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SENATE JUDICIARY COMMITTEE
SENATOR BARRY KEENE, CHAIRMAN

Hearing

**LAW ENFORCEMENT ON
INDIAN LANDS**

STATE CAPITOL
ROOM 4203
SACRAMENTO, CALIFORNIA
TUESDAY, JANUARY 22, 1985

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HEARING

Subject: Law Enforcement on Indian Lands

Tuesday, January 22, 1985
Room 4203, State Capitol Building

NCJRS

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MAY 10 1988

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See attached written testimony.

SENATOR BARRY KEENE, CHAIRMAN: We have one, two, three, four, five, six, seven witnesses as Indian representatives who will testify first. We've reserved an hour for that, and I would ask that you all come forward at this time and take your positions at the witness table so that we can get started: Barbara Risling, Dale Risling, Vernon Johnson, Denis Turner, Robert McDowell, Ron Fohz -- Barbara did I say that right? -- and George Foreman, former heavyweight champion of the world. Oh-oh, Barbara ducked out. OK, are you going to kick off the testimony? OK. We need to roll; we're going to hear from a special friend of mine now, Barbara Risling. Why don't you identify yourself further for the record, Ms. Risling.

MS. BARBARA RISLING: Mr. Chairman and members, my name is Barbara Risling; and I'm a member of the Hoopa Valley Tribe in Northern California. I've been asked to give a brief background on Public Law 83-280 and the need for additional law enforcement on Indian land.

In 1951, the Commissioner of Indian Affairs submitted a proposed bill to the Indians of California for their comment. This proposed bill would transfer federal jurisdiction over civil and criminal matters on reservations to any state which requested it. It did not, however, solicit the input of tribes affected. In 1952 special meetings were held for tribes to discuss the law and order bills. The tribal representatives felt that by transferring their law enforcement responsibilities to the state, the federal government would be terminating a special government-to-government relationship shared by tribes and the federal government. Tribal councils opposed the bills and submitted letters and telegrams to the House Judiciary Committee chairman informing him of their opposition. Irrespective of California tribal opposition in 1953, Public Law 83-280 was enacted. California, along with four other states, became known as Public Law 280 states. The other states were Minnesota, Nebraska, Oregon, and Wisconsin; Alaska was later added to the list.

Not only were the tribes forced to accept the legislation they were adamantly opposed to, but they found themselves burdened with the problem of the state's interpretation of Public Law 280 versus their own interpretation. The Department of Justice for the State of California in a letter dated February 28, 1975 and reconfirmed by that office in 1980 stated that "Both state and local enforcement agencies possess exclusive authority over criminal matters on Indian lands." It is the Indian communities' interpretation and it is also contained in the opinion dated November 14, 1978 from the office of a solicitor that the federal government did indeed transfer their jurisdiction over Indian country to the applicable states. However, since the only jurisdiction which the United States has is concurrent with the tribe, that part of its concurrent jurisdiction is all that it could transfer to the states. It could not transfer more than what it had; and that is, it could not transfer tribal jurisdictions to the states.

As you can see the issue of jurisdiction is complex and one that continues to be argued in court. We do not wish to argue that issue here today. Our concern is immediate relief for our law enforcement concerns.

Now, there are currently 103 federally recognized tribes located on more than 550,000 acres of

land here in California, most of it being in the rural parts of the state; and then I gave the sergeant a map that he will be giving to you and here's a larger copy of it. It is important to note that with over 200,000 Indians California has the largest Indian population in the nation and one-third of the 307 federally recognized tribes in the nation. It is therefore impossible to present testimony from each tribal representative; however, I would like to point out that because each tribe is considered an independent, sovereign nation and may have problems similar to those of other tribes, their solutions to those same problems may differ according to their specific needs. And you'll be hearing testimony regarding those problems and needs later on.

For 31 years, tribes have been requesting assistance from just about every office that deals with law enforcement issues and then some that do not. They've been turned down, ignored, and sent to someone else. It is our hope that we will find the assistance we have been seeking for so long here today. I would like to thank Senator Keene and the members of this committee for the opportunity to speak on this issue of great concern to California Indian people. Thank you.

SENATOR KEENE: Thank you very much, Ms. Risling. OK, Mr. Dale Risling.

MR. DALE RISLING: Thank you. I have my testimony here I'd like to present to the appropriate copies ...

SENATOR KEENE: OK, the sergeant will pick that up; he's on the telephone right now.

MR. RISLING: I'll read sections out of it as part of my testimony today.

SENATOR KEENE: OK. Senator Presley.

SENATOR ROBERT PRESLEY: Before we get into that, could you---maybe you've framed the issue in your opening statement, I'm not sure. You're saying, and I recall, that the jurisdiction did change from federal to state. It's still state now, isn't it?

MS. RISLING: Uh-huh, right.

SENATOR PRESLEY: And you're saying what? That the problem is that the state is not responsive or it complicates matters since it's a federal Indian reservation and law enforcement is handled by the state of local governments -- is that the problem?

MS. RISLING: I just wanted, when I stated the issue of jurisdiction, I just wanted to make you aware that there is a jurisdictional question regarding either total jurisdiction to the state or partial or concurrent jurisdiction.

SENATOR PRESLEY: You mean that's still not clear?

MS. RISLING: (Inaudible.)

SENATOR PRESLEY: Let's assume for this---at this point that it is clear. And what is---then there's a problem in what? Responsiveness or understanding or ..?

MS. RISLING: It's a problem in lack of law enforcement on Indian land.

SENATOR PRESLEY: Just lack of it, period.

MS. RISLING: There are, in some instances, real problems because of the lack of law enforcement. In some tribes, it's not so much of a problem and they're working out the---they have solutions that they're working on. And this is what the tribal people here today are going to be presenting to you -- their problems and concerns.

SENATOR PRESLEY: Is the problem based on the fact, I guess, that Indian reservations do not pay local taxes?

MS. RISLING: Well, I think that---I can't say that that's a problem. That may be what some of the law enforcement or further testimony from other people may bring forth. OK?

SENATOR KEENE: OK, thank you. The clock is running again.

MR. RISLING: My name is Dale Risling. I'm a member of the Hoopa Valley Business Council. I've been authorized by the Council to present this testimony on their behalf today.

The Hoopa Valley Indian Reservation is located in Humboldt County along the lower twelve miles of the Trinity River. The reservation is the largest of approximately 100 reservations and rancherias in California. It contains nearly 90,000 acres, most of which is mountainous and is covered with Douglas fir timber and other hardwood species. The tribal government operates under the authority of a constitution adopted by the tribe in 1952 and has a membership of 1723. Its jurisdiction lies within the 90,000 acres immediately surrounding the Hoopa Valley.

Prior to 1953, when Public Law 280 was passed in California, criminal jurisdiction rested with the U.S. Department of Interior. This authority was delegated to the Bureau of Indian Affairs upon the passage of the Major Crimes Act of 1886. Up until 1953, the Bureau of Indian Affairs managed the "Indian police" on the Hoopa Reservation and the Indian jail. With the passage of Public Law 280, the federal government surrendered all of its criminal and major portions of its civil jurisdiction to the state. Civil matters such as contract disputes, consumer affairs, divorce, and landlord/tenant issues rest with the state. Civil matters such as a regulatory land-use, the power to tax, and zoning codes rest with the tribes. With the passage of the Indian Civil Rights Act of 1968, which amended Public Law 280, concurrent law enforcement jurisdiction exists with the State of California, the Hoopa Valley Business Council, and the Bureau of Indian Affairs.

With the passage of Public Law 280 in 1953, the Hoopa Tribe, like other Public Law 280 tribes, has had its share of bad experiences with state and county law enforcement. Much of these experiences resulted from the ambiguous language in Public Law 280. There is confusion on how far state law enforcement officials may go into federal Indian land on search and seizure and other criminal matters. This confusion often serves as an excuse for law enforcement to stay away from Indian land.

Tribal members often charge that there's a double standard of law enforcement at Hoopa and in the surrounding Indian communities. It is often stated that if an Indian is murdered there is very little investigation, but if a white man is murdered, then justice prevails. Since 1948 there have been 22 Indians murdered in the Hoopa area. Only one was convicted and a total of 18 months in jail have been served for these killings, according to information gathered by local citizens.

The Bureau of Indian Affairs enforces Indian fishing regulations on the Lower Trinity and Klamath Rivers. Specific codes of offenses include gill net fishing without proper gear or license or on fishery closure dates. During the summer and fall months when the fishery is active, the Bureau of Indian Affairs has on staff as many as seven law enforcement personnel patrolling the rivers. A Court of Indian Offenses is located in the Hoopa and at the town of Klamath.

The Bureau of Indian Affairs has established this law enforcement and court system in 1979 when the state of California attempted to enforce state law on Indian fishing. This system is funded under a special account created by the Bureau of Indian Affairs from their annual budget. In 1979-80 the budget was \$1.9 million; for fiscal year '84-85 the total budget is \$1.2 million. The Hoopa Valley Tribe has been informed by the Bureau of Indian Affairs that this account will continue to decrease annually.

In addition, because of recent Indian case law involving the American Indian Civil Rights Act, Public Law 280 tribes have the authority in assuming concurrent jurisdiction of all civil matters on Indian lands. To that end, the Hoopa Valley Business Council has started the process of implementing a Hoopa Tribal Court system. Currently, a Hoopa Code of Offenses has been drafted and approved for final review and will cover the statutory as well as the inherent jurisdictional areas. Slated for implementation in phases beginning in 1985, the Hoopa Tribal Court will assume jurisdiction and fish and game violations, Indian child custody proceedings, land use codes, environmental quality codes, timber trespass, and other civil matters. Already the tribe has implemented the Tribal Security program which has graduated three employees from the Police Officers' Standards and Training (POST) at a local police academy. The process of implementing a cross-deputization program with the Humboldt County Sheriffs' Department is well underway with all three of the Tribal Security personnel currently serving 520 hours of field service training as deputy sheriffs. The creation of the Tribal Security program was responsive to vandalism, arson, destruction of tribal property valued in the thousands of dollars.

During the past couple of years, there have been serious charges and allegations by Indian citizens in the Hoopa area against county law enforcement. These charges range from racism to brutality, to retaliation, to improper investigation, and to major crimes relating to Indian persons and a generally apathetic attitude of law enforcement personnel. As a result, the Hoopa Valley Tribe, representatives of four other neighboring Indian communities, the Humboldt County Sheriff, the Humboldt County Human Rights Commission, and the Department of Justice's Community Relations personnel negotiated a memorandum of understanding, (MOU). This MOU identified the many areas of concern and spelled out methods of dealing with these problems. These problems include curfew enforcement, public gathering, citizen complaint procedures, use of firearms, cultural sensitivity, and other matters. One of the main elements of the MOU is the creation of a law enforcement liaison officer. This person would monitor and assure that the MOU was honored by all parties. He would operate under the direction of an Indian Law Enforcement Liaison Committee. This individual would also mediate and facilitate complaints or problems and help promote streamlined communications between the groups. Funding under this position was identified in the MOU and included the Bureau of Indian Affairs and other federal, state, and local resources. Unfortunately, when approached, the Bureau of Indian Affairs held firm on its grounds that it would not fund Public Law 280 states even though substantial law enforcement funds have been appropriated to the BIA for their national budget.

The Hoopa Tribe has also been struggling with litigation known as the Jessie Short case for over 23 years. This case has confused state, federal, and tribal jurisdiction on the Hoopa Reservation. The

lack of a government on the extension portion of a reservation for responsible management has further confused the overall situation. A group of 3800 individuals have been awarded limited claims to the revenue of the timber resources on the reservation, but the federal government has expanded this narrow court decision to give these individual rights that were never granted by the courts. This case has tied up \$53 million in revenues from the timber resources, which is being held in an escrow fund.

The Hoopa Tribe is now trying to resolve these management and jurisdictional problems in the U.S. Congress since the courts which have caused the problems do not have the jurisdiction to solve them. Once the problem is taken care of, the Hoopa Tribe can fully implement its goals in law enforcement on the reservation.

I would like to present the following recommendations:

1. The State of California enter into a joint funding agreement with the Bureau of Indian Affairs in the development of programs that will raise the level of law enforcement on California Indian reservations to at least the same level enjoyed by other citizens of California.
2. The State of California support tribes in reversing the Bureau of Indian Affairs policy of not providing law enforcement funds to Public Law 280 tribes. And I'd like emphasize that this is a policy.
3. The State Legislature appropriate funds to assist model law enforcement programs on Indian reservations that have the potential of providing efficient and cost effective law enforcement.
4. The State Legislature assure California tribes that they will consult with tribal leadership on any proposal relating to tribal jurisdiction.
5. The State Legislature express its recognition and support of tribal law and jurisdiction and affirm its commitment to protect these sovereign rights.
6. The State Legislature encourage the U.S. Congress to initiate legislation that will untangle the many management and jurisdictional obstacles that have been created by the Jessie Short case, on the Hoopa reservation, and support such legislation. Such legislation would remove a major obstacle to tribal governance and tribal participation in law enforcement by the Hoopa Valley Tribe.

The Hoopa Valley Tribe is committed to working with the state and federal law enforcement agencies on a government-to-government basis, to create a safe and secure environment for the citizens of our community. With your cooperation and support, the Hoopa Valley Tribe will continue its leadership role and continue to serve as an exemplary model for law enforcement on Indian reservations in California.

Thank you for this opportunity to present our testimony to you today. Thank you.

SENATOR KEENE: Thank you, Mr. Risling. Mr. Johnson, Vernon Johnson.

MR. VERNON JOHNSON: My name is Vernon Johnson, and I want to thank the committee for allowing me to testify on behalf of my tribal constituency. I am a full-blooded California Indian, of Pitt River and Paiute descent, was raised traditionally by grandparents who could not read or write. I have been working in Indian country as a professional for 18 years.

We are gathered here today to provide testimony regarding problems with law and order on

California Indian reservations. However, in order to understand the unique unexplained reasons by Indian people cannot or will not communicate with law and order officials, the problem stems from a deep inbred combination of fear and disrespect for authority.

The United States Cavalry condoned and supported the harrassment of Indian people. Promises were made and broken by these persons in authority. The Indian name in the Pitt River Tribe is Isswenesue, which means a person who grabs or picks up Indians. The Indian---they have a special name. Indian children were taught to hide in fear of authority. This fear resulted to hate when Indians were harrassed. Non-Indians, not understanding this, would retaliate and brand Indians as troublemakers.

Indians became second-class citizens after World War I which was in 1934 and were allowed full citizenship 20 years later in 1954. I could go on and on and tell you more about the problems as it relates to alcohol and what role it plays with California Indian people. But what I wanted to do was to tell you about some of the small tribes which I represent. I represent 21 federally recognized tribal governments in Northern California covering some 14 counties. Some of the problems that I've encountered -- I was just recently on the California Indian Task Force -- and some of the problems that were related through the special hearings that we held throughout the state was, for example, one at Fort Bidwell Reservation, which is completely isolated up in the extreme northeast corner of Modoc County. They were having roving bands of young people going around and harassing the elders, breaking windows, shooting guns at night, killing dogs, and all kinds of problems. And they tried to get the Modoc County Sheriff's Department to come up there and do something about it, with a bad response. Even one person said, "Well, they're just Indians; let them kill themselves." There were letters written to the State Attorney General's office, there were letters written to the Governor, but no response. This went on for about six to eight months and finally there was a murder up there. Some young person was killed. And then, all of a sudden, you know, people started moving around.

But I think with Public Law 280, the state has been playing games with us for the last 31 years. The bottom line is the state is claiming jurisdiction but don't set up a mechanism to address the issues. The Bureau of Indian Affairs doesn't have any money, as Dale related a few minutes ago, to assist in any law and order problems.

My recommendations would be to create legislation to establish a permanent commission on Indian justice for the reasons of gathering data, document problems, on federal reservations. Number 2 recommendation would be to create a staffperson, preferably an Indian liaison, to be housed within the Office of Criminal Justice Planning to be held accountable to the Indian commission and not be supervised by OCJP because we had a bad response in the past through that office. I would like my resource person here, Ed Tabor, to discuss some of the problems that we run into about 12 years ago with OCJP and some of the other things.

There should be discretionary funding to those existing justice projects. For example, the one in Hoopa. And there should be some funding for innovative approaches. The commission would deal with---would document specific instances regarding crimes both reported and unreported. There's a lot of unreported crimes. They would also look for the shortcomings of the law enforcement agencies

and document that. The unique relationship jurisdiction should be defined because of Public Law 280's gray area. And there should be one Indian member appointed to the Triple CJ Board. And the funding should be joint effort. It should be both state and federal. And I'd like for Ed to summarize the rest of my testimony.

SENATOR KEENE: I'm sorry, Mr. Tabor, you are not on our schedule. I am prepared to hear from you at some point, but only if we have time, because there are other people who are agendaed, so ...

MR. JOHNSON: OK, well, those are my recommendations, Mr. Chairman.

SENATOR KEENE: OK, thank you. Mr. Denis Turner.

MR. DENIS TURNER: Yes, committee members, I'd like to first of all thank you and express to you some appreciation for the committee in their foresight and initiative to address the issue of law enforcement in the Indian country, especially on Indian reservations in California. This is kind of a historical event, and it probably should have taken place some 31 years ago when the Bureau of Indian Affairs turned over law enforcement to the State of California. There should have been a transition in which the state and the tribes could begin to understand what law enforcement---the new law enforcement system would be with Indian tribes.

Since 1953 in which Ms. Risling laid out the framework of the problem, that over that period of time, we've sort of been fostered off as a poor foster child with no place to go except whatever relationship or communication, coordinating, planning we could do with our county law enforcement agencies. To our knowledge there hasn't been any of that; the kind that we have seen at the reservation has been near riots when the sheriff arrived in our county, destruction of law enforcement equipment and property because the Indians in our area couldn't understand what the sheriffs are doing, what they are trying to do to our cultural ceremonies and activities. There has really been no coordination on that part.

I think there has been a tremendous amount of communication in terms of mistrust between the counties and law enforcement system in our tribal governments just by, and noticeably by recognizing that there is no formal planning, organizing, of strengthening our law enforcement systems within the reservation boundaries and areas. You look at it as Mr. Johnson has just mentioned, the California Criminal Justice Planning organization, if you look at their last couple years of plans that goes to the federal block grant programs, there's no language, or Indian language, concerned in those proposals that directly or indirectly address the serious issue of law enforcement on California Indian reservations.

I think as it's been mentioned, the lack of a relationship by the county law enforcement agency in working with tribal governments need to be improved, need to be strengthened so that every Indian tribal citizenry is given the full civil rights as mandated under our State Constitution and our United States Constitution. I think the lack of necessary law enforcement funds for tribal governments to plan and organize and develop on their own is something that we believe the State Legislature needs to address, as well as this committee.

We do appreciate the time and effort that this committee is putting in and hopefully will put in

the future. And for the record, I want to introduce a resolution that the Southern California Tribal Chairmen's Association has, at its duly called meeting, put together to address what they feel are the major issues. Instead of reading the resolution in whole, I think I will take some pieces of it and read to you. Let me give you a little bit ...

SENATOR KEENE: I might tell you, Mr. Turner, we can include the whole in the record if you wish. We will be having a written transcript on all of this, so we will include the whole thing. So if you'd like to summarize up.

MR. TURNER: OK, Mr. Chairman. What I would like to say, first of all, is a little background of the Southern California Tribal Chairmen's Association, which is a membership of 22 federally recognized tribes in the State of California. Those tribes, each of them, have a duly elected tribal chairman that belongs to our association and attends our meetings in order to try to improve not only the justice system but also the other needs of the community in the reservation areas.

And at our meeting on January the 14th, we felt that it is necessary and we want to go on record to say that we believe and support law enforcement systems on Indian reservations. We know that, and it's been said, and you see it in Hollywood movies, that reservations are enclaves for people that are criminals and other sorts of things. And we'd like to go on record to say that we aren't. Whatever people do happen to believe, that is not so true. Though that the chairmen, at their last meeting, do want to continue with this committee and formulate several programs; one of which could be a cross-deputization program or a police protection district system or have the local options of those reservations to develop their own contract or program with their county agency, law enforcement agency, whatever it is in that county. Certainly we support that.

Along with that, the Chairmen's Association would like to also go on record to say that we believe that funds should be appropriated in order to continue this long standing issue of law enforcement and that those funds could be used to develop a committee to work along with the law enforcement agencies of California whether it be the California Commission on Criminal Justice Planning or any other appropriate agency that this committee would recommend, that the tribes of the Southern California area would certainly support the strengthening of law enforcement.

That kind of really summarizes the resolution, but in whole, I think that what people in Southern California would like to do is do what I'm doing: having a limited opportunity to tell you about the various problems that they have with law enforcement. And I think that the continuation of this kind of hearing in the Southern California area due to the fact that there are 34 reservations with 28 recognizable tribal governments that would like to express to them and to this committee their issues and their issues are in support of law enforcement. And what they really want is just tribal protection for the citizens of the reservation. And we believe that we pay our taxes in California as all other citizens and we are due that right. So at that end. Thank you, Mr. Chairman and committee members.

SENATOR KEENE: Thank you, Mr. Turner. Mr. McDowell.

MR. ROBERT McDOWELL: Before I begin, isn't there supposed to be more committee members here, or you're the only rep. from your committee. I seen a whole bunch of people here before ...

SENATOR KEENE: Well, I have no---I have no---let me stop the clock a minute. I have no

power to command them to be here. I sometimes wish I did.

MR. McDOWELL: Well, our concerns are important too.

SENATOR KEENE: I agree. I agree. And the only thing I can promise you is that the transcript will be available, it will be reviewed by those interested members, and our staff because they're paid to review it, and we will come up with a list of ideas emanating from this meeting that may find their way into legislation or policy changes in California. Interim hearings, for some reason, are less--- often less interesting to members than some of the more thrilling bills that come before us. Senator Presley.

SENATOR PRESLEY: Senator, you might point out the quality of the two remaining.

SENATOR KEENE: That's true. (Laughter.) It's not simply a question of numbers as Senator Presley points out.

MR. McDOWELL: Members of the Judiciary Committee, my name is Bob McDowell. I'm the business manager-director for the Bishop Indian Reservation. I would like to take this opportunity to thank the committee for allowing me to provide you and concerns the problems that we're experiencing in regards to law enforcement. I'll briefly cover four areas: One would be the background; two, of the problems; three, the special problems; and four, some solutions.

The Bishop Indian Reservation is located in the Eastern Sierra mountain range in the eastern part of California. The Bishop Indian Reservation is comprised of approximately 877 acres, and the population there is 1603, which I think is about the second largest tribe in California. Laws are regulated by three different organizations: (1) we have the California Highway Patrol, (2) the Bishop City Police, (3) the Inyo County Sheriffs Departments.

One of the main problems that we're experiencing is lack of response. And there are some problems regarding this response which should be addressed by, possibly, maybe the Inyo County Sheriff's Department or either the Bishop Police Department. The California Highway Patrol is--- states to the tribe that they're responsible for on the highway -- only on the highway. Bishop Police are responsible only for the city limits area. The Inyo Sheriffs Departments do have their reservations; however, one of the biggest problems that they experience is a lack of manpower. I have here with me a special guest I'd like to introduce you to; this is Lt. Dennis Vackage of the Inyo County Sheriff's Department.

Our problems are unique, but I think they can be solved because we do have an Indian person working with the County Sheriff's Department, which at this point is really interested in some of the problems and would like to see some change. I'd like to give you some background on what their department has been experiencing and some of the problems on their lack of response in the Indian reservation.

The Sheriff's Department has 35 sworn deputies to man the main jail with an average daily population of 43 inmates. They patrol approximately 10,000 square miles in Inyo County. Bishop's Sheriff Substation is the largest patrol station and has 5 deputies and 1 sergeant for patrol. This allows 24-hour coverage of one patrol car for the Bishop area. This is minimum coverage and barely adequate to provide service.

Bishop reservation itself accounts for approximately 30 percent of the patrol activity. To fill the deputy, it costs approximately \$36,000 in salary, equipment, and benefits. To fill the equipment and a patrol car cost another \$12,000. The total Sheriff's Department budget is just over \$2 million and one-third of that goes to operate the jail. That seems like a large amount of money, but as you distribute it out, by the time Bishop gets their share of this, it's not adequate.

One of the main major problems that we experience is traffic control on the reservation. There's approximately 49 percent of non-Indians living on the Bishop Reservation and 51 percent Indians. The non-Indians pay a possessory interest tax to the county; they pay other taxes to the county; and they have requested some type of support from the tribe, which at this point we do not have no police, you know, Indian police. The only one that does that now is the Inyo County Police Department. As an example, most of that road area was given to the County of Inyo; however, within the last five years since I've been there, there's been two traffic fatalities in that area. We have repeatedly talked to Inyo County Road Department regarding getting stop lights or either warning lights; and they're always talking about money too and being short. But the justification is the fatalities that are happenings on the reservation. At this point, there is no solution and we're just talking about, you know, trying to get more money wherever we can.

The other problems that we encounter is the teenage problems of drinking and drugs. As a possible solution, and just listening to the other representatives here, is getting a liaison on the reservation to work with the Police Department, Inyo County Police Department, and possibly with the BIA to get some funding. I don't know whether these other tribes are experiencing the same problems that Bishop does, but I think we have the other population to protect also.

As a solution, the Inyo County Police Department does have a police cadet training program; and out of that group, there's two Indians that are training. As a solution or as a recommendation, probably to try to get some funding from the BIA or whatever sources, to train and cross-deputize an Indian trainee on a reservation.

I guess everybody, as I said, they do have unique problems in itself, but ours are not as major but I feel that I am supportive of what their concerns are in getting adequate protection and monies from the state as well as federal sources.

I'd like to thank you for giving this opportunity, again, to speak on our problems. Thank you.

SENATOR KEENE: Thank you, Mr. McDowell. Mr. Fohz. Am I saying it right?

MR. RON FOHZ: Thank you, Mr. Chairman.

SENATOR KEENE: The first question is am I saying it right.

MR. FOHZ: That's correct.

SENATOR KEENE: OK, thank you.

MR. FOHZ: I'm the chief of police for the Fort Mojave Reservation. We're in a unique situation at Fort Mojave where we have tribal lands in California, Arizona, and Nevada. I have exclusive jurisdiction in the State of Arizona on the Indian reservation, and I'm cross-deputized in the State of Arizona for the county sheriffs that have jurisdiction.

We have our main tribal offices and our main village located in California. The problem that we

have at Fort Mojave is the people expect the tribal police to handle their problems, their police problems, due to the fact that they have a tribal police department, due to the fact that the villages, one in Arizona and one in California, are located so close together that problems in one village usually overflow to the other village. When they need police assistance, they call the tribal police; however, when I attempt to go into California, I realize I'm skirting the law by going over there with a police vehicle, with red lights and siren, and armed. However, that is part of the reservation, and I've taken oath to uphold the law on the reservation, so we go over there and we have a good rapport with the local California authorities; mainly, because my training was in California and I possess a POST certificate.

What I would like to see possibly happen in the near future is, since my department and all of its members are professionally trained by the State of Arizona, we're certified in Arizona, and when I came to Arizona from California, I was able to take a waiver examination to give me full peace officer powers in Arizona because my training came from California. Well, I expected to be able to act as a tribal police officer in California since I was trained; however, that's not the situation because California doesn't recognize any tribal police departments. But I would like to see as an easy and possibly a short-term solution to at least our problem is that the California Commission of Peace Officer Standards and Training be flexible enough to allow Arizona-trained officers to take a waiver examination in the State of California to give us California-peace-officer status, therefore satisfying their training requirements and their fear that nonprofessionals will be doing law enforcement in the State of California. If research was done in the fact of Arizona training, you would see that it is fairly comparable to Arizona---or, correction, to California. But the California Commission of Peace Officer Standards and Training is not flexible. They have no situation or no provision for a waiver to allow out-of-state peace officers to come into their state and act as peace officers.

Also, we would like POST to recognize our tribal police department if it's warranted. If our training musters up to their requirements, which I'm sure it does, there should be provision where our department could be fully certified in California and take care of the Indian police problems in California. We have cooperation from the various law enforcement agencies in the area, but it is informal. And as I say, whenever I do into California, or one of my officers go into California that doesn't have the POST certificate, we're actually walking on a fine line there. But I think an easy, quick solution, at least in our case, would be to have the California POST authorities at least take a look at us and see if we cannot be recognized and certified as peace officers in this state.

SENATOR KEENE: OK, thank you very much, Chief Fohz. Sheriff Presley.

SENATOR PRESLEY: Mr. Chair, a couple of questions just out of, frankly, not knowing. On the tribal reservations now in California, you can't set up your own police department and be recognized by the state, I guess.

MR. FOHZ: No, sir, we can't. Not unless there are provisions for the Peace Officer Standards and Training committee to recognize us and also to recognize our training.

SENATOR PRESLEY: Is that the difficulty?

MR. FOHZ: Yes, sir, that's the difficulty in our situation -- is the POST.

SENATOR PRESLEY: Otherwise, you would have to do it---you'd have the authority to do it within your jurisdiction?

MR. FOHZ: That's correct.

SENATOR PRESLEY: OK, if the ...

MR. FOHZ: The only authority we have at this time is to act as deputies or reserve police officers for the various California agencies such as Needles City Police and San Bernardino County Sheriffs. But still we're acting under their orders, not tribal.

SENATOR PRESLEY: If you have authority under the law, California law, to set up your own police department, say, within X tribal jurisdiction, then the only thing you need is to be able to recruit the standard of police officer that qualifies under POST, is that right?

MR. FOHZ: Yes, sir, that's correct. I think that's all POST is concerned about, is the fact that California has historically been very proud of their police departments and they've always had one of the highest requirements of training and professionalism in the country. And they're guarding that, I think, it's 830 of the California Penal Code, they're guarding that peace officer status very jealously, with good cause. However, there are situations where an outside police agency such as the tribal police of Fort Mojave could fall into that POST system and therefore take responsibility.

SENATOR PRESLEY: Yeah, I'm not talking about that. I'm not talking about that part of the problem right now, just talking about the tribal reservations in California without that cross thing between Arizona and California. So if a tribal jurisdiction decided they wanted to have their own police department, just like if a city decides they want to have their own, they can do that under the present law as far as you know with the qualification that the officers meet POST standards and, I guess, the other part of that would be whether or not the tribe or the jurisdiction would want to pay the taxes to support that local police department. I guess, I'm assuming from what you're saying that they would probably be willing to do that. I don't know how you would do it. Maybe you would have some kind of an assessment procedure to do that. Is that kind of what you're suggesting that could be done to alleviate the problem, something along those lines.

MR. FOHZ: Well, I haven't---the main point I was getting across is the fact that there is no situation in California now where POST has any guidelines to allow another police department to be recognized in this state unless that's a police department of a city, a municipality, or a county. They have ...

SENATOR PRESLEY: I understand. I'm just saying that if this is what you're suggesting than I guess what you're suggesting also is that we consider changing the law so that POST can recognize ...

MR. FOHZ: Yes, sir, that's correct.

SENATOR PRESLEY: ... the Indian reservation as long as the recruitment standards and training standards are met.

MR. FOHZ: That's correct. If POST would at least keep an open mind and look at each reservation or each tribal police department that does apply if this does come to pass and looks at us for what we've accomplished in our training then ... the law enforcement ...

SENATOR PRESLEY: Now this other problem with Arizona, is that just one location? You just

have one jurisdiction in the state that has that problem? Where you go back and forth between California and Arizona?

MR. FOHZ: Just one reservation in that situation? As far as I know we're one of the---the only ones that have tribal lands in three different states.

