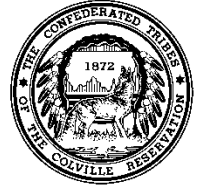




The Confederated Tribes of the Colville Reservation



Prepared Statement of the Honorable Jarred-Michael Erickson, Chairman
Confederated Tribes of the Colville Reservation

House Committee on Natural Resources
Subcommittee on Indian and Insular Affairs

Legislative Hearing on H.R. 4524, the “Parity for Tribal Law Enforcement Act”

December 5, 2023

As a rural, land-based Indian tribe, the Confederated Tribes of the Colville Reservation (“Colville Tribes” or the “CCT”) has unique challenges providing law enforcement services to our tribal community. Many of these challenges are grounded in recruitment and retention of tribal police officers and the inability of the CCT and other similarly situated Indian tribes to provide benefits that are competitive with those offered by state and local police departments.

The Colville Tribes strongly supports H.R. 4524, the “Parity for Tribal Law Enforcement Act,” because it would allow tribal law enforcement officers to participate in, on a prospective basis, the federal pension and retirement programs applicable to federal law enforcement officers. Tribal law enforcement for many Indian tribes that have contracted law enforcement from the Bureau of Indian Affairs (BIA) already enforce federal laws and have the same duties as federal law enforcement officers.

Providing tribal law enforcement with the same benefits would put tribal officers in parity with their federal officer counterparts. It would also provide an immediate boost to the CCT and other Indian tribes that for years have recruited and trained officers only to see them depart for positions with local jurisdictions that offer these types of benefits.

Background on the Colville Tribes’ Law Enforcement Challenges

Although now considered a single Indian tribe, the Confederated Tribes of the Colville Reservation is a confederation of twelve aboriginal tribes and bands from across eastern Washington state, northeastern Oregon, Idaho, and British Columbia. The present-day Colville Reservation is in north-central Washington state and was established by Executive Order in 1872. The Colville Reservation covers more than 1.4 million acres and its boundaries include portions of both Okanogan and Ferry counties.

Geographically, the Colville Reservation is larger than the state of Delaware and is the largest Indian reservation in the Pacific Northwest. The Colville Reservation is home to more than 5,000 residents, which include both tribal members, their families, and non-Indians. Approximately 50 percent of the Colville Tribes’ 9,300 enrolled members live on or adjacent to the reservation.

As noted above, the Colville Tribes has contracted the law enforcement function from the BIA under the Indian Self-Determination and Education Assistance Act (ISDEAA). BIA data indicates that there are 234 tribal law enforcement programs nationally and that more than 90 percent of those programs have been contracted by the respective tribes under ISDEAA. As a contracted program, the Colville Tribes' law enforcement officers work for the Colville Tribal Police Department ("Colville PD") and are tribal, not federal, employees. In contrast, for those relatively small number of tribes for which the BIA provides direct law enforcement services, those officers are federal employees and receive all federal pension and retirement benefits by default.

Colville PD officers receive full deputy commissions from both Okanogan and Ferry counties once they have successfully completed the police academy, which allows them to enforce all state criminal laws. These commissions enable our officers to better serve the community because they often respond to households that have both tribal members and non-members residing in the same home. The downside to this arrangement is that neither county consistently patrols their respective areas of the Colville Reservation.

Similarly, Colville PD officers also possess Special Law Enforcement Commissions (SLECs). SLECs are agreements with the BIA's Office of Justice Services that authorize tribal officers to enforce violations of federal laws. Neither Colville PD officers nor any other tribal law enforcement officers that possess SLECs receive any additional compensation from the BIA for enforcing federal laws. The Colville Tribes' officers thus enforce tribal, state, and federal laws.

On any given shift, the Colville PD has an average of only three police officers on duty to patrol the entire 2,275 square miles of the Colville Reservation and the more than 250 parcels of off-reservation trust lands. This means that an officer's backup is at least 30 minutes away (by car) at any given time, though usually longer.

Like other tribal police departments, the Colville PD has multiple vacancies that have been and remain difficult to fill. Of the 29 officer positions at the Colville PD, eight of these positions are vacant. Similarly, three of the six dispatch positions are vacant as are two of the eight administrative positions. Collectively, the Colville PD has a 30 percent vacancy rate for both commissioned and non-commissioned officer positions.

