

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

March 5, 2018

1:34 p.m.

MEMBERS PRESENT

Senator John Coghill, Chair
Senator Pete Kelly
Senator Bill Wielechowski
Senator Click Bishop

MEMBERS ABSENT

Senator Mia Costello

COMMITTEE CALENDAR

PRESENTATION: VILLAGE PUBLIC SAFETY OFFICER PROGRAM

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

VICTOR JOSEPH, Chief
Tanana Chiefs Conference
Fairbanks, Alaska

POSITION STATEMENT: Participated in the presentation on the Village Public Safety Officer Program.

RICHARD PETERSON, Chief
Central Council Tlingit & Haida Indian Tribes of Alaska
Juneau, Alaska

POSITION STATEMENT: Participated in the presentation on the Village Public Safety Officer Program.

SERGEANT JODY POTTS, Director
Tanana Chiefs Conference
Village Public Safety Officer Program
Fairbanks, Alaska

POSITION STATEMENT: Participated in the presentation on the Village Public Safety Officer Program.

JASON WILSON, Public Safety Manager
Tlingit Haida Central Council
Juneau, Alaska

POSITION STATEMENT: Participated in the presentation on the Village Public Safety Officer Program.

NICK GASCA, Deputy General Counsel
Tanana Chiefs Conference (TCC)
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of the Village Public Safety Officer Program.

ACTION NARRATIVE

[1:34:59 PM](#)

CHAIR JOHN COGHILL called the Senate Judiciary Standing Committee meeting to order at 1:34 p.m. Present at the call to order were Senators Bishop, Wielechowski, and Chair Coghill.

PRESENTATION: VILLAGE PUBLIC SAFETY OFFICER PROGRAM

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CHAIR COGHILL announced the business before the committee would be to hear a presentation on the Village Public Safety Officer (VPSO) Program. He noted that the commissioners of public safety and corrections were in the audience and expressed gratitude for the work VPSOs do daily.

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VICTOR JOSEPH, Chief/Chairman, Tanana Chiefs Conference (TCC), Fairbanks, Alaska, introduced himself and TCC staff and thanked the committee for the opportunity to discuss the Village Public Safety Officer (VPSO) Program.

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SENATOR KELLY joined the committee.

CHIEF JOSEPH stated that TCC manages about 200 grants totaling about \$190 million, primarily in health services programs. About 75 percent of the organization is devoted to health care services and employs about 900 employees. Sixty percent of the employees reside in Fairbanks and 40 percent reside in rural areas in the Interior covering about 235 square miles. Putting that in perspective, it's a little smaller than the state of

Texas. He noted that the 48 state grant programs Tanana Chiefs has been managing total about \$8 million.

[1:39:19 PM](#)

RICHARD PETERSON, President, Central Council Tlingit & Haida Indian Tribes of Alaska ("Tlingit & Haida"), Juneau, Alaska, stated that Tlingit & Haida is a federally recognized tribe that only operates tribal programs. They do not administer health or housing, which is slightly different than regional nonprofits like TCC. Tlingit & Haida represents more than 30,000 tribal citizens world-wide as well as citizens of other federally recognized tribes that reside within its service area.

Tlingit & Haida also operates programs for non-Native parents or family members of tribal children. These include child support, Tribal Temporary Assistance for Needy Families (TANF), Indian Child Welfare Act (ICWA), and services in tribal court when jurisdiction exists for divorces, marriages, and guardianship of tribal children. Tlingit & Haida has a vocational training center in Juneau that serves many non-Natives that offers the only commercial driver's license (CDL) course in Southeast. They serve both Head Start and Rural CAP (Rural Alaska Community Action Program, Inc.), mostly in Southeast. They run tribal transportation services in many communities that entails building bus stops, sidewalks, and other things that enhance the transportation needs of their citizens.

Tlingit & Haida has a budget of about \$30 million and administers about 70 grants following fiscal, state, and calendar years. They have about 245 employees in the region, 200 of which are in Juneau. The rest are VPSO, Head Start, and satellite TANF locations in Sitka and Ketchikan. They have 20 departments serving other programs, they do government contracting, and have 600 employees throughout the country. Most recently they were the successful bidder on a project on Kodiak where they have 60 employees.

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SERGEANT JODY POTTS, Director, Tanana Chiefs Conference (TCC), Village Public Safety Officer Program, Fairbanks, Alaska, stated that she has been a VPSO since 2009 and was the first female VPSO sergeant in the program. She related that she was raised in Eagle and recalls the positive public safety impact the first VPSO had on the community.