SENATOR PRESLEY: And have you communicated with POST on that at all?

MR. FOHZ: No, sir, only indirectly through the chief of police for Needles. And it was his information to me that POST wouldn't even consider it without ...

SENATOR PRESLEY: Mr. Chairman, I might suggest that the staff of this committee draft a letter to POST and have them get their reaction to this kind of a suggestion. Might be able to solve that one without a lot of work.

SENATOR KEENE: We will do that. We're glad to have it put on the table so that we can get some reactions to the suggestions. Thank you.

George Foreman is ...

MR. LES MARSTEN: Is this microphone working?

SENATOR KEENE: Yes, it is.

MR. MARSTEN: I'll just stand. My name is Les Marsten. I'm here for Mr. Foreman. I'm also an attorney with California Indian Legal Services. Since being admitted to practice to the Bar, I've devoted my practice almost exclusively to the area of federal Indian law.

I think the first thing that the committee should understand is that federal law defines what is called Indian country as all land within the exterior boundaries of an Indian reservation and any land that is held in trust by the United States Government whether it be within or outside the boundaries of an Indian reservation. Within Indian country, there are three governments that have jurisdiction or exercise some measure of jurisdiction: tribal governments, which under the law are quasi-sovereign governmental entities that exercise police powers and sovereign governmental powers not that dissimilar to the State of California. The State of California which exercise only that jurisdiction which has been expressly given to it by the Congress of the United States; and here in California, Congress has acted to give the State of California under Public Law 280 very limited civil and criminal jurisdiction. And finally, the federal government, which at least the Supreme Court says Congress has plenary power over Indian affairs, but Congress very seldom ever exercises that plenary power to alleviate the problems that exist for Indian people within Indian country. Now these overlapping jurisdictions, even though we have all these governments that have some measure of jurisdiction, there still is a vacuum that exists where either the state hasn't been expressly given jurisdiction to act or the tribe, even though it may have jurisdiction, it doesn't have the financial resources available to it to act. I mean, it literally takes dollars to put uniforms on the backs of people and train law enforcement officials into established tribal courts and that type of thing. And most tribes economically don't have the resources to do that. As a result of this jurisdictional vacuum that exists, there are specific problems that exist on the various reservations. And you have to remember you have over 84 Indian reservations in the State of California, or approximately 84 reservations, and then you have these various trust allotments that are stuck all over the state which is also Indian country, where there are

jurisdictional vacuums that exist. Each of the problems that the tribes are encountering and Indians are encountering are different from reservation to reservation and trust allotment to trust allotment. Some of the most common problems that we've encountered at California Indian Legal Services I'd like to go through very briefly and identify them and then I'd like to pose to this committee some solution if I may.

The first most common problem that's been identified by Indian people is the failure of state law enforcement officials to respond, where they do have jurisdiction; for example, over crimes, your hardcore crimes, assault, battery, you know, murder, mayhem, rape, those types of things. And those result, I think, in two instances. The first instance is where an Indian person calls the local sheriff's department or call the local city police and they say, "Gee, you know, somebody is assaulting somebody out in my front doorstep." And they say, "No problem, we'll send an officer out." And then no officer ever shows up. Why, I don't know, but that is a common occurrence that exists in Indian country all the time.

I just had a woman the other day from the Sobobe Indian Reservation down south tell me that somebody discharged a firearm, fired off a rifle, she saw the person, she called the local county sheriff. The dispatcher said, "No problem. An officer will respond immediately." No one showed up.

The second situation is where through a lack of education law enforcement officials don't know they have jurisdiction. About three weeks ago I had a county sheriff call me because he knew I practiced in the area of federal Indian law and he wanted me to tell him whether or not he could go out to an Indian reservation to enforce the state Penal Code. And this man has been an officer for quite some time. But because of all the confusion that surrounds Indian reservations, he didn't know whether he could go out there or not.

The third situation is what I call the overzealous situation and that's where the county sheriff just says, "We can do whatever we want on Indian reservations. And so they go out on an Indian reservation, and they assert jurisdiction that they don't have and they don't have any business asserting. And the result of that is that the tribes immediately, who are very jealous of their sovereign governmental powers, and even though they don't have the financial resources to exercise those powers view that as an infringement on their sovereignty. So they come to us and we end up suing the state. Right now I have seven cases in federal and state court against the State of California and it's costing this state mucho dollars to litigate those suits. And most of these problems are jurisdictional problems, all of which I believe could have been resolved at some point in time if the state and the tribe would just simply sit down and work out agreements regarding jurisdiction which comes to what I can see to be one of the solutions to the problems.

SENATOR KEENE: When you say the state and the tribe, do you mean like the Attorney General's office or ...?

MR. MARSTEN: Well, one of the---let me give you a classic example. We have a situation now up on the Round Valley Indian Reservation in Northern California. An issue has arisen up there regarding whether the tribe, and to what extent the tribe, can exercise hunting and fishing rights on boundary streams within the reservation. Rather than litigate that issue, we tried to sit down with the

Department of Fish and Game and negotiate agreement. And we did. We negotiated an interim agreement. The state Attorney General's office was involved in that negotiation, came in with some very positive and constructive ideas. The state had some very positive ideas; the tribe had some very positives. Everyone wanted to solve the problem; everyone is willing to solve the problem. But the state feels that it doesn't have the authority to enter into an agreement with the tribal government unless that agreement is ratified by the State Legislature.

One of the proposed solutions to jurisdictional problems within Indian country that I would recommend to this committee is specific legislation enacted by the State Legislature that would authorize state agencies and local governments -- that's county and city governments -- to negotiate and enter into agreements with tribal governments to resolve jurisdictional disputes. For example, if you had that type of legislation, the Department of Fish and Game could enter into an agreement with the Round Valley Indian Reservation on regulations governing the taking of fish by tribal members. Under what situations could state game wardens cite tribal members for violation of those regulations. You could work out something that would be mutually acceptable to both the state and the tribe.

SENATOR KEENE: Do we have the---does the state have the authority to do that, given the U.S. Constitution and its provisions concerning relationships with Indian tribes?

MR. MARSTEN: I think they do. I think that there may be a possibility that those agreements, if they are hammered out between the tribe and the state, would have to be ratified by the Secretary of the Interior under a section that's called Section 81 of Title XXV of the United States Code. But right now, it's very questionable whether there is an existing mechanism for the state itself to be able to enter into those agreements. And that's the first hurdle that needs to be overcome. Clearly the tribe can. The only other issue is that may have to be presented to the Secretary for his approval. But ...

SENATOR KEENE: Well, I guess---I'm not sure what the legislative act would accomplish if the Department of Fish and Game, for example, enters into negotiations with a particular tribe over hunting and fishing, for example. What would we accomplish legislatively if we attempt to authorize them to do that? They feel uncomfortable about about not having authorization from us, but the real issue is a federal constitutional issue it seems to me which specifies that the Congress and the President enter into treaties with Indian tribes. I mean, wouldn't it be like us authorizing ...

MR. MARSTEN: No, no, it's not a treaty with the tribe. The tribe is its own inherent sovereign.

SENATOR KEENE: Yes.

MR. MARSTEN: Or quasi-sovereign. And it clearly has the authority to enter into agreements with the state and to enter into contractual relationships with businesses and with state agencies. Those agreements may have to be, under federal law, approved by the Secretary; but clearly I think the tribe has the authority to do that.

SENATOR KEENE: I'm not questioning the authority of the tribe; I'm questioning the authority of the state. I mean, if we authorize the Department of Fish and Game to negotiate over fishing rights with Japan, they wouldn't have the authority to do it anymore than if they did it without that legislative ...

MR. MARSTEN: Your fear is that the commerce clause which vests in Congress the authority to regulate commerce with Indian tribes preempts the ability of the state to negotiate agreements with the tribe.

SENATOR KEENE: I guess it is the commerce clause that I'm thinking of.

MR. MARSTEN: And I don't think that that clause acts as a---is a barrier or prevents the state from entering into agreements with a tribe where Congress has enacted legislation authorizing the tribes to do that, subject to approval by the Secretary.

SENATOR KEENE: They've authorized the tribes to do it, but they haven't authorized the states to do it.

MR. MARSTEN: Well, I don't think the states need authorization to enter into agreements with Indian tribes to resolve jurisdictional disputes or to provide for law enforcement on Indian reservations.

The other recommendation that I would make to the committee is that to a great extent tribes would have the ability to solve their own law enforcement problems if they had the financial resources to do so, and this is not a solution for a lot of the small tribes that don't have any type of an economic base to raise revenues. But as an additional funding source, what I would like to see is an amendment to the Revenue and Taxation Code which would authorize a credit to state citizens or to citizens who pay taxes to tribal governments. And these funds could be utilized by the tribes to fund essential governmental programs on the reservation including law enforcement programs. It's not dissimilar to what the state now provides to other state citizens who come into this state---to its state citizens who have gone into other states and paid other states taxes like sales tax and use taxes and bring commodities or goods back into the state. So, for example, you go to the State of Arizona and you buy an automobile and you pay a 4 percent sales tax and you bring the automobile back into the State of California, the State of California allows you a credit up to the amount of the sales tax that you paid in the State of Arizona. I'm saying that could be an additional revenue source for the tribes. Many of the tribes have businesses established on the reservation; for example, the store at Rincon or the business enterprise out at the Chemehuevi Reservation, where they constantly are selling goods to state citizens and to people from all over the United States that visit their reservation. If the State of California afforded a tax credit to any person who paid a tribal tax in an amount equal to the tribal tax and credited that against their state tax liability, that would provide them an additional revenue source for Indian tribes to provide essential governmental services on their reservation.

Those are the only comments that I have if the committee doesn't have any questions.

SENATOR PRESLEY: I have one.

SENATOR KEENE: Senator Presley.

SENATOR PRESLEY: You said earlier that some law enforcement agencies would come in and overstep their bounds and do anything they want and that you have lost its file and so forth. Give us some examples of that.

MR. MARSTEN: Concrete example: It's an ongoing battle and I see the sheriff for Mendocino County is here, but this is a minor one. I'll give you a minor one and a major one. A minor one:

Dogcatchers continually go on up to the reservation and they cite tribal members whose dogs don't have dog licenses, and the county doesn't have any jurisdiction to do that. Or they pick up a dog, an Indian dog on the reservation that is in someone's backyard but not tied up. So they come onto the reservation, they go onto tribal land, and they pick up a dog and they take it down to the pound. That's a minor example.

A major example: We had a situation back in 1978 where the game wardens for the Chemehuevi Indian tribe first began asserting their jurisdiction on the reservation. You have to---the image that you have to have in your mind are these law enforcement officials. These are uniformed law enforcement officials that have been trained at the BIA Police Academy back in Provo, Utah. They carry badges, they have service revolvers, handcuffs, night stick; they have a---

SENATOR PRESLEY: Are these federal---federal people?

MR. MARSTEN: They are tribal law enforcement officials and they're also commissioned by the Bureau of Indian Affairs as a BIA special officer to enforce the applicable provisions under Title 18.

SENATOR PRESLEY: And you're saying they don't have jurisdiction to do that?

MR. MARSTEN: No, they have jurisdiction to do that. The immediate response of the sheriff's office in San Bernardino County was to say that if those officers come out and carry guns and try to issue citations, we're going to arrest them. We immediately contacted the Solicitor's office and between myself and the Solicitor's office who set up a meeting and basically we said, look, you do that, you're going to be interfering with an federal law enforcement official in the lawful performance of his duties and we'll detail some---a U.S. Marshal out and we'll arrest you.

SENATOR PRESLEY: That does sound like it confuses it because I think what everybody's been saying here is that the State of California has jurisdiction now. So now, you're injecting the federal government back into it. So who does have jurisdiction?

MR. MARSTEN: I'm saying that jurisdiction is divided between three governmental entities: the tribe, the federal government, and the state. And the state delegates some of their responsibility to local governments.

SENATOR PRESLEY: So you have to make a distinction between what jurisdiction the state has and what the federal government has then. Is that made anywhere? Does anybody know what it is?

MR. MARSTEN: Well, there are various federal statutes; there are various---there are numerous court decisions that all attempt to define the jurisdictional limits of the state, federal, and tribal governments. Unfortunately, they don't do a real good job and they don't give us a real clearcut picture; and that's why we have all these problems.

SENATOR PRESLEY: It sounds like a mess.

MR. MARSTEN: It---I think---my recollection is that Justice Stevens described it as a jurisdictional maze. One last thing---

SENATOR PRESLEY: Why didn't he take care of that? (Laughter.)

MR. MARSTEN: One last thing that I would strongly recommend is that another potential solution to the problem is, as part of the legislation that I would like to see enacted by the state that would authorize tribes and states to enter into agreements, would be that through that process the

local governments could enter into agreements with tribes to provide for cross-deputization programs. I believe that that is a realistic solution to the problem, where we ultimately have tribal law enforcement officials who would meet the minimum qualifications to enter into the academy and would go through the---and they would go through the academy on their own merit. If they got through the academy, they could be commissioned as state law enforcement officials and then they could be deputized not only by---as a law enforcement official by the state, but also by the tribes. And you might even have a situation where those people could circuit-ride in a county where there was a high concentration of reservations. And they would be both a state law enforcement official that could enforce state law against non-Indians and against Indians where state law applied and they'd be a tribal law enforcement official that could enforce tribal law against Indians of that reservation where state law doesn't apply.

SENATOR PRESLEY: You know if you do that you know what's going to happen? You're going to get things so confused that you won't know who to sue. (Laughter.) Because---let me tell you. These sheriffs will come up here in a second and testify, I think. And they'll probably tell you that they don't like to deputize somebody that they don't have control over. And if you're going to cross-deputize and have a person working on the Indian reservation, paid, let's say, by the reservation and yet the sheriff has responsibility for him, I don't think they're going to want to do that.

MR. MARSTEN: Well, I'm not advocating that they---I think, first of all, the sheriffs would have control over them. They'd be state law enforcement officials that would be paid by the state.

SENATOR PRESLEY: They're not state; they're county. It's a subdivision of the state, but they're basically counties, see.

MR. MARSTEN: That would be true. They would be county deputy sheriffs.

SENATOR PRESLEY: It just sounds like it is a real mess. Probably a good idea to hold this hearing, Mr. Chairman; and after it's all finished, the chairman can figure out what we do. (Laughter.)

SENATOR KEENE: I won't be chairman then. There'll be another chairman.

SENATOR PRESLEY: No, it's---it is---I think it sounds like a very serious problem.

SENATOR KEENE: Yeah.

SENATOR PRESLEY: And I know it's been ongoing for a long time and nobody's just ever taken the bull by the horns and tried to figure it out. And I suppose you can understand why when you see how complicated and what a can of worms it is.

SENATOR KEENE: Well, we'll get the problems on the table today and, hopefully, some proposals such as you've made and we'll take a look and see what might be able to be accomplished. We may have to hold additional hearings on the issue. One has been recommended for Southern California, and I think we certainly ought to consider that as a possibility.

There's a little bit of time remaining, about five minutes, which I'll divide among Mr. Tabor and Mr. Vackage, if you would like to do that. It only permits a brief statement, but there are a lot of other witnesses who have come from distant places who have been agendaed. So---Mr. Tabor.

MR. ED TABOR: I could read just a couple---several paragraphs out of a couple documents. First of all,---

SENATOR KEENE: OK, incidentally, again, we can include matters in the transcript ...

MR. TABOR: Yeah, that's true.

SENATOR KEENE: ... if you'd like and maybe you'd rather just summarize the documents or mention some other points. We will incorporate them into the record. If you will identify them for the staff, we'll incorporate them into the record under your testimony.

MR. TABOR: OK, well then, there's no need for me---yeah, you could go on and listen to the rest of the testimony and I'll do that.

SENATOR KEENE: OK, we'll take Mr. Tabor's documents -- the sergeant will bring them up to the staff -- and we'll see that they're incorporated into the record under your testimony. It will read that you've requested that they be entered into the record.

Mr. Vackage, did you have anything? OK, let's see, I don't---you are---?

LT. PAT HARRINGTON: Lt. Pat Harrington with the Highway Patrol.

SENATOR KEENE: With the Highway Patrol. OK, we're about to get to you. Let's see, we've got Mr.---we'll have to have another set of witnesses at this point. Yes.

MR. VACKAGE: Yes, Mr. Chairman, I guess I would like, if we do have a few minutes left, maybe make a brief summary statement on the issues that were framed and explained here.

SENATOR KEENE: OK.

MR. VACKAGE: And I think that you definitely see a need for law enforcement and also that there is a need for funds to create the various kinds of programs that have been described here by my fellow testifiers. And I think that it is in order, as you've just mentioned, to get back to the Indian constituents of California and to continue this hearing so that we have, for once, an Indian perspective on the problem, because the presenters today, I think, were outnumbered by non-Indian testifiers. But nonetheless, due to our limited resources, we are here and that's certainly the priorities of our communities. So thank you, Mr. Chairman.

SENATOR KEENE: OK, appreciate hearing from you. Thank you very much.

Now we hear from some of the other witnesses, and we'll need to make room for them at the table. Let me ask that all of the remaining witnesses come forward including Mr. Babby, Mr. Masten, Sheriff Duffy, Sheriff Shea, Lt. Morris, Lt. Harrington. We have Duane Johnston, Rudolf Corona, Al Howenstein, Fran Miller.

Sheriff Duffy, I'd like to take you first because I know you have a transportation problem. Some of the others have also expressed that kind of problem, which was why I wasn't able to you earlier, and I apologize for it. It's nice of you to stay around.

SHERIFF JOHN DUFFY: Thank you, Senator. I've already missed one plane, but maybe I can catch the next one.

SENATOR KEENE: OK, we hope so.

SHERIFF DUFFY: Mr. Chairman and members of the committee, I'm the elected sheriff of San Diego County, now serving my fourth term. I've had 32 years as a member of that organization, working at every level including working in the back country where most of our Indian reservations are located.

I want to thank you for the invitation to appear here and testify in response to your concerns about law enforcement problems on Indian reservations in this state. I'll try to respond to the three specific questions that you asked in my allotted ten minutes.

With 19 reservations located within our borders, I believe San Diego County has more Indian reservations than any other county in the state. And I'm told there are some 84 in 27 counties, so I guess we have close to a quarter of the total reservations in the state in my county.

Since the enactment of Public Law 280 in 1953, law enforcement jurisdiction on our Indian reservations has rested with the San Diego County Sheriff's Department. Over the years my department has enjoyed a generally good relationship with the various tribal councils and business committees of all the reservations within the County. Most of our reservations are in rural areas of the county and like communities which surround these reservations, they have enjoyed a rather low crime rate because of low population densities. A few of our reservations, however, such as Barona, Viejas, Sycuan, and Rincon, are located more closely to populated communities. But there has been no distinguishable difference that we can determine in the crime rate or law enforcement response on any of our reservations from the nearby surrounding communities.

There's a table at the end of the report, that I believe the Sergeant has distributed to you, which describes the master beats and the reporting districts which encompass the reservations in our County. It provides information on calls for service, both priority and nonpriority calls, the average response times, as well as information on arrests on those reservations.

This data is consistent with citizen calls for service and response times in the surrounding communities for each of these reservations. The arrest data, if taken on a per capita basis, is probably less than the surrounding communities have experienced, however. All the data on that table is for the third quarter of 1984, which is the most recent data available.

Law enforcement in the Sheriff's service area of San Diego County varies considerably with topography, population, and reported crime and other factors. My department with over 1600 employees — I might mention that more than two percent of whom are Native American Indians — provides law enforcement service to over 600,000 residents who live in the unincorporated area in contract cities or in 3800 square miles (or 90 percent of the geography) of San Diego County. Highly populated metropolitan areas are served by large stations commanded by captains; smaller communities are served by smaller substations commanded by lieutenants and in some cases sergeants; rural or remote areas of the County are served from resident deputy offices.

The attached map, which is at the end of the report also, illustrates the location of the Sheriff's law enforcement facilities, from the major stations to the resident deputy offices. These are marked with a five-pointed star. On the same map, the proximity of all Indian reservations to Sheriff's law enforcement facilities is illustrated by numbered squares which correspond with the specific Indian reservation shown in the upper right-hand corner of the map. I believe you can readily see that none of our reservations are very far removed from available law enforcement service and are certainly no further removed than many rural communities in the mountains and desert areas of San Diego County.

The eastern half of our County is directly policed by what we call our Rural Law Enforcement

Division. It's headquartered in the mountains in the community of Julian. It includes also some smaller substations and resident offices in other communities. It's this division that is in contact with most of the Indian reservations. The deputies assigned to this division live and work in or near the communities they serve; and they're specially selected because of their experience levels, their maturity, and their human relations skills. Additionally, these deputies -- I might add also that law enforcement in that back country is very, very personal. The resident deputies know everyone in the communities, both on Indian reservations and other communities. These deputies in the Rural Law Enforcement Division also receive support from the major Sheriff's stations in the County when it's needed and they receive specialized support which serves all the areas of the County from specialized units. These include Homicide, Fraud, Arson/Explosives, Narcotics, Vice, Criminal Intelligence, Crime Lab, Helicopter Support, Search and Rescue, Juvenile Services, a modern Communications Center with a full 9-1-1 emergency service response, just to name a few. We even operate our own ambulance program in the Rural Law Enforcement Division which serves most of our reservations.

There is no difference in response time, or response mode, on or off an Indian reservation in San Diego County, from the adjacent communities which are served by my stations, substations, or resident offices. Although we have made a strong effort at considerable cost to improve our service to some of the more isolated reservations and communities, there remains some hesitancy on the part of some tribal members to contact the Sheriff's Department and report criminal activity. Because of the close association of neighbors and even family on these reservations, the potential for retaliation or intimidation or at least discomfort is quite high. However, we experience the same hesitancy in residents of the more rural communities to report criminal activity if committed by their friends of their family. Even though this sort of hesitancy appears to be generated by close proximity or family relationships on some reservations, our reception could be described fairly as "passive acceptance" rather than "active assistance." It certainly could not be described fairly as "neglectful" or "discriminatory." The Indians on our 19 reservations receive the same law enforcement response as non-Indians in surrounding communities.

And I, frankly, see no overall---overlapping jurisdictional problems between agencies in San Diego County because there's only one agency that provides the law enforcement services to all of our reservations. I have no problem with some form of coordinated statewide approach which has been suggested here by previous speakers and I am sure will be addressed by subsequent speakers. I would be personally glad to assist any effort that might be undertaken although I believe that we're not experiencing the same problems that apparently exist in other counties.

There is one other aspect of law enforcement, however, that is of paramount concern on the reservations in San Diego County and in other counties of this state and indeed in several other states.

SENATOR KEENE: Sheriff Duffy, we will take all of that testimony concerning the gambling and the bingo, in particular, into the record verbatim as part of your testimony. If you'd like to rather summarize to save some time.

SHERIFF DUFFY: OK, let me just then summarize it, because the remainder of it really deals with what I view as a major problem that needs to be addressed somehow by the State Legislature. In

summary, since 1953 -- that was the year that Public Law 280 was passed, it's also the year I became a deputy sheriff in San Diego -- we've enjoyed a good relation, I believe, with our Indian reservation residents. And the law enforcement services appear to be equal to the rest of the County at least in the areas that are nearby those reservations. So, I would, in summary, say perhaps we don't have the same problem throughout the state as it has been previously described here.

SENATOR KEENE: OK, thank you very much. And we will, as I say, enter your entire testimony into the record. Senator Presley.

SENATOR PRESLEY: Sheriff Duffy, throughout the unincorporated area of the county, I think you just said that you were giving them about the same level of service as you give all other areas of the county, is that what you just said?

SHERIFF DUFFY: Yes, sir. Most of our reservations are in the rural areas and that's an area served in a different mode than the more metropolitan area where they have big stations headed by captains. But the reservations are really not very close to those areas. So our mode varies from a major metropolitan-type police response with all sorts of special ...

SENATOR PRESLEY: How does their crime rate compare with other unincorporated areas of the county?

SHERIFF DUFFY: About the same.

SENATOR PRESLEY: About the same.

SHERIFF DUFFY: In other words, in the rural parts of the county, the crime rate is low for everybody. In the more urban areas of the county, we're adjacent to major cities or even in our contract cities, the crime rate is higher.

SENATOR PRESLEY: How about your clearance rate on major crimes? Are they about the same as other ...?

SENATOR DUFFY: We're not able to distinguish any difference, as I said, in response mode or in response time or the way we handle things. They're about the same.

SENATOR PRESLEY: Do you have any complaints from the reservations there about the level of service?

SHERIFF DUFFY: I reviewed out internal affairs files to determine if we had had any complaints recently, and we have had a few -- I've forgotten how many, a very small number, none of which were substantiated by investigation.

SENATOR PRESLEY: I'm not really talking about personnel complaints. I'm talking about complaints on the level of service or response time, that sort of thing.

SHERIFF DUFFY: No, sir. I've not had a single complaint to my office about the response times or the level of service provided to the Indian reservations.

SENATOR PRESLEY: Do you patrol in there or just respond to calls?

SHERIFF DUFFY: Both.

SENATOR PRESLEY: Both. And do you handle everything from a malicious mischief to a murder, everything?

SHERIFF DUFFY: Yes.

SENATOR PRESLEY: How about traffic? Does the Highway Patrol handle traffic in these reservations? On a patrol basis, response or both?

LT. HARRINGTON: On a regular patrol basis, usually.

SENATOR PRESLEY: So I guess what both of you are saying is at least in San Diego County, the response, the investigation, the arrest, the clearance rates, crime rates, everything is pretty much on a par with other incorporated---like incorporated areas of the county?

SHERIFF DUFFY: Like communities, yes.

SENATOR PRESLEY: Yeah.

SHERIFF DUFFY: I might add that, you know, some of our rural communities, for example, there's a community on the top of Palomar Mountain, which has about, maybe, oh, five or six hundred people who permanently reside there. That's further for our patrol units to get to than about three reservations are located and served from our Valley Center substation. So in some cases, it probably---you could make the case that the Indian reservation has better access to law enforcement services than some of the other more rural or remote communities.

SENATOR PRESLEY: Is this jurisdiction problem that you heard described, is that a problem in your county?

SHERIFF DUFFY: No, sir, we've never experienced a problem. We, at one time, had a sort of a---we called it an Indian deputy program, under some sort of federal funding in which these deputies, they were called deputies, they weren't really deputies, but they were the link between the residents of the Indian reservation and the deputies. It went on without---it didn't seem to improve anything or it didn't harm anything.

SENATOR PRESLEY: Is that kind of what's called a special deputy program? Is that what you meant? That's not the same thing?

SHERIFF DUFFY: No, sir. As you said earlier, I think, to another witness, as the sheriff, I don't want to deputize anyone as my personal agent because of the legal responsibility who I can't control their activities. And I don't do that. We don't make special deputies, for example, with rare exceptions like in the Narcotics Task Force where I deputized for limited purposes San Diego police officers and federal drug agents ...

SENATOR PRESLEY: Do you have reserve deputies in your county? Reserve deputies, do you have those in your county?

SHERIFF DUFFY: Yes, sir.

SENATOR PRESLEY: Do they work on this reservation?

SHERIFF DUFFY: In some cases they do.

SENATOR PRESLEY: But they're under your control?

SHERIFF DUFFY: Yes, sir.

SENATOR PRESLEY: It sounds like, Mr. Chairman, this may be a spotty problem around the state. Maybe it's not a problem everywhere. We might have Senator---Senator Duffy---may have Sheriff Duffy travel around the state and give some instruction to all the other counties ...

SHERIFF DUFFY: Well, I think that some our Native Indian---American Indian employees came

in through that program I mentioned to you. The funding just simply ran out for it. And when the funding disappeared, so did the program.

SENATOR PRESLEY: How does the county feel that they get the funding? Do they---they don't---do the Indian reservation people pay property taxes to the county? Or do you get federal money?

SHERIFF DUFFY: My understanding, and it certainly stands to be corrected if it's wrong, is that the reservations may not be taxed, property taxed.

SENATOR PRESLEY: Where does the money come from to support your department to provide law enforcement on the reservation?

SHERIFF DUFFY: The county general fund, the same as it comes from any other part of the county.

SENATOR PRESLEY: But where does the county general fund get the money from the reservation, or for the reservation?

SHERIFF DUFFY: For the reservation?

SENATOR PRESLEY: For the services that go on the reservation.

SHERIFF DUFFY: There's no distinction, Senator, in our service areas. A master beat ...

SENATOR PRESLEY: I understand what you're getting at. What I'm trying to get at is how the County Board of Supervisors, for example, may concern itself with revenue that comes in to support the services that you would render there or the---who else renders?---district attorney, anybody else that may render those county services.

SHERIFF DUFFY: Well, the county general fund comes from several sources. It comes---revenue sources from the state, from property taxes, from alcoholic beverage in-lieu taxes, motor vehicle in-lieu taxes, a whole number of revenue sources.

SENATOR PRESLEY: I know all that. I'm just wondering---

SHERIFF DUFFY: But nothing is singled for Indian reservation ...

SENATOR PRESLEY: I'm just wondering what kind of state taxes or paid that come to the county that are paid from the Indian reservation.

SHERIFF DUFFY: Motor vehicle in-lieu taxes for one; sales tax, whenever they would buy---purchase ...

SENATOR PRESLEY: You mean it's legal for the state to tax that on an Indian reservation?

SHERIFF DUFFY: No, I'm talking about taxing sales or taxing motor vehicles.

SENATOR PRESLEY: But I'm talking about on the reservation. I'm talking about only within the jurisdiction of the reservation.

SHERIFF DUFFY: Maybe I don't understand your question, Senator. Try it again. I'm not quite sure I understand what you're driving at.

SENATOR PRESLEY: Where is the attorney that---?

SENATOR KEENE: Mr. Marsten.

SENATOR PRESLEY: Maybe he could.

MR. MARSTEN: ... answer your question ... taxation on Indian reservations ... (Laughter.)

SENATOR PRESLEY: We've got the expert here.

MR. MARSTEN: In terms of the property taxes, if an Indian's land is held in trust by the United States Government, it is not taxable by the county. If the Indian owns his land on the reservation, in fee it is taxable by the county. And property taxes are collected from Indians in that capacity.

In terms of your sales tax, your sales, your use, your cigarette taxes, right now the present status of the law is that on sales that are made on an Indian reservation to non-Indians, that that's a taxable transaction by the state. On sales that are made to Indians on their reservation, that is not a taxable transaction by the state. If the Indians go off the reservation and they buy goods, those are taxable transactions.

SENATOR PRESLEY: Sounds like that's about as confusing as the other part we were talking about.

MR. MARSTEN: It is. It gets very confusing. And to make it even more confusing is there are some situations where even when the Indian sells goods to a non-Indian on the reservation, in certain situations where it would constitute an interference of tribal self-government, whatever that is, then even those types of transactions are not taxable. Now, are you totally confused?

SENATOR PRESLEY: Uh-huh.

SHERIFF DUFFY: I guess the short answer, Senator, is that the Indians don't really pay the same taxes that other citizens in the county pay. They don't pay any special taxes; there are no special taxes for reservations.

SENATOR PRESLEY: That's what I sort of suspected, and that's why I was wondering how you get the support in your county to give that same level of service that you give to everyone else when I think that they would not pay quite as much, because you give some exceptions to things that they do not pay taxes on.

MR. MARSTEN: Let me just say this, that even though that these laws exist that exempt Indians from state taxation, the majority of Indians pay the same level of taxes that non-Indians do because ...

SENATOR PRESLEY: Except that those people that are exempt, like if you sell something ...

