

California State Sheriffs' Association
Tribal Affairs Subcommittee
San Diego County Sheriff Bill Kolender, Chairman
April 8, 2001

Position Paper: Law Enforcement in Tribal Country

PREAMBLE:

The CSSA recognizes and respects the sovereignty of the 108 federally recognized Indian Tribes in the State of California. In addition, the CSSA recognizes the rights of all citizens in the Great State of California to equal protection and service under the law. The sheriffs of the CSSA are committed to working with all citizens and visitors in California's counties to ensure their rights to peace, safety and tranquility.

POSITION:

The CSSA encourages all local governments and tribal governments in California seeking enhanced law enforcement services, to consult and work with their local sheriff to form partnerships to effectively and efficiently provide the needed services.

History has demonstrated that effective local law enforcement is accomplished by police agencies and sheriffs' departments developing and maintaining partnerships with the communities they serve; indeed the community is recognized as the first line of defense in controlling crime and reducing the fear of becoming crime victims. In areas where population and resources are scarce, law enforcement agencies have struggled to provide adequate levels of service. As a proactive response to such conditions, sheriffs have entered into specific contracts and cooperative agreements (i.e., with cities, special improvement districts, Indian tribes, etc.), to provide and enhance law enforcement services. Contracting has proven to be an effective and efficient method of providing low-cost, high-quality, law enforcement services, while at the same time shielding the recipient entities from the costly liability associated with these services.

SB 911 currently contains several problematic provisions, including:

- **Retrocession** -- We respectfully suggest by dealing with this matter in SB 911, we are mixing two huge and complicated legal issues – only tangentially related – in one bill. If the goal of this measure is to encourage or provide a mechanism for retrocession, then we suggest addressing matters such as contracting, deputization and other law enforcement related matters in this bill may be a mute point. We would like any reference to retrocession removed from this bill;
- **Fiscal impact on POST**-- This measure stands to be a tremendous drain on POST resources. Given that the bill does not currently contain funding for POST to either develop or administer training, we are concerned that the measure could represent a tremendous drain on existing training programs. Further, provisions in Section 99006 call for a 90 day turn around of certification of training programs. This stands to put an unmanageable strain on POST and to negatively impact services to local law enforcement.
- **Law enforcement options** -- You will notice that this section is substantially similar to the options developed by CSSA in our (attached) position paper. Our main concern with this section is that it fails to address the state's priorities in order of how a tribe should begin looking at enhanced law enforcement services.

Given that a structure already exists for tribes needing increased law enforcement to have that coverage provided by local law enforcement, we suggest that the measure should encourage contracting as a first option. Secondly, as a technical matter, “cross-deputization” is actually the wrong term given that it denotes powers being granted both ways. A sheriff would actually deputize a tribal police officer to serve as an agent of the sheriff on tribal lands but would not cross-deputize that tribal police officer to have those same powers off tribal lands. We simply suggest a technical change to say “deputize” instead of “cross-deputize.”

- **Law Enforcement authority and POST training** – Please note that our position paper clearly states the importance of existing standard criteria. This section violates the importance of that standard by allowing POST to “certify” that a tribal law enforcement agency has met the minimum POST standards or the equivalent. We suggest that nothing less than full POST training should be acceptable to the citizens of California.

We strongly suggest that in order to enforce the Penal Code in California, and to ensure the equal administration of justice to citizens of this state, it is vitally important that the bar for training be set at the existing standard criteria. CSSA suggests that the training must be identical in every way to that of a fully sworn peace officer under existing law.

Further, by requiring a 90 day turnaround of certification of an equivalent training program is to suggest that urgency takes precedent over the need to ensure that training is thorough and that citizens will not be at risk.

The CSSA does not oppose individual sheriffs from deputizing tribal police officers as long as all persons deputized by the sheriff of a county are certified as peace officers in the State of California.

The CSSA does not oppose State peace officer status for tribal police officers as long as tribal police departments and officers strictly conform to all existing laws and POST regulations regarding peace officer eligibility, hiring and retention practices, training and educational certifications, and liability exposure to the same extent as State and local entities of government.

History has documented the need to carefully regulate the policing of America. With over one hundred years of experience and sustained vigilance in this area, California has been a leader among states to establish very restrictive and necessary laws and regulations to regulate the existence and conduct of law enforcement officers and agencies within the State. Any attempt to establish other than existing standard criteria for the granting and exercise of police powers to any group or individual in the State would represent a callous disregard for the safety of the public, condone disparate treatment for one sector of the population, and present a dangerous challenge to the delicate balance of public trust in government.

The CSSA is committed to the continuous pursuit of excellence in law enforcement in the State of California and will continue to research new methods and promote dialogue and idea exchange in furtherance of this goal.