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U.S. COURTS

MAY 02 2025
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 (STEPHEN W. KENYON
 CLERK, DISTRICT OF IDAHO

UNITED STATES DISTRICT COURT DISTRICT OF IDAHO

Margaret Baker Plaintiff V	CASE No.: 2:25-cv-00136-BLW
Colton Tyler Howard, Richard Jeremy Axtman, Trustee of the Kootenai Jail- Jeremy Hyle DEFENDANTS/RESPONDENTS	AFFIDAVIT IN RESPONSE TO MOTION TO DISMISS

This affidavit is legal notice that the Defendants Colton Tyler Howard, Richard Jeremy Axtman, are not deputized under the Special Law Enforcement Commission and are not federal law enforcement officers, as by testimony in the obligation 28 U.S.C. § 1746 from the Declaration of Charles Taylor prescribed by 25 C.F.R. § 12.21 & 25 U.S.C. § 2803.

An officer not having been trained, certified in training to conduct federal stops, federal searches, and federal seizures, cannot enforce federal statutes, and thus cannot be subjected to federal tort since the obligations in certification have not been performed. Colton Tyler Howard, Richard Jeremy Axtman have not been trained to conduct federal stops, federal searches, and federal seizures and therefore the jurisdiction of this case belongs in the court of the State of Idaho for the breaches of the laws of the State of Idaho.

This affidavit shall suffice the response towards the motion to dismiss being that the case belongs in the County of Kootenai, wherein it is being decided if it is going to remain in State court per Civil Case No. CV28-24-4007

Further, attached to this affidavit are exhibits of evidence, in the statutes from the Bureau of Indian Affairs and United States Code as to which proves that Colton Tyler Howard, Richard Jeremy Axtman are not federal officers, and thus are subjected to State of Idaho's laws.

Margaret Baker, Date 05/02/2025
Margaret Baker

}SS:

(State of Idaho)

On this 5/2/2025, the Defendant named above, personally appeared before me and acknowledged to me on the basis of satisfactory evidence that he or she executed the same in his or hers stated capacity, and that by his or hers signature on this trust is the person or entity upon behalf of which the person signed is a free and voluntary act and deed for the purposes and upon the terms and conditions hereinafter set forth. Date: 5/2/2025

By Jeffery Dobson, Notary

Public My Commission
Expires: 1/29/2031

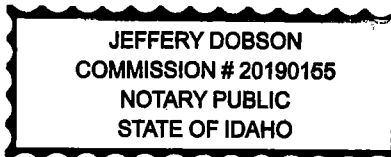


Exhibit A

This content is from the eCFR and is authoritative but unofficial.

Title 25 — Indians**Chapter I — Bureau of Indian Affairs, Department of the Interior****Subchapter B — Law and Order****Part 12 — Indian Country Law Enforcement****Authority:** 5 U.S.C. 301; 25 U.S.C. 2, 9, 13, 2417, 2453, and 2802.**Source:** 62 FR 15611, Apr. 2, 1997, unless otherwise noted.**Subpart D Qualifications and Training Requirements****§ 12.31** Are there any minimum employment standards for Indian country law enforcement personnel?**§ 12.32** Do minimum employment standards include a background investigation?**§ 12.33** Are Indian country law enforcement officers paid less than other law enforcement officers?**§ 12.34** Do minimum salaries and position classifications apply to a tribe that has contracted or compacted law enforcement under self-determination?**§ 12.35** Do Indian country law enforcement officers complete any special training?**§ 12.36** Does other law enforcement training count?**Subpart D—Qualifications and Training Requirements****§ 12.31 Are there any minimum employment standards for Indian country law enforcement personnel?**

The Director must develop, maintain, and periodically review the qualification standards, including medical qualification standards, for all BIA law enforcement, detention, and conservation enforcement occupational series. The standards will be no less stringent than the minimum standards established by the U.S. Office of Personnel Management (OPM) for these occupational series, and may exceed the OPM standards. BIA standards are available for review at any BIA personnel office. All tribal programs are encouraged to develop standards at least as stringent as those established for BIA officers.

§ 12.32 Do minimum employment standards include a background investigation?

Law enforcement authority is only entrusted to personnel possessing adequate education and/or experience, training, aptitude, and high moral character. All Indian country law enforcement programs receiving Federal funding and/or authority must ensure that all law enforcement officers successfully complete a thorough background investigation no less stringent than required of a Federal officer performing the same duties. The background investigations of applicants and employees must be adjudicated by trained and qualified security professionals. All background investigations must be documented and available for inspection by the Bureau of Indian Affairs.