MR. MARSTEN: Well, simply because with respect to sales use and those types of taxes that are placed on commodities, there's just not---you can go out to most of the reservations throughout the state and there's just no stores that are available for the Indians to purchase ... but off the reservation.

SENATOR PRESLEY: You're saying it's not enough of a difference to amount to anything, is that what you're saying?

MR. MARSTEN: Yes.

SENATOR PRESLEY: OK.

SENATOR KEENE: Thank you. Anything further, Sheriff Duffy? Sheriff Tim Shea.

SHERIFF TIM SHEA: Thank you, Senator.

SENATOR KEENE: Mendocino County.

SHERIFF SHEA: I'm the sheriff-coroner of Mendocino County. And I'm just going to make a very brief, informal presentation. Thank you. How is that now for the sound?

I want to talk just briefly about my perception of the criminal justice problems on reservations,

responsibilities of the Sheriff's Department.

SENATOR KEENE: OK, the mikes up there are not very sensitive so you have to move them as close as you can possibly tolerate to be heard over the speaker.

SHERIFF SHEA: Is that better now?

SENATOR KEENE: Can you hear now? Yes, they can hear in back.

SHERIFF SHEA: And finally, to discuss the need to develop a coordinated approach as suggested in the letter that you sent.

First of all, my perception of the problems on the reservations in Mendocino County are that there are some real problems and there is a lot of confusion regarding jurisdictions and the coverage and so on. The response times by my deputies oftentimes are quite lengthy, and that's because I have only one deputy on duty at a time, and that's because I have one deputy who covers a large beat area — in most cases, several hundred square miles that this deputy has to cover while he's on duty all by himself. And that includes the reservation which is only a small part of that beat area. Depending on where the deputy is when he receives a call, response time may be only a few minutes or as much as an hour and a half. This is true whether the call is to the reservation or to anyplace else in the deputy's beat area. In essence, the people on a reservation receive the same basic services and responses as do other people in the County of Mendocino, which is practically nothing at times because I have so few deputies.

There is a perception by some reservation people that my deputies do not ...

SENATOR KEENE: Rather than send Sheriff Duffy up, why don't you send some of your deputies up. We could use a few. (Laughter.)

SHERIFF DUFFY: I don't have enough either.

SHERIFF SHEA: That would certainly help. A perception by some people on a reservation is that my deputies do not want to enforce the law. They don't understand, or some of them don't understand, that county codes that are regulatory in nature are not enforceable on a reservation by the Sheriff's Department. And I'm talking about such codes as animal control, discharging firearms, curfew, fireworks, building codes, etc. They just aren't enforceable by my deputies or myself.

Also, the people on a reservation, as elsewhere in the county, don't understand the laws of arrest. They don't understand that if a misdemeanor is not committed in the deputy's presence, that an arrest cannot usually be made. A complaint has to be filed, a report has to be taken from the victim, and oftentimes those victims are unwilling to do that. So then because nothing gets done, why they tend to blame law enforcement when in reality it may be their own lack of pursuing the prosecution. That's not always true, but it happens quite frequently.

There is confusion as to—oftentimes there is confusion as to who is in charge of a reservation or rancheria. We have different groups at different times claiming to be the authorized tribal council and who do we believe. We don't have proof one way or the other as to who is the authorized council. We have attorneys who claim to represent people on a particular rancheria and those people tell me that that attorney doesn't represent them at all. Again, who do I believe.

The responsibility of the sheriff's department, my responsibility on the reservations I assume and

have always assumed that it's the same as it is anywhere in the county. I treat everybody of equal importance. The only thing that causes the confusion is primarily these county codes and also confusion among the Indian people as to what deputies can and cannot do. I suspect most of us don't really know.

In closing, I would just like to say that there is a need to develop a coordinated approach to law enforcement on Indian lands so that we'll have adequate law enforcement, so we'll have some crime prevention and youth programs, so that we have some law orientation programs so that people living on those reservations have no doubt what the law is. Law enforcement needs to know the difference between reservations and rancherias and other things regarding these areas. We need to know who's in charge of a particular reservation or rancheria, and we need to know what laws are or are not enforceable. Quite frankly, small counties such as Mendocino and Humboldt, Tulare, Lake County, the small rural counties of the state just don't have the resources to provide these kinds of services or to even develop any kind of an approach. I think if anything's going to be done, it's going to have to be spearheaded by the state or federal government or possibly both.

That's all I have to say, Senator. Thank you very much.

SENATOR KEENE: Let me just put a question to you. You and Sheriff Duffy have talked about things like resource problems that are typical of service to rural areas; you've talked about informational problems; you've talked about jurisdictional questions that are unresolved; even if you had a good flow of information, we don't where the lines are; are there also problems of discrimination in your judgment?

SHERIFF SHEA: Oh, I'm sure that that comes up from time to time. There has been none that have personally come to my attention since I have been in office which has been two years now. I've heard these kinds of things over the years; whether or not there have been, I don't know personally. In the two years that I've been in office, nobody has personally come to me and claimed any kind of discrimination by my deputies since I've been in office.

SENATOR KEENE: OK, thank you. Any other questions of the witnesses so far?

Lt. Richard Morris is here? He's not here?

SHERIFF SHEA: I believe he is from Tulare County.

SENATOR KEENE: That's why I was calling on him now.

SHERIFF SHEA: Talking to Sheriff Wiley yesterday, Senator, he explained that neither he nor Lt. Morris would be here today.

SENATOR KEENE: Oh, OK, thank you. I'm trying to select people from distant places first. Leonard Masten.

_____ : Mr. Masten is not here today.

SENATOR KEENE: He's not here. OK, anybody else from outside the immediate area? OK, then let's go to Maurice Babby. Mr. Babby.

MR. MAURICE BABBY: Senator Keene, I appreciate the opportunity to provide some information to the committee regarding law enforcement problems arising on Indian reservations and rancherias in California.

The basic problem underlying the law enforcement issues on Indian reservations really begins with the passage of Public Law 280 in terms of the state's concern for the matter. Prior to Public Law 280, as has been indicated in previous testimony here, the federal government did have the jurisdiction for civil and criminal matters arising on Indian lands. For the most part, however, that coverage here in the State of California was at a bare minimum. The amount of funding and staff resources that were provided to the Bureau of Indian Affairs here in California was very, very small; and for nearly ten years prior to Public Law 280 was practically nonexistent.

Through the years, with the passage of Public Law 280, we have seen a number of national reports, not dealing just with California concerns about the adequacy of law enforcement, but there have been other types of concerns expressed in other Public Law 280 states: Minnesota, Nebraska, and some others. In 1966, for example, there was a Subcommittee on Constitutional Rights of the Senate Judiciary Committee of the congress which investigated many of the concerns related to Public Law 280 and its implementation. Ten years later the American Indian Policy Review Commission, which was a creation of the Congress, spent nearly two years studying Indian issues and problems; and one of the major issues that it looked into was the effectiveness of law enforcement on Indian lands in Public Law 280 states. More recently, the Secretary of the Interior commissioned a California Indian Task Force which was mentioned a little while ago; and this committee on a statewide basis during 1984 did take considerable testimony from Indian people and law enforcement was again one of those major concerns.

For the most part, the concerns I would summarize pretty much along four lines and each of these four will be simply repeating what nearly everyone has said here today. The first is, and this seems to be the one that comes up the most, the adequacy of police coverage. And it runs all the way from, you know, the barking dog next door to the ultimate, that would be a murder. And it's a constant complaint of where is the police, where is the sheriff, why isn't he here, you know, we've called him, we've called them, and not getting a response.

The second has to do with the perceived lack of diligence in the investigation and the prosecution of violations. This is an area where our Bureau of Indian Affairs agency offices, which are located in Northern California at Hoopa; in Central California, here in Sacramento; and in Southern California at Riverside; where our offices, the superintendents that are in charge of those agencies attempt to assure and follow through on complaints where there appears to be a lack of diligence in these situations. On occasion it appears that there hasn't been response; on other occasions it appears that yes, in fact, the sheriffs' offices have been diligent and have done all in their power to carry out what's expected of them.

One of the things that each of these offices, however, runs into is apparent confusion by both, and this has been pointed out by Indian people as to what is available, what kind of coverage they can expect, what the laws are in terms of what the sheriffs' offices and others can actually take care of. There is a lack of understanding about the process, and that's been pointed out here by nearly everyone: Just what is the process for reporting violations, what is the process for filing complaints, when can they expect an arrest to be made on site and so on. This confusion at different times

improves---or, I should say, the understanding improves when there seems to be more information available and a better relationship and a communications process between local deputies and Indian leaders on reservations or rancherias. When that relationship exists, the leaders on the rancheria/reservation tend to assume more responsibility in handling the relationship between the individuals and the enforcement officials.

The fourth relates, again, to just a general lack of understanding of the role of the federal government. We see this not just in enforcement officials, in local sheriffs, but certainly among Indian people as well. There is an expectation that very often the federal government still has an overriding jurisdiction that can oversee the handling of the criminal jurisdiction and, generally, that expectation, of course, we are unable to deal with except to try to find out as much information as we can about the situation and look into the matter through the local enforcement offices and attempt to assure that in fact there is better understanding of what's going on. And moreover, our interest here is to try to protect and assure that the rights of Indian people are being protected by local enforcement and prosecution situations.

We do look to local sheriffs' offices to exercise their jurisdiction. Certainly Indian people and Indian leaders look to these organizations to do so. And for the most part, our experience is that the sheriffs' offices do follow through and exercise their responsibilities and do carry them out. Very often, again a misunderstanding between timing, between coverage, between ability to investigate, and ability to obtain information, evidence, and to follow through on prosecutions. These are all problem areas.

The Bureau of Indian Affairs since, however, the passage of Public Law 280, as a budgetary policy matter, has not been able to provide funding for law enforcement activities in California. Prior to Public Law 280, as I indicated, there was very little in the way of funds and resources. With the passage of Public Law 280, we have not been able to provide funds here in California.

Dale Risling from the Hoopa Valley Tribe indicated earlier that the Bureau was providing some law enforcement funding on the Hoopa Valley Reservation. We are, in fact,---we do have a number of officers there. Those officers are there only with authority, however, to implement the provisions of the code of federal regulations related to Indian fishing. And our jurisdiction is not meant to interfere with the local law enforcement responsibilities at all.

In dealing with the questions that do come before our various offices, however, we don't have law enforcement specialists in our offices either. By and large when questions come to us, it is usually up to the Bureau manager at the agency or in the area office to rely on one or more individuals who are not trained law enforcement officials to look into the matter. For the most part, we are more of an information gathering organization at this point; and that's about as far as we can go.

We have been very, very encouraged during this last year in terms of the cooperational efforts that Mr. Corona's office has attempted to put together. We certainly also would agree that there needs to be more attention to the problem, that there needs to be some kind of a continuing forum to deal with many of these questions.

In the California Task Force report which was completed last year and submitted to the

Assistant Secretary in November of 1984, a number of recommendations were made. And these recommendations talked to many of the kinds of problems that have been discussed here today. A number of options were talked about in terms of how to get better coverage, how to achieve better understanding, how to achieve more in the way of coverage. For the most part, one of the subjects that has been discussed throughout Indian country and 280 states was the possibility of retrocession of Public Law 280 jurisdictions back to the United States. This was mentioned by a number of the folks that gave testimony to the Task Force. And by and large, the Task Force felt that the situation with a total retrocession in all probability would not result in better coverage and in the local areas and that more than likely that the best alternative in terms of improving coverage in Indian country was to for local tribes to work with local officials, local sheriffs' offices, attempt to establish statewide concern, perhaps increase state funding, perhaps even modify the policy of the federal government to permit on either an interim or certainly a long-term basis the possibility of federal contributions to overcome some of these kinds of problems. A statewide forum which could, perhaps, lead to the kinds of things that have been raised here in terms of cross-deputization, training of Indian people as deputies which could meet state standards, the establishment of cooperative agreements between reservations and local law enforcements. All of these things are things are being recommended by the Indian community to the Secretary of the Interior. And I think what we're really looking forward to here is some kind of an increased attention to the problem, and most certainly the Bureau of Indian Affairs is interested in being part of that.

Senator Keene, I appreciate the opportunity to provide this testimony today.

SENATOR PRESLEY: If the jurisdiction problem were made more clear, and then as apparently occurs in San Diego County, couldn't this run along fairly smooth? Is the jurisdiction thing a big hangup around the state?

MR. BABBY: It's more the understanding of jurisdiction than it is the jurisdiction, I believe, Senator. I think the legal jurisdictions as has been pointed out by Mr. Marsten are somewhat confusing; but for the most part, the two sheriffs here have indicated pretty clearly what the jurisdiction in terms of the sheriffs' office is it. And they generally understand what that jurisdiction is. I think very often individual deputies have problems. I think more often local Indian communities and individual Indians don't understand exactly what it is. So I think it's more a problem of communication and understanding and local back and forth than it is a real clarification. I'm not saying that there shouldn't be more clarification, but it's more a matter of understanding, I believe.

SENATOR PRESLEY: OK, thank you very much. Mr. Johnston, is he here? Duane Johnston, Department of Fish and Game.

MR. DUANE JOHNSTON: Mr. Chairman and members, my name is Duane Johnston. I'm the chief enforcement officer for state Fish and Game. With me today is Charles Goetz of the Attorney General's office.

Thank you for the opportunity to address you on this issue of vital concern to the Department of Fish and Game. The criminal justice problems reservations and rancherias are experiencing are not unique to the Indian people, but the solutions are harder to find because of jurisdictional disputes and a

lack of uniformity between the tribes. The situation is best illustrated when you look at the various law enforcement agencies with jurisdiction on these Indian lands. The local sheriff's departments are charged with peacekeeping in general, but the Federal Bureau of Investigation can respond to major crimes committed on the reservations unless they are narcotics related in which case the Drug Enforcement Administration could investigate. The California Highway Patrol has the authority to investigate activities involving stolen vehicles on the reservation. But if the stolen vehicle was loaded with illegal fish, Fish and Game could not assist in that investigation. Other jurisdictional questions arise when a violator has been apprehended. A Native American arrested for a public offense would be tried in the municipal or superior court for the county. If arrested by U.S. Fish and Wildlife Service or by the department, they would appear in Federal District Court. But if arrested by the Bureau of Indian Affairs, they would appear in the Court of Indian Offenses found on some reservations.

The department can assist other agencies with law enforcement problems. Our officers are full peace officers under California law. We would respond to assist the local sheriff's departments when requested. We have also enjoyed a good working relationship with the U.S. Fish and Wildlife Service, the National Marine Fishery Service, and the Bureau of Indian Affairs. We have assisted the Bureau at their request in enforcing laws prohibiting the sale of fish. We are continuing to do so under our federal deputization since the McCovey decision was handed down by the State Supreme Court.

Regarding problems specific to the Department of Fish and Game, Public Law 280, described earlier, which granted criminal jurisdiction to the state for criminal matters, exempted federally recognized fishing and hunting rights. Most of these hunting and fishing rights are not expressly granted -- for example, there are no treaties in California -- and subject to court interpretation. Thus, some uncertainly remain which has to be resolved on a case-by-case basis. Traditional Indian hunting and fishing can conflict with state laws regulating those activities.

The question which most concerns Fish and Game is how do we preserve the Native Americans' traditional right to hunt and fish and still protect the precious natural resources that are so important to all of us. Our basic responsibility is to protect the fish and wildlife resources of California. Section 12300 of the Fish and Game Code exempts enrolled California Indians from certain provisions of the Fish and Game Code except those dealing with the sale of fish. This section is the reason the department does not enforce certain fish and wildlife laws on reservations and rancherias when federally recognized fishing and hunting rights exist. On these reservations, lack of enforcement in the natural resources area also results from the fact that federal officers are few and far between. It should be noted that the major problems in this area are the result of the illegal activity of a small minority of the people on the reservations and rancherias. Many leaders of the Indian community recognize the need for wise use of the resources. When you look at the whole picture, departmental relationships with the various Indian groups in California have been primarily positive. As an example, we have worked with the Native Americans on the Round Valley Indian Reservation to provide for traditional methods of fishing in the Eel River system. We have developed an interim agreement to cover this fishery and we are currently developing legislation to allow for a permanent agreement on the subject.

The solution to the problems I have described are complex. They will require give and take from both sides. The Native Americans of this state must develop consistent policies that are carried out regardless of the area under question or the leadership involved. The state and federal governments should jointly provide direction to the appropriate federal, state, and local agencies in the form of a set of uniform laws dealing with the whole issue. Federal regulations should be enacted to provide for the legitimate interest of Native Americans and consistent enforcement by one federal agency. Finally, tribal, state, and federal governments must work together to insure that laws designed to benefit all the people are enacted and enforced.

Thank you, again, for this opportunity. The department is anxious to work with the Legislature to develop solutions to these problems. Mr. Goetz or I will be up to answer any questions.

SENATOR PRESLEY: Well, it sounds like you have jurisdiction problems. It seems to me, running through all of it is somehow straightening out the jurisdiction problem somehow, I don't know how you do it.

Mr. Harrington, I think I jumped over you, not by design.

LT. HARRINGTON: Thank you. The CHP may be the exception here as far as jurisdictional problems because in talking to various area commanders throughout the state, I found that we really did not have jurisdictional problems. I talked to commanders in the Trinity River area who are in charge---whose area encompasses the Hoopa Indian Reservation. We have traffic responsibilities on two state highways that traverse through the reservation. We issue citations, we arrest drunk drivers, we investigate accidents, and as far as the area commander is concerned, there are no serious problems. We do have little problems like people on motorcycles trying to evade arrest, young Indian youths who go off the main highway onto lands where our officers are unaware of the geographical area, and consequently, end up getting lost on the reservation.

We do have some problems -- this is open-ranged land. The land for the most part is not fenced. The Indian animals occasionally do get hit by passing vehicles. Consequently, we are the investigating agency. Sometimes we get calls at two or three o'clock in the morning, and we're expected to respond to the scene of the accident expeditiously. Sometimes because of lack of manpower, we cannot do that. So consequently, that sometimes poses an irritant to the caller.

Another area where I check was Round Valley Indian Reservation, out of our Laytonville area. Again, the area commander expressed no big problems either with coordination between allied agencies or with the problem, with the Indian problem. The only serious problem is, and I don't know what we can do about it, response time. Occasionally, it'll be an hour response time to respond to the scene of an accident; and that's primarily because the commute distance from the Laytonville office to the -- I don't know if it's Covelo or Covello, the sheriff from Mendocino could probably help me with that, is usually about an hour.

I checked with the commander of the Oceanside area, who has traffic control responsibilities for Pala Indian Reservation. This is open-ranged land. There is generally a 15-20 minute response time. He said he receives---occasionally receives complaints about the response time to the accidents on that reservation.

And then finally, Barona and Sycuan, we don't really get too much involved in that. I understand there are some bingo parlors on the Indian land. A lot of traffic traverses onto the reservation over our jurisdictional area. However, the relationships with the Indians on those two reservations are excellent.

So, all in all, insofar as the California Highway Patrol is concerned, we have no big jurisdictional problems. As far as I know, the coordination, the communication with allied agencies is excellent, both at the state and federal level.

Thank you for the opportunity, Senator.

SENATOR PRESLEY: I guess, it must be clear in the law as opposed to the Department of Fish and Game on hunting and fishing that---it's very clear, I guess, that you have jurisdiction for traffic control, so there's no confusion.

LT. HARRINGTON: Yes, that does make it simple. Some of the other allied agencies may have some jurisdictional problems because they are working a multitude of various welfare institutions -- Health and Safety, Penal Code, other agencies where there's even more room for interpretation of jurisdictional matters.

SENATOR PRESLEY: OK, let's do something about those patrolmen getting lost. (Laughter.)

LT. HARRINGTON: Yes, sir.

SENATOR PRESLEY: Let's see, Mr. Corona, Attorney General's office.

MR. RUDOLF CORONA, JR.: If I may ...

SENATOR PRESLEY: OK, sure.

MR. CORONA: Thank you. I'm a criminal prosecutor with the Attorney General's office in the criminal division, and I have worked in this area for ten years and am the acknowledged departmental expert on Indian law, particularly in the criminal field.

I would like to attempt the Herculean task of making the jurisdictional issue clear to everyone here. Essentially, the Congress, under the Constitution, was empowered exclusively to deal with the tribes, and that was under Article 1, Section 8, Clause 3. And in an early case from the United States Supreme Court, Worcester v. Georgia, the court said that the Indian nations were sovereign nations within whose boundaries state laws could not penetrate. However, since that decision which was rendered in 1832, much has changed. In fact, the State of California presently maintains exclusive criminal jurisdiction over all Indian lands in the state. And that was done in 1953, as you've heard several times, when Public Law 280 was enacted. That's 18 U.S.C. Section 1162.

SENATOR PRESLEY: OK, if you will, tell us what you mean by exclusive jurisdiction now. Does that mean we shouldn't have this confusion that we have, or we should?

MR. CORONA: Much of this confusion should not exist. Sir, that statute, that federal statute, in emphatic terms, grants to the State of California and five other enumerated states complete and exclusive jurisdiction over all criminal offenses committed on Indian lands; that is, the State of California is empowered to enforce all of its criminal laws on Indian lands just to the same extent that the state is able to enforce its laws on any other part of the state.

SENATOR PRESLEY: So you're saying that the Highway Patrol, the sheriff, any police department that has a reservation within its boundaries, if they do, should have no jurisdiction problem. to the enforcement of state criminal laws. Yes, sir.

MR. CORONA: Have no jurisdictional problems with regard---with regard to the enforcement of state criminal laws. Yes, sir.

SENATOR PRESLEY: Yeah, now, how about fish and game laws?

MR. CORONA: Fish and game laws are completely different because the federal government has granted special rights to the tribes in that area; and Mr. Goetz of our department may address questions that are more particularly on that issue, in that area.

However, one area which continues to be rather a thorn in the side is a question of whether the tribes have retained any criminal jurisdiction over their own people at all. And to explain that, I back up to explain the way the system was before Public Law 280 was enacted. And essentially, prior to the enactment of Public Law 280, the federal government had the exclusive jurisdiction to try all major felonies committed on the reservation; that is, to rape, murder, and all the major, major crimes. Only the federal government could prosecute. That meant that the U.S. Attorney's offices and the Federal Bureau of Investigation was empowered with that authority and only they could enforce those laws. However, as to misdemeanors committed by an Indian against an Indian on Indian lands, the tribe itself had jurisdiction; that is, they could try their own tribal members for any offense which was not punishable by more than six months in jail or a \$500 fine.

In a decision rendered by Oliphant v. Suquamish tribes by United States Supreme Court, the Court determined that that power did not extend to the tribes' punishing of non-Indians. And additionally, in 1970 Public Law 280 was amended; and that amendment made it clear that that misdemeanor jurisdiction, as to Public Law 280 states, acted to withdraw even that minimal jurisdiction that they once had. So while the tribes here assert---continue to assert that they have that minor criminal jurisdiction that they once had, they're incorrect. The State of California does have exclusive jurisdiction over all crimes committed within the state on the reservation and the states of this court have acknowledged that in a decision rendered in 1980 in the case of People v. Miranda.

But I'd like to move to what I think is the most important issue before this committee and that is---

SENATOR PRESLEY: Before we get off of jurisdiction, could the Attorney General undertake some kind of a education program to make sure that people understand this, so that there isn't so much confusion as we've heard today?

MR. CORONA: Senator, I have responded to countless requests; and I have, in fact, gone out to mediate problems on the reservation. As a matter of fact, in 1979-1980, the Office of Criminal Justice Planning constructed a program in which I and attorney Art Buntz went around the state and sat down with several tribes -- I believe there were in excess of twenty tribes that we talked to -- to try to teach them what our views of the law was in this respect.

SENATOR PRESLEY: Not only the tribes, but the agencies involved if you could---

MR. CORONA: Yes, and I have on that issued formal opinions for our office on this area. Sir, a lot of confusion does remain. And in October of this year, the Attorney General sent a letter to all sheriffs in whose counties reservations existed indicating that this assistance was available and informed the sheriffs that if they had questions concerning jurisdiction over any lands to contact us. But in that vein, I have, as I've indicated, gone to the reservations to attempt to increase the level of police protection on the reservations and on that point, I urge this committee to realize that in fact the tribes in many instances are getting a dangerously insufficient level of police protection. And the reasons for that are many, and they really cannot be laid at the feet of any single entity.

In 1953 when the Congress gave this most important obligation to the State of California, and again, the State of California accepted it, the federal government did not give a single cent to carry it out. The assumption, clearly, by the federal government was that sufficient police resources already existed within the counties to handle the problem. Yet, Indian reservations by their very nature are extremely isolated from the major population centers of the counties. Because of that, response times, as you've heard, are necessarily long.

In 1975 I was asked the seminal question by the sheriff of Riverside County as to whether or not he could enter onto any reservations without permission to uphold the law of the State of California; and if he did so, would his officers be protected by the Penal Code as opposed to the provisions which protect officers in the course of their duties. The answer to that question was yes; yes as to both. And I also concluded that not only may the sheriff go onto the reservation to uphold laws of the state, but he had the obligation to do so. He had the obligation to provide the attendant police protection that was required. That opinion has always been raised when I've spoken to Indian groups. They've said, "You have concluded that they have the obligation, they have not met the level; therefore, why can't you force them?" Well, the answer to that is that every citizen is only entitled to that level of police protection which the local political entity can afford. And again, this boils down to money, as has been pointed out by virtue of a decision rendered by the United States Supreme Court in Bryan v. Itasca County, county lands are not taxable---I mean, Indian lands are not taxable to the counties. Therefore, the sheriffs of the many -- I speak primarily of the Northern California counties, such as Mendocino; well, Mendocino is a good example of a county which has this heavy obligation with a minimal budget to meet it.

Mr. Vernon Johnson earlier today referred to a brutal murder which had occurred at the Fort Bidwell reservation. We did respond to the Fort Bidwell Tribe's request for help. In fact, by letter to the Attorney General on May 23, the Attorney General personally asked me to look into the situation up there and to report back. I reported back by way of memo on May 23 of '84 and immediately, with his approval, set up to try to cure the problem. The situation is this: Modoc County covers a very large space, geographic area. The sheriff of Modoc County, Sheriff Sweet, has to cover that area seven deputies. The night I stayed---the night preceding the town meeting which we were convening at the reservation, I stayed in Alturas, the county seat. The county seat, Alturas, is one mile in---basically one mile in circumference. That town has six officers to patrol it; yet Sheriff Sweet has only seven deputies to patrol the entire county. The reservation is some seventy miles away. And it was

clear to me that the sheriff was making all efforts---every effort that he could to deal with the situations out there. And in fact, the murder to which Mr. Vernon Johnson referred this very day is being tried in the Superior Court of the County of Modoc. An investigation was carried through and the individual was apprehended. But that does not, again, take away from the fact that response times are long.

In an effort to alleviate that situation, I tried to use whatever resources were presently available to me. And in this instance, I, through the Division of Law Enforcement, through Mr. Jerry Clemmons, our assistant director, got an appointment with Assistant Commissioner Jones of the California Highway Patrol, because I had learned that the CHP had recently doubled in force in that area. My request to him was to help the sheriff with greater backup and greater patrol presence. A greater active presence is necessary on that reservation, and the reason for that is the tribes do suffer special law enforcement problems, and they are---the reasons for those are these: any time you isolate a large number of people for a long period of time, they break into factions and rivalries. It is my assessment that internecine political and social strife within the tribes is more often the rule than the exception. That is, factions will form and they will struggle for control over the tribe. This oftentimes leads to violence. In addition, the natural resources that many of the tribes have are preyed upon by non-Indians, and we're talking about resources, which the tribes vitally need to prosper. Oftentimes the only thing they have to keep themselves above water, yet because of the inability of the sheriffs to provide a presence, an active presence on the reservation, those resources are lost.

In addition, of course, we have classic problems of alcohol abuse and other problems which lead to violence. But again, in the instance at Fort Bidwell, the commissioner did have his lieutenant in that area commit to a greater presence in the area to try to alleviate Sheriff Sweet's difficulty. In addition to that, we went out and had a town meeting where we tried to show the tribal members that they have an obligation to step forward. The bottom line there, I believe, is that there was a handful of tribal members who were tyrannizing the band; and because of the isolation of the tribe, the individuals were afraid to come forward because they knew, they know, that the resources that the sheriff has are limited.

SENATOR PRESLEY: Well, the resources as it pertains to the sheriff, the level is pretty much up to the Board of Supervisors of a given county, isn't it?

MR. CORONA: Yes, sir. And of course, we discussed that. We told---we tried---it was important to show the tribe what the responsibilities of the various departments were. The tribe in their letter to the Attorney General had complained of tribal members who had committed several burglaries and yet only got less than a year in jail. Well, I had to explain to them that it's not up to the sheriff as to what sentence he gets or what deal he makes with the district attorney and that they must apply pressure on those entities which are not meeting their needs. And so we went through it all. So there we reached an accommodation by again having the sheriff stand in that public meeting, after a very long rather torturous three-hour discussion over this issue, to pronounce and promise that he would protect any individual who came forward. We also discussed, frankly, that there were some officers who I felt were quite insensitive to the tribe's needs when they went out in the reservation.

And the sheriff and I had a blunt discussion about that, and those officers will be reassigned. But what we've done here, what I did there is---I've done, as I've said countless times, this bandied approach cannot and should not continue.

SENATOR PRESLEY: What---if the jurisdiction thing is not all that difficult, it sounds like a lot of it's education, and maybe some jurisdiction needs to be clarified as far as Fish and Game, but I think that's a difficult thing because of that---what was it? a treaty that said they could---

MR. JOHNSTON: Public Law 280 exempted ...

SENATOR PRESLEY: ... whatever they---either authority to fish and hunt as long as they don't sell. That may be a difficult one to overcome. The other question you raised, and others, about the level of service to the reservations by the sheriff's departments, that's within the hands of the boards of supervisors of those given counties and the sheriff, of course.

What would you recommend to this committee? Is there anything that we can do to essentially clarifying the law or---

MR. CORONA: Senator, Senators, monies need to be apportioned for this specific problem. The counties in Northern California counties primarily, particularly, are incredibly strapped for law enforcement dollars; and this is a specialized need. We're not talking about simply adding men. We're talking about having substations geographically where they can be---placed geographically where they can be of use, where they can be of benefit to the tribes.

There have been innovative programs that my office has undertaken to try to meet these situations. And I'd like to introduce this committee to one of the programs that has been phenomenally successfully; and that is, that in 1979 and 1980 the County of Imperial had asked our office to assist them in negotiations with the Quichan Tribe over their attempts to increase law enforcement on the reservation. After several meetings, we learned that the board of supervisors, the district attorney, and the sheriff all agreed that a greater police presence was necessary on the Quichan reservation. However, again, it was oftentimes up to two hours response time to get an officer out there. In addition, the tribe had agricultural assets which were being vandalized and they suffered additional problems since they're on the border of the Colorado River, suffered several problems of people coming and squatting on their lands during wintertime -- they call them snowbirds. And so they would cause serious health problems. The sheriff was entirely sympathetic as was the county to the tribe's needs. They admitted that the level of protection was woefully lacking, but they had no monies with which to meet that need. Because the Quichan Tribe had resources, had money, and as a matter of fact, had a security force, as I've indicated, in this state, Public Law 280 state, the tribe does not have any criminal jurisdiction. Therefore, those officers had no more authority than any citizen making a citizen's arrest would have. And more importantly, the tribe has no jurisdiction or ability to punish or arrest non-Indians under, as I said, Supreme Court decisions as well. So in that instance what I suggested was a contract between the county and the tribe for the police services. As I explained, all of us through our property taxes pay for the level of police protection that we receive. And so we did carry through with that program. And what occurred was, the way it was constructed was that in exchange for their bearing the cost of the training and salaries of deputies, the tribe

picked members of its tribe to become police officers. We got them slots in the police academies in California. They became completely POST certified and assumed their authority under that of the sheriff; and again, they are directly supervised by the sheriff of that county.