She explained that the VPSO Program was created in the late 1970s to confront rural crime issues that the centrally located

Alaska State Troopers had difficulty addressing. The program was also created to save money for the state. The savings come through unfunded mandates on the hosting communities whereby the tribe or city government paid for much of the support of the VPSO. In the 1980s and 1990s many of the officers made minimum wage, used their own equipment, and paid for gas in their work vehicles to do patrols. Part of the reason for that is that tribes do not receive public safety or law enforcement funding because of the federal statute, Public Law 280.

SERGEANT POTTS advised that the Native nonprofit regional contractors such as Tlingit & Haida, TCC, Bristol Bay Native Association (BBNA), and others continue to use their own funding to make the VPSO Program as successful as it can be under the current restraints. The legislature funds the VPSO positions, the training, and uniforms. Today, 38 rural communities in the TCC region have a VPSO presence, but 37 villages in the region have no law enforcement presence. Recruitment and retention within the region has been difficult. TCC is using its own funds to support recruitment activities and to provide broadband internet.

SERGEANT POTTS said rural Alaska has changed in the last 40 years and the needs today are different than when the program was created. Communities today are impacted by designer drugs and polysubstance use, which is creating an unsafe environment for officers and the community alike. The current management of the VPSO Program is not effecting change in the region.

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JASON WILSON, Public Safety Manager, Central Council of the Tlingit & Haida Indian Tribes of Alaska ("Tlingit & Haida"), Juneau, Alaska, stated that Tlingit & Haida has participated in the VPSO Program since it was developed. He joined the program in 2009. He explained that in 2006 Tlingit & Haida returned oversight of the program to the state due to lack of funding for a coordinator position. They took it back in 2009. VPSOs now serve the communities of Kake, Angoon, Saxman, Hydaburg, Thorn Bay, and Kasaan. The position in Pelican is vacant.

MR. WILSON discussed recruitment and retention difficulties that started in 2015 and the housing shortage for VPSOs despite help from their sister agency, Tlingit & Haida Housing Authority. He noted that the community of Saxman wrote a grant and built housing in that community for the VPSO and other Tlingit & Haida personnel. He also discussed the initial 15 percent cap on the indirect rate that created a 26-27 percent shortfall on Tlingit

& Haida's \$1 million budget. He noted that the cap was raised to 30 percent in 2009. He described the cap as an arbitrary number.

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MR. PETERSON explained that the indirect rate, which currently is 32 percent, refers to the negotiated amount Tlingit & Haida spends to operate a grant. If an agency or grantor doesn't meet the full indirect rate, Tlingit & Haida must come up with the balance. He agreed with Mr. Wilson that the cap is arbitrary.

CHAIR COGHILL remarked that the legislature was looking for partnerships, solutions, and ways to move forward.

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NICK GASCA, Deputy General Counsel, Tanana Chiefs Conference (TCC), stated that today he was speaking as an advocate for the VPSO program. He related that in February 2017 the VPSO grantees met with Commissioner Monegan to voice opposition to the proposal to make VPSOs state employees under the Alaska State Troopers. The commissioner committed to work with the VPSO caucus and contractors before implementing the plan. To his knowledge that proposal is not moving forward, but some of those ideas have cropped up in the legislature. That idea and some of the justifications as well as some myths about the VPSO Program have been circulating.

MR. GASCA said the contractors, the VPSO caucus, and the state share the common goal of providing the best public safety possible in rural Alaska, but they do not agree with making VPSOs state employees. He highlighted that the tribes have not been asked how they feel about this drastic change in policy.

MR. GASCA discussed the following justifications and their responses to the proposal to make VPSOs state employees.

1. If VPSOs were state employees, the Department of Public Safety would have a direct relationship with the tribes and the tribal grantees would be the middlemen to the Department of Public Safety (DPS).

He pointed out that they don't act as middlemen. They gather feedback, address trends, use their resources to advocate for tribes, and have authority to act on behalf of the tribes they represent. DPS doesn't have the budget to do outreach in rural communities like TCC is able to do. He noted that for the last three summers Chief Joseph has visited rural communities to

listen and gather information about concerns and pressing issues.

2. If VPSOs were state employees, it would be easier to work directly with tribes.

MR. GASCA said nothing prevents DPS from reaching out directly to tribes now. Even if that were to happen it would not solve any problem.

