June 23, 2020

Senate President Peter Courtney
Speaker of the House of Representatives Tina Kotek
Joint Interim Committee on the First Special Session of 2020
Oregon State Capitol
Salem, Oregon 97301

Request for amendments to LC 72 - Omnibus police accountability legislation (individually LC 79 & LC 81)

Honorable Co-Chairs of the Joint Special Session committee,

Thank you for the important consideration you are giving to proposed police reforms in the upcoming Special Session. As you know, tribal police officers are recognized as "peace officers" under Oregon law.

Tribal governments across Oregon and the nation are having these same discussions and reviews of law enforcement. Tribal police officers are known for their deep connections to their community and we are dedicated to meaningful review and continual improvement as a sovereign nation.

While many of the provisions of LC 72 are laudable, we are requesting that specific sections of the bill be amended to accurately recognize tribal sovereignty. The following is a review of LC 72 as it relates to tribal sovereignty.

•Section 1 through 4 of the bill do not impact tribal nations. Those sections deal with arbitration awards in state actions.

•Section 5 (also LC 79) has a big impact on tribal nations and tribal sovereignty. It potentially subjects tribal officer involved deaths or qualifying physical injury to review and investigation by the State Attorney General. *This inappropriately asserts state authority over what is a tribal government matter.*

•Sections 6 and 7 amend the county deadly physical force planning authority structure to take the resolution of potential criminal responsibility out of the hands of the local DA and put into the hands of the State Attorney General. But SB 412 already subjects tribes to the planning authority structure/plan, so this change has minimal impacts on tribal sovereignty.

•Section 8 amends the process for officer involved use of deadly force. It deletes requirements of agencies using at least one officer from a different agency when investigating the matter, presumably because other sections of this bill shift that investigation to the State AG's Office. We do not believe that is problematic and (SB412) already subjects tribal law enforcement to these requirements generally.

•Sections 10, 11, 12, 13, and 14 limit use of force by police officers. However, we don't believe they would apply to tribal officers under SB 412 as the sections of the ORS that are amended are not sections tribes have to comply with to be recognized as state officers under SB412.

•Sections 15, 16, 17, 18, 19, 20, and 21 amend requirements for DPSST Certification. That impacts tribal officers under (SB 412) in so far as to be recognized as state officers tribal officers at a minimum have to have DPSST Certification, but that doesn't impact tribal sovereignty because it is the State's own standards for their own certification process.
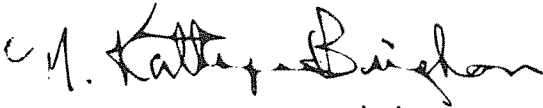
•Section 22 (also LC 81). This directly impacts tribal sovereignty as it would effectively limit the ability of a tribal government to govern itself in methods for crowd control and deterring crowd violence. *These policy decisions should be determined by tribal governments.*

A tribe may choose to do everything the State is trying to do in this legislation, or even more, but those decisions should be left to the tribal nation out of respect for the government-to-government relationship and in acknowledgment of tribal sovereignty.

In summation, here are suggested amendments to LC 72:
- •Section 5(6)(a) should be amended to add "excluding tribal law enforcement agencies."
- •Section 5(6)(c) should be amended to add "excluding tribal police officers."
- •Section 22(1) should be amended to add "excluding tribal law enforcement agencies."

Sincerely,

N. Kathryn Brigham, Chair
Confederated Tribes of Umatilla Indian Reservation

Dave Fullerton, General Manager
Confederated Tribes of Grand Ronde

Jaime A. Pinkham, Executive Director
Columbia River Inter-Tribal Fish Commission

CC: Chair Janelle Bynum, House Judiciary committee