There you have a situation where the best of all worlds was accomplished. The tribe is bearing the cost of their police protection by individuals who are culturally sensitive to them, that being the individual deputy—their own Indian deputies. And in addition to that, the county wins because they have an increased police force. And it was made clear that, of course, those deputies' primary patrolling area was the reservation, yet the sheriff can use those deputies, pull them off wherever they are needed in emergency situations. We are currently, as Mr. Risling has pointed out, trying to reach an accommodation with the Hoopa Tribe for such a similar program. But the Hoopa Tribe and the Quichan Tribe are the exceptional tribes. They have resources with which to do this. The great majority of Indian tribes, however, do not have those kinds of monies. And it is our responsibility when we accepted that mandate in 1953 from the federal government, it is our obligation to provide that police protection; and I urge this committee to undertake further study with the eye toward funding a program to meet these needs.

Now, I have in September and October of this year, I submitted to the Attorney General a comprehensive plan which I advocated be undertaken to meet this problem. And what I have done is asked that we first convene a meeting between federal and state officials: the Attorney General's office, the Attorney General himself, a high member of the Governor's office, Mr. Babby of the Bureau of Indian Affairs, and other representatives to get the governments together to realize what a special character problem this has. Tomorrow, I'm proud to say, we're having that meeting. We're having it at the Attorney General's office to discuss this, to get a dialogue going, to get an understanding, to commit to solving the problem.

The second step of my proposal is that we secure funds; hopefully, grants from the federal government — come on, Mr. Babby, you've got some grants somewhere — grants from the federal government and monies from the state to put in a pot to deal with this situation, and lastly I think that the best way to deal with the ultimate solution of getting the law enforcement level raised to where it should be is through the creation of a statewide commission, comprised of law enforcement and Indian representatives. Such a commission is vitally needed because as the tribal members here have pointed out, each tribe is very unique and therefore the law enforcement needs and approach should be tailored to each tribe. As I've indicated in my proposal to the Attorney General, where you have a strong, stable, self-governing tribe, a tribe which would not abuse such power, the Indian Deputy program might be a good way to proceed. Where you have several small rancherias, I agree with one of the earlier Indian speakers today, where you have several small rancherias located near each other, perhaps a single Indian deputy riding circuit under the control and direct supervision of the county sheriff would be the most effective way to proceed.

And lastly, where you have a good relationship, where the tribe has a good working relationship with the sheriff, the most desirable way to proceed would be to just simply give him funds to supplement his force. I suggest, again, most importantly, that over time the geographic isolation that

the tribes have experienced has led, I feel, I believe, to a feeling by them of abandonment. They need to be brought into this system. They need to be made an integral part of solving this problem.

And so I would leave it to you, and I have submitted my written presentation, which again covers, I think, much of the material that's needed for this honorable body to reach some sound solutions. Thank you.

SENATOR PRESLEY: Are you suggesting---did you suggest a statewide commission on law enforcement matters pertaining to Indian reservations? Is that what you're saying?

MR. CORONA: Yes, sir.

SENATOR PRESLEY: To coordinate all the reservations and ...

MR. CORONA: Yes, and I would ...

SENATOR PRESLEY: ... levels of service and that sort of thing?

MR. CORONA: Yes, and I believe that as I envision it that it would be staffed by the Attorney General's office and overseen by it. Selections would be made to the commission based on the expertise of the individuals in the Indian community and, of course, in the various sheriffs' law enforcement representatives who are knowledgeable of the problem. And their function would be to look at each reservation and to tailor a program that would effectuate increased law enforcement.

SENATOR PRESLEY: It might be a very effective thing to do because it would coordinate a lot of these problems; for example, when you're talking about they need more money, well, and I know the problem Mr. Duffy and others face, you've got to give a general level of service that's the same pretty much all over the county and you've always got different communities coming in saying, "We're not getting enough, we want more." So that's a constant battle I think they fight. So this might help there, but when you get down to the level of servicing and money, that becomes to a large extent priorities established within the county by the board of supervisors as to how they're going to expend the resources or money that they do have. It depends on whether or not they view it as one of the top priorities. I think most counties do, but some may not.

MR. CORONA: Well, sir, I'd like to respond by pointing out that the most relative priority in terms of allotting law enforcement dollars to any sheriff certainly should be to protect the largest number of citizens within his county. And that poses, again, one of the very special problems that we have here. Since the major population centers are located far from the Indian community, it would be difficult for a sheriff to substantiate giving up, say, 50 percent of the deputies he has and to locate them in the mountainous communities when he has several thousand people concentrated in an urban area. That would just be irresponsible. So he has to put his officers where the population primarily is.

And I again want to emphasize the special problems that are present on Indian reservations. It is a fact, and I know the tribes will object to me saying this, but it is a fact that oftentimes the Indian people do not cooperate enough with the local law enforcement agencies. And the reason for that is this: Again, when you have a population which has lived together for so long in such an isolated situation, intermarrying, interfamilial friendships form such that to arrest anyone hurts practically everyone in the tribe. In addition, you have people who can enforce their will through intimidation

because of the proximity that they're---because they're living on an island essentially. And so what you need---that's why I particularly like the approach of a resident Indian officer where it's possible, because he should be an individual that is able to understand the complexities of the relationships and know how to handle them in terms of making arrests or handling it through some other diplomatic way. But again, it is a vital need and I urge this body to move forward on it. As I indicated, our office is actively working on it and we're going to continue to try to meet the needs as best we can. I just would hope---would wish that we would not have to resort to band-aiding problems as they arise. It's time now for this state to create a comprehensive scheme to deal with this problem.

SENATOR PRESLEY: OK, why don't you keep in touch with us on your recommendations because it sounds like you're very much into this problem.

MR. CORONA: Thank you, sir.

SENATOR PRESLEY: Al, you're next. Mr. Howenstein.

MR. C. ALBERT HOWENSTEIN: Thank you very much, Senator Presley, Senator Watson.

SENATOR PRESLEY: Senator Watson is telling me to speed everything up. (Laughter.)

MR. HOWENSTEIN: I'll do my best to do that. It's kind of the same direction I usually get at the office, so I appreciate that.

The Office of Criminal Justice Planning is pleased to take part in today's hearings. And I should start, I think, by clarifying a comment that was made earlier by Mr. Turner concerning the state plan and the fact that law enforcement issues were not addressed in that. The state plan as submitted by the Office of Criminal Justice Planning is submitted to the Federal Office of Juvenile Justice and Delinquency Prevention, as prescribed by the federal juvenile justice laws, pursuant to the distribution of the federal juvenile justice money in California. So it's not just a plan for law enforcement, it's a plan for the administration of the Juvenile Justice Act in California.

Along those lines, our office has been aware of many of the needs of the native Indian population in California and has made an effort to recognize and to respond to these special needs. Last year our office has allocated \$168,000 from the federal Juvenile Justice Program to three programs that service the native Indian population. One project is the Stay in School project in Eureka; the second is the American Indian Delinquency Prevention Program in Oakland; and the third is the Indian Child Welfare Consortium in Escondido.

We found last year as we were doing our juvenile justice grant awards that our native Indian organizations were not being as competitive with other community-based organizations in seeking of the grant monies. As a result, we set aside dollars for working with one specified program, and I must give accolades to Sheriff Duffy's staff who helped us identify a native Indian program that we could use as a model to commence service in this area. This year we were able to add two more programs because our staff has continued to add and offer technical assistance to native Indian proposing projects to help us improve the quality of service that we're able to deliver. And we are hoping that in the 1985 funding cycle that through the technical assistance we've been able to provide through the encouragement our office has been able to provide that more projects serving native Indian-American needs will be able to be funded. And so we look forward to working with those existing programs as

well as to continue to examining what the Office of Criminal Justice Planning is doing in serving its legislative mandates both with the federal program as well as the other state programs that have been allocated to us. Each one of those have their own state guidelines and requirements. We administer those in direct concert and response to the intent of the Legislature.

SENATOR PRESLEY: OK. All right, thank you. Fran Miller, is she here? Youth Authority? If not, I guess that concludes the witnesses.

I have a note that the earlier representatives who testified would like an opportunity to respond to statements made. I'd like to be able to do that except we just are way overrunning---we've run out of time. And what I'd like to suggest to you is that you may be able to do it even more fully if you just submit it to us in writing and we will make it a part of the transcript. Do you have something---I see you shaking your head. If you have to say something, well, come on up, we'll take it real fast. But otherwise, I think if you give it to us in writing, it's going to be just as effective.

MR. TABOR: No, I will. But just very briefly, first of all, there's an underlining, you know, problem here and there's been a tremendous lack of confidence and trust in the eyes of the Indian people for law enforcement. No. 2, the State of California, although they were given the responsibility to provide funding and assistance to the reservations, they haven't done so and it's so well documented for the past twelve years that it's incredible. And the trouble is that we're all put into a situation where the conditions are so bad that, you know, detrimental, that it creates, you know, problems between individuals. And I'm sure that everybody would like to do their best, but what it comes down to is, first of all, I think it's good that the Attorney General's office wants to do this but when 280 came into effect, none of the tribes were ever notified. They didn't know what was happening; they had no say-so, Number 1. So I really feel that the Indian leadership should have some say-so, initially speaking, as far as the creation of any kind of a commission so that they're on top of it, they know what's happening.

The other thing is that the Attorney General's office has interpreted 280---you know, as far as 280 interpretation, the State of California interpreted 280 to mean that the state had exclusive jurisdiction. But this has been a problem for years and years because how can the federal---if the federal government had only concurrent jurisdiction to begin with, with the tribes prior to Public Law 280, how could they, when the transfer came under 280, how could the federal government have given the State of California exclusive jurisdiction when the federal government only had concurrent jurisdiction to begin with. So there's a real problem. There's a lot of Indian people that question that interpretation, regardless of which is right or wrong. It's the idea that there is a problem. And since 1975, it's when we first approached the judiciary---the Senate Judiciary, Senator Kennedy when he was the head of that, as well as other LEAA officials, and nothing really ever happened. We had to put a lot of pressure at the federal level in order for the State of California to respond. And our first programs that were funded by OCJP -- Office of Criminal Justice Planning -- was in 1976 and all those programs are gone because the State of California relied totally on LEAA funds to fund reservation programs---or all Indian programs. And with the demise of LEAA, so went the reservation programs.

The other problem is that the State of California since 1972, we've wanted the Triple CJ to put

among their area of concerns, you know, Indian problems on the reservations which hasn't been done. The other thing is, STAG, the State Advisory Group on Juvenile Justice and Delinquency Prevention has a responsibility, I believe, to write up an annual state plan as far as juvenile justice problems. And that hasn't been done. And everybody may talk, you know, and say---and have good intentions, but the fact remains that nothing has been done and everybody's been aware of it, you know, and it's unfortunate, but that's the truth. So my first---my only concern is that the tribal leaders have some say-so as far as any commissions that are going to be established at the state level through any agency where it's Attorney General's office or Office of Criminal Justice Planning or whatever, to begin with.

As far as most reservations and rancherias, they are small, but when you consider that none of the eighteen treaties were ever ratified in California preventing Indian people the substantial landbase promised, you know, the location and size of the reservations and rancherias today don't provide an economic base to absorb any kind of cost. And so where you have a situation where under 280 the State of California was given the responsibility under 280 and in turn it was given to the counties to administer criminal jurisdiction over reservations that are held in federal trust. You know, I mean, the whole thing is really bad.

So, my only concern is that, you know, first the Indian leadership, you know, if the people that provided testimony are people that have the confidence and trust in the eyes of their communities and they're the ones that should start, you know, have a---play a major role in deciding what commissions should be established and by who.

SENATOR PRESLEY: Let's just say on that point, Mr. Corona, are you listening? Let's just say on that point that anytime you're discussing a commission or anything like that, I'm sure you will and should coordinate with the leaders that testified here today.

Now this transcript will be made available, I guess, to anybody who wants it. I don't think we got this gentleman's name, did we?

SENATOR DIANE WATSON: Questions.

SENATOR PRESLEY: Do you have this gentleman's name? The one that---so it's---for the transcript. OK.

MR. TABOR: Edward Tabor.

SENATOR PRESLEY: OK.

SENATOR WATSON: I was wanting to know, in 280 is there a specification as to who sits on the commission?

SENATOR PRESLEY: There is no commission. They're just talking about it.

MR. TABOR: We're just advocating ...

SENATOR WATSON: I thought that---that is not a provision of 280?

SENATOR PRESLEY: No.

SENATOR WATSON: Well, in terms of establishing a commission, I think that it ought to be balanced between those people who are going to be the recipients of the law enforcement and those people in law enforcement and other concerned individuals, so that you'll have balance and you'll have input from all sides.

MR. TABOR: I entirely agree with you.

SENATOR PRESLEY: And you will keep in touch with us on what your recommendations are going to be and if any of it needs to be legislated, we'll see if we can help you.

MR. TABOR: Yes, Senator. Thank you.

SENATOR PRESLEY: OK, I thank everyone for---it's been a long hearing. I think it's been rather exhaustive and thorough and maybe everybody didn't get a chance to say everything they wanted to say, but if there is anything else you want to say, send us a note in writing and we'll make it part of the transcript. Thank you.

--ooOoo--

Testimony by Edward W. Tabor, Indian Justice Liaison for the California Council of Tribal Governments, to the California Senate Judiciary Committee concerning Indian justice problems on California Indian reservations, January 22, 1985.

Mr. Chairman and Members of the Committee:

Historically, the relations between Indian tribes and the federal government and local units of government have been confused and often disregarded. This is particularly true in the area of criminal justice in Public Law 83-280 states. PL 83-280 was enacted in 1953 transferring civil and criminal jurisdiction over Indian reservations to several states including California. The observations and criticisms I will make are based on my extensive personal experience with the State of California.

By 1973, many Indian reservations and rancherias throughout the State of California were complaining about the increase in juvenile delinquency, lack of adequate law enforcement coverage, and overwhelmingly the lack of respect and sensitivity shown by the criminal justice agencies toward the Indian communities. Additionally, many county probation officers were insensitive toward Indian people which resulted in completely ineffective probation and rehabilitative programs.

Because of the magnitude of the problem, we approached the State Office of Criminal Justice Planning (OCJP) in 1973 to discuss the need for an Indian Youth Diversion Program. I might add, we first contacted the Bureau of Indian Affairs but were told the State of California had the responsibility for funding these kinds of programs because of PL 83-280. When we explained our needs to OCJP officials, we were told there were no monies for Indian programs and at best we would have to compete with all other non-profit organizations for funding, regardless of the unique relationship that existed between Indian tribes and government. I explained, California tribes were outside the BIA Law and Order Division's jurisdiction, and therefore, were not eligible for funding because of PL 83-280. OCJP officials indicated they were unaware of PL 83-280 and felt they had no responsibility since the counties administer criminal justice within the boundaries of reservations.

After writing a multi-county youth diversion proposal, the OCJP told us to go to the counties for funding. The problem with going to the counties was local monies were controlled by local justice agencies and they did not want to fund Indian programs. Also, the counties had no direct responsibility to Indian tribes and if we did receive funding from them, they could take it away and we would be back in the same place.

We decided that since the responsibility was with the State of California, we should hold out until the State fulfilled their responsibility by funding our program.

However, we were confronted with two major issues. 1) The State required a 10% hard cash match and 2) Since we had to compete with all other non-profit corporations, we were not guaranteed of funding. Because of these problems, we contacted the Law Enforcement Assistance Administration (LEAA) since they also provided funding. Unfortunately, they were unable to assist us because of PL 83-280.

Since we had been turned down by both the federal and State funding agencies, we contacted several congressmen and senators for their support. Our congressmen and senators in turn put pressure on the State, which ultimately resulted in them funding our multi-county youth diversion program in February 1976. I might mention that during the negotiations with the Office of Criminal Justice Planning, a major issue arose which caused a delay in funding. That issue was over the lack of statistics in our proposal. We were unable to provide the necessary statistics to substantiate the need for a program. We explained that many Indian youth were considered Mexican or caucasian because of surname or appearance, which probation department intake officers readily admitted. It was their policy to copy information about the person from the arresting officers report which were inaccurate on many occasions. Also, county law enforcement agencies did not keep statistics on Indian arrests. Another problem in substantiating the need was the fact that many youth problems within the Indian communities were not reported to local justice agencies because of the lack of confidence and trust in the justice system by Indian people. They did not want to discuss their problems with non-Indians, who were insensitive to the Indian community. Based on this argument, the State funded our youth diversion program for Humboldt, Mendocino, and Lake counties. OCJP made a commitment to develop a mechanism for keeping statistics and to include Indian reservation justice problems and needs in the Annual State Plan from then on.

I should mention at this point that through our youth program we sincerely hoped to establish a better working relationship with the State justice agencies by sensitizing them to issues which would have to be resolved before California tribes would be able to control the destiny of criminal justice activities on their respective reservations. However, it appeared the Office of Criminal Justice Planning had funded our program with a laissez faire attitude. If we were going to be able to respond to the growing need for more effective law enforcement and youth related programs, the federal government would have to become involved.

In June 1976, I met with Senator Kennedy, Chairman of the Senate Judiciary Committee and requested that language be included in the 1976 LEAA Reauthorization Act that would prevent LEAA from refusing to fund PL 83-280 State tribes.

As a result of this legislation, Inter-Tribal Council of California received a planning grant which was funded statewide with LEAA State block grant monies. However, the program was doomed for failure because of the LEAA and State OCJP policies and procedures in processing the grant.

In consideration of the fact that several states had Indian justice planning components within their state justice agencies, we decided to pursue the possibility of establishing one at the OCJP.

In October 1976, I discussed our interest in establishing an Indian justice planner position with Mr. Dale Wing, LEAA Indian Desk. Mr. Wing committed \$20,000 for a planner position if the State OCJP agreed to establish the program within their agency.

We then approached Mr. Doug Cunningham, Director of the State Office of Criminal Justice Planning, and asked him to establish an Indian justice planning component.

Mr. Cunningham indicated he would like to, but he did not have the money. We informed him of the commitment from Dale Wing for a planner position. Also the ITCC would return the \$75,000 they received for planning.

Unfortunately, after we had the \$75,000 for planning, the commitment from LEAA for \$20,000 planner position, as well as a commitment from Doug Cunningham, OCJP turned around and did nothing to get the program started.

So again, we had to contact our congressmen and senators in order to apply pressure on the State. On October 14, 1977, we requested a Law Enforcement Assistance Administration inquiry by Senator Cranston in order to find out what the hold up was, because we were told by OCJP officials that it was the federal government that was causing the delay in obtaining the \$20,000 for the planner position. We received a response back from Senator Cranston's Office the same day indicating the problem was at the State level. The State had not yet officially requested the \$20,000. We then wrote to Governor Brown, as well as Senator Cranston, about the problem which resulted in the establishment of the Indian justice planning component at the State Office of Criminal Justice Planning in 1978, one and a half years after we first started negotiations with the OCJP.

The only reason we were able to receive a grant from the LEAA at the federal level was the result of the relationship that exists between the tribes (reservations) and the federal government. Therefore, the program was strictly for reservations and not for urban communities. Unfortunately, the State had the responsibility for submitting the proposal for the Indian justice planner position to the LEAA. Barbara Parker, Assistant Director of the OCJP, wrote the following in the first draft project narrative:

"Since the implementation of P.L. 280 in California, the issues of jurisdiction and for various services on Indian reservations are of obvious concern. However, Indians living on reservations comprise only five-percent of California's Indian population. Therefore, dealing with the criminal justice issues of non-reservation Indians must be an important part of O.C.J.P. (the Office of Criminal Justice Planning). Indian grant activities and serving the need of urban Indians, which represent 80 percent of California's Indian community warrants particular emphasis."

The initial purpose of the Indian planning component was to develop and implement new programs for reservations, as well as gather statistics which would be used for substantiating the need for programs.

Instead, they stuck the program under mid-management at the OCJP and turned it into a writing exercise with the planner working only part-time for a year because of school.

Not one new reservation program was developed in the three years the program lasted, with the exception of one reservation which bordered Arizona, and most importantly, the need for statistics was ignored.

With the demise of LEAA and its funding, we lost our planning program at the State. The only two service programs which we started in 1976 were shifted to the Juvenile Justice and Delinquency Prevention Act for funding. Those

programs were terminated the following year and there have been no new reservation programs in California since that time. The State of California has refused to fund Indian programs with State money.

In October 1983, I met with Mr. Al Howenstein, Director of the State Office of Criminal Justice Planning, and Mr. Jim Rowland, Director of the California Youth Authority, regarding the increasing need for law enforcement and youth related programs. Both of them stated that Indian reservations could not expect any funding because their respective agencies did not have money.

On August 22, 1984, I attended the State Advisory Group (SAG) meeting in San Mateo, with the complete understanding that I would be given five or ten minutes to speak about Indian youth problems and the need for the SAG to identify those problems and needs in the Annual State Plan. During the meeting, I was told I would be unable to speak since I was considered a "lobbyist for an interest group," and it would be inappropriate for me to speak at this meeting.

On August 23, 1984, I met with Mr. Dennis Rose, California Council on Criminal Justice Liaison, to discuss reservation law and order problems. Mr. Rose indicated reservation justice problems had not been an area of concern to the California Council of Criminal Justice, and therefore, were not considered among the priorities.

On October 11, 1984, the California Youth Authority's State Juvenile Justice and Delinquency Prevention Commission passed a motion to recommend to the Director of the California Youth Authority that the Department acknowledge the recognized justice problems on California Indian reservations. The Commission also recommended support of the need for the State of California to seriously commit itself to providing whatever assistance necessary to assure California Indian tribes financial assistance for criminal justice programs.

A memorandum from Jim Rowland to Ronald W. Hayes, Deputy Director, CYA, dated December 18, 1984, states, "The Senate Judiciary Committee has scheduled a hearing on the issues of criminal justice jurisdiction on reservations and rancherias. Mr. Tabor, who represents the California Council of Tribal Governments, has asked that Fran Miller be assigned to testify at the hearing concerning his experience in administering funds for Indian programs. I told Mr. Tabor that Fran could testify on the dimension of the problem and give a historical perspective as to the Youth Authority's experience in this area. Fran would not be able to discuss or endorse any proposals for new funding by the State."

In a letter dated January 10, 1985, addressed to me from Jim Rowland, CYA, it states, "As you know, one of the concerns we and other government officials have is appropriate statistics to document the problems you have outlined in our discussion. I stress again, the need to gather meaningful statistics."

It is obvious that Mr. Rowland is correct when he stresses the need for meaningful statistics, which we have sought for ten years. It is also obvious that State agencies are not going to support increased funding for reservations when it goes against the Governor's policies.

In conclusion, many Indian reservations and rancherias throughout California have reached a point of total frustration and disgust in their attempt to work with county and State justice agencies to resolve the many justice problems.

There has been no mention of Indian justice problems and needs in the Annual State Plan on Juvenile Justice and Delinquency Prevention, nor has the California Council of Criminal Justice included an Indian category among their concerns, and we still don't have statistics.

Because Indian reservations are placed in the same category as all non-profit organizations when competing for funding, regardless of the unique relationship that exists between Indian tribes and government, there is no guarantee of receiving a grant.

In consideration of the fact that not one of the 18 California Indian Treaties were ever ratified, preventing California Indian people from receiving the substantial land base promised, the location and size of reservations today do not provide an economic base which could absorb the cost of needed justice programs.

Because there are so many problems on so many reservations and rancherias throughout California, a special appropriation through legislation is the only conceivable way California Indian tribes could be assured of the State of California addressing the problems and needs of California Indian people. It is time to stop the passive resistance.

Therefore, monies should be appropriated for the creation of an Indian justice liaison position at the OCJP. The Indian justice liaison position's top priority would be to conduct a thorough reservations' needs assessment throughout California. That position would also be for the purpose of coordinating efforts in behalf of the statewide Indian Justice Commission with the California Legislature and federal, State, and local governments and California Indian reservations. The needs assessment should include an interim hearing by the Senate Committee on the Judiciary in San Diego, California, in order to provide each tribe an opportunity to express their problems and possible solutions. The same should be done in Redding, California, for the Northern tribes. Some reservations have expressed interest in retroceding.

I have included as part of my testimony and for the record, letters from Tribal Leaders, Chief Probation Officers, and County Sheriffs, as further testimony to the problems faced by California Indian tribes who are faced with a wide range of problems that must be solved on an individual basis.

Thank you for your consideration and patience.

REPORT
of the
CALIFORNIA INDIAN
TASK FORCE

SUBMITTED

INDIAN SERVICES:

1. Issue: Implementation of Public Law 280

Many tribes saw their sovereignty greatly diminished during the termination era even though they were not actually terminated. The most important piece of legislation in this regard is Public Law 280 (P.L. 280), passed in 1953.

P.L. 280 provided for state civil and criminal jurisdiction in certain named states, or specified reservations, and on other reservations in states taking the steps necessary to assume jurisdiction under the Act. Sixteen states acquired, in varying degrees, partial jurisdiction over Indian country within their borders in accordance with the Statute. P.L. 280 specifically authorized jurisdiction over most crimes and many civil matters to six states: California; Nebraska; Minnesota, except for the Red Lake Reservation; Oregon, except for the Warm Springs Reservation; and Wisconsin, except for the Menominee Reservation. Alaska was included in 1958 at the time of its statehood.

P.L. 280 specifically excepted from state jurisdiction the regulation and taxation of trust property and the hunting and fishing rights of Indians.

It is important to note two major functions, for the purposes of this Report that P.L. 280 did not do: 1. P.L. 280 did not transfer regulatory power to the states and 2. P.L. 280 does not specifically extinguish tribal jurisdiction and tribal courts may have certain concurrent jurisdiction with states in areas covered by P.L. 280. Implementation of P.L. 280 has been and continues to be a generally misunderstood and an unsatisfactory arrangement to both the Indians of California and the State of California. For example, testimony from California Indians during a series of State-wide California Indian Task Force meetings in 1984 clearly identified law enforcement problems as well as regulatory problems on California Reservations and Rancherias because of P.L. 280.

Discussion/Background:

Not only are the California tribes displeased with P.L. 280, but there is evidence that other P.L. 280 states are equally frustrated. There has been disagreement concerning the scope of powers conferred on the states and the methods of exercising the enforcement power. The failure of the Act to provide Federal funding for states assuming jurisdiction and the lack of a requirement of tribal consent were highly criticized. As a result, the Subcommittee on Constitutional Rights of the Senate Judiciary Committee was asked to study P.L. 280. In 1966, the Committee summarized its findings as follows:

"P.L. 280 . . . was found by the subcommittee's investigation, to have resulted in a breakdown in the administration of justice to such a degree that Indians are being denied due process and equal protection of law."

Some of the problems indicated in connection with P.L. 280 are:

1. Many states claim that because P.L. 280 conferred total jurisdiction over Indian reservations, subsidies from the Federal Government are needed if states are to adequately enforce law on the reservation;
2. many Indian groups have urged the repeal of P.L. 280 on the grounds that it authorized the unilateral application of state law to all tribes without their consent and regardless of their needs and special circumstances; and
3. many tribes claimed that tribal laws were unnecessarily pre-empted by P.L. 280 and as a consequence, they could not govern their tribal communities effectively.

As Federal policy moved toward Indian self-determination, it also became clear that the Act was, in many respects, incompatible with that policy. Accordingly, the Act was amended in 1968 to add a tribal consent requirement for states asserting jurisdiction after 1968 and to authorize states to retrocede jurisdiction to the Federal Government. The Office of the Solicitor, in the Department of the Interior, in 1976, took the position that Indian tribes in P.L. 280 states may continue to perform law and order functions, notwithstanding the existence of state authority under P.L. 280, and thus, that such tribes continue to qualify for grant funds from the Law Enforcement Assistance Administration. Under current case law, the Acting Associate Solicitor wrote, ". . . Public Law 280 cannot be construed to have divested tribes of power that they previously had enjoyed." Some states, such as Idaho, have also explicitly indicated that their assumptions are not exclusive of existing tribal jurisdiction. Thus, P.L. 280 does not appear to usurp the residual and concurrent criminal jurisdiction vested in Indian tribes.

Options/Alternatives:

The most basic questions concern the effectiveness of P.L. 280 in meeting law enforcement problems in Indian country. Field investigations and hearings completed by the American Indian Policy Review Commission show that P.L. 280 has, in many instances, failed to improve law enforcement services on Indian reservations. In some cases, it has created conflict and confusion which has caused breakdowns in such services. For this reason, tribes which may have sought or failed to oppose P.L. 280 jurisdiction in the beginning now wish to initiate retrocession. If, indeed, the Act is not fulfilling its purposes, alternatives should be found. One alternative would be for tribes to assert increased concurrent jurisdiction on their reservations. Most tribes, however, seem to view tribally-initiated retrocession as the best solution. This possibility, of course, would necessitate amendment to the Act and the upgrading of tribal or Federal services.

Other options/alternatives would be to pursue total retrocession by the State and/or partial retrocession by the State. All of the above mentioned alternatives would be long-term options.

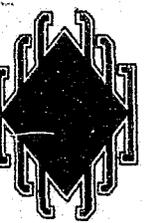
Other more short-term options/alternatives would include the allocation of appropriated dollars to California for Law Enforcement Programs to supplement state and county base programs.

Federal funding might be used to establish a "liaison" type person within each agency to work with state and county law enforcement officials on the rancherias/reservations. This individual(s) may or may not need to be a certified law enforcement official. Yet another option might be to establish cross-deputized BIA law enforcement personnel at each BIA agency for dispatch to the rancheria to supplement and work with the local law enforcement officers as the need occurs.

Another alternative would be to establish a state-wide "Forum" for use by rancheria's to deal with law enforcement issues and problems. This approach might coincide simultaneously with implementation of the above alternatives.

Recommendation(s):

1. Request the Assistant Secretary - Indian Affairs to allocate dollars for use in California to supplement law enforcement services presently being provided by the state and county.
2. Request the Assistant Secretary - Indian Affairs to permit the shifting of "other" program dollars through the Band Analysis process to law enforcement activities designed to supplement the state and county effort.
3. Require that any rancheria wishing to have supplemental law enforcement services enter into a written cooperative agreement with the local county law enforcement agency. These agreements would require approval by the Bureau of Indian Affairs.



CAHTO TRIBE
LAYTONVILLE RANCHERIA
P.O. Box 1059 • Laytonville, CA 95454
707/984-6322 • 707/984-6198

January 24, 1985

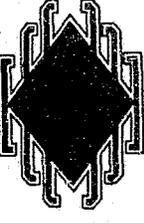


Senator Barry Keene
State Capital
Sacramento, California

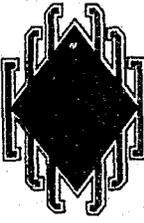
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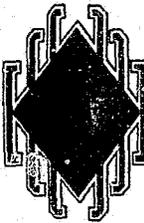
Dear Senator Keene,



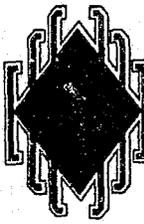
This is in conjunction to the information that was left with Ms. Patricia Wind. These documents are evidence of our existing problems. We are to date still experiencing the problem of internal Tribal Control. It has reached criminal proportions with the confiscation of tribal Book, ledgers and checkbooks. Although we reported these incidents to the local authorities, nothing has been done to date. The illegal Bingo operation is evident and no law enforcement assistance has been given.



