfully accomplish our shared law enforcement mission. It is more important than ever due to the complicated jurisdictional issues that Tribal law enforcement be treated as equal partners in law enforcement. The Tulalip Tribal Police Department has expanded our internal capacity for our officers through obtaining training and State Peace Officer Certifications. This provides the authority for our police officers to arrest non-Indians and charge them directly in state courts for state offenses. We have also expanded our capacity by inviting partnerships with other local, state, and federal law enforcement agencies. We are working to find a federal agency that would like to partner with us on a Tribal Drug Task Force providing the advantages of federal task force credentials to our Tribal police drug task force detectives. Another way we have increased our capacity for our Tribal Officers is through enhanced training opportunities and professional development often provided through federal grant funding. We also use technology as a force multiplier to help our officers work smarter rather than harder, thereby increasing our efficiency and effectiveness.

Importantly, one way we can increase cooperation and place tribal law enforcement in a position of equality is by adopting Federal legislation giving Parity for Tribal Law Enforcement, expanding Tribal Court Special Criminal Jurisdiction over drug-related offenses and illegal gun possession in furtherance of drug trafficking, including Tribal Courts as "Courts of Competent Jurisdiction" under the Stored Electronic Communications Act, and providing additional technical and funding support for tribal law enforcement.

Please let me know if I can be of any further assistance to the Subcommittee, thank you again for the opportunity to appear and testify on these important public safety issues in Tribal Communities.

Sincerely,

Chris Sutter
Chief of Police
Tulalip Tribes