3. Making VPSOs state employees would provide better cross deputation opportunities. DPS would then have an opportunity to enforce tribal law in addition to state law.

MR. GASCA said they support cross deputation but that can be done right now. The focus should be on enforcing state law and reducing the crimes against women and helpless children.

4. Making VPSOs state employees would eliminate multiple supervision layers for VPSOs and standardize the program under DPS.

MR. GASCA advised that VPSOs are currently supervised by a contractor/coordinator and they follow TCC and VPSO policies. He added that in August 2016, TCC caucused with DPS to address problems with supervision layers and other impediments to smooth operation. TCC feels progress has been made and there is no reason to relocate the program under a new agency.

5. Making VPSOs state employees would generate cost savings.

MR. GASCA said they have not seen any budgetary justification to show that this would result in a cost savings.

6. Making VPSOs state employees addresses liability concerns for VPSOs as contractors.

MR. GASCA advised that TCC is well aware of liability concerns but is working through them just as they have with liability concerns related to health care.

7. Making VPSOs state employees would provide tribes with resident pipelines to the state.

MR. GASCA pointed out that rural hub communities have resident pipelines to the state through the Alaska State Troopers, but many people still don't feel safe and are exposed to violence.

He said the bottom line for contractors is that this proposal would lead to more control over rural law enforcement in predominantly Native communities and it's not in the best interest of rural Alaska. He highlighted the following from the November 2013 Indian Law and Order Commission report, which supports this position:

The strongly centralized law enforcement and justice system in the state of Alaska are of critical concern to the Indian Law and Order Commission. They do not serve local and Native communities adequately, if at all. The commission believes that devolving authority to Alaska Native communities is essential for addressing local crime. Their governments are best positioned to effect arrest, prosecute, and punish and they should have the authority to do so or to work out volunteer agreements with each other and with local governments and the state on mutually beneficial terms.

MR. GASCA reiterated that TCC believes that making VPSOs state employees is a step in the wrong direction. He urged the legislature to ask the tribal communities and the contractors who run these rural programs what they think about this proposal.

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CHAIR COGHILL said the points are well taken but the Senate has not entertained such a proposal. He added that he had heard the rumor.

MR. GASKA said that's good to hear.

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SENATOR BISHOP stated that he's always ready to have a conversation about potential solutions.

CHIEF JOSEPH said TCC heard the rumor and wanted to make sure their concerns were expressed because until recently it's been frustrating to work alongside DPS to try to effect change. Things have been going in a more positive direction recently. He said he was pleased that Commissioner Monegan and the deputy commissioner were present to hear the concerns. He talked about collaborative talks in the Governor's Tribal Advisory Council (GTAC) meetings, and with the attorney general's office, corrections, public safety, and tribal contractors to discuss a

successful program going forward. He stressed the need to have the flexibility and authority to run the VPSO program efficiently and effectively. He pointed out that TCC has a nationally and internationally recognized knowledge base to run successful programs. They want to use that knowledge to design a VPSO program that is flexible and meets the needs of their individual communities.

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CHAIR COGHILL asked if TCC was working with the commissioner to address regulatory issues.

CHIEF JOSEPH replied a [GTAC] subcommittee is looking at statutes, regulations, and administration management. Some of the concerns are regulatory, but many of the issues are within the grant itself.

CHAIR COGHILL advised that the legislature looks at getting the best benefit for the dollar.

CHIEF JOSEPH said DPS has been returning program money because it's not being spent and TCC would like to use that money for things like needed gear, communication equipment, and travel to communities. He noted that the House supports ensuring that \$500 thousand is available for VPSO travel. Having the flexibility to use that money like they do in other contracts would make it possible to send officers where they're needed.

CHAIR COGHILL asked if contracts would need to be rewritten.

CHIEF JOSEPH said they are required to make a request for everything outside a line item, which takes a lot of administrative time. Most contracts for state programs have the flexibility to move a certain amount of money from one line-item item to another. He said he wants TCC to be able to maximize resources and run a successful program.