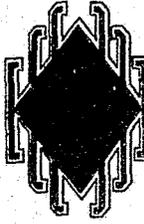
The environmental hazards we have are left and never investigated. The illegal wood-cutting has led to one arrest, with the vigorous demands by Mr. Eric Natti, Forrestry, BIA, and Central Agency. If he were not present at that incident nothing would have happened.



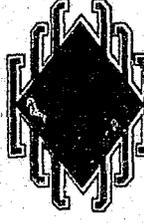
The fish and Game has been active outside any boundaries but has not lived up to its laws inside those boundaries. The dam that was installed above the Reservation has left our fish resource only running during winter months. The creek used to run fully all year long. That is no more.



There are so many issues left to fall on deaf ears we are not sure if there is a true justice at all.



Mr. Shea has stated he finds it difficult to verify who is in charge at the tribal level. Although we have given statements and documents he requested to various deputies we have been left with no action, just words. I have requested citizens arrest for gunshot shootings, physical assault, illegal entry, trespassing, destroying government



property and so many other incidents, the final action to date is none. Even an attorney, Christopher Neary of Willits, with whom the tribe contracted with has refused to go to court with some of these problems.

Our Reservation is lawless and receives no justice in any form. Mr. Shea may cry lack of law enforcement officers but is that truly the problem? Why should we be treated with P.L. 280 status on paper but in reality that has not been the case. Things must be pretty bad if an attorney from out of town cannot see any end to our problems.

I have met with Congressman Bosco with some of our problems but have yet to hear any information he might have been able to give us. I felt the need to inform you that our tribal problems are indicative of surrounding tribes and throughout the state. If you are able to assist us or direct us, that would be greatly appreciated.

We have contacted the BIA Superintendent, Ron Jaeger, but he was not helpful. The Inspector General's office has not given assistance as we did forget to inform them if it was federal funds being misused and embezzled. The illegal use of the Tribe Federal I.D. by another operation which is profit making is an example of this. The Franchise Tax Board is not at all helpful in this matter.

Again, I wish this information would be distributed to either the Committee Senate members or the Judiciary Committee so they may take these problems into consideration for allocation of Law Enforcement agencies in rural areas.

Please feel free to contact us if you have any further advice or questions. Thank you for your time in this matter.

Respectfully yours,

Atta P. Stevenson

Atta P. Stevenson
Vice Chairperson
of the Cahto Tribe

CALIFORNIA DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

TESTIMONY BY RUDOLF CORONA, JR., DEPUTY ATTORNEY GENERAL,
TO THE CALIFORNIA SENATE JUDICIARY COMMITTEE CONCERNING
LAW ENFORCEMENT PROBLEMS ON CALIFORNIA INDIAN RESERVATIONS

HISTORICAL ROOTS OF INDIAN LAW IN CALIFORNIA

Within its boundaries California has 84 Indian reservations and rancherias located in 27 counties throughout the state. It is this department's assessment that as to this important sect of California citizens, many are receiving a dangerously insufficient level of police protection. The purpose of this report is to reveal the historical, cultural and financial factors which have created this problem and will present suggestions as to how this problem may be most effectively handled.

Originally, only the federal government exercised jurisdiction over Indian lands. This was granted to the Congress by article 1, section 8, clause 3 of the federal Constitution. (See Worcester v. Georgia (1832) 31 U.S. 515.) As Congress structured it (18 U.S.C. ~~see~~ sec. 1153) federal authorities maintained jurisdiction to prosecute several enumerated felonies (most violent felonies and larceny) which were committed on Indian land. The tribes themselves were given jurisdiction over lesser offenses with the maximum punishment of no more than six months in custody or a \$500 fine. (25 U.S.C. ~~see~~ sec. 1302(7).) Case law, however, made it clear that this misdemeanor criminal jurisdiction maintained by the tribes did not extend to non-Indians and did not allow the tribes to prosecute non-Indians or impose penalties on them for offenses committed on Indian land. (Oliphant v. Suquamish Indian Tribe 435 U.S. 191.)

In 1953 the Congress passed Public Law 280 (18 U.S.C. ~~see~~ sec. 1162) which gave to six states (including California) exclusive criminal jurisdiction over all offenses committed by or against Indians on Indian lands within the specified states. California courts have affirmed this grant of authority and have determined that the federal legislation granted California exclusive jurisdiction over all crimes committed on Indian land. (People v. Miranda (1980) 106 Cal.App.3d 504, 506-507.) An Attorney General's indexed letter which I wrote in 1975 concludes that pursuant to this Congressional grant of power, California law enforcement is empowered to enter upon Indian lands without permission to enforce state criminal laws. (Indexed letters of the Attorney General, number 75-43.)

Federal case law has made it clear that the enactment of the criminal law element of Public Law 280 was done to address what had become a lawless state on many Indian reservations. In this

context, it is easy to see why the old federal law enforcement scheme was unworkable in California. As earlier outlined, the federal government was exclusively empowered to investigate and try all major felonies committed on Indian lands. Of course, the prosecutorial branch of the federal government is through the various U.S. Attorneys offices and the federal investigative branch is through the Federal Bureau of Investigation. This meant that the four regional U.S. Attorneys offices in California (located in Sacramento, San Francisco, Los Angeles, and San Diego) in many cases are located hundreds of miles away from remote Indian lands they are obligated to protect. Thus, as an example, it was very difficult for the U.S. Attorney's office to investigate and prosecute from San Diego, a crime which had occurred several hundred miles away on an Imperial County Indian reservation. Moreover, under the old scheme California reservations received absolutely no police patrol protection. In fact, because under the old system the State of California completely lacked criminal jurisdiction, local California police agencies were totally without power to deal with law enforcement matters on the reservations.

Importantly, in California the federal government has never provided funding to the tribes which would have enabled them to erect a police force to patrol and protect the reservations. Consequently, until the enactment in 1953 of Public Law 280, California reservations did not receive daily police patrol services.

Presently, the Bureau of Indian Affairs policy is to deny funds to the tribes for law enforcement purposes were the tribe is located in a Public Law 280 state. Clearly, the reasoning of the Bureau of Indian Affairs is that it no longer has the obligation to provide police protection to the tribes and the federal government originally assumed that sufficient state police resources were already in place to meet the increased law enforcement needs presented by the tribes. Thus, upon extending this important obligation to the state in 1953, the federal government did not additionally provide any monies with which to carry out that mandate.

Many California tribes contend that the Bureau's policy of not funding for law enforcement in Public Law 280 states is inconsistent for a standing U.S. Solicitor's opinion concludes that the enactment of Public Law 280 did not serve to withdraw the limited concurrent misdemeanor jurisdiction which had previously been granted the tribes. The U.S. Solicitor's opinion is clearly wrong. That opinion did not address the subsequent 1970 amendment to Public Law 280 and the legislative history of the statute makes it manifestly clear that enactment of Public Law 280 did withdraw

all criminal authority from the tribes. (See 18 U.S.C. sec. 1162(a)(c); House report number 91-1544, pages 4783-4786.)

PRESENT PROBLEMS ON THE RESERVATIONS

So while the State of California has exclusive criminal jurisdiction over the reservations it is not meeting the law enforcement needs of the majority of California tribes. As it has always been, the ultimate responsibility for the implementation of state programs and accepted responsibilities from the federal government falls on county governments. The great majority of California's reservations are centered in northern California counties; the counties which can least afford the heavy costs required to adequately protect remote Indian reservations. Many factors make protection of Indian reservations particularly difficult. Most often, the reservations are geographically isolated from the major population centers of the involved counties. Thus, necessarily, the patrolling of the reservations is severely limited and response times are often dangerously long. Further, because of the isolation of the tribes over long periods of time, inter-tribal rivalries and conflicts have most often arisen. Therefore, internecine social and political strife within the tribe tends to be the rule rather than the exception. These conflicts often times lead to violence and continual strife within the tribes.

Additionally, many California tribes have natural resources which are preyed upon by non-Indians. The tribes are often times unable to protect these resources which they vitally need to prosper.

It also cannot be ignored that racial biases and prejudices are often held by the white communities which surround the reservations. Tribes themselves ^{often mistrust} ~~often mistrust~~ non-Indians and are uncooperative with law enforcement authorities. All of these factors lead to a feeling of abandonment by the tribes and a state of near lawlessness on many California reservations.

Over the past 10 years I have mediated countless law enforcement disputes between California tribes and local law enforcement entities. It is my ardent belief that the local police authorities have sincerely striven to meet the law enforcement needs expressed by the Indian communities within their counties. Unfortunately, the county governments have not been able to respond with the monies needed to adequately address these dangerous lacks of police protection.

Testimony by Rudolf Corona, Jr.

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PROPOSED SOLUTION TO THIS PROBLEM

It is my belief, and I have proposed to the Attorney General, that this problem be attacked through a three step process. Initially, state and federal officials at the highest level must meet to acknowledge the character of this special problem. Those officials should commit to solving the law enforcement problems faced by California reservations and should seek funding to cure these ills. Next, federal grant monies and funds through the California legislature should be secured. I advocate that the legislature commit to ongoing funding to bolster county efforts to assist the tribes. Lastly, because each of the tribes is unique in its makeup and problems, I advocate the creation of a commission to be comprised of law enforcement and Indian representatives. The function of this commission would be to address each tribe's problems on a case by case basis. Many options will be available to the commission in its quest to solve the law enforcement problems placed before it.

As an example, this office in conjunction with Imperial County authorities and the Quichan Indian Tribe in 1980 constructed an inovative program wherein tribal members have become fully deputized Sheriff's deputies patrolling the reservation. Under this system, a contract between the tribe and county was formed in which in exchange for the tribes bearing the cost of the deputies' training and salary, selected tribal members were post trained and qualified. They then assumed their authority under the direct supervision of the county sheriff with their primary patrol area as that of the reservation. This program has worked phenominally well and four tribal members to date have become full police officers of the state of California.

In its work, the commission may find that this deputy program would be the most effective way to handle law enforcement problems on particular reservations. Additionally, where there are several small rancherias located near each other, a single Indian deputy "riding circuit" might be the most effective way to procede. Importantly, where a tribe has a good relationship with the sheriff's department, direct supplemental assistance to the sheriff might be the most effective way to procede. In any event, the creation of such a commission would provide the most versatile vehicle to accomplish this most honorable goal of attaining full law enforcement protection on all of California's restervations.

Respectfully submitted,



RUDOLF CORONA, JR.

Deputy Attorney General
(619) 237-7756 - ATSS 631-7756



COUNTY OF MENDOCINO
DEPARTMENT OF AGRICULTURE
UKIAH, CALIFORNIA

May 7, 1980

Peter Kline, County Counsel
County of Mendocino
Courthouse
Ukiah, California 95482

Dear Pete:

I must apologize to all concerned in the long delay in responding to Mr. Rapport's letter of March 20, 1980. At different times, the various parties concerned have discussed the matter in brief verbally, but nothing has been resolved, let alone accomplished in writing.

Mr. Rapport's letter brings up a very interesting point and issue in view of our County's Dog Ordinance now in the process of being redrafted. It will be most important, if not imperative, that there is a very clear understanding as to the County's present and future role in enforcing dog laws on Indian lands, if at all. In what little research I have been able to achieve in the past month, I find there is absolutely nothing in the records in regards to County dog enforcement policies on Indian Lands. I have approached several neighboring counties' animal control people and also discussed this problem at a meeting with the Northern California Animal Control Directors' Association. Again, with no answers. The consensus is that it has been generally a "hands-off" or "ignore the problem on Indian Lands" or "enforcement so long as no one raises an objection" type policy.

Interestingly enough, these same various counties are equally interested in what resolutions we arrive at here in Mendocino County. I have, as you are aware, been in verbal communication with Attorneys Rapport and Marston of the local law offices of the California Indian Legal Service. I contacted by telephone, a Mr. Richard Burcell of the Central Agency, Bureau of Indian Affairs in Sacramento with the hope that we can all meet soon and mutually discuss, and hopefully resolve some type of dog enforcement policy agreeable to all without infringing on someone's civil rights.

Pursuant to Mr. Rapport's letter and upon your counsel, we withdrew the citations that were issued on two members of the Covelo

A-16



Indian community. We have since refrained from any and all dog law enforcement, responding to reservation or rancheria complaints about dogs, or responding to pick-up of their unwanted dogs, dead or alive, and should a rabies crisis situation of some type arise on Indian jurisdiction lands, the Division of Animal Control will be unable to respond unless given explicit permission by the Bureau of Indian Affairs, or whoever has the specific authority to do so. This policy will continue until we have this dog problem matter resolved.

Some of the following basic questions must be clarified:

(1) Keeping in mind Mr. Rapport's letter.- What rights, if any, does the County as "public officers" have in enforcing the following?

- (a) The County Dog Ordinance;
- (b) Any State laws pertaining to livestock killing dogs, dog trespass, etc., which might originate from Indian lands;
- (c) State Administrative Code and Health and Safety Code, as it pertains to rabies, the Dog Act of 1969, and other dog related sections;
- (d) Liabilities of a dog biting a human being under the State Civil Code;
- (e) Application of Government Code Section 53072;
- (f) Various State Penal Code Sections 146, 286.5, 370, 485, 487, 487a, 487e, 487f, 596, 597, 597a thru 597t. 936/5(a), plus any I might have omitted;
- (g) Enforcement of the U.S. Code Title 7, Agriculture, Chapter 54: Animal Welfare Act;
- (h) Applying or charging any penalties or issuance of citations for violations of Federal, State, or County laws; and
- (i) Rights of pursuit by a public officer, after a member of the Indian Community's reservations' or rancherias' dog from non-Indian lands onto Indian lands.

(2) As the foregoing applies to:

(a) The Covelo Indian Community;

(b) Any other Indian rancheria or reservation in Mendocino County; and

(c) Any person of ethnic Indian extraction not living on Indian lands;

Who, if any body, can enforce these laws as they now stand?

(3) Is it possible for us to empower a member of the Indian Community to act in the behalf of County in the enforcement of dog laws?

(4) For the sake of simplicity, can some type of brief, general contractual agreement be undertaken with the tribal community to perform dog control enforcement, or does one have to make individual contracts with each reservation or rancheria? I would imagine something in the nature of a dollar binding the contract, subject to dissolution of said contract by either party by whatever specified time, with a trial period of one year, with a renewal option on an annual basis, etc.

(5) In view of the confused logistical layout of Indian land and non-Indian lands, particularly in the "checkerboard" arrangement in the Round Valley area of Covelo:

(a) Are there any maps available that may be used as guidelines?

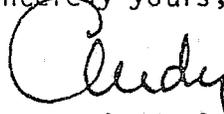
(b) If available, can the Division of Animal Control obtain a copy for our use in order to avoid any illegal trespass onto tribal lands?

These are only a few of the many other questions that may arise, and therefore, I feel that a person-to-person meeting with the Indian Legal Services, Bureau of Indian Affairs, County of Mendocino Legal Counsel and myself is necessary and would be beneficial in arriving at the resolution of these problems, to some extent.

Peter Kline, County Counsel
May 7, 1980
Page Four

Many thanks for your continuing efforts and counseling.

Sincerely yours,



Roberto A. de Grassi
Assist. Agricultural Commissioner

RAD/jt
cc:

David J. Rapport, Esq.
Directing Attorney
California Indian Legal Services

Mr. Richard Burcell
Bureau of Indian Affairs

Ronald W. Brown, Esq.
Depty. Dist. Attorney

Al Barbero, Supervisor

Ernest F. Banker, Supervisor

Jim Eddie, Supervisor

John Cimolino, Supervisor

Norman deVall, Supervisor

TED ERIKSEN, JR.
AGRICULTURAL COMMISSIONER
DIRECTOR OF
WEIGHTS AND MEASURES



TELEPHONE
(707) 468-4208

COUNTY OF MENDOCINO
DEPARTMENT OF AGRICULTURE
UKIAH, CALIFORNIA

May 22, 1980

CERTIFIED MAIL

U. S. Department of Interior
Region Solicitor's Office
2800 Cottage Way
Sacramento, California 95814

Attention: Mr. Richard Tolles, Asst. Region Solicitor

Dear Mr. Tolles:

The technicalities of the enforcement of animal control laws on Indian lands and the regulation of dogs belonging to tribal members has now reached a critical point. Pursuant to instructions by Mendocino County's Legal Counsel, until further notice and pending a formal understanding between all parties concerned, Mendocino County can no longer perform or provide animal (dog) control services to any Indian community. The enclosed correspondence from the office of the local Indian Legal Services, as well as that to our County Counsel, will somewhat clarify the issues, but it also raises a sequence of important unanswered questions.

A very real and potentially serious situation exists in the problem of protection to public welfare and safety relative to rabies. Mendocino County is an officially declared rabies area. Our County animal control agency currently investigates a minimum of one or more suspect rabies bite cases per day throughout the County. Presently, should a dog belonging to any member of the Indian community bite another member of that community (for instance, a child, which is not unlikely) we apparently have no established written or verbal authority as public officers to respond to the request for assistance. Due to the urgent nature of this matter, we request a written opinion from your agency to those questions submitted to our County Counsel as soon as possible.

Unfortunately, as yet, we have been unable to collectively and personally meet and confer with the various local parties concerned (i.e. the Bureau of Indian Affairs, Indian Legal Services, Mendocino County Legal Counsel, etc.).

We are hopeful that an expeditious solution to this matter will be possible, perhaps in the form of a written memorandum of understanding or some type of documentation from each tribal council, etc. to adopt or



A-20

OFFICE LOCATION
AGRICULTURAL CENTER
579 LOW GAP ROAD

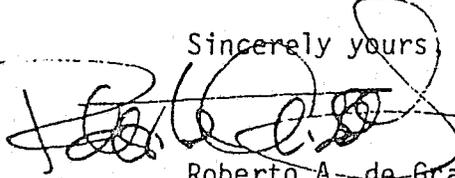
MAILING ADDRESS
COURTHOUSE
UKIAH, CALIFORNIA 95482

U. S. Department of Interior
Region Solicitor's Office
Attn: Mr. Richard Tolles
May 22, 1980
Page Two

permit the implementation of the Mendocino County Dog Ordinance.

Thank you for your cooperation and assistance in this matter.

Sincerely yours,



Roberto A. de Grassi
Asst. Agricultural Commissioner

RAD/jt
Encls:
cc:

Peter Klein, County Counsel

Ron Brown, Esq.
Deputy District Attorney

Lester J. Marston, Esq.
California Indian Legal Services

Mr. Richard Burcell, Supervisor
Bureau of Indian Affairs

Mr. Dave Long
Environmental Health

George Deukmejian, Esq.
Attorney General of California

PS Form 3800, Nov. 1976
RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

UNABLE TO DELIVER TO ADDRESSEE	1. I have received (Always check)	2. ARTICLE ADDRESS REGISTERED	3. ARTICLE DESCRIPTION REGISTERED	4. DATE OF DELIVERY	5. ADDRESS (City, State, ZIP Code)	6. SENDER'S NAME	7. POSTMARK OR DATE
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Region Solicitor's Office*

STREET AND NO. *2800 Cottage Way*

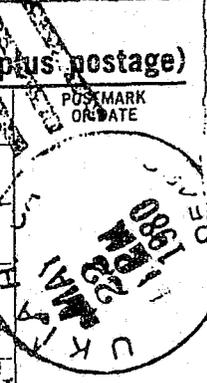
P.O., STATE AND ZIP CODE *Sacramento, Calif 95814*

OPTIONAL SERVICES FOR ADDITIONAL FEES

RETURN RECEIPT SERVICES	1. Shows to whom and date delivered	15¢
	With delivery to addressee only	65¢
	2. Shows to whom, date and where delivered	35¢
	With delivery to addressee only	85¢
DELIVER TO ADDRESSEE ONLY		50¢
SPECIAL DELIVERY (extra fee required)		

No. 893089

PS Form 3800 Apr. 1971 NO INSURANCE COVERAGE PROVIDED—NOT FOR INTERNATIONAL MAIL (See other side) GPO : 1974 O - 551-454





State of California
 Department of Justice
 George Deukmejian
 (PRONOUNCED DUKE-MAY-GIN)

555 CAPITOL MALL, SUITE 350
 SACRAMENTO 95814
 (916) 445-9855

Attorney General

June 18, 1980

Mr. Roberto A. de Grassi
 Asst. Agricultural Commissioner
 County of Mendocino
 Courthouse
 Ukiah, California 95482

Dear Mr. de Grassi:

This is in reply to your May 22 request for an opinion concerning the enforcement of dog control laws on Indian lands.

Government Code Section 12519 authorizes the Attorney General to provide opinions only to designated State officers and District Attorneys. On the other hand, Sections 26520 and 27642 of the same code authorize the County Counsel to provide legal services to County officers. Accordingly, I must respectfully decline your request and refer you to your County Counsel for the advice you seek.

Sincerely,

JACK R. WINKLER
 Assistant Attorney General
 Chief, Opinion Unit

RECEIVED
 JUN 19 1980

COUNTY OF MENDOCINO
 Department of Agriculture

T. E. _____ R. dG. *JRW*
 JRW:JD
 F. E. _____ R. F. _____
 D. E. _____

FILE COPY

H. PETER KLEIN
COUNTY COUNSEL



RONALD R. BALL
DEPUTY COUNTY COUNSEL

JAMES ROWLAND
DEPUTY COUNTY COUNSEL

OFFICE OF THE
COUNTY COUNSEL
COURTHOUSE
UKIAH, CALIFORNIA 95482
(707) 468-4446

ANIMAL CONTROL	
R.d.G.	<u> </u> 305
D.B.	<u> </u> 306
J.T.	<u> </u> 307
302	<u> </u> 303
303	<u> </u> 309
304	<u> </u> 310

June 29, 1984

Mr. Lester J. Marston
California Indian Legal Services
P. O. Box 488
Ukiah, CA 95482

RE: Animal Control on Laytonville Rancheria

Dear Les:

Just a reminder, the folks at Animal Control would be very appreciative if you could check with the Tribal Council on the Laytonville Rancheria and get their position regarding enforcement of animal control laws on the property.

Again, Animal Control takes the position that they don't want to be allowed to enforce the animal control laws partially. If they are going to enforce the rules and regulations on the rancheria, they will want to be able to enforce all of them, including laws and regulations which allow them to charge for kennel fees.

Please advise.

Very truly yours,

JAMES ROWLAND
Deputy County Counsel

JR/bjm

cc: Andy de Grassi, Agriculture
George Sinoechio, Animal Control
Our file - Animal Control

RECEIVED
JUL 2 1984

COUNTY OF MENDOCINO
Department of Agriculture

cc: Ukiah A/C 7/6/84

A-23



Office of the . . . ANIMAL CONTROL DEPARTMENT

C O U N T Y O F M O N O

P. O. BOX 564 • BRIDGEPORT • CALIFORNIA • 93517

MERT DAVIS
Director

(619) 932-7911, EXT. 257

NORTH COUNTY SHELTER
Bridgeport (619) 932-7407
SOUTH COUNTY SHELTER
Mammoth Lakes (619) 935-4734

January 9, 1985

State Senator Barry Keene
State Capitol
Sacramento, California 95814

Dear Senator Keene,

I am very interested in the outcome of the Senate Judiciary Committee Hearing on the 'responsiveness of/by law enforcement to crimes committed on Indian land'.

One of the reasons this issue has come up may be due to the problems contained in existing law, and to a degree of uncertainty on the part of local law enforcement as to what authority can be exercised on Indian lands.

Of particular concern to me is the lack of legal authority for the Mono County Animal Control Department to enforce either State or County laws relating to the care, control, and custody of animals. In Mono County, we have several Indian Reservations, and are impacted by reservation 'animals' committing problems off of reservation lands, being abandoned off of reservation lands, or being turned over to our Animal Shelters as surplus. Reservation residents are exempt from the laws governing the care, control, and custody of animals, and in effect have more rights than do the normal County residents who must comply with these and other laws as well.

At present there is some question as to whether or not Mono County Animal Control could respond to an animal cruelty case that occurs on Indian lands, inasmuch as they are exempt from both State and County laws governing the care, control, and custody of animals.

Possibly the reason this matter is now before you is due to the lack of clarity in existing law with respect to what local law enforcement can and can't do on Indian lands.

I would appreciate any attention you can give this matter, and would very much appreciate any information or input you can provide on this subject.

Sincerely,

Mert Davis, Director
Mono County Animal Control

cc: Ms. Patricia Wynne, Counsel
Senate Judiciary Committee

Attachments (1)

Office of The County Counsel

Ron Braden
COUNTY COUNSEL

John M. Gallagher
DEPUTY COUNTY COUNSEL

Gayle J. Todd
LEGAL SECRETARY

Dolly Melim
LEGAL SECRETARY

COUNTY OF MONO
P. O. Box 497
BRIDGEPORT, CA 93517-0497
(619) 932-7911
EXTENSION 220



August 14, 1984

Mert Davis
Animal Control Director

Re: Request for Legal Opinion -
Dog Licenses for Dogs on
Indian Reservation

Dear Mert:

This is in response to your memorandum of July 23, 1984, in which you pose the question as to whether the Mono County Animal Control Department has the authority to license dogs on Indian reservation lands in Mono County. The short answer is "No".

Since I do not have a Federal Law Library available or any federal books which would set forth the law regarding conflicts between federal and local law, it was virtually impossible to research this matter. However, generally speaking, federal law prevails over local law if there are any conflicts between the two. Furthermore, local governments do not have jurisdiction over federal lands. However, Congress may provide that various federal lands comply with local laws and regulations. In reviewing some of the photocopied material in this office, I came across a case which stated that Congress has mandated that Indian lands are subject to state criminal and civil laws. Aqua Caliente Band, et al. v City of Palm Springs (C.D. Cal. 1972) 347 Fed.Sup. 42, 47-50.

I contacted the City Attorney for the City of Palm Springs, Mr. Bill Adams. Since the above-referenced case involved his city, Mr. Adams had a considerable amount of information. The thrust of this information is that there are various states which are defined as Public Law 280 states. This reference to the public law refers to the Federal Public Law in which the federal government has set forth the mandate that Indian lands are subject to criminal and civil laws to those designated states. California is one of those states. This also means that such lands are subject to local criminal and civil laws. However, the catch is that the state and local governments may only control conduct on Indian lands if they

To: Mert Davis, Animal Control Director
Re: Dog Licenses for Dogs on Indian Reservation - Legal Opinion
August 14, 1984
Page 2

ban or make illegal all similar conduct in the county or the state. For example, the State of California and local jurisdictions can prohibit gambling providing that such a prohibition is uniform throughout the state. However, they cannot regulate conduct on Indian lands as long as the regulated conduct is legal. Thus, as long as Mono County does not make the ownership of dogs illegal, it cannot regulate and license dogs on the Indian reservation.

Please feel free to call me if you have any questions.

Sincerely,

OFFICE OF COUNTY COUNSEL

RON BRADEN
COUNTY COUNSEL

RB:gt

cc: N. F. Poppelreiter, CAO

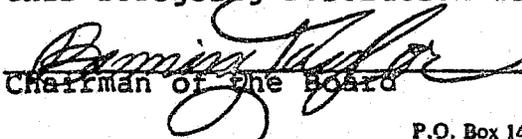


RESOLUTION IN SUPPORT OF
LAW ENFORCEMENT ON RESERVATIONS

- WHEREAS, The Southern California Tribal Chairmen's Association acknowledge that law enforcement issues have not been adequately addressed in our reservation communities in the great State of California, and,
- WHEREAS, The Southern California Tribal Chairmen's Association must make a greater effort in developing models that address these issues in conjunction with individual reservations, tribal governments, and other concerned persons, and agencies, and,
- WHEREAS, The Southern California Tribal Chairmen's Association recognized the need for a stronger law enforcement system to protect the citizens of our reservations, and guarantee safety for all citizens, and,
- WHEREAS, The Southern California Tribal Chairmen's Association in conference discussed at length the need for a cross-deputization program and/or police protection districts with appropriate agencies for smaller reservations, and promote local option of reservations to design their own particular law enforcement system, and,
- THEREFORE BE IT RESOLVED, that Southern California Tribal Chairmen's Association goes on record to support a stronger law enforcement system on Indian lands along with coordinating the concurrent jurisdiction issues by tribal governments, and,
- BE IT FURTHER RESOLVED, that Southern California Tribal Chairmen's Association calls upon the California State Legislature to provide a hearing in Southern California to give each tribe the opportunity to express its views to the state legislature regarding law enforcement issues, and,
- BE IT FURTHER RESOLVED, that a Committee be composed of California tribes from various areas be formed to develop alternative recommendations for final recommendation to the California Legislature, as well as Tribal governments.

C E R T I F I C A T I O N

At a duly called Special Meeting held January 14, 1985 this foregoing resolution was passed by an unanimous vote.


Chairman of the Board


Recording Secretary

A-27

P.O. Box 1470 • Valley Center, CA 92082
(619) 749-0910



TESTIMONY
OF
DALE RISLING, COUNCILMEMBER
HOOPA VALLEY BUSINESS COUNCIL
BEFORE THE
SENATE JUDICIARY COMMITTEE
JANUARY 22, 1985

Hoopa Valley Business Council



A-28
P.O. Box 1348
Hoopa, CA 95546
Phone (916) 625-4211



TESTIMONY
OF
DALE RISLING, COUNCILMEMBER
HOOPA VALLEY BUSINESS COUNCIL
BEFORE THE
SENATE JUDICIARY COMMITTEE
JANUARY 22, 1985

MY NAME IS DALE RISLING. I AM A MEMBER OF THE HOOPA VALLEY BUSINESS COUNCIL. I HAVE BEEN AUTHORIZED BY THE COUNCIL TO PRESENT THIS TESTIMONY ON THEIR BEHALF, HERE TODAY.

THE HOOPA VALLEY INDIAN RESERVATION IS LOCATED IN HUMBOLDT COUNTY, ALONG THE LOWER TWELVE MILES OF THE TRINITY RIVER. THE RESERVATION IS THE LARGEST OF THE APPROXIMATELY 100 RESERVATIONS AND RANCHERIAS IN CALIFORNIA. IT CONTAINS NEARLY 90,000 ACRES, MOST OF WHICH IS MOUNTAINOUS AND IS COVERED WITH DOUGLAS FIR TIMBER AND OTHER HARDWOOD SPECIES. THE TRIBAL GOVERNMENT OPERATES UNDER THE AUTHORITY OF A CONSTITUTION ADOPTED BY THE TRIBE IN 1952 AND HAS A MEMBERSHIP OF 1723. ITS JURISDICTION LIES WITHIN THE 90,000 ACRES IMMEDIATELY SURROUNDING THE HOOPA VALLEY.

THE DEMOGRAPHIC PROFILE OF THE HOOPA VALLEY INDIAN RESERVATION ILLUSTRATES SEVERE SOCIO-ECONOMIC CONDITIONS INCLUDING AN UNEMPLOYMENT RATE OF 82.47%, A MEDIAN FAMILY INCOME OF \$5,450 PER YEAR, A HIGH SCHOOL DROP-RATE RATE OF 23.2% AND OTHER DEMOGRAPHIC INDICATORS INDICTIVE OF SEVERE POVERTY CONDITIONS.

PRIOR TO 1953, WHEN PUBLIC LAW 280 WAS PASSED IN CALIFORNIA, CRIMINAL JURISDICTION RESTED WITH THE U.S. DEPARTMENT OF THE INTERIOR.