BIA law enforcement is funded at only a portion of the actual need. Recruitment and retention remain acute issues even with the Colville Tribes supplementing the BIA funding allocation by more than 200 percent annually.

H.R. 4524 Would Immediately Boost Indian Tribes' Efforts to Recruit and Retain Law Enforcement Officers

For several years, the Colville Tribes and other Indian tribes in the state of Washington have sought to provide a pathway for tribal police officers to receive pension and retirement benefits to in assist in recruiting and retaining officers. H.R. 4524 would accomplish this by

providing that tribal law enforcement officers can be considered federal law enforcement officers for certain laws, including for federal pension and retirement benefits applicable to federal law enforcement officers.

For the Colville Tribes, allowing our tribal law enforcement officers to begin accruing pension and retirement benefits would have several immediate benefits. First, it would provide a more attractive benefit package to would-be officers and would help us keep officers that the Colville PD trains from leaving for other jurisdictions. Indian tribes nationwide can attest to having recruited and trained law enforcement officers only to see them leave because the tribes cannot compete with benefits that other jurisdictions provide.

By providing tribal officers with access to federal law enforcement benefits, H.R. 4524 would also open the door for tribes to attract law enforcement officers that may be employed by the federal government but may wish to work for an Indian tribe without losing their benefits. It would also make working for Indian tribes an option for those federal law enforcement officers that have reached the federal mandatory retirement age of 57 but desire to continue working as a law enforcement officer for a few more years. In both cases, the federal law enforcement officers could work for tribal police departments without losing their retirement benefits or having to start anew in a different retirement program. This would equally apply to individuals who are leaving the U.S. military, several of whom the Colville PD has employed as tribal officers upon them leaving active duty.

H.R. 4524 is intended as an opt-in for Indian tribes. Tribal officers have varied backgrounds and years of service, often in other state or local jurisdictions or with the federal government. A small number of states have, under state law, allowed tribal officers to participate in state law enforcement retirement systems. Arizona is one such state. An officer that has several years of service as a law enforcement officer in a non-Indian jurisdiction in one of these states before working as a tribal officer in the same state may wish to keep participating in the state retirement program. As the Committee further refines the bill, the CCT suggests that the bill text clarify that *individual* tribal officers may be treated as federal law officers upon designation by their respective tribal employers.

Finally, and as noted above, the Colville Tribes' officers and presumably those of the more than 90 percent of tribes that have contracted law enforcement from the BIA under the ISDEAA already perform the duties of federal law enforcement officers by enforcing federal laws pursuant to SLECs. Allowing tribal officers to participate in the federal benefits program would put tribal officers in parity with their federal officer counterparts.

The SLEC Provisions of H.R. 4524 Would Address Confusion and Treat Tribal Officers Equitably with Federal Law Enforcement Officers

As introduced, most of the text of the H.R. 4524 was derived from section 104 of the "Tribal Law and Order Reauthorization and Amendments Act," which the Senate Committee on Indian Affairs favorably reported in both the 115th and 116th Congresses. H.R. 4524 would clarify that tribal law enforcement officers will be considered federal law enforcement officers

for purposes of enforcing federal criminal laws without being required to obtain SLECs provided they meet certain training, background investigation, and other requirements and are certified to enforce federal laws by the BIA.

We understand that the BIA originally suggested this provision to provide clarity on the legal status of tribal law enforcement officers without SLECs and to ensure that those tribal law enforcement officers are treated equitably when they are carrying out the functions or services contracted from the BIA.

Currently all the Colville PD's officers have SLECs and annual renewals of these agreements proceed smoothly. In past years, however, the CCT had difficulty obtaining SLECs because of regional differences in the boilerplate SLEC agreements that the BIA has utilized which, in the CCT's case, would have confused application of the Federal Tort Claims Act to tribal officers when enforcing federal law.

H.R. 4524 fixes these issues and would provide Indian tribes with an additional mechanism to enable their tribal officers to enforce federal laws and be treated as federal law enforcement officers for liability purposes without obtaining SLECs.

The Colville Tribes strongly supports H.R. 4524 and urges the Committee to approve it as soon as possible.