§ 12.33 Are Indian country law enforcement officers paid less than other law enforcement officers?

An officer's pay is determined by his/her grade and classification. The Commissioner of Indian Affairs must ensure that all BIA law enforcement officer positions are established at no lower grade level on the Federal scale than similar Federal law enforcement officer positions in other agencies. No BIA position performing commissioned law enforcement duties will be classified in other than the GS 0083, police officer series, for uniformed officers and the GS 1811, criminal investigating series, for criminal investigators.

§ 12.34 Do minimum salaries and position classifications apply to a tribe that has contracted or compacted law enforcement under self-determination?

Any contract or compact with the BIA to provide law enforcement services for an Indian tribe must require a law enforcement officer to be paid at least the same salary as a BIA officer performing the same duties.

§ 12.35 Do Indian country law enforcement officers complete any special training?

Law enforcement personnel of any program funded by the Bureau of Indian Affairs must not perform law enforcement duties until they have successfully completed a basic law enforcement training course prescribed by the Director. The Director will also prescribe mandatory supplemental and in-service training courses.

§ 12.36 Does other law enforcement training count?

All requests for evaluation of equivalent training must be submitted to the Indian Police Academy for review, with final determination made by the Director. Requests for a waiver of training requirements to use personnel before completing the required courses of instruction must be submitted to the Director and approved or disapproved by the Commissioner of Indian Affairs. In no case will such a waiver allow personnel to be used in any position for more than one year without achieving training standards. Failure to complete basic training requirements will result in removal from a law enforcement position.

25 CFR 12.21 (up to date as of 4/30/2025)

25 CFR 12.21 (Apr. 30, 2025)

What authority is given to Indian country law enforcement officers to...

This content is from the eCFR and is authoritative but unofficial.

Title 25 —Indians**Chapter I —Bureau of Indian Affairs, Department of the Interior****Subchapter B —Law and Order****Part 12 —Indian Country Law Enforcement****Subpart C —Authority and Jurisdiction****Authority:** 5 U.S.C. 301; 25 U.S.C. 2, 9, 13, 2417, 2453, and 2802.**Source:** 62 FR 15611, Apr. 2, 1997, unless otherwise noted.**§ 12.21 What authority is given to Indian country law enforcement officers to perform their duties?**

BIA law enforcement officers are commissioned under the authority established in 25 U.S.C. 2803. BIA may issue law enforcement commissions to other Federal, State, local and tribal full-time certified law enforcement officers to obtain active assistance in enforcing applicable Federal criminal statutes, including Federal hunting and fishing regulations, in Indian country.

- (a) BIA will issue commissions to other Federal, State, local and tribal full-time certified law enforcement officers only after the head of the local government or Federal agency completes an agreement with the Commissioner of Indian Affairs asking that BIA issue delegated commissions. The agreement must include language that allows the BIA to evaluate the effectiveness of these special law enforcement commissions and to investigate any allegations of misuse of authority.
- (b) Tribal law enforcement officers operating under a BIA contract or compact are not automatically commissioned as Federal officers; however, they may be commissioned on a case-by-case basis.

25 CFR 12.63 (up to date as of 4/30/2025)

25 CFR 12.63 (Apr. 30, 2025)

Do Indian country law enforcement officers perform other duties as well?

This content is from the eCFR and is authoritative but unofficial.

Title 25 —Indians

Chapter I —Bureau of Indian Affairs, Department of the Interior

Subchapter B —Law and Order

Part 12 —Indian Country Law Enforcement

Subpart G —Support Functions

Authority: 5 U.S.C. 301; 25 U.S.C. 2, 9, 13, 2417, 2453, and 2802.

Source: 62 FR 15611, Apr. 2, 1997, unless otherwise noted.

§ 12.63 Do Indian country law enforcement officers perform other duties as well?

Law enforcement commissions will only be issued by the Bureau of Indian Affairs to persons occupying positions as full-time officers. Bureau of Indian Affairs funded or commissioned criminal investigators will not be responsible for supervising or managing any patrol, detention, or other uniformed police programs.

Exhibit B

dian Tribes to provide victim centered and culturally relevant training to tribal law enforcement, Indian Health Service health care providers, urban Indian organizations, Tribal community members and businesses, on how to effectively identify, respond to and report instances of missing persons, murder, and trafficking within Indian lands and of Indians; and

"(4) report directly to the Secretary of the Interior.