THIS AUTHORITY WAS DELEGATED TO THE BUREAU OF INDIAN AFFAIRS UPON THE PASSAGE OF THE "MAJOR CRIMES ACT" OF 1886. UP UNTIL 1953 THE BUREAU OF INDIAN AFFAIRS MANAGED THE "INDIAN POLICE" ON THE HOOPA RESERVATION AND THE INDIAN JAIL. WITH THE PASSAGE OF PUBLIC LAW 280, THE FEDERAL GOVERNMENT SURRENDERED ALL OF ITS CRIMINAL AND MAJOR PORTIONS OF ITS CIVIL JURISDICTION TO THE STATE. CIVIL MATTERS SUCH A CONTRACT DISPUTES, CONSUMER AFFAIRS, DIVORCE AND LANDLORD/TENANT ISSUES REST WITH THE STATE. CIVIL MATTERS SUCH A REGULATORY LAND-USE, THE POWER TO TAX AND ZONING CODES REST WITH THE TRIBES. WITH THE PASSAGE OF THE "INDIAN CIVIL RIGHTS ACT" OF 1968, WHICH AMENDED PUBLIC LAW 280, CONCURRENT LAW ENFORCEMENT JURISDICTION EXISTS WITH THE STATE OF CALIFORNIA, THE HOOPA VALLEY BUSINESS COUNCIL AND THE BUREAU OF INDIAN AFFAIRS.

AS MENTIONED EARLIER, THE STATE RETAINS CRIMINAL JURISDICTION, THE HOOPA VALLEY BUSINESS COUNCIL REGULATES COMMERCE, SUCH AS, LIQUOR, LICENSES, ENVIRONMENTAL QUALITY, INDIAN CHILD ADOPTION PROCEEDINGS, LAND-USE AND ZONING CODES AND INDIAN RIGHTS ISSUES. THE BUREAU OF INDIAN AFFAIRS HAS LIMITED JURISDICTION IN THE AREA OF FISHING AND HUNTING VIOLATIONS (ALTHOUGH THE HOOPA TRIBE HAS THE SOVEREIGN AUTHORITY TO ASSUME THIS JURISDICTION).

WITH THE PASSAGE OF PUBLIC LAW 280 IN 1953, THE HOOPA TRIBE, LIKE OTHER PUBLIC LAW 280 TRIBES, HAS HAD ITS SHARE OF BAD EXPERIENCES WITH STATE AND COUNTY LAW ENFORCEMENT. MUCH OF THESE EXPERIENCES RESULT FROM THE AMBIGUOUS LANGUAGE IN PUBLIC LAW 280. THERE IS CONFUSION ON HOW FAR STATE LAW ENFORCEMENT OFFICIALS MAY GO INTO FEDERAL INDIAN LAND

ON SEARCH AND SEIZURE AND OTHER CRIMINAL MATTERS. THIS CONFUSION OFTEN SERVES AS AN EXCUSE FOR LAW ENFORCEMENT TO STAY AWAY FROM INDIAN LAND.

TRIBAL MEMBERS OFTEN CHARGE THAT THERE IS A DOUBLE STANDARD OF LAW ENFORCEMENT AT HOOPA AND IN THE SURROUNDING INDIAN COMMUNITIES. IT IS OFTEN STATED THAT IF AN INDIAN IS MURDERED THERE IS VERY LITTLE INVESTIGATION, BUT IF A WHITE MAN IS MURDERED THEN JUSTICE PREVAILS.

SINCE 1948 THERE HAS BEEN 22 INDIANS MURDERED IN THE HOOPA AREA. ONLY ONE WAS CONVICTED AND A TOTAL OF 18 MONTHS IN JAIL HAVE BEEN SERVED FOR THESE KILLINGS ACCORDING TO INFORMATION GATHERED BY LOCAL CITIZENS.

THE HUMBOLDT COUNTY SHERIFFS DEPARTMENT IS THE LEAD CRIMINAL LAW ENFORCEMENT AGENCY IN HOOPA. FOUR DEPUTY SHERIFF'S ARE ASSIGNED TO THE HOOPA SUBSTATION WHICH IS ON PROPERTY OWNED BY THE HOOPA TRIBE AND LEASED TO THE COUNTY OF HUMBOLDT. THE SERVICE AREA OF THE HOOPA SUBSTATION EXTENDS IN A 50 MILE RADIUS WHICH INCLUDES THE TOWNS OF HOOPA, WILLOW CREEK, ORLEANS, WEITCHEPEC AND PECWAN.

IN ADDITION TO THE SHERIFFS SUBSTATION, THE COUNTY ALSO MAINTAINS A JAIL AND THE ARCATA/KLAMATH-TRINITY CONSOLIDATED COURT HOUSE IN HOOPA.

THE BUREAU OF INDIAN AFFAIRS ENFORCES INDIAN FISHING REGULATIONS ON THE LOWER TRINITY AND KLAMATH RIVERS. SPECIFIC CODES OF OFFENSES INCLUDE GILL NET FISHING WITHOUT THE PROPER GEAR OR LICENSE OR ON FISHERY CLOSURE DATES. DURING THE SUMMER AND FALL MONTHS WHEN THE FISHERY IS ACTIVE, THE B.I.A. HAS ON STAFF AS MANY AS SEVEN LAW ENFORCEMENT PERSONNEL PATROLLING THE RIVERS. A COURT OF INDIAN OFFENSES IS LOCATED IN HOOPA AND AT THE TOWN OF KLAMATH. THE SERVICE

AREA ENCOMPASSES THE HOOPA RESERVATION (SQUARE), THE OLD KLAMATH RIVER RESERVATION AND THAT PORTION OF THE HOOPA RESERVATION KNOWN AS THE "EXTENSION".

THE BUREAU OF INDIAN AFFAIRS ESTABLISHED THIS LAW ENFORCEMENT AND COURT SYSTEM IN 1979 WHEN THE STATE OF CALIFORNIA ATTEMPTED TO ENFORCE STATE LAW ON INDIAN FISHING. THIS SYSTEM IS FUNDED UNDER A SPECIAL ACCOUNT, CREATED BY THE BUREAU OF INDIAN AFFAIRS FROM THEIR ANNUAL BUDGET. IN 1979-80, THE BUDGET WAS \$1,900,000 FOR F.Y. 84-85 THE TOTAL BUDGET IS \$1,200,000. THE HOOPA VALLEY TRIBE HAS BEEN INFORMED BY THE BUREAU OF INDIAN AFFAIRS THAT THIS WILL ACCOUNT WILL CONTINUE TO DECREASE ANNUALLY.

IN ADDITION, BECAUSE OF RECENT INDIAN CASE LAW INVOLVING THE AMERICAN INDIAN CIVIL RIGHTS ACT, P.L. 280 TRIBES HAVE THE AUTHORITY IN ASSUMING CONCURRENT JURISDICTION OF ALL CIVIL MATTERS ON INDIAN LANDS. TO THAT END, THE HOOPA VALLEY BUSINESS COUNCIL HAS STARTED THE PROCESS OF IMPLEMENTING A HOOPA TRIBAL COURT SYSTEM. CURRENTLY, A HOOPA CODE OF OFFENSES HAS BEEN DRAFTED AND APPROVED FOR FINAL REVIEW AND WILL COVER THE STATUTORY AS WELL AS INHERENT JURISDICTIONAL AREAS. SLATED FOR IMPLEMENTATION IN PHASES BEGINNING IN 1985, THE HOOPA TRIBAL COURT WILL ASSUME JURISDICTION IN FISH AND GAME VIOLATIONS, INDIAN CHILD CUSTODY PROCEEDINGS. LAND-USE CODES, ENVIRONMENTAL QUALITY CODES, TIMBER TRESPASS AND OTHER CIVIL MATTERS. ALREADY THE TRIBE HAS IMPLEMENTED THE TRIBAL SECURITY PROGRAM WHICH HAS GRADUATED THREE EMPLOYEES FROM THE POLICE OFFICERS STANDARDS TRAINING (P.O.S.T.) AT A LOCAL POLICE ACADEMY. THE PROCESS OF IMPLEMENTING A CROSS DEPUTIZATION PRO-

GRAM WITH THE HUMBOLDT COUNTY SHERIFFS DEPARTMENT IS WELL UNDER WAY WITH ALL THREE OF THE TRIBAL SECURITY PERSONNEL CURRENTLY SERVING 520 HOURS OF FIELD SERVICE TRAINING AS DEPUTY SHERIFFS.

THE CREATION OF THE TRIBAL SECURITY PROGRAM WAS RESPONSIVE TO VANDALISM, ARSON AND DESTRUCTION OF TRIBAL PROPERTY VALUED IN THE OF THOUSANDS OF DOLLARS. THIS PROGRAM IS HIGHLY PROFESSIONAL AND HAS NEARLY ELIMINATED THESE INCIDENCES OF CRIMES AGAINST TRIBAL PROPERTY. THE TRIBE HAS INVESTED OVER \$300,000 OF ITS OWN FUNDS AND RESOURCES IN THIS PROGRAM OVER THE PAST THREE YEARS.

DURING THE PAST COUPLE OF YEARS THERE HAVE BEEN SERIOUS CHARGES AND ALLEGATIONS BY INDIAN CITIZENS IN THE HOOPA AREA AGAINST COUNTY LAW ENFORCEMENT. THESE CHARGES RANGE FROM RACISM, TO BRUTALITY, TO RETALIATION, TO IMPROPER INVESTIGATION INTO MAJOR CRIMES RELATING TO INDIAN PERSONS AND A GENERALLY APATHETIC ATTITUDE OF LAW ENFORCEMENT PERSONNEL. AS A RESULT THE HOOPA VALLEY TRIBE, REPRESENTATIVE OF FOUR OTHER NEIGHBORING INDIAN COMMUNITIES, HUMBOLDT COUNTY SHERIFF, HUMBOLDT COUNTY HUMAN RIGHTS COMMISSION AND DEPARTMENT OF JUSTICE, COMMUNITY RELATIONS PERSONNEL NEGOTIATED A MEMORANDUM OF UNDERSTANDING (MOU). THE MOU IDENTIFIED MANY AREAS OF CONCERN AND SPELLED OUT METHODS OF DEALING WITH THESE PROBLEMS. THESE PROBLEMS INCLUDE CURFEW ENFORCEMENT, PUBLIC GATHERING, CITIZEN COMPLAINT PROCEDURE, USE OF FIRE ARMS, CULTURAL SENSITIVITY AND OTHER MATTERS. (COPY OF MOU ATTACHED). ONE OF THE MAIN ELEMENTS OF THE MOU IS THE CREATION OF A LAW ENFORCE-

MENT LIAISON OFFICER. THIS PERSON WOULD MONITOR AND ASSURE THAT THE MOU WAS HONORED BY ALL PARTIES. HE WOULD OPERATE UNDER THE DIRECTION OF AN INDIAN LAW ENFORCEMENT LIAISON COMMITTEE. THIS INDIVIDUAL WOULD ALSO MEDIATE AND FACILITATE COMPLAINTS OR PROBLEMS AND HELP PROMOTE STREAMLINED COMMUNICATIONS BETWEEN THE TWO GROUPS. FUNDING FOR THIS POSITION WAS IDENTIFIED IN THE MOU AND INCLUDED THE BUREAU OF INDIAN AFFAIRS AND OTHER FEDERAL, STATE OR LOCAL RESOURCES. UNFORTUNATELY, WHEN APPROACHED, THE BUREAU OF INDIAN AFFAIRS HELD FIRM ON ITS GROUND THAT IT WOULD NOT FUND P.L. 280 STATES EVEN THOUGH SUBSTANTIAL LAW ENFORCEMENT FUNDS HAVE BEEN APPROPRIATED TO THE B.I.A. FOR THEIR NATIONAL BUDGET.

THE \$30,000 ANNUAL APPROPRIATIONS FOR THIS KEY ELEMENT OF THE MOU HAS YET TO BE IDENTIFIED.

THE HOOPA TRIBE HAS BEEN STRUGGLING WITH LITIGATION KNOWN AS THE JESSIE SHORT CASE FOR OVER 23 YEARS. THE CASE HAS CONFUSED STATE, FEDERAL AND TRIBAL JURISDICTION ON THE HOOPA RESERVATION. THE LACK OF A GOVERNMENT ON THE EXTENSION PORTION OF THE RESERVATION FOR RESPONSIBLE MANAGEMENT HAS FURTHER CONFUSED THE OVERALL SITUATION. A GROUP OF 3800 INDIVIDUALS HAVE BEEN AWARDED LIMITED CLAIMS TO THE REVENUE OF THE TIMBER RESOURCES ON THE RESERVATION, BUT THE FEDERAL GOVERNMENT (B.I.A.) HAS EXPANDED THIS NARROW COURT DECISION, TO GIVE THESE INDIVIDUALS RIGHTS THAT WERE NEVER GRANTED BY THE COURTS. THIS CASE HAS TIED UP \$53,000,000 IN REVENUES FROM THE TIMBER RESOURCES, WHICH IS BEING HELD IN AN ESCROW FUND.

THE HOOPA TRIBE IS TRYING TO RESOLVE THESE MANAGEMENT AND JURISDICTIONAL PROBLEMS IN THE U.S. CONGRESS SINCE THE COURT, WHICH CAUSED THE PROBLEMS DO NOT HAVE THE JURISDICTION TO SOLVE THEM. ONCE THE PROBLEM IS TAKEN CARE OF THE HOOPA TRIBE CAN FULLY IMPLEMENT ITS GOALS IN LAW ENFORCEMENT ON THE RESERVATION.

RECOMMENDATIONS:

1. THE STATE OF CALIFORNIA ENTERS INTO A JOINT FUNDING AGREEMENT WITH THE BUREAU OF INDIAN AFFAIRS IN THE DEVELOPMENT OF PROGRAMS THAT WILL RAISE THE LEVEL OF LAW ENFORCEMENT ON CALIFORNIA INDIAN RESERVATIONS TO AT LEAST THE SAME LEVEL ENJOYED BY OTHER CITIZENS OF CALIFORNIA.
2. THE STATE OF CALIFORNIA SUPPORT CALIFORNIA TRIBES IN REVERSING THE BUREAU OF INDIAN AFFAIRS POLICY OF NOT PROVIDING LAW ENFORCEMENT FUNDS TO PUBLIC LAW 280 TRIBES.
3. THE STATE LEGISLATURE APPROPRIATE FUNDS TO ASSIST MODEL LAW ENFORCEMENT PROGRAMS ON INDIAN RESERVATIONS THAT HAVE THE POTENTIAL OF PROVIDING EFFICIENT AND COST EFFECTIVE LAW ENFORCEMENT.
4. THE STATE LEGISLATURE ASSURE CALIFORNIA TRIBES THAT THEY WILL CONSULT WITH TRIBAL LEADERSHIP ON ANY PROPOSALS RELATING TO TRIBAL JURISDICTION.

5. THE STATE LEGISLATURE EXPRESS ITS RECOGNITION AND SUPPORT OF TRIBAL LAW AND JURISDICTION AND AFFIRM ITS COMMITMENT TO PROTECT THESE SOVEREIGN RIGHTS.

6. THE STATE LEGISLATURE ENCOURAGE THE U.S. CONGRESS TO INITIATE LEGISLATION THAT WOULD UNTANGLE THE MANY MANAGEMENT AND JURISDICTIONAL OBSTACLES THAT HAS BEEN CREATED BY THE JESSIE SHORT CASE, ON THE HOOPA RESERVATION, AND SUPPORT SUCH LEGISLATION. SUCH LEGISLATION WOULD REMOVE A MAJOR OBSTACLE TO TRIBAL GOVERNANCE AND TRIBAL PARTICIPATION IN LAW ENFORCEMENT BY THE HOOPA VALLEY TRIBE.

THE HOOPA TRIBE IS COMMITTED TO WORKING WITH STATE AND FEDERAL LAW ENFORCEMENT AGENCIES ON A GOVERNMENT TO GOVERNMENT BASIS, TO CREATE A SAFE AND SECURE ENVIRONMENT FOR THE CITIZENS OF OUR COMMUNITY. WITH YOUR COOPERATION AND SUPPORT, THE HOOPA TRIBE WILL CONTINUE ITS LEADERSHIP ROLE AND CONTINUE TO SERVE AS A EXEMPLEARY MODEL FOR LAW ENFORCEMENT ON INDIAN RESERVATIONS IN CALIFORNIA.

THANK YOU FOR THIS OPPORTUNITY TO PRESENT OUR TESTIMONY TO YOU TODAY.

RESOLUTION OF THE HOOPA VALLEY TRIBE
HOOPA INDIAN RESERVATION
HOOPA, CALIFORNIA

RESOLUTION NO: 85-8

DATE APPROVED: January 18, 1985

SUBJECT: AUTHORIZING DALE RISLING TO PRESENT TESTIMONY BEFORE THE CALIFORNIA STATE LEGISLATURE REGARDING PUBLIC LAW 280.

WHEREAS: The Hoopa Valley Tribe did on June 20, 1972, adopt a Constitution and Bylaws which was approved by the Commissioner of Indian Affairs on August 18, 1972, and Article IX, Section 1 (g) of this Constitution and Bylaws authorized the Hoopa Valley Tribe "to negotiate with the Federal, State and local governments on behalf of the Tribe," and,

WHEREAS: In 1953 the State of California passed Public Law 280 which gave the State of California jurisdiction over all criminal and major portions of civil jurisdiction on the Hoopa Indian Reservation, and,

WHEREAS: The State Legislature is holding Public Testimony regarding this Public Law 280 on January 22, 1985, and,

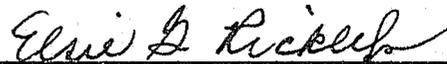
WHEREAS: Dale Risling, a member of the Hoopa Valley Business Council will present the testimony on behalf of the Hoopa Valley Tribe, and,

NOW THEREFORE BE IT RESOLVED: That Dale Risling, Council member is hereby authorized to present Public Testimony on behalf of the Hoopa Valley Tribe before the State Legislature on January 22, 1985.

C E R T I F I C A T I O N

I, the undersigned, as Chairman of the Hoopa Valley Business Council hereby certify that the Hoopa Valley Business Council is composed of eight members of which 5 were present constituting a quorum at a Special Meeting thereof; duly and specially called, noticed, convened and held this 18th day of January, 1985; and that this resolution was adopted by a vote of 3 for with 1 abstaining; and that said resolution has not been rescinded or amended in any way.

DATED THIS 18TH DAY OF JANUARY, 1985.



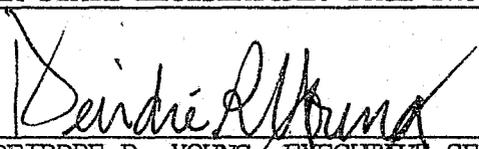
ELSIE G. RICKLEFS, CHAIRMAN
HOOPA VALLEY BUSINESS COUNCIL

RESOLUTION NO: 85-8

DATE APPROVED: January 18, 1985

SUBJECT: AUTHORIZING DALE RISLING TO PRESENT TESTIMONY BEFORE THE CALIFORNIA STATE LEGISLATURE. PAGE TWO.

ATTEST:


DEIRDRE R. YOUNG, EXECUTIVE SECRETARY
HOOPA VALLEY BUSINESS COUNCIL

MEMORANDUM OF UNDERSTANDING

between Sheriff's Department of
Humboldt County and
Hoopa, Yurok, and Karok
communities of northeast
Humboldt County

In the spring of 1983, at the suggestion of the Human Rights Commission of Humboldt County, a series of meetings was undertaken by the Sheriff and representatives of the Hoopa, Yurok, and Karok communities of the northeastern section of Humboldt County for the purpose of reviewing and updating their joint Memorandum of Understanding (MOU) of September 1979. Convening and leading these discussions, as in 1979, was a mediator from the Community Relations Service (CRS), US Department of Justice, with assistance by members of the County's Human Rights Commission.

The talks, as before, sought to address problems of law enforcement and relationships between the Sheriff's Office (SO) and the Native American communities of that area generally served by the SO's Hoopa Substation. Again the participants considered it essential to explore sources of tension and misunderstanding, to clarify official policies and procedures, to reexamine the needs and responsibilities of both the SO and the several communities, and to find or reassert ways of fulfilling those responsibilities and improving relationships all around.

Participants were the Sheriff, Undersheriff, and other officers; the chairpersons or other representatives of the Hoopa Valley Business Council, Orleans Karok Council, Weitchpec Community Indian Association, Humboldt County Association of Indians-Pecwan, and the Hupa Survival Group; two members of the County Human Rights Commission; and the CRS mediator. All sessions were held at the Hoopa Neighborhood Facility.

Principal conclusions and points of agreement are as follows:

I. BASIC PRINCIPLES AND POLICIES

First, there was reaffirmation on all sides of understandings set forth in the 1979 MOU with regard to policies and procedures of the Sheriff's Office and concerns and responsibilities of the Native American communities. Substantially as expressed before, there was consensus that:

1. Achievement of firm and fully effective law enforcement, together with solutions to various community problems, is seen by the Sheriff and by the Native American communities who are party to this agreement as a shared responsibility. Both the Sheriff and the leaders of these communities strongly affirm the necessity of building and sustaining a mutually respectful and peaceful relationship. The Sheriff reemphasizes his basic policy that law enforcement must be absolutely ~~impartial~~ and respectful of all persons at all times. He will not tolerate on the part of any officer differential treatment of any individual or group by reason of ancestry, race, religion, or cultural heritage. At the same time, Indian community representatives recognize their responsibility to take various initiatives toward solution of certain long-standing community problems. They know that they must work on these problems both as individuals and through their tribal councils and community organizations.

2. On a reservation, as elsewhere, Sheriff's officers question or arrest persons only if there is reasonable cause to believe a law violation has occurred. They will enter private or tribal property only on observation of an apparent violation, or on receiving a complaint which seems to have substance, or when required to serve official papers in a civil matter. In traffic and vehicle code matters the SO is mainly concerned with violations which seriously endanger people, such as drunk driving, excessive speed, reckless driving, or an obviously dangerous mechanical condition. Under no circumstances will any officer engage in harassment or disrespectful treatment of any person, whether in a public place, in a vehicle, or at home. A professional level of behavior will be maintained even in the face of difficult or provocative situations.

3. Every citizen has the right to file a complaint if, to the best of his/her information and belief, an officer has acted improperly or has failed to perform in accordance with the Sheriff's stated policies and procedures. It is the duty of all SO personnel to whom such a complaint is expressed or submitted to receive it, to make sure it is signed and dated, to provide an acknowledged copy of the complaint to the complainant at the time of its receipt, to ask the complainant if

a copy of the complaint may be provided to the Indian Liaison Officer indicated in Part II below (if so, to secure a signed release to that effect,) and to facilitate and expedite processing of the complaint according to departmental procedures. The Sheriff will tolerate no retaliation against anyone for having filed a complaint or having tried to do so. Any such retaliation would be grounds for a further complaint by the aggrieved individual.

4. In accord with the County affirmative action policy, and for the sake of continuing improvement in SO relations with the Indian communities of this area, the Sheriff is committed to (a) the earliest possible reintroduction of Indian officers to his force, (b) inclusion of Native Americans on oral review boards in the testing process for personnel of his Department (this was done for the correctional officer examination in late 1983), and (c) supporting in this area a program in which the Indian communities will select and oversee the work of an Indian Law Enforcement Liaison Officer.

II. COMMUNITY LAW ENFORCEMENT LIAISON OFFICER

Generally, the 1979 MOU between the Native American communities of this section of the County and the administration of the late Sheriff Gene Cox is still regarded as a good, sound document setting forth understandings from which some good results have flowed. Most of its provisions remain vitally relevant today to all concerned. It is agreed, however, that a main source of weakness was the absence of someone close to the affected communities assigned to assist in MOU follow-through and to monitor and report on compliance. For this reason the prospective position of Indian Community Law Enforcement Liaison Officer is now seen as central and indispensable by Sheriff Renner and the community representatives who join in this updated MOU.

Many hours of careful study and of joint discussion were devoted by the Indian community representatives and SO to consideration of all aspects of this proposed program. Attention was directed to the needed qualifications of the Law Enforcement Liaison Officer (LO); duties and responsibilities; operating guidelines; selection and supervision of the individual; budget; and prospective funding sources. Following are the main elements of the proposed job description of the LO, plus an initial set of operating guidelines

and certain key characteristics to be required of the individual selected. A joint effort by the signing parties will seek out funding for this position.

A. Job Description

This position will serve as liaison and communication facilitator between local law enforcement and Humboldt County Indian communities along the Klamath and Trinity Rivers. This person will be responsible for further developing and strengthening relations between these communities and law enforcement; for monitoring the 1984 Memorandum of Understanding between those communities and the Sheriff's Department; for assisting individuals with citizen complaint procedures; and for helping prevent or dispel the harmful effects of unfounded rumors.

This person will work under the general direction and supervision of the Indian Law Enforcement Liaison Committee, consisting of one representative each from the Indian communities of Hoopa, Orleans, Weitchpec, and Pecwan, plus an ex officio, non-voting member from the Human Rights Commission of Humboldt County. During the probationary period of any person filling this position the LEL Committee will also include an ex officio, non-voting representative of the Sheriff. The normal probationary period will be 90 days.

Although based in Hoopa Valley, this position will serve equally and regularly all four of the foregoing communities.

This person will be responsible, with the assistance of the LEL Committee, for seeking future funding to sustain the program.

Duties of the position will include:

1. Establish ongoing communication mechanisms between the Indian community and local law enforcement; assist in improving exchange of information and dispelling unfounded rumors.
2. Assist in the utilization and monitoring of the Memorandum of Understanding between the Indian Community and the Humboldt County Sheriff's Office.
3. Help interpret to all elements of the Indian community the policies, procedures and need of law enforcement,

and to the Sheriff's Office the cultures, problems, and needs of the Indian community which have bearing on law enforcement.

4. Educate the Indian community concerning the SO's citizen complaint procedure and assist individuals to utilize that procedure when they believe it is warranted.
5. Develop and maintain complete files and records on all program activities and cases.
6. Assist in future planning and development of the LEL program.
7. Assist in any other areas related to law enforcement and the purposes of this program as may be directed by the LEL Committee.

Qualifications: High school graduation or equivalent. Effective oral and written communication skills. Maturity. Capacity to assess complex situations accurately and to maintain personal calm and objectivity at all times. Willingness to listen well to others. No inclination to rush to judgment. Deep interest in finding the truth, promoting fairness and justice, and helping resolve difficulties peacefully through clarification and conciliation. Clear understanding of local Indian political systems, cultural heritage, and religious customs, and Public Law 53-280. This person will be expected to establish and maintain a positive, ongoing relationship between the Indian community and local law enforcement, and to be respectful of all people of the community. Must possess a valid California driver's license and have a means of transportation throughout the region.

Desirable: At least one year of training and/or experience in areas related to law enforcement.

Applicant will be subject to a criminal history background investigation.

Salary: from \$6 to \$9 per hour, depending on qualifications of the individual selected and adequacy of the program's funding.

B. Operating guidelines.

The following guidelines for the LO are expected to serve adequately at least in the early months of the program. If needs emerge for additional or revised procedures, such may be proposed

either by the Sheriff or LEL Committee, and will take effect when consensus has been reached.

1. The LO must function in such manner as to achieve and maintain credibility and confidence on the part of both the SO and Indian communities. This will require a consistently professional, objective, non-judgmental approach to all parties and situations. Even though one party or another may sometimes want the LO to "take sides," to become a defender or advocate in a disputed case, this is not permissible. The LO must strive at all times to serve as intermediary, as two-way interpreter, striving to be fair to all parties. The same standards will be observed by the LEL Committee as well.
2. The LO will develop and carry out various means of informing and educating members of the Indian communities concerning SO policies and procedures, including the right of citizens to file complaints against law enforcement officers whom they believe to have been in violation of law or SO policy or procedure. The LO will explain the SO's complaint procedure to groups and individuals, and, as needed, will assist individual complainants (a) to set forth clearly and completely the facts as to actions prompting the complaint, and (b) to file the complaint with the appropriate Sheriff's station or other County office.
3. A copy of each citizen complaint filed by a member of one of the Indian communities of the Klamath-Trinity area will be provided promptly by the SO to the LO and to the Chairperson of the LEL Committee.
4. The LO will not participate in the investigation of any criminal or internal investigation (unless he/she was an alleged party to the act). This does not preclude reasonable monitoring by the LO of the progress of any investigation involving members of the Indian communities. The SO will cooperate with such monitoring activities, providing, upon request, an indication of the status of the investigation and any unusual

difficulties or problems. The LO may offer suggestions to the SO which he/she thinks might be helpful in any investigation.

5. Assuming the complainant has signed a release as provided in Part I, Section 3 of this MOU, the SO will advise the LO in writing as to the specific officer who is assigned to the investigation of a particular citizen complaint. If the LO has any questions or recommendations to the SO concerning the case, he/she will promptly contact the assigned officer on such matters, and the SO will give due consideration to the points raised.
6. Two copies of the Sheriff's letter to the citizen complainant advising of the disposition of the case will be sent to the complainant, together with a notation that the complainant may wish to forward one copy to the LO (with his/her address).
7. Concerning public gatherings (e.g. near bank or bar at Hoopa, or Orleans porch) or special events where there is the possibility of disorder and SO intervention, the LO will monitor such situations from time to time for the purpose of observing any disorders and whatever response the SO makes. The LO will not become personally involved in any incident, but if the opportunity arises, and the senior SO officer on the scene approves, the LO may endeavor to talk with key persons present, as a conciliator, seeking resolution of the problem or deescalation of tension. The LO will in no way hamper or interfere with overt law enforcement action at the scene if such becomes necessary. Any disagreements concerning contemplated or actual law enforcement action will be discussed privately at the scene or subsequently with senior officers and/or the Sheriff or his designee. The LO will report on all such matters to the LEL Committee and to the Sheriff.
8. The LO and members of the LEL Committee may participate in the SO ridealong program if the Committee so decides.

It is understood that, in this program as in any other association between the Committee or the LO and Sheriff's personnel, it will be vital to avoid any appearance that the LO or Committee members are representatives or partisans either of the SO or of proven offenders in the community.

9. The LO and LELC may monitor or request reports on certain SO activities from time to time (such as disorder control, search and rescue operations, response time, or securing medical attention for injured persons) with regard to performance, effectiveness, priorities, or time involved.
10. Since the accurate reporting of incidents or disposition of complaints is essential in averting or minimizing misunderstandings and rumor dissemination, the LO and SO will exert special care in any such reporting, and will promptly provide to the other notice and copies of such reports.
11. All concerned will stress openness of communication between the Indian communities, the LO and LELC, and the SO.
12. It is understood that for reasons of security or the constraints imposed by Federal, State, and local statutes, certain SO records and materials cannot be made available to the LO or LELC.

C. Funding

Funding for this program will be sought from various potential sources, including the Bureau of Indian Affairs, other Federal or State funds, or private foundations.

III. CITIZEN COMPLAINT PROCEDURE

State law requires that every law enforcement department have a procedure whereby any citizen may file a complaint concerning alleged misconduct by an officer. The Sheriff reasserts the importance of utilization of this procedure by anyone in Humboldt County who believes

that an officer has acted improperly or has failed to perform in accordance with the Department's stated policies and procedures.

The SO's complaint procedure remains essentially the same as set forth in the 1979 MOU and may be summarized as follows:

The individual in the Klamath-Trinity area who wishes to file a complaint should come to the Hoopa Substation and fill out the complaint form, setting forth all pertinent information as to the action complained of. When the Indian Liaison Officer program is under way, this Officer (LO), if desired, may assist or advise the complainant concerning preparation of the form, and may accompany him/her to the Substation. If the problem is one which can be resolved quickly and informally to the satisfaction of all concerned, this will be done. (Each such complaint and its disposition will be reported promptly to the Sheriff or Undersheriff.) Complaints not so resolved will be investigated either by the Hoopa Substation commander or the SO's Internal Affairs unit. This investigation will be thorough and fully professional, and will include contacts with the complainant and all available witnesses. The officer against whom the complaint is brought will have nothing to do with conduct of the investigation.

