



Prepared Statement of Chris Sutter, Chief of Police, Tulalip Tribes, on behalf of the
Affiliated Tribes of Northwest Indians

Legislative Hearing on S.2695, the “Parity for Tribal Law Enforcement Act”

Senate Committee on Indian Affairs

April 17, 2024

Good afternoon, Chairman Schatz, Vice-Chair Murkowski, and members of the Committee. My name is Chris Sutter, and I am the Chief of Police for the Tulalip Tribes. I am pleased to testify today on behalf of the Affiliated Tribes of Northwest Indians (“ATNI”) in support of S.2695, the “Parity for Tribal Law Enforcement Act” (the “Parity Act”). This bill will provide Indian tribes with a critical tool to address recruitment and retention challenges for law enforcement officers, and ATNI urges the Committee to pass it quickly.

Founded in 1953, ATNI is a non-profit organization that represents 57 tribal governments from Washington, Oregon, Idaho, southeast Alaska, northern California, and western Montana.

The Tulalip Tribes is a member of ATNI and is located on a 22,000-acre Reservation bordering the Interstate 5 corridor, 35 miles north of Seattle. Forty percent of the Tulalip reservation is in non-Indian fee status due to the history of allotments, and more than 10,000 non-Indian residents live on the reservation.

ATNI member tribes were directly involved in developing the bill with Congressman Dan Newhouse (R-WA), who introduced the House version of the bill together with Congressman Derek Kilmer (D-WA). In February 2022, ATNI passed the first tribal organization resolution supporting the bill, which the National Congress of American Indians adopted at its 2022 mid-year convention. ATNI is grateful to Senators Maria Cantwell and Markwayne Mullin for introducing the legislation in the Senate and for the Committee for holding this hearing.

ATNI strongly supports the Parity Act because it would allow tribal law enforcement officers to participate in the federal retirement and benefits programs that federal law enforcement officers currently enjoy. This would provide a significant positive

recruitment and retention impact for ATNI member tribes and Indian tribes nationally, that for years have recruited and trained officers at significant expense only to see them leave for law enforcement positions with state and county police departments that offer more attractive benefits.

Recruitment and Retention Challenges and Consequences

Indian tribes face unique challenges providing law enforcement services to their tribal communities. Some tribes, like the Tulalip Tribes, provide law enforcement services for thousands of visitors, both Indian and non-Indian, that enter their tribal lands each day. Other ATNI member tribes are in rural areas, like the Colville Tribes, which has an average of only three tribal police officers on duty to patrol the nearly 2,300 square mile Colville Reservation in eastern Washington.

What nearly all ATNI tribes share in common, however, is the difficulty in recruiting and retaining law enforcement officers. While some ATNI member tribes, like the Tulalip and Chehalis Tribes, can offer salaries that are commensurate with our neighboring jurisdictions, we simply cannot compete with the benefits that those jurisdictions offer. Because federal appropriations for tribal law enforcement programs address only a fraction of the actual need, other tribes struggle to provide competitive wages and must use whatever tribal dollars they can afford to compete to retain the tribal officers that they have.

Because of this, there is an ongoing pattern in Indian country where tribes recruit and train officers only to see them leave for jobs with neighboring jurisdictions that offer more attractive benefits. In recent years, the Tulalip Tribes has lost 50 percent of its officer workforce due to recruitment by other local law enforcement agencies, putting extreme strain on its operations. This pattern is not unique to Tulalip, and results in ongoing negative consequences for all tribal law enforcement agencies.

One of the consequences is financial. When tribes hire new officers, the officers must complete the Bureau of Indian Affairs' ("BIA") law enforcement academy, or state law enforcement academies, at a significant financial cost. For tribes in Washington state that may also enforce state laws, the officer must also complete an additional state equivalency academy. To complete the academies and obtain the requisite training to adhere to best practices, new hires usually require approximately one year on the job before they are able to respond to routine calls on their own. The Tulalip Tribal Police Department invests more than \$130,000 for training and salaries for new hires in their first year. Most tribes can quantify these costs and they may be higher or lower depending on the geographic location of the tribe. When these officers leave, tribes must pay these costs again should they be able to find suitable replacements.

Another consequence of tribal officers leaving for neighboring jurisdictions is failure to maintain continuity and community relations. For tribes, it is critical that officers know the community and that the community knows them. There is often a deep level of mistrust between tribal members who live near non-Indian jurisdictions where, in the past, calling a non-tribal police department for emergency assistance often led to revictimization, if there was a response at all. Most tribes would agree that tribal officers are most effective in carrying out their duties when they are known to, and familiar with, the people that they serve. It can take years to build the type of trust necessary to overcome past law enforcement trauma. This obviously cannot occur if there is a high rate of turnover for tribal officers.

Finally, when officers leave for jobs in neighboring jurisdictions, it negatively impacts tribes' ability to provide specialty policing services and carry out complex investigations, which in most cases are based on intimate knowledge on the officers' part of the community and its residents. The fentanyl epidemic has become one of the most critical issues in tribal communities and investigating and preparing cases that U.S. Attorneys' offices will prosecute requires experienced personnel. Missing and Murdered Indigenous People and Violence Against Women Act cases similarly require experienced officers and detectives who have established trust and rapport with the tribal communities that they serve. Again, officer turnover significantly impairs tribes' abilities to address these and other crimes that require experienced personnel.

The Parity Act Would Provide a Critical Tool to Retain Officers

As introduced, most of the text of the Parity Act was derived from section 104 of the "Tribal Law and Order Reauthorization and Amendments Act," which this Committee favorably reported in both the 115th and 116th Congresses.

Most, if not all, Indian tribes in the Pacific Northwest have 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.

When tribes contract or compact law enforcement under ISDEAA, the law enforcement officers 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 federal pension and retirement benefits by default. In contrast, tribal law enforcement officers in most states enforce the same laws and have the same duties as federal officers but do not receive federal benefits.

As introduced, the Parity Act would allow tribal law enforcement officers employed by tribal governments under ISDEAA instruments to be treated as federal law enforcement officers under certain provisions of the U.S. Code, including federal law enforcement officer benefits programs in chapters 81 and 84 of title 5. It would also allow tribal officers to be considered federal law enforcement officers for purposes of enforcing federal criminal laws without being required to obtain Special Law Enforcement Commissions provided they meet certain training, background investigation, and other requirements, and are certified to enforce federal laws by the BIA.

The Parity Act 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.

By providing tribal officers with access to federal law enforcement benefits, the Parity Act 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 while continuing to accrue federal 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, which several ATNI member tribes have employed as tribal officers upon those individuals leaving active duty.

As the Committee considers the Parity Act, ATNI strongly urges the Committee to incorporate the amendments to the bill that the House Natural Resources Committee adopted when it approved the House version of the bill (H.R. 4524) on March 12, 2024. ATNI member tribes developed those amendments in consultation with tribal stakeholders and the Administration.

In addition to technical and clarifying changes, those amendments also allow tribal officers whose salaries are funded in whole or in part by the Community Oriented Policing Services (“COPS”) grant and other Department of Justice grant programs to be eligible to accrue federal law enforcement benefits. This is important because it would

allow tribes in Alaska and other Public Law 280 states where there is a very limited BIA law enforcement program presence to benefit from the Parity Act's provisions.

ATNI strongly supports the Parity Act and urges the Committee to take all necessary steps to ensure its enactment into law as soon as possible. We look forward to continuing to work with the Committee on this important national issue.

Thank you for inviting ATNI to provide testimony on the Parity for Tribal Law Enforcement Act.