"(b) REPORT.—The official designated in subsection (a) shall submit to the Committee on Indian Affairs and the Committee on the Judiciary of the Senate and the Committee on Natural Resources and the Committee on the Judiciary of the House of Representatives a report to provide information on Federal coordination efforts accomplished over the previous year that includes—

"(1) a summary of all coordination activities undertaken in compliance with this section;

"(2) a summary of all trainings completed under subsection (a)(3); and

"(3) recommendations for improving coordination across Federal agencies and of relevant Federal programs."

§ 2803. Law enforcement authority

The Secretary may charge employees of the Bureau with law enforcement responsibilities and may authorize those employees to—

(1) carry firearms;

(2) execute or serve warrants, summonses, or other orders relating to a crime committed in Indian country and issued under the laws of—

(A) the United States (including those issued by a Court of Indian Offenses under regulations prescribed by the Secretary or offenses processed by the Central Violations Bureau); or

(B) an Indian tribe if authorized by the Indian tribe;

(3) make an arrest without a warrant for an offense committed in Indian country if—

(A) the offense is committed in the presence of the employee;¹

(B) the offense is a felony and the employee has probable cause to believe that the person to be arrested has committed, or is committing, the felony;

(C) the offense is a misdemeanor crime of domestic violence, dating violence, stalking, or violation of a protection order and has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim, and the employee has probable cause to believe that the person to be arrested has committed, or is committing the crime; or

(D)(i) the offense involves—

(I) a misdemeanor controlled substance offense in violation of—

(aa) the Controlled Substances Act (21 U.S.C. 801 et seq.);

(bb) title IX of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (21 U.S.C. 862a et seq.);² or

(cc) section 865 of title 21;

(II) a misdemeanor firearms offense in violation of chapter 44 of title 18;

(III) a misdemeanor assault in violation of chapter 7 of title 18; or

(IV) a misdemeanor liquor trafficking offense in violation of chapter 59 of title 18; and

(ii) the employee has probable cause to believe that the individual to be arrested has committed, or is committing, the crime;

(4) offer and pay a reward for services or information, or purchase evidence, assisting in the detection or investigation of the commission of an offense committed in Indian country or in the arrest of an offender against the United States;

(5) make inquiries of any person, and administer to, or take from, any person an oath, affirmation, or affidavit, concerning any matter relevant to the enforcement or carrying out in Indian country of a law of either the United States or an Indian tribe that has authorized the employee to enforce or carry out tribal laws;

(6) wear a prescribed uniform and badge or carry prescribed credentials;

(7) perform any other law enforcement related duty; and

(8) when requested, assist (with or without reimbursement) any Federal, tribal, State, or local law enforcement agency in the enforcement or carrying out of the laws or regulations the agency enforces or administers.

(Pub. L. 101-379, § 4, Aug. 18, 1990, 104 Stat. 475; Pub. L. 109-162, title IX, § 908(b), Jan. 5, 2006, 119 Stat. 3083; Pub. L. 111-211, title II, § 211(c), July 29, 2010, 124 Stat. 2266.)

Editorial Notes

REFERENCES IN TEXT

The Controlled Substances Act, referred to in par. (3)(D)(i)(I)(aa), is title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, referred to in par. (3)(D)(i)(I)(bb), is Pub. L. 104-193, Aug. 22, 1996, 110 Stat. 2105. Title IX of the Act enacted section 862b of Title 21, Food and Drugs, section 12392 of Title 34, Crime Control and Law Enforcement, and sections 608a and 710 of Title 42, The Public Health and Welfare, amended section 1693b of Title 15, Commerce and Trade, section 32 of Title 26, Internal Revenue Code, and sections 1396a, 1396g, 1397a, 1397b, 1437d, 1437f, and 1437z of Title 42, and enacted provisions set out as notes under section 32 of Title 26 and sections 601, 710, and 1396a of Title 42. For complete classification of this Act to the Code, see Short Title of 1996 Amendments note set out under section 1305 of Title 42 and Tables.

AMENDMENTS

2010—Par. (2)(A). Pub. L. 111-211, § 211(c)(1), substituted "or offenses processed by the Central Violations Bureau; or" for "(), or".

Par. (3)(B), (C). Pub. L. 111-211, § 211(c)(2)(B), substituted "probable cause" for "reasonable grounds".