If the complaint involves the Substation commander, the investigation will be carried out by a higher officer from SO headquarters. If the complaint involves the Sheriff himself, it will be turned over to the District Attorney for investigation.

If the complainant's allegations are supported by substantial evidence and are sustained, this finding, together with recommendations for discipline and corrective action, will be forwarded by the investigating officer or unit to the Sheriff for final action. When the Sheriff has acted on such findings and recommendations he will notify the complainant in writing of the disposition of the case, providing an extra copy of his letter to the complainant together with a notation that the complainant may wish to forward a copy to the LO (with his/her address).

Sometimes there is no third-party witness to an incident and there is conflict between the citizen's and officer's versions of what happened. This is a difficult situation to resolve. The seriousness of the complaint will in part determine how far the investigation will be pressed. Polygraph testing may be an option. In any event, there will be no presumption favoring the word either of the officer or of the citizen.

It is important that a complaint be filed very soon after the incident with which it deals. The sooner the investigation can get under way, the better the chances of gathering fresh and relevant evidence. SO regulations require that the complaint be filed within 14 days of the action complained of. Indian community representatives requested extension of this 14-day limitation to one month, or at least to 15 working days. The Sheriff was unwilling to make this change, due to a provision of the present MOU between the SO and the Deputy Sheriffs' organization, but would be willing to reconsider if it appeared that there was a problem on this point countywide. He emphasized that the 14-day rule is flexibly administered, and can be extended in a particular case where extenuating circumstances delayed filing of the complaint.

The Sheriff will require prompt and thorough investigation of all complaints. Generally the process should be completed within 30 to 60 days.

It is understood that the LO or LELC should raise any matter of substantial community concern to the SO even though it may not have become the subject of an individual formal complaint.

IV. CURFEW

There was general agreement that curfew enforcement should be tightened, provided that this is preceded by considerable advance notice in all affected communities, with the SO and tribal or community organizations making special efforts to reach both parents or juveniles. This advance notice should include reminders as to the main requirements of the curfew ordinance. Stricter enforcement will not entail detaining a juvenile who, after hours, is in fact returning home from an event and is within the law.

V. PUBLIC AND UNDERAGE DRINKING

As stated in the 1979 MOU summary: "Problem drinkers in public will be handled by Sheriff's officers as informally as possible, enlisting the aid of family, friends, or therapists whenever possible. New night-time alcohol counseling assistance is urgently needed, along with strengthened tribal, community, and family initiatives."

Still applicable are the following procedures of the SO as set down in the main text of the 1979 MOU:

If a publicly socializing crowd is peaceful and there are no complaints to which the SO feels obliged to respond, officers will limit themselves to admonishing underage drinkers or disposing of their liquor and encouraging them to go home. If a minor is drunk and is not being taken home by someone, it is at the officer's discretion to (1) warn and take the offender home, or (2) take the offender home and issue a citation with a subsequent appearance date at the Probation Department, or (3) arrest and lodge the offender at Juvenile Hall pending a disposition by the Probation Department.

Generally, Sheriff's officers are governed, in handling persons drunk in public, by several important considerations: whether the person's own safety is in jeopardy or likely to be; whether he is getting into a car or about to drive away; or how prone to violence the particular individual is known to be when drunk. If a friend or relative is positively taking the drinker home until sober, fine. Otherwise, if the officer has determined that the person is intoxicated, he could be found legally liable if he failed to detain or remove the drinker and if injury to anyone resulted. Generally, the SO lodges charges against the intoxicated person only if he is creating a disturbance. Absent such disturbance, if the drinker is one who is known to have been through various alcohol abuse programs and still has a chronic problem, the individual may be arrested and allowed to "sober up" at the Substation (if open and

attended) without subsequent prosecution, according to the present policy of the District Attorney, unless there are circumstances in addition to the state of intoxication. Again, it is agreed that:

Seeking to deal with alcoholism is basically a tribal and family responsibility.

Much concern was expressed about non-student loitering around Hoopa High School; with resultant alcohol or other drug involvement of some students. There was consensus that the School Board should be petitioned to initiate a closed-campus policy. Such a policy is in force at a number of schools in the County. The decision is in the hands of the School Board. Interested parents and tribal representatives, it is felt, may need to get together to make their views known to the Board.

VI. RETENTION OF HOOPA SUBSTATION AND ORLEANS DEPUTY

All Indian community representatives were in strong consensus on the need to retain the SO's Hoopa Substation, to restore it to its former strength, and to keep at least one deputy based in Orleans. The Sheriff stated that he would retain the Substation as long as his budget permits, but that determination of the size of his budget is made by the Board of Supervisors.

VII. SO POLICY ON USE OF FIREARMS

The community representatives were interested in understanding the current policy of the SO governing the use of force, particularly the circumstances under which an officer may resort to lethal force, i.e., firearms. The Sheriff presented copies of his General Order 74-7, "Departmental Policy on Use of Firearms," as revised August 17, 1982. Following are excerpts from this General Order:

I. Policy

The policy of this Department is that members shall exhaust every other reasonable means of apprehension before resorting to the use of firearms...

- II. B. All members of this Department may discharge their firearms only under the following conditions:
1. On an approved firearms range or while lawfully hunting or target practicing.
 2. In the necessary defense from death or serious injury of another person attacked.
 3. In the necessary defense of himself from death or serious injury when attacked.
 4. To ~~effect~~ an arrest, when all other means have failed, of a felony suspect when:
 - a. The crime for which the arrest is sought involved conduct including the use or threatened use of deadly force.
 - b. There is a substantial risk that the person whose arrest is being sought will cause death or serious bodily harm if his apprehension is delayed.
 5. To kill a dangerous animal or one that is so badly injured that humanity requires its removal from further suffering and other disposition is found impractical.
 6. To give an alarm or to call assistance for an important purpose when no other means can be used, such as in a search and rescue operation.
 7. Firearms shall be regarded as defensive weapons and used only when the individual deputy is compelled to do so by existing circumstances.

VIII. NATIVE AMERICAN CEREMONIAL PLACES AND EVENTS

As earlier agreed, leaders of the tribes and communities represented in these talks will keep the Sheriff or commander of the Hoopa Substation informed concerning the places and events which have special religious, historical, or cultural significance. The dates and nature of major events will be made known to the Sheriff or commander at Hoopa well in advance and there will be joint discussion of possible needs for peace officers, on standby or otherwise.

IX. IN-SERVICE TRAINING OF SHERIFF'S PERSONNEL

The Sheriff reaffirmed his belief in the need for high-quality in-service training for his officers, particularly with regard to stress and crisis management, and achievement of full awareness of the cultures of the communities they serve. Budgetary limitations tend to restrict training opportunities. Among possible training resources discussed were Humboldt State University's Native American studies faculty and BIA's special officer training corps. This subject is seen by all participants as warranting high-priority attention, and will be explored further.

X. OTHER MATTERS

A. Federal fishing regulations. As stated in the 1979 MOU, the Sheriff does not enforce these regulations. Under certain circumstances he is obliged to render limited assistance to Federal officers, but will not house or transport prisoners.

B. Fish camps on the Reservation. The SO policy remains as before:

Officers will not enter these camps except upon a call from someone inside; a complaint from someone who has been inside; an action which endangers people outside (e.g., weapon's fire); or routine investigation of a particular matter.

C. Hoopa Airport security. The incidence of vandalism is not as bad as in 1979, but still poses a real problem. There is still a need for the combined Indian and nonIndian communities, working with the SO, to find a solution. Otherwise, every family in the Klamath-Trinity area faces the danger that in severe medical emergency air ambulance service could not operate.

XI. Amendments may be added at a later date upon consensus of the signing parties.

XII. Sheriff Renner and all representatives of the Hoopa, Yurok, and Karok communities of the Klamath-Trinity area, having together entered into this agreement, recognize and acknowledge that this Memorandum of Understanding will achieve true meaning and fulfillment in the years ahead only to the extent that it is respected and wholeheartedly implemented by the entire Sheriff's Department and by the

Native American representatives and their councils and organizations who are signatories to or ratifiers of this document. Copies of this MOU shall be distributed and publicized fully in the Hoopa/Weitchpec/Orleans/Pecwan/Willow Creek areas, including posting at tribal and community meeting places and publication in the Klamity Kourier. Copies shall also be provided to all SO personnel who are serving or may be called upon to serve in the foregoing areas, and all such SO personnel shall certify to the Sheriff that they have received and studied a copy of this MOU. Above all, the signatories hereto recognize that the intent and spirit of this document are the heart of the matter. This MOU is emphatically not an exercise in semantics. It is not a statement of good intentions to be filed and forgotten. It is, rather, a solemn and binding contract whereby the parties, in consideration of their good faith commitments, pledge themselves to carry out both the letter and spirit of this agreement to the best of their abilities.

In the event of disagreement among any of the parties as to the adequacy of compliance with this MOU in any particular, the parties shall promptly endeavor to resolve the difficulty through joint consultation. If such efforts fail to achieve mutually satisfactory resolution of the problem, either party may request the mediation assistance of the Community Relations Service and/or the Human Rights Commission of Humboldt County.

Signed this 18th day of September 1984, at Hoopa, California:

For Humboldt County
Sheriff's Department:

David A. Renner
David A. Renner, Sheriff

For Hoopa Valley Business
Council:

Elsie G. Ricklefs
Elsie G. Ricklefs, Chairperson

For Orleans Karok Council:

Charlene Martin
Charlene Martin, Chairperson

For Humboldt County Assn. of
Indians - Pecwan:

Betty Owen
Betty Owen

For Hupa Survival group:

Glenn Sanchez
Glenn Sanchez

For Weitchpec Community Indian Assn:

Thelma McLaughlin
Thelma McLaughlin

WITNESSED:

Edward Howden
Edward Howden, Mediator
Community Relations Service
U.S. Department of Justice

Christina Marie Halberner
Christina Marie Halberner
Human Rights Commission

Chip Sharpe
Chip Sharpe, Chairperson
Human Rights Commission
Humboldt County

TESTIMONY

of

John F. Duffy
Sheriff

San Diego County Sheriff's Department

before the

California Legislature
Senate Committee on Judiciary

Senator William Lockyer
Chairman

January 22, 1985

Law Enforcement on Indian Land

SENATE COMMITTEE ON JUDICIARY

Mr. Chairman and Members of the Committee...

Thank you very much for the opportunity to appear before you in response to your concerns about law enforcement problems on Indian reservations in this state.

With 19 reservations located within our borders, I believe San Diego County has more Indian reservations than any other county in the state.

Since the enactment of Public Law 280 in the early 1950's law enforcement jurisdiction on our Indian reservations has rested with the San Diego County Sheriff's Department. Over the years my department has enjoyed a generally good relationship with the various tribal councils and business committees of all the reservations within the County. Most of our reservations are in rural areas of the County and like communities surrounding them, they have enjoyed a rather low crime rate because of low population densities. A few of our reservations, such as Barona, Viejas, Sycuan, Rincon, etc., are close to more populated communities. There has been no distinguishable difference in the crime rate or law enforcement response on any of our reservations from nearby surrounding communities.

The attached table describes master beats and reporting districts which encompass our reservations and provides information on calls for service and average response times, as well as arrests on those reservations.

This data is consistent with citizen calls for service and response times in surrounding communities. The arrest data, if taken on a per capita basis, is probably less than surrounding communities have experienced. All of the data on Table I is the third quarter of 1984 which is the most recent data currently available.

Law enforcement in the Sheriff's service area of San Diego County varies considerably with topography, population, reported crime, etc. My department provides regular service to over 600,000 residents in 3800 square miles (or 90 percent of the geography) of San Diego County. Highly populated metropolitan areas are served by large stations commanded by captains; smaller communities are served by smaller substations commanded by lieutenants and in some cases sergeants; rural or remote areas of the county are served from resident deputy offices.

The attached map illustrates the location of Sheriff's law enforcement facilities, from major stations to the resident deputy offices. These are marked with a five-point star. On the same map, the proximity of all Indian reservations to Sheriff's law enforcement facilities is illustrated by numbered squares which correspond with the specific Indian reservation shown in upper right corner.

I believe you can readily see that none of our reservations are very far removed from available law enforcement service and are certainly no further removed than many rural communities in the mountains and desert areas of the County.

The eastern half of San Diego County is directly policed by our Rural Law Enforcement Division, which is headquartered in Julian and includes smaller substations and resident offices in other communities. It is this division that is in contact with most of the Indian reservations. Deputies assigned to this division live and work in or near the communities they serve. Additionally, these deputies receive support from the major Sheriff's stations when needed, as well as specialized support units which serve all stations, substations and officers countywide. These specialized units include Homicide, Fraud, Arson/Explosives, Narcotics, Vice, Criminal Intelligence, Crime Lab, Helicopter Support, Search and Rescue, Juvenile Services, a modern Communications Center with a full 9-1-1 emergency service, to name a few.

There is no difference in response time, or response mode, on or off an Indian reservation in San Diego County, from the adjacent communities which are served by my stations, substations or resident offices. Although we have made a strong effort at considerable cost to improve our service to some of the more isolated reservations and communities, there remains some hesitancy on the part of some tribal members to contact the Sheriff's Department and report criminal activity. Because of the close association of neighbors and even family on these reservations, the potential for retaliation or intimidation is high. However, we experience the same hesitancy in residents of the more rural communities to report criminal activity if committed by their friends or even family. Even though this sort of hesitancy appears to be generated by close community and family relationships, on some reservations our reception by

Indians could be described fairly as "passive acceptance" rather than "active assistance." It certainly could not be described fairly as "neglectful" or "discriminatory." Indians on our 19 reservations receive the same law enforcement response as non-Indians in surrounding communities.

There is another aspect of law enforcement, however, that is of paramount concern on the reservations in San Diego County, in other counties of this state and indeed in several other states. This is primarily due to what are perceived as "loopholes in the law" and some resulting federal court decisions. The end result of the 1982 decision by the Ninth Circuit Court of Appeals involving the Barona Indian reservation (Barona Group of the Capitan Grande Tribe of Mission Indians) in San Diego County is to encourage completely unregulated gambling by non-Indian profiteers who use the legal loopholes of Public Law 280 to expand activities that are illegal in every other place but an Indian reservation, posing an open invitation to organized crime. The Barona decision struck down the authority of California law enforcement, under Public Law 280, to enforce Penal Code Section 326.5 on Indian reservations in this state because the court said this statute was civil/regulatory. As a result, high stakes bingo and other forms of gambling are being operated by quickly formed profit-making companies under sweetheart contracts with Indian Tribal Councils.

By way of background, I am sure your Committee is aware that the Legislature completely prohibited bingo in this state until a few years ago. With carefully established controls to avoid the influence

of organized crime and other abuses, the State enacted Penal Code 326.5 to allow narrow exceptions to the prohibition for non-profit and charitable organizations to raise money for worthwhile charitable purposes and not for profit.

The essence of the existing problem is that the Ninth Circuit Court in the Barona Indian decision has maintained that Penal Code 326.5 is a civil/regulatory statute rather than a criminal/prohibitive statute. Under that interpretation, the State of California and local counties lack authority, because of Public Law 280's prohibition on so-called "regulatory land-use" ordinances, laws, etc.

Since the Barona Indian decision, three tribal councils for reservations in San Diego County (Barona, Rincon, Sycuan) which are located near population centers, with easy public access, have signed long-term contracts with private profit-making corporations to operate high stakes bingo games, not permitted in any other part of the county except on Indian reservations. These unrestricted games have lured thousands of people to the Indian reservations and are generating millions of dollars of profit for those corporations. The operations are not subject to any control whatsoever and can easily be used for skimming, laundering of illegal funds and many other activities which are criminal in states, such as Nevada and New Jersey, which maintain State Gaming Commissions to regulate legal gambling. In our state we have the legal gambling without regulation only on Indian reservations.

As predicted, when the Ninth Circuit Court opened the door, these

operators in San Diego County have expanded beyond traditional bingo into other forms of gambling. Last August one of the profit-making companies on a San Diego County reservation began operating a casino-style lounge, featuring variations of illegal blackjack and lotteries. This operation was raided by deputies from my department who seized \$4,400.00 in cash and three truckloads of gambling paraphernalia which looked as though it came from Las Vegas. Twenty-one (21) people were also arrested during the raid and evidence was found indicating that those operators were about to install and start playing illegal variations of roulette and slot machines.

This matter desperately needs the attention of the Legislature to correct the results of the Ninth Circuit Court decision before these operations spread to such places as Palm Springs which is a checkerboard of Indian lands, and non-Indian lands; where some luxury hotels are actually located on Indian land. It doesn't take much imagination, if these profiteers are successful in expanding bingo games just a little bit, to forecast the proliferation of enclaves throughout the state where totally unregulated gambling is different from Las Vegas and New Jersey casinos, only by the fact there's no regulating agency to protect the public.

I believe that this situation can best be corrected by an amendment to Penal Code Section 326.5 which clearly states that bingo in California is prohibited under penalty of criminal sanction and further that the Legislature determines that it is in the public

interest to allow very, very narrow exceptions to that prohibition for charitable and non-profit organizations who may not use outside operators and are very carefully controlled in their operations. That, after all, is the state of the law in every other part of California except Indian reservations.

In the absence of corrective legislation this year, I urge your Committee to convene at least a subcommittee to obtain firsthand knowledge of the potential danger to this state posed by the expansion of a completely unregulated gambling industry which is now operating on some Indian reservations within the state.

Thank you for providing me the opportunity to testify before your Committee on a subject that is of great concern to law enforcement throughout the state. I would be happy to respond to questions.

###

SAN DIEGO COUNTY SHERIFF'S DEPARTMENT
 Statistical Summary of Patrol Workload and Activities
 In Indian Reservation Areas
 For the period of
 (7-1-84 Thru 9-30-84)
 THIRD QUARTER 1984

TABLE 1

Indian Reservation	MB/RD	Calls for Service		Average Response Time		Arrests	
		Priority	Non-Priority	Priority	Non-Priority	Felony	Misdemeanor
PALA	73-11	0	26	0	28.2	1	2
PAUMA	73-12	0	1	0	20	0	0
RINCON	73-06	0	26	0	34.5	2	1
LA JOLLA	73-07	0	14	0	46	0	1
SAN PASQUAL	73-13	0	15	0	58.1	1	1
SANTA YSABEL	70-10	0	3	0	13.7	0	0
LOS COYOTES	70-12	N/A	N/A	N/A	N/A	N/A	N/A
INAJA	70-8	N/A	N/A	N/A	N/A	N/A	N/A
BARONA	45/43	0	10	0	30.1	1	0
CAPTAN GRANDE	43-6 45-44 70-7	N/A	N/A	N/A	N/A	N/A	N/A
VIEJAS	48/47	4	39	17.5	16.7	1	3
SYCUAN	48/45	0	21	0	16.4	1	0
CUYAPAPE	72/18	N/A	N/A	N/A	N/A	N/A	N/A
MANZANITA	72/17	N/A	N/A	N/A	N/A	N/A	N/A
LA POSTA	72-16	0	1	0	30	0	0
CAMPO	72-15	1	8	21	25	2	1
COSMIT	70-09	N/A	N/A	N/A	N/A	N/A	N/A
MESA GRANDE	70-10/11	N/A	N/A	N/A	N/A	N/A	N/A
MISSION RESERVE	73-10	1	24	22	38.4	3	3

N/A = Not Available

STARS - Indicate Sheriff's Facilities
 SQUARES - Indicate Indian Reservations

- | | | |
|-------------------|-------------------|--------------|
| 1 Pala | 7 San Pasqual | 14 Viejas |
| 2 Pauma | 8 Santa Ysabel | 15 Cuyapaipa |
| 3 Mission Reserve | 9 Mesa Grande | 16 Sycuan |
| 4 Rincon | 10 Inaja | 17 La Posta |
| 5 La Jolla | 11 Cosmit | 18 Manzanita |
| 6 Los Coyotes | 12 Barona | 19 Campo |
| | 13 Capitan Grande | 20 Campo |



A-64

SAN DIEGO

TIJUANA

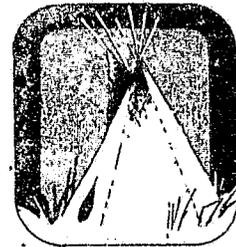
MEXICO

SCALE OF MILES
 10



LOS COYOTES RESERVATION

POST OFFICE BOX 249 • WARNER SPRINGS, CALIFORNIA 92086



May 14, 1984

RECEIVED

FEB 4 1985

Jerome Tomhave
5750 Division ST.
Riverside, Ca 90526

Dear Mr. Tomhave:

I would like to call your attention again to a problem which exists not only on Los Coyotes Reservation, but on reservations throughout California.

Indian reservations have been given the right of self-determination, wherein outside elements may not interfere with reservation affairs. That is all well and good, but the ruling bodies of the reservations have no way to enforce tribal rules or ordinances. The various law enforcement agencies will not process our complaints. Pursuing tribal justice in a court of law is prohibitively expensive. Maintaining a tribal law enforcement force is out of the question where tribal members are elderly, too young or disinclined for such a career, even if tribal funds were to be available to support it. The only recourse would seem to be to fight violence with violence. Neither myself, the law-abiding members of my tribe nor any responsible tribal chairman would countenance such acts.

A certain element on Los Coyotes Reservation has committed various unlawful acts against other tribal members and in contravention of tribal resolutions. Acts of vandalism have been perpetrated such as removing the roof from an occupied home; rustling and killing cattle wantonly; without even taking the meat; shooting at and damaging homes and other outbuildings. Four instances of suspected arson have occurred, one of which resulted in the death of two persons. The BIA and the reservation provided modest housing for some of the victims, but in the last episode on May 11, 1984, the BIA has refused help and the victim is homeless. Other acts against the persons of reservation members have occurred; to include assault with a deadly weapon; attempted battery; interference with other persons' constitutional right to move freely between their homes and outside locations.

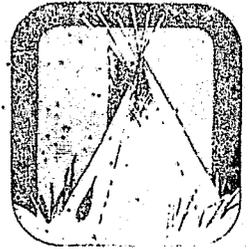
All of the above listed episodes have been reported to the County Sheriff's officers in that area. Absolutely no action has been taken. Consequently, the majority of tribal members are at the mercy of a lawless group which may act with impunity because no official agency will take responsibility for their protection. The reservation must be able to call in federal law enforcement officers since County law enforcement officers refuse to prosecute any reports of violence.

Currently, some reservation members, including myself, are the



LOS COYOTES RESERVATION

POST OFFICE BOX 249 • WARNER SPRINGS, CALIFORNIA 92086



victims of a law suit instituted by a litigious group of persons, some of whom are tribal members, some not. In order to achieve lasting freedom from such persecution, the matter must be resolved by a court of law. There is no reservation money available and the victims of the suit cannot afford attorneys' fees. Therefore, I wish to demand help from the BIA, to include attorneys' fees and assistance from the U. S. Attorney's office.

Self-determination can only become a reality when the duly elected tribal bodies have some means of enforcing tribal law. Without that, self-determination may well become self-destruction.

Yours truly,

Banning Taylor, Spokesman
Los Coyotes Band of Mission Indians

(619) 782-8269



LOS COYOTES RESERVATION

POST OFFICE BOX 249 • WARNER SPRINGS, CALIFORNIA 92086



May 14, 1984

Sheriff John Duffy
222 West C
San Diego, Ca 92102

Dear Sheriff Duffy:

It is possible, in an organization as large as the County Sheriff's Department, that certain deficiencies in the work of local officers might not come to your attention.

In the past ten years, reports have been made repeatedly to sheriff's deputies serving Warner Springs and Julian. The most recent examples are the slaughter of three head of cattle on Warner's Ranch. I reported the crime and gave the officer the name of one of the perpetrators. There were two witnesses. That occurred on April 1, 1984. The officer claimed he investigated the matter, but that he needed to wait for more information. Nothing further has been done. The second of these episodes happened about a month ago. A roof was removed from an occupied home on the reservation. The officer did come up to view the premises, but later would not even confirm that he saw the house without the roof. It was almost as if he were protecting the culprit(s) from prosecution.

These are but two of the most recent cases. The enclosed letter contains a more complete list.

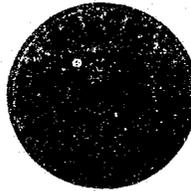
The law abiding majority of the reservation needs protection. Your officers are there for that purpose. I ask that you investigate the apparent indifference of your men and take steps to correct it. When reports of crime are made to your deputies, they must take the correct steps to arrest the criminals.

Sincerely,

Banning Taylor
A-67

Banning Taylor, Spokesman, Los Coyotes Band of Mission Indians

ROBERTO A. de GRASSI
AGRICULTURAL COMMISSIONER



UKIAH SHELTER
PLANT ROAD
468-4427

FORT BRAGG SHELTER
SOMMERS LANE
964-2718

COUNTY OF MENDOCINO
DEPARTMENT OF AGRICULTURE
Division of Animal Control
COURTHOUSE
UKIAH, CALIFORNIA 95482

January 16, 1985

RECEIVED

JAN 22 1985

Senator Barry Keene
California Legislature
Senate Committee on Judiciary
State Capitol
Room 2187
Sacramento, California 95814

Dear Senator Keene:

In lieu of my presenting verbal testimony on behalf of Mendocino County livestock owners and citizens at the Committee hearing on problems of law enforcement on Indian lands, I respectfully submit the enclosed accumulation of four years of correspondence to be made a part of the final record addressing our concerns with issues of law enforcement on various Indian reservations and rancherias in Mendocino County.

Probably the most frustrating and vexing aspect of this matter is the failure of the Indian community to enter into any discussions respecting the problems of law enforcement on Indian lands, even informally, and consequently, resolution of these problems has become virtually impossible.

The context of the attached letters and memoranda addresses specifically the Committee hearing subject matter regarding domestic animal control enforcement on Indian lands.

I would appreciate a copy of the final transcript covering the testimony presented at this Committee hearing. Thanking you in advance, I remain,

Sincerely,

Roberto A. de Grassi

MENDOCINO COUNTY

Memorandum

TO: Peter H. Klein, County Counsel

FROM: Roberto A. de Grassi, Agricultural Commissioner

SUBJECT: Clarification on Enforcement of State/County Dog Control
Laws as Applicable to Mendocino County Indian Lands
(Rancherias and Reservations)

DATE: 1/3/85

We are in need of legal clarification of the Division of Animal Control's jurisdiction, right and ability to enforce State and County laws and regulations on the numerous Indian rancherias and reservation lands throughout Mendocino County. To further compound this problem, there is the patchwork of numerous private ownerships of non-Indian owned land located within these rancherias and reservations. Understandably, the enforcement of State and County laws within and on these lands, as well as against Indian citizens is virtually impossible, if not wholly confusing.

Under Penal Code Section 491 dogs are considered personal property. All dogs are required to be licensed in Mendocino County (County Ordinance Title 10).

Mendocino County has been declared and is a rabies endemic area. Therefore, by State Health and Safety Code 1901.2 and 1920, all dogs over four months of age must be vaccinated against rabies. Animals found in violation shall be impounded, as also may be the case with dogs found running at large (Food and Agriculture Code Sections 30955 and 31101).

Currently there is a very serious and continuous dog depredation problem at the U.C. Hopland Field Station where they have suffered heavy loss and injury of some 75 head of sheep. Not only has the Field Station lost many thousands of dollars, but their valuable research project studies have been delayed and impaired so substantially, that it will require many years to recover, if ever.

Unlicensed and unvaccinated (for rabies) identifiable dogs (possibly Indian-owned) are causing a problem at the Hopland Indian Reservation. Some

Memorandum to Peter H. Klein

Subject: Clarification on Enforcement of State/County
Dog Control Laws as Applicable to Mendocino County Indian
Lands (Rancherias and Reservations)

January 3, 1985

Page Two

of the predacious dogs have been shot and killed while caught in the act and unfortunately, too many others have and are eluding capture or destruction by withdrawing to the "protection" and "Safety" of the Indian lands, only to return at another inappropriate time to further their predacious acts. Without the ability to fully use and employ all control measures available by law, any relief will be very long in coming.

On other rancherias and reservations, we are experiencing another type of jurisdictional situation regarding the "Indian-owned", licensed or unlicensed dogs biting on occasions non-Indians (County Sheriff deputies) and the County's Division of Animal Control and Health Department personnel's apparent inability to legally impound, seize or quarantine the errant biting animal. This latter type of situation can and does have very serious ramifications in that the bite victim(s) would be compelled to go through a series of very painful rabies treatments unless there is verified proof that the biting animal has had a current rabies vaccination and it is kept under an enforced quarantine for the prescribed period of time. Our past and present efforts to resolve these two types of situations has stalemated.

Efforts thus far to maintain an open line of communication and cooperation has been to no avail. Unfortunately, there seems to be a road block of infringement and protection of Indian property rights (i.e. dogs are property), as well as right of legal trespass in pursuit of dogs and their owners found in violation of the animal control laws which are for the protection of all citizens of Mendocino County. Some sort of resolution with the Indian community

RANCHERIAS OR INDIAN LAND

1. Redwood Valley Indian Rancheria
2. Pinoleville Indian Rancheria
3. Sherwood Indian Rancheria
4. Hopland Indian Rancheria
5. Manchester Indian Rancheria
6. Point Arena Indian Rancheria
7. Laytonville Indian Rancheria
8. Potter Valley Indian Rancheria
9. Guideville Indian Rancheria
10. Round Valley Indian Reservation

LAW OFFICES OF
CALIFORNIA INDIAN LEGAL SERVICES

P. O. Box 488
200 West Henry Street
Ukiah, California 95482
707-462-3825

ATTORNEYS
David J. Rapport
Charles Scott, Jr.

MAIN OFFICE
1736 Franklin
Oakland, California
415-835-0284

ester J. Marston

March 20, 1980

Mr. Andy de Grassi
Assistant Director
County Department of Agriculture
579 Low Gap Road
Ukiah, California 95482

Dear Mr. de Grassi:

This office has received several calls recently from members of the Covelo Indian Community on the Round Valley Indian Reservation, complaining that they have been cited for violating the county leash law.

One such caller was cited for 3 dogs, only one of which she owned. She is a member of the Covelo Indian Community and lives on a tribal land assignment.

The Round Valley Reservation is an Executive Order Indian Reservation and has a constitution and by-laws adopted under the Indian Reorganization Act. (Act of 1934, 25 U.S.C. §461-478 (1970).). Title to reservation land assigned to tribal members is held by the United States government in trust.

The reservation is "Indian Country" within the meaning of 18 U.S.C. §1151. That federal statute defines those areas which are under the exclusive jurisdiction of the United States or Indian tribes and in which the states do not exercise any jurisdiction.

As you may be aware Congress passed a law in 1953 (P.L. 83-280, 28 U.S.C. §1162) which conferred "civil jurisdiction" within Indian Country on the State of California

as to those "civil laws of [the] State . . . that are of general application . . . within the state . . ." (Id.)

However, in Santa Rosa Band of Indians v. Kings County (9th Cir. 1975) 532 F. 2d 655, the federal court of appeal in San Francisco held that county ordinances such as this county's leash law or dog licensing law are not civil laws of the state of general application and, therefore, do not apply within Indian Country.

Under this case the county's leash law does not apply on the Round Valley Reservation.