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MR. PETERSON said the idea of compacting scares some people but the tribes are very sophisticated and they are accountable. Compacting would give the flexibility to design a program for all of Southeast. He agreed with an earlier comment that the tribal viewpoint is very holistic looking at the health and wellbeing of the whole community, Native and non-Native alike. He related a personal story to illustrate the crisis in communities that do not have a law enforcement presence. He said he tries not to be too dramatic, but you don't know what scared

means until you've been held a gunpoint by somebody high on meth and you have no backup. This is what people in rural Alaska face and they may only have a neighbor as backup. He said bad things happen in urban areas too, but the police or a SWAT team sweeps in to neutralize the problem. He said they are asking to use the money that DPS returns to the general fund each year to build a flexible VPSO program that fits the needs of rural Alaska. He pointed out that we're all Alaskans and we should all feel safe.

CHAIR COGHILL said the overlap of state, federal, and tribal authority is problematic, but he too maintains that it's about Alaskans. It's a continual push and pull to work together but it comes down to cooperation and getting the dollars to the best place.

MR. PETERSON countered that Tlingit & Haida is a tribal government, but it is not race based. Further, the state would not need to relinquish authority if it were to compact with Tlingit & Haida and TCC to develop a more relevant VPSO program. He pointed out that Tlingit & Haida is currently doing an OCS compact in which the state does not give up authority. Duties are shared.

CHAIR COGHILL shared that he's been part of the problem and solution over the years.

MR. PETERSON expressed appreciation for the work that Senator Coghill has done with tribal courts and being a general ally. He added that updating the VPSO program can be done collaboratively and for the best interest of Alaskans.

CHIEF JOSEPH directed attention to the document titled *Challenges and Solutions* that lists five problems and possible solutions for the 40-year-old VPSO program. Copies are in members' packets and it is posted on line. He said they are asking for the committee's support when it looks at the House efforts. He requested adding travel dollars and changing the intent language to allow spending the appropriations as designed. He said it doesn't make sense for them to give back \$1 million when there are public safety needs in rural areas. He restated that since the last GTAC meeting there has been a shift in the working relationship with DPS thanks to Commissioner Monegan and Deputy Commissioner Comer. He concluded his comments saying we need more flexibility and authority to manage these grants. Allow us to do our job and we'll do it successfully.

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SENATOR BISHOP asked if VPSOs have summer and winter uniforms or just one for year-round use.

SERGEANT POTTS replied there is just one type of VPSO uniform. It is winter weight with long sleeves, which is too hot in the Interior during the summer. Things like that contribute to low morale and poor recruitment. It wouldn't be expensive to make some changes to the uniform and it would improve morale.

SENATOR BISHOP asked if it's by design that 37 villages have no law enforcement.

SERGEANT POTTS said no. TCC currently has two VPSO rovers based in Fairbanks and one based in Nenana. They have requested more rovers because housing shortages and low wages make it difficult to recruit someone to live and work in small communities that have very high living costs.

SENATOR BISHOP asked if their recruitment efforts reach down into grade schools to talk about what VPSOs do.

SERGEANT POTTS said yes; VPSOs regularly visit schools when they travel to villages but there isn't a lot of interest. She shared that about four years ago Alaska State Troopers, FBI, U.S. Marshals, and VPSOs visited schools along the Yukon River. When the students were asked how many wanted to be VPSOs nobody raised their hand, but lots of kids were interested in the other fields of law enforcement. She opined that the kids could see or sense the low morale and lack of support that VPSOs experience.

SENATOR BISHOP asked if a lot of the problems related to travel and overtime would be resolved if they didn't need to return \$1 million every year.

CHIEF JOSEPH said yes, but what they are requesting is that their contracts are fully funded and that they have the authority to move money between the line items, just as they do on any of the other contracts they manage. This allows them to adjust the budget to make it work.

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SENATOR WIELECHOWSKI asked if they have data on crime rates in villages with and without VPSOs.

SERGEANT POTTS said yes; crime numbers increase significantly when there is a VPSO in the community because people are more

inclined to report. Once the VPSO has been in the community for some time, crime rates begin to fall.

SENATOR WIELECHOWSKI asked if crime is increasing in villages and why that might be.

SERGEANT POTTS said she attributes the increasing crime to a lack of law enforcement and the polysubstance abuse they're seeing in communities.

CHIEF JOSEPH added that his concern is the number of unreported and very serious crimes committed against people.

CHAIR COGHILL asked what some of the unfunded mandates are that seem to be unsolvable.

SERGEANT POTTS cited the high cost and limited availability of housing and the lack of secure holding cells.

CHAIR COGHILL thanked the presenters for bringing forward the potential solutions to the challenges and for the work they do.

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There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 2:54 p.m.