Par. (3)(D). Pub. L. 111-211, § 211(c)(2)(A), (C), (D), added subpar. (D).

¹ So in original. The comma probably should be a semicolon.

² See References in Text note below.

2006—Par. (3)(C). Pub. L. 109-162 added subpar. (C).

§ 2804. Assistance by other agencies

(a) Agreements

(1) In general

Not later than 180 days after July 29, 2010, the Secretary shall establish procedures to enter into memoranda of agreement for the use (with or without reimbursement) of the personnel or facilities of a Federal, tribal, State, or other government agency to aid in the enforcement or carrying out in Indian country of a law of either the United States or an Indian tribe that has authorized the Secretary to enforce tribal laws.

(2) Certain activities

The Secretary may authorize a law enforcement officer of such an agency to perform any activity the Secretary may authorize under section 2803 of this title.

(3) Program enhancement

(A) Training sessions in Indian country

(i) In general

The procedures described in paragraph (1) shall include the development of a plan to enhance the certification and provision of special law enforcement commissions to tribal law enforcement officials, and, subject to subsection (d), State and local law enforcement officials, pursuant to this section.

(ii) Inclusions

The plan under clause (i) shall include the hosting of regional training sessions in Indian country, not less frequently than biannually, to educate and certify candidates for the special law enforcement commissions.

(B) Memoranda of agreement

(i) In general

Not later than 180 days after July 29, 2010, the Secretary, in consultation with Indian tribes and tribal law enforcement agencies, shall develop minimum requirements to be included in special law enforcement commission agreements pursuant to this section.

(ii) Substance of agreements

Each agreement entered into pursuant to this section shall reflect the status of the applicable certified individual as a Federal law enforcement officer under subsection (f), acting within the scope of the duties described in section 2802(c) of this title.

(iii) Agreement

Not later than 60 days after the date on which the Secretary determines that all applicable requirements under clause (i) are met, the Secretary shall offer to enter into a special law enforcement commission agreement with the Indian tribe.

(b) Agreement to be in accord with agreements between Secretary and Attorney General

Any agreement entered into under this section relating to the enforcement of the criminal laws

of the United States shall be in accord with any agreement between the Secretary and the Attorney General of the United States.

(c) Limitations on use of personnel of non-Federal agency

The Secretary may not use the personnel of a non-Federal agency under this section in an area of Indian country if the Indian tribe having jurisdiction over such area of Indian country has adopted a resolution objecting to the use of the personnel of such agency. The Secretary shall consult with Indian tribes before entering into any agreement under subsection (a) with a non-Federal agency that will provide personnel for use in any area under the jurisdiction of such Indian tribes.

(d) Authority of Federal agency head to enter into agreement with Secretary

Notwithstanding the provisions of section 1535 of title 31, the head of a Federal agency with law enforcement personnel or facilities may enter into an agreement (with or without reimbursement) with the Secretary under subsection (a).

(e) Authority of Federal agency head to enter into agreement with Indian tribe

The head of a Federal agency with law enforcement personnel or facilities may enter into an agreement (with or without reimbursement) with an Indian tribe relating to—

- (1) the law enforcement authority of the Indian tribe, or
- (2) the carrying out of a law of either the United States or the Indian tribe.

(f) Status of person as Federal employee

While acting under authority granted by the Secretary under subsection (a), a person who is not otherwise a Federal employee shall be considered to be—

- (1) an employee of the Department of the Interior only for purposes of—

- (A) the provisions of law described in section 3374(c)(2) of title 5, and
- (B) sections 111 and 1114 of title 18, and

- (2) an eligible officer under subchapter III of chapter 81 of title 5.

(g) Acceptance of assistance

The Bureau may accept reimbursement, resources, assistance, or funding from—

- (1) a Federal, tribal, State, or other government agency; or
- (2) the Indian Law Enforcement Foundation established under section 5412(a)¹ of this title.

(Pub. L. 101-379, § 5, Aug. 18, 1990, 104 Stat. 476; Pub. L. 111-211, title II, § 231(b), (e), July 29, 2010, 124 Stat. 2273, 2278.)

Editorial Notes

REFERENCES IN TEXT

Section 5412(a) of this title, referred to in subsec. (g)(2), was in the original “section 701(a) of the Indian Self-Determination and Education Assistance Act”, and was translated as reading “section 702(a) of the Indian Self-Determination and Education Assistance Act”, meaning section 702(a) of Pub. L. 93-638, to reflect

¹ See References in Text note below.