In fact even if the law were a state law of general application it is clear after Bryan v. Itasca County (1976) 426 U.S. 373, 48 L. Ed. 2d 710 at 719 that "civil regulatory laws" of the state do not apply under PL 280 within Indian Country, because the grant of civil jurisdiction contained in PL 280 is limited to private civil controversies arising between individuals on a reservation and does not include the state's sovereign civil authority to regulate land use, to grant franchises, to tax, etc.. In other words, state courts have jurisdiction on the reservation to resolve private disputes between individuals, but state or county agencies lack jurisdiction to regulate the conduct of individual Indians residing on the reservation or the tribal government itself.

The United States Supreme Court explained this distinction as follows:

"Piecing together as best we can the sparse legislative history of §4, subsection (a) [of PL 280] seems to have been primarily intended to redress the lack of adequate Indian forums for resolving private legal disputes between reservation Indians, and between Indians and other private citizens, by permitting the courts of the States to decide such disputes; this is definitely the import of the statutory wording conferring upon a State jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in . . . Indian country . . . to the same extent that such State . . . has jurisdiction over other civil

causes of action. With this as the primary focus of §4(a), the wording that follows in §4(a)- "and those civil laws of such State . . . that are of general application to private persons or private property shall have the same force and effect within such Indian country as they have elsewhere within the State" -- authorizes application by the state courts of their rules of decision to decide such disputes Cf. 28 USC §1652 [28 USCS §1652]. This construction finds support in the consistent and uncontradicted references in the legislative history to "permitting" "State courts to adjudicate civil controversies" arising on Indian reservations, HR Rep No. 848, pp 5, 6 (emphasis added), and the absence of anything remotely resembling an intention to confer general state civil regulatory control over Indian reservations.

"10. Cf. Israel & Smithson, supra, n 8, at 296:
'A fair reading of these two clauses suggests that Congress never intended 'civil laws' to mean the entire array of state noncriminal laws, but rather that Congress intended 'civil laws' to mean those laws which have to do with private rights and status. Therefore, 'civil laws . . . of general application to private persons or private property' would include the laws of contract, tort, marriage, divorce, insanity, descent, etc., but would not include laws declaring or implementing the states' sovereign powers, such as the power to tax, grant franchises, etc. These are not within the fair meaning of 'private' laws." (Id.)

For a more thorough discussion see two law review articles:
Goldberg, Public Law 280: The Limits of State Jurisdiction

Mr. Andy de Grassi
Assistant Director

March 20, 1980
Page 4

over Reservation Indians, 22 U.C.L.A. L. Rev. 535 (1975) and Note, the Extension of County Jurisdiction over Indian Reservations in California and the Ninth Circuit, 25 Hastings L.J. 1451 (1974).

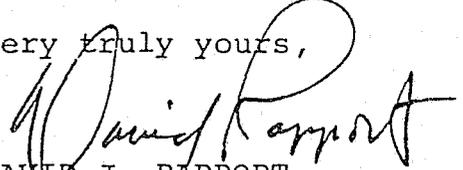
Accordingly, we would request that your department instruct its animal control personnel that they do not have jurisdiction to cite members of the Covelo Indian community who reside on the reservation for violating the county ordinance requiring persons to license or control their animals, where violations occur within the exterior boundaries of the reservation.

Since those persons who called this office have been cited to appear in the Round Valley Justice Court and will face some sort of hearing on those citations soon, we would appreciate a written response to this request as soon as possible and no later than March 28.

I apologize for the short notice but I only learned of this problem yesterday.

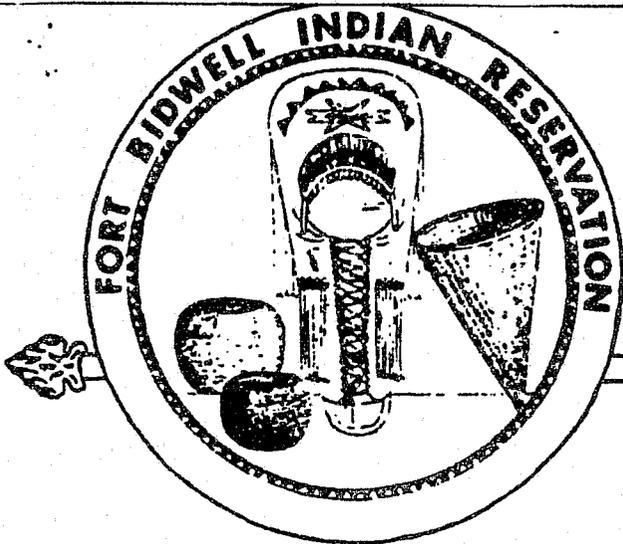
Thank you for your attention.

Very truly yours,


DAVID J. RAPPORT
Directing Attorney

DJR/gl

cc: County Counsel

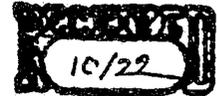


FORT BIDWELL INDIAN COMMUNITY COUNCIL
P.O. BOX 127
FORT BIDWELL, CA 96112

PHONE 916-279-6310/2233

Established January 28, 1936 under the I.R.A. of June 18, 1934

October 15, 1984



The Honorable Willie L. Brown, Jr.
Speaker of the Assembly
California Legislature
State Capitol Building, Room 219
Sacramento, California 95814

Dear Mr. Brown:

The Fort Bidwell Indian Community Council requests your support in resolving law enforcement problems on our reservation. As a federally recognized tribe, we want you to know that Public Law 280 has not helped us deal with law and order problems on the Fort Bidwell Indian Reservation. Consequently, we are asking that the state request retrocession of Public Law 280. We would like the Bureau of Indian Affairs to provide us with funding to establish a reservation-based law enforcement program.

Modoc County is unable to provide adequate law enforcement for our community. However, they are in support of our effort to resume responsibility over law enforcement matters on the reservation. At this time, Modoc County is willing to provide matching funds to create a law enforcement program in our community.

We urge you to support any effort that will assist our tribe to receive funding for law enforcement on the Fort Bidwell Indian Reservation. We urge you to support our request to return the responsibility back to the Federal Government.

Sincerely,

Ralph DeGarmo
Vice-Chairman
Fort Bidwell Indian Community Council

cc: Ed Tabor, Indian Justice Liaison
California Council of Governments



TULE RIVER TRIBAL COUNCIL

TULE RIVER INDIAN RESERVATION

September 16, 1984

The Honorable Willie L. Brown, Jr.
California State Assembly
Speaker of the Assembly
State Capitol Building, Room 219
Sacramento, California 95814

Attention: Karen Sonoda

This letter is to show my support of Mr Edward W Tabor's letter to you of September 13, 1984. I also agree with his problem statement and hopefully, through the efforts of your office, State funds will become available through legislation for reservation "Indian Justice Program".

Should you require further information from this reservation, please do not hesitate to call or write.

Sincerely,



Alec Garfield
Tribal Administrator

AG:jm



SUSANVILLE INDIAN RANCHERIA

Susanville Indian Rancheria
Drawer "U"
Susanville, CA 96130
(915) 257-6264

October 1, 1984

The Honorable Willie Brown, Jr.
Speaker of Assembly
California State Legislature
Capitol Building, Room 219
Sacramento, CA 95814

Dear Mr. Brown,

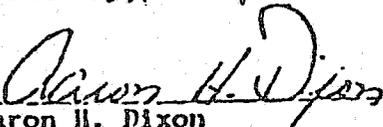
This letter is to inform you of our support for legislation as proposed by the California Council of Tribal Governments, a Federally Chartered Indian Consortium.

In 1953, Public Law 83-280 was enacted which transferred civil and criminal jurisdiction over reservations from the federal government to several states, which included California. During the past ten years, California Indian Tribes have experienced a wide range of problems relative to criminal justice and have received no assistance from the state agencies.

We are therefore requesting legislation to either provide special funding for reservation programs, or return this responsibility back to the federal government.

The State of California must recognize and respect the sovereignty of Indian tribes and the unique relationship which exists between Indian tribes and the Federal Government.

Sincerely,


Aaron H. Dixon
Susanville Indian Rancheria
Tribal Chairman

TRIBAL COUNCIL OFFICE
POST OFFICE BOX 448
COVELO, CALIFORNIA 95428
PHONE: 707 983-8126



LOCATION: ON STATE HWY 162.
ONE MILE NORTH OF COVELO
IN ROUND VALLEY
TRIBAL TERRITORY SINCE TIME BEGAN

COVELO INDIAN COMMUNITY

A Sovereign Nation of Confederated Tribes

ROUND VALLEY RESERVATION ESTABLISHED 1856

THE HONORABLE WILLIE L. BROWN, JR.
SPEAKER OF THE ASSEMBLY
CALIFORNIA LEGISLATURE
STATE CAPITAL BUILDING, RM. 219
SACRAMENTO, CA 95814

SEPTEMBER 7, 1984

Dear Mr. Brown,

This letter is to inform you of our support for legislation as proposed by Edward W Tabor Indian Justice Liaison California Council Of Tribal Governments.

Over the years we have had great difficulty in working with local and state justice agencies in resolving reservation justice problems.

It has reached a point where the State of California must either provide funding for more adequate law enforcement and youth related programs or return the responsibility back to the Federal Government.

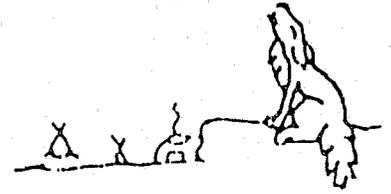
Sincerely,

Doran Lincoln
Chairman
Covelo Ind. Comm. C

REDWOOD VALLEY, CALIFORNIA 95470-0019

(707) 465-0121

November 8, 1984



ADMINISTRATOR
P.O. Box 1114
Redwood Valley, CA 95470
Telephone: (707) 465-0121
Fax: (707) 465-0122

Honorable Willie Brown Jr.
Speaker Of Assembly
California State Legislature
Capitol Building, Room 219
Sacramento, California 95814

Dear Mr. Brown,

This letter is to inform you of our support for the California Legislature to immediately provide a set-a- side for justice programs on Indian reservations.

The Coyote Valley Reservation is in the process of establishing tribal ordinances for the protection of our natural resources, as well as all criminal codes on the reservation. We have experienced numerous justice problems over the years without any form of relief. It is essential that Indian tribes have control, and feel secure with the reservation law enforcement, and with the individual responsible for enforcing these laws.

In addition to our law enforcement problem we are in desperate need of youth related programs to work with the justice systems, and prevention programs for high risk youth. (Which would include recreation needs).

The Sheriff of Mendocino County, Mr. Tim Shea, has expressed a sincere desire to work closely with Indian reservations. However, with his limited staff he is unable to provide adequate service for the reservations.

We are therefore requesting the State of California to either fulfill these responsibilities, or return the responsibility to the federal government.

The State of California must recognize and-respect the sovereignty of Indian tribes and the unique relationships which exist between Indian tribes and the Federal Government.

Sincerely,
Doris Renick
Doris Renick

cc Senator Barry Keene
cc Edward W. Tabor

SHERIFF-CORONER
COUNTY
OF
MENDOCINO



TIM SHEA
SHERIFF-CORONER
261 Low Gap Rd
Union CA 95482
(707) 466-4411

October 9, 1984

Mr. Edward Tabor
Indian Justice Liaison
California Council of Tribal Governments

Dear Mr. Tabor:

I appreciate the opportunity to have met with you to discuss the problems and concerns of the Round Valley Indian Reservation regarding law enforcement, as well as your understanding of the problems we face in providing adequate services in a county of this size in consideration of our limited staff and budget.

As we discussed, the Sheriff's Department is very concerned about the problems and is committed to improving relations with the Indian community.

I believe a mutual agreement of cooperation between the tribal government and the county justice system would be both beneficial and respectful in consideration of the unique relationship which has historically existed between Indian tribes and the federal government and the sovereignty Indian tribes possess.

Additionally, it is important for the state of California to recognize justice problems on reservations and the inability of county governments to provide special funding for needed positions and/or programs for Indian reservation residents.

Hopefully, the day will come when individual tribes will be permitted to receive funding for criminal justice programs. This, however, will probably require a special pot of money specifically designated for the Indian tribes.

Please be assured of my continued support and cooperation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tim Shea".

TIM SHEA
Sheriff - Coroner

TS:ch

County of Tulare



OFFICE OF
BOB WILEY
SHERIFF-CORONER

TELEPHONE (209) 733-0210
COUNTY CIVIC CENTER
VISALIA, CALIFORNIA 93291

October 22, 1984

Mr. Edward Tabor
Indian Justice Liaison
California Council of
Tribal Governments
Post Office Drawer 699
Central Valley, CA 96019

Dear Mr. Tabor:

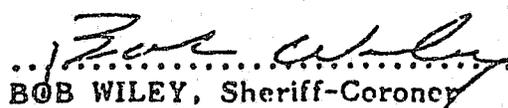
As you know, we have been working with the Tribal Council of the Tule River Indian Reservation for a number of years in an effort to enhance law enforcement services on the reservation. We've had four opportunities in the recent past to agree in principle with the Tribal Council on entering into a cooperative agreement to provide direct enforcement and crime prevention services. The absence of a separate and reliable funding source has prevented us from accomplishing our mutual objective.

It is important that the State of California recognize that criminal justice problems on Indian lands are a responsibility of the State. County governments are unable to provide the necessary funds for the unique problems which exist on our Indian reservations. It is also important that the State recognize that Tribal governments should have the authority to enact and enforce, (through contractual agreements), certain local ordinances which protect the natural resources on their reservations.

I am convinced that a mutual agreement between the Tribal Council and the County, backed by State funding, will serve to benefit all residents and visitors to our County.

You may count on my support for your efforts in this regard.

Yours truly,


.....
BOB WILEY, Sheriff-Coroner

BW:cp

County of Tulare



PROBATION DEPARTMENT

JOSEPH C. JIMENEZ
Chief County Probation Officer

EDWARD F. PARTON
Assistant Chief County
Probation Officer

October 23, 1984

Mr. Edward Tabor
Indian Justice Liaison
California Council of Tribal Governments

Dear Mr. Tabor:

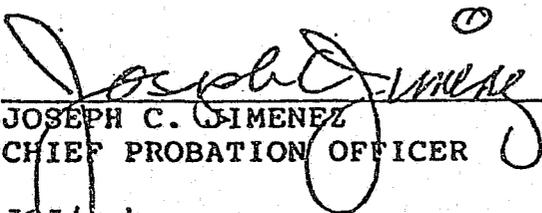
For sometime the Tulare County Probation Department has recognized the fact that the residents of the Tule Indian Reservation, particularly its youth, have needed specialized attention from the Criminal Justice System. The citizens of Tulare County have been most fortunate, by living in close proximity to the urban cities of Visalia, Porterville and Tulare, to enjoy the many resources in the Human Services System has to offer.

The citizens living in the Tule Indian Reservation do not have this advantage and consequently have suffered. These citizens deserve equal attention and it is for the reason that the Probation Department is in full support of your efforts to gain funding for law enforcement/corrections type services for the Reservation.

An additional factor which I consider quite important is that the State of California recognize the justice problems on the Reservation and that it is virtually impossible for County Government to provide specific funding for Probation Officer positions to service Indian Reservation residents.

Please be assured of my continued support and cooperation.

Sincerely,


JOSEPH C. JIMENEZ
CHIEF PROBATION OFFICER

JCJ/gpk

cc: Senator Barry Keene, Chairman, Senate Committee on Judicial

ADMINISTRATION
Room 206, Courthouse
Visalia, CA 93291
(209) 733-6207

PROBATION ACCOUNTING
SERVICES
Room 206, Courthouse
Visalia, CA 93291
(209) 733-6335

PROBATION CENTER
200 N. W. 3rd Avenue
Visalia, CA 93291
Adult & Juvenile
(209) 733-6547

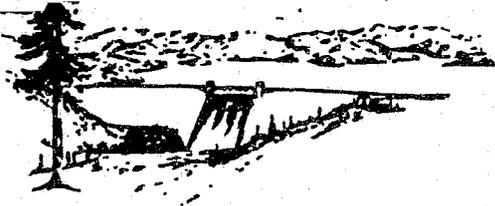
PORTERVILLE OFFICE
87 E. Morton
Porterville, CA 93257
Adult & Juvenile
(209) 781-4185

TULARE OFFICE
425 East Kern Avenue
Tulare, CA 93274
Adult & Juvenile
(209) 888-2824

GLENN L. MORAN HALL
310 N. W. 3rd Avenue
Visalia, CA 93291
Juvenile
(209) 734-8219

ROBERT K. MEYERS
YOUTH CENTER
16000 Road 112
Visalia, CA 93291
Juvenile
(209) 733-0295

SHASTA COUNTY JUVENILE JUSTICE AND DELINQUENCY PREVENTION COMMISSION



SHASTA COUNTY COURTHOUSE
1545 West Street
Redding, California 96001
Telephone 246-5681

RECEIVED

NOV 21 1984

November 19, 1984

Senator Barry Keene
Chairman of the Senate Committee on Judiciary
State Capitol
Sacramento, CA 95814

This commission at our last meeting moved as follows:

"The Shasta County JJDP Commission acknowledges the recognized justice problems among California Indian Tribes. Our commission recommends that the State of California seriously commit itself to providing whatever assistance is necessary to assure California Indian Tribes financial assistance for criminal justice programs."

Cloyce K. Avey

Cloyce K. Avey, Chairman

Copy to Assembly Speaker Willie Brown

Minutes
JJDP Commission Meeting
Victim/Witness Office
October 31, 1984

Members Present:

Cloyce Avey, Chairman
Florence Kehoe
Gloria Lopez
Ruth Moore
Patricia Yarbrough
Diane Gerard, Vice Chairman
Ed Tabor
Gail Fineberg

Others Present:

Robert O. Widoie, Juvenile Hall Superintendent
Yetta M. Alexander, Secretary

The meeting was called to order at 12:15 noon by Chairman, Cloyce Avey.

I. Minutes of September 25th Meeting.

Ruth made the motion that the minutes of the last JJDP Commission Meeting be approved. Diane seconded the motion. Motion passed.

II. & III. Report of Communications and Followup on Juvenile Hall Inspection on October 2.

Cloyce reported he received a letter from the Youth Authority regarding their inspection of Juvenile Hall

Bob stated the hall was graded as being recertified and found to be in compliance. At this time, the Corrective Action Plan has been shelved due to the low population at the hall. Bob said they will get back and review the situation if needed.

The committee on guidelines for inspecting the Juvenile Hall has not completed the guidelines as yet. Diane and Pat will help Gail complete them. Gail stated Mary Bibbey feels that programs for the hall are certainly one area the commission should take the responsibility to look at.

Cloyce will write a letter to the Youth Authority regarding the commission's inspection of the Juvenile Hall, also stating the guidelines will follow.

It has come to Gail's attention that one or more attempted suicides at Juvenile Hall have pointed to the need for changes and the wire meshing over the lights. Gail wondered if a smaller mesh might be better. Bob said he would check and see what could be done.

JJDP Commission
October 31, 1984
Page 3

Ed went on to explain that, under Public Law 93-280, the State of California has the responsibility for Indian Reservations. He says it is inappropriate for Indi to expect to obtain money from County Governments. The counties just don't have the money.

Gail made the motion that the commission send the following resolution to Willie Brown of the Assembly and Barry Keene, Chairman of the Senate Committee on Judiciary. "The Shasta County JJDP Commission acknowledges the recognized justice problems among California Indian Tribes. Our commission recommends that the State of California seriously commit itself to providing whatever assistance is necessary to assure California Indian Tribes financial assistance for criminal justice programs."

Ruth seconded the motion. Motion passed.

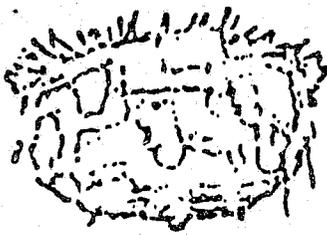
The meeting was adjourned at 2:00 p.m.

Respectfully submitted,

Yetta M. Alexander
Yetta M. Alexander, Secretary

APPROVED:

Cloyce Avey
Cloyce Avey, Chairman
JJDP Commission



Robinson Rancheria Citizens Council

2000 Marconi Avenue, Suite A-2
Sacramento, California 95821
Phone (916) 922-4536 or 922-4537

September 19, 1984

The Honorable Willie L. Brown, Jr.
Speaker of the Assembly
California Legislative
State Capitol Building, Room 219
Sacramento, California 95814

Attention: Karen Sonoda

Dear Ms. Sonoda:

This letter is to inform you of our support for legislation as proposed by Mr. Edward W. Tabor, Indian Justice Liaison, California Council of Tribal Governments.

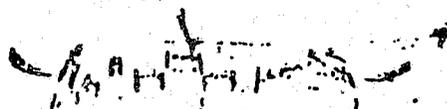
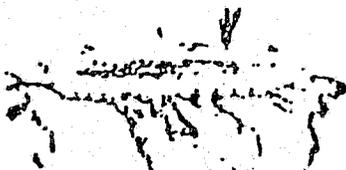
Our needs are great for reservation justice programs, but we have received no help from state agencies over the years.

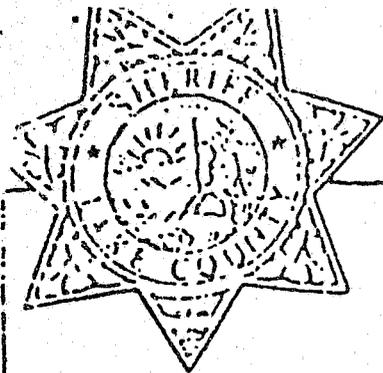
In consideration of Public Law 83-280, the State must either fulfill their responsibility by providing financial assistance, or transfer the responsibility back to the federal government.

Sincerely yours,

Bernadine Tripp
Tribal Chairperson

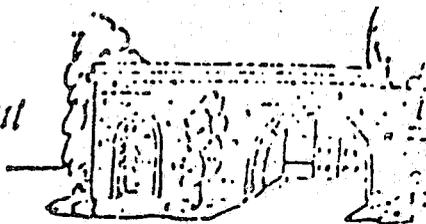
BT:rh





Lake County Sheriff's Department

375 Third Street
Lakeport, California 95453
707-263-2330



October 1, 1981

Edward W. Tabor
Indian Justice Liaison
California Council of Tribal Governments
1372A S. State Street
Ukiah, California 95482

Dear Ed:

What a pleasure to talk with someone who understands the plight of our local Indians. The lack of communication with the Indian leaders today shows to me the further separation of the Indian people with the criminal justice and delinquency programs.

I firmly believe either the State or Federal Government should fund the programs necessary to maintain the dignity and heritage of the Indian. I know of no agencies in this County that fund Indian programs on a regular basis. Given the option of funding programs for the Indians or some other non-profit group, I find the Board of Supervisors would opt for the other group, feeling the Indians would receive grants from other sources.

I feel the Federal Government should fund the Indian programs to meet the needs of the Indians in regards to the justice and delinquency programs so they could better cope with the problems they face in the community.

Sincerely,


R. R. Benevedes, Sheriff

tkf



COUNTY OF LAKE

Probation Department

1111 Whinn Way
Lakeport, California 95453
Telephone (707) 263-2361

BERTIL H. HOOVER II
Probation Officer

October 9, 1984

Edward Tabor
Indian Justice Liaison
P.O. Box 699
Central Valley, California 96019

Dear Mr. Tabor:

This letter is to inform you of a recognized need for youth related programs for reservations and rancherias in Lake County.

Over the years, we have been approached by tribal leaders seeking our assistance in addressing wide range youth problems. Unfortunately, we have been unsuccessful in communicating with the Indian youth, and have been unable to provide funding for needed reservation programs because of fiscal constraints.

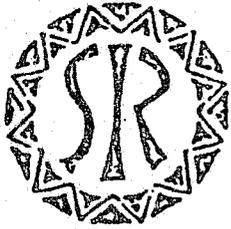
It is extremely important for the State of California to recognize reservation justice problems and to begin providing reservations with financial assistance.

Additionally, I would definitely be interested in working out a mutual agreement of cooperation with the rancherias in Lake County.

Very truly yours,



BERTIL H. HOOVER
Chief Probation Officer



SUSANVILLE INDIAN RANCHERIA

Susanville Indian Rancheria
Drawer "U"
Susanville, CA 96130
(916) 257-6264

October 1, 1984

The Honorable Willie Brown, Jr.
Speaker of Assembly
California State Legislature
Capitol Building, Room 219
Sacramento, CA 95814

Dear Mr. Brown,

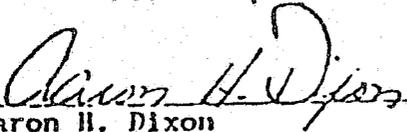
This letter is to inform you of our support for legislation as proposed by the California Council of Tribal Governments, a Federally Chartered Indian Consortium.

In 1953, Public Law 83-280 was enacted which transferred civil and criminal jurisdiction over reservations from the federal government to several states, which included California. During the past ten years, California Indian Tribes have experienced a wide range of problems relative to criminal justice and have received no assistance from the state agencies.

We are therefore requesting legislation to either provide special funding for reservation programs, or return this responsibility back to the federal government.

The State of California must recognize and respect the sovereignty of Indian tribes and the unique relationship which exists between Indian tribes and the Federal Government.

Sincerely,


Aaron H. Dixon
Susanville Indian Rancheria
Tribal Chairman

MODOC COUNTY PROBATION DEPARTMENT

201 S. Court Street - Alturas, California 96101
Phone (916) 233-3716

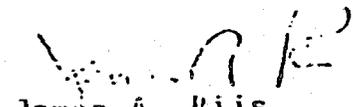
September 19, 1984

TO WHOM IT MAY CONCERN:

In response to an expressed need of the Northern California Training Officers Association, a coalition of 31 corrections and probation departments, the Modoc County Indian Health Project, Incorporated and the Modoc County Probation Department are designing an 8 hour class on Native American Culture to be submitted for certification by the Board of Corrections.

This informative and practical class is an attempt to assist caseworkers who have expressed a persisting frustration in understanding and working effectively within the Indian Community.

Respectfully,


James A. Biis
Assistant Probation Officer
Modoc County

JAR:jcm

MODOC COUNTY PROBATION DEPARTMENT

201 S. Court Street - Alturas, California 96101

Phone (916) 233 3716

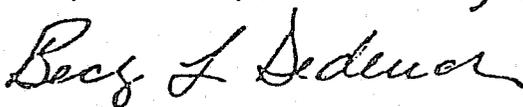
September 6, 1984

TO WHOM IT MAY CONCERN:

I have recently met with Ed Labor of the California Council of Tribal Governments to learn about his proposal concerning the development of a mutual agreement of cooperation between local county justice agencies and the Fort Bidwell Indian Reservation in matters pertaining to criminal justice.

I take this opportunity to express our support and cooperation in endeavors designed to enhance effectiveness and efficiency in probation related matters on the reservation.

Respectfully,



(Mrs.) Becky L. Dederick
Chief Probation Officer
Modoc County

BLD:jcm

JAMES J. KOLESAR
Chief Probation Officer



R.G. McALISTER
Adult Supervising
Deputy Probation Officer

GUY A. BISHOP
Juvenile Supervising
Deputy Probation Officer

**COUNTY OF MENDOCINO
PROBATION DEPARTMENT**

Post Office Box 303
Ukiah, California 95482

October 23, 1984

Mr. Edward Tabor
Indian Justice Liaison
California Council of Tribal Governments
1372A South State Street
Ukiah, CA 95482

Dear Mr. Tabor:

Since our brief meeting of last week, I have learned a little more about Public Law #83-280. It is, indeed, unfortunate that P. L. #280 lacked financial support for criminal justice programs.

I believe your pursuit of state funds to conduct a needs assessment is a good beginning and you may be assured of my cooperation.

Yours Truly Yours,

James J. Kolesar
Chief Probation Officer

JJK:rh
cc: file

A-93

Juvenile Division
□ 585 Low Gap Road
Ukiah, CA 95482
(707) 463-4274

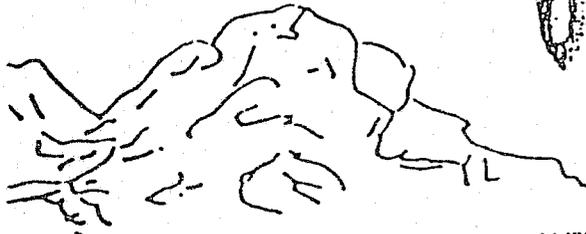
Adult Division
□ 589 Low Gap Road
Ukiah, CA 95482
(707) 463-4271

Coastal Office
□ 363 North Main Street
Ft. Bragg, CA 95437
(707) 964-6975

PIT RIVER TRIBAL COUNCIL,
POST OFFICE DRAWER 1570
SUNNEY, CALIFORNIA 96013

(916) 335-5421
335-5422
or
ICW - 335-5423

TRIBAL CHAIRMAN
CLIFFORD MONTGOMERY
TRIBAL SECRETARY
DORIS QUINN



ELEVEN AUTONOMOUS BANDS

October 1, 1984

The Honorable Willie Brown, Jr.
Speaker of Assembly
California State Legislature
Capitol Building, Room 219
Sacramento, California 95814

Dear Mr. Brown:

This letter is to inform you of our support for legislation as proposed by the California Council of Tribal Governments, a Federally Chartered Indian Consortium.

In 1953, Public Law 83-280 was enacted which transferred civil and criminal jurisdiction over reservations from the federal government to several states, which included California. During the past ten years, California Indian Tribes have experienced a wide range of problems relative to criminal justice and have received no assistance from the state justice agencies.

We are therefore requesting legislation to either provide special funding for reservation programs, or return this responsibility back to the Federal Government.

The State of California must recognize and respect the sovereignty of Indian tribes and the unique relationship which exists between Indian tribes and the Federal Government.

Sincerely,

Clifford Montgomery, Chairman
Pit River Tribe

cc: file

CM:rl

KOSALEWONNI
TUNWONNI
APORRE
AMWASINI
HAWWANI
TIRAWAWI
MAEESI

TRIBAL COUNCIL OFFICE
POST OFFICE BOX 448
COVELO, CALIFORNIA 95428
PHONE: 707 983-6128



LOCATION: ON STATE HWY 162,
ONE MILE NORTH OF COVELO
IN ROUND VALLEY
TRIBAL TERRITORY SINCE TIME BEGAN

COVELO INDIAN COMMUNITY

A Sovereign Nation of Confederated Tribes

ROUND VALLEY RESERVATION ESTABLISHED 1856

October 16, 1984

Tim Shea, Sheriff
County of Mendocino
951 Low Gap Road
Ukiah, California 95482

Dear Sheriff Shea:

We are very pleased to hear of your concern for our community and the interest you have expressed to Mr. Edward Tabor in establishing a mutual agreement of cooperation with our reservation regarding criminal justice.

It is our understanding your department has expressed the need for the community to better understand the responsibilities and procedures of the sheriff's department. We also feel this is very important.

At the same time, it is important for you to understand the problems our community experienced with David Houts, past resident deputy sheriff in Covelo. Mr. Houts did more to alienate the Indian community with his prejudice attitude than to properly serve your department. On several occasions, Mr. Houts caused such anger within the Indian community, a killing could have easily taken place. Had this happened, our community would have been the one to suffer since Mr. Houts wore the badge.

In order for relations to improve, it is essential the resident deputy sheriff have a positive attitude toward our community.

We could not and would not tolerate David Houts returning as resident deputy sheriff, or anyone with a similar attitude.

Again, we look forward to working with your department and hope we have not offended or embarrassed you with our sincerity.

Sincerely,


Doran Lincoln, President
Covelo Indian Community Council

DL:mf