

OFFICE OF THE
SHERIFF
INYO COUNTY, CA



WILLIAM R. LUTZE
SHERIFF

JEFF HOLLOWELL
UNDERSHERIFF

"A Professional Service Agency"

CEASE AND DESIST ORDER
Pursuant to California Penal Code § 830.1

January 6, 2015

Deston Rogers, Police Chief
Bishop Paiute Tribal Police Department
50 TU SU Lane
Bishop, CA 93514

Dear Chief Rogers:

The Inyo County Sheriff's Office ("Office"), by way of this official correspondence, is notifying the Bishop Paiute Tribal Police Department ("Tribal Police") that its officers are continuously committing serious violations of California criminal statutes and that these actions have seriously endangered the public welfare both within and outside tribal territory. Accordingly, Tribal Police is hereby ordered to

CEASE AND DESIST ALL LAW ENFORCEMENT OF CALIFORNIA STATUTES

This Office has repeatedly given notice to Tribal Police that its officers have been illegally exercising state police powers under the color of authority of Bishop Paiute tribal law, notwithstanding applicable federal law. Significantly, this Office is responding to increasing official and public complaints regarding Tribal Police misconduct. This correspondence cannot overly re-emphasize to Tribal Police that its employees are NOT California peace officers and also are NOT federal officers. As such Tribal Police officers do NOT have any legal authority, notwithstanding Bishop Paiute tribal authority, to enforce any state or federal laws within or outside tribal property. Regardless of their motives or intentions, Tribal Police officers have only the same rights as private citizens.

Alarming, Tribal Police officers have been employing unlawful force on subjects during the unlawful exercise of authority. Aside from the obvious danger to the public, such misconduct has severely compromised the officer safety of this Office's personnel as well as case investigations and prosecutions. The following documented instances of illegal exercises of law enforcement authority by Tribal Police include, but are not

Deston Rogers, Chief
January 6, 2015
Page 2

limited to:

- *Unlawful operation of emergency vehicles off tribal property*
- *Violations of the California Vehicle Code*
- *Illegal detentions*
- *False arrests*
- *Battery (both felony and misdemeanor)*
- *Illegal home entries*
- *Illegal searches of persons and property*
- *Possession of firearms in public (per H.R. 218 "Law Enforcement Officers Safety Act", Tribal Police officers are not authorized to possess firearms outside tribal property)*

The most serious incident recently occurred on December 24, 2014 during which Tribal Police Officer Daniel Johnson arrested a female for an alleged trespass on tribal land and violation of a state restraining order. Rather than waiting for the imminent arrival of a deputy sheriff, Officer Johnson unnecessarily provoked a violent confrontation with the female subject. During Officer Johnson's attempt to arrest the female, he committed felony battery when he "Tasered" the unarmed female whom he outweighed by over 100 pounds (the female's approximate weight: 120 pounds). Without any justification, he then dragged her out of her vehicle, wrestled her to the ground, handcuffed her, and restrained her inside his Tribal Police vehicle. The female was injured and required medical attention. Consequently, Officer Johnson's actions resulted in his arrest.

As seriously, if not more so, Tribal Police Officer Johnson's illegal and reckless conduct severely jeopardized the safety of the deputy sheriff who had responded to the scene.

This Office has always enjoyed a cooperative professional relationship with Tribal Police which has benefited the community. This Office has also repeatedly extended its assistance to Tribal Police in its efforts to attain peace officer status for its officers which would further benefit the community. For whatever reasons, these efforts have been ignored as have the warnings detailed in this correspondence.

Therefore, this Office orders that Tribal Police immediately (A) cease and desist the unlawful exercise of California peace officer authority both within and outside tribal property and (B) cease and desist possessing firearms outside tribal property (e.g. court appearances) and (C) provide this office with prompt written assurance within ten (10) days that Tribal Police will cease and desist from further acts as explained in this correspondence.

If Tribal Police does not comply with this cease and desist order within this time period, be advised that Tribal Police employees will be subjected to **arrest and criminal prosecution** for applicable charges as well as Penal Code § 538d (Fraudulent Impersonation of a Peace Officer).

In addition, this Office will seek injunctive relief and an order for court costs and attorney's fees. Tribal Police criminal and civil liability, both individually and collectively, could be considerable, not to mention the liability exposure to victims of Tribal Police misconduct.

Nevertheless, this Office strongly believes that Tribal Police, in achieving federal law enforcement certification, would significantly compliment both our agencies' abilities in serving tribal law enforcement interests. This Office reiterates its commitment towards this important goal and extends every resource to Tribal Police in its

Deston Rogers, Chief
January 6, 2015
Page 3

efforts towards that goal. This would be a crucial development towards state law enforcement certification as well.

The commencement and significance of this action has received the utmost consideration with the concurrence of all local enforcement authorities and was necessitated by the escalating seriousness of Tribal Police misconduct which cannot be allowed to continue to endanger the public welfare. Protection of the public, including tribal residents, is ultimately the responsibility of the Office of the Sheriff of Inyo County and must be met.

Respectfully,



William R. Lutze, Sheriff

cc: Thomas Hardy, District Attorney, Inyo County
Chris Carter, Chief, City of Bishop Police Department
Tim Noyes, Captain, California Highway Patrol
Jeff Thomson, Chief Probation Officer, Inyo County