



Stand Up For California!

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Honorable Richard Alarcon
California State Senator
State Capitol Room 4035
Sacramento, CA. 95814
PH: 916-445-7928
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RE: INTERIM INFORMATION HEARING ON SB 911

Dear State Senator Alarcon:

Initially, a tribal justice system sounds like a wonderful program. Justice systems are an essential component of good government and serve as an important forum for ensuring public health and safety for all peoples living in and around Indian lands. However, upon examination of the proposed justice program offered in SB 911, it is apparent there are numerous, pending problems that have yet to be addressed and may not even be contemplated.

California is a Public Law 280 State. The simplistic meaning of this law is that local governments are required to provide law enforcement, fire and ambulance services to Indian lands. This requirement is generally not a significant increase in emergency services costs when local governments are dealing with residential tribal lands: however, there is a significant increase in costs when a commercial facility such as a casino is involved. In addition to significantly impacting the fiscal aspects of local government, Public Law 280 dramatically restricts local government by its lack of any regulatory provisions. This distinction in jurisdiction between law enforcement/emergency services and regulatory authority creates issues of inadequate and insufficient public protection for all citizens on and around Indian lands.

An example of the difficulties facing local governments occurred recently in Riverside County when the Chemehuevi tribe promoted a RAVE concert. The tribal government refused to contract with local law enforcement. Public Law 280 requires local law enforcement to provide protection. **The concert resulted in 82 arrests, and 3 deaths.** Dealing here with only the fiscal impacts of those arrests (the loss of three lives at a concert speaks of that horror by itself) - each arrest and booking by local law enforcement depending on the crime averages an expense of \$500.00 to \$1000.00. This represents a significant sum from the County's general fund, which, of course, is created from taxpayer dollars.

This tremendous expense was caused by an entity that does not pay any local taxes, an entity that is not governed by any local regulatory authority and an entity that chose not to abide by any type of permitting process for such an event. Again, we have dealt here with only the fiscal impacts, not the loss of lives. Local government must not operate as a charity of local tribal governments, nor is any charitable contribution remotely related to remuneration for loss of lives, which might well have been prevented. **"What you have here is a venue site that is away from town but brings huge numbers of people through town, which is a**

public safety issue," said sheriff's Capt. Greg Bottrell hours before the two fatal accidents. "And then you have rampant drug use by a lot of people."¹ A few days later an editorial by *MediaNews Group, Inc.* Wednesday, September 5, 2001, stated:

"While it is true that, in the current era, Congress and the courts clearly have accorded Indian tribes a wide swath of administrative and political powers with reservation lands, one would hope that the tribes upon whom this authority has been conferred would have the common decency and courtesy to exercise that authority to act as good and responsible neighbors, as, indeed, virtually all of them do and to take steps to ensure the safety of people

While tribes are seeking additional federal entitlements, which are the budgeted federal tax dollars of citizens, there is still no guarantee that with this legislation, SB 911, there will be an enhanced justice for all of California's citizen or that there will be a savings of California citizen taxpayer dollars. To the contrary, California non-Indian and Indian citizens will be exposed to a government system that provides no real remedy or recourse. Let me remind you again, California tribes are small often single or multiple family groups, who will be the judge and jury of their justice system.

As window dressing SB 911 proposes a one million dollar public liability insurance to cover any liability arising from the enforcement of state criminal law pursuant to the authority granted by the section. **Reprehensibly, it does not provide liability should a non-Indian or Indian citizen suffer injury, death or other harm that may be fall a person from the actions of an officer on tribal lands. This is simply and shamefully irresponsible.**

There is no reason for the State of California to consider further this legislation without a full waiver of sovereign immunity from interested tribal governments in order to be recognized as eligible to enforce California law on or off Indian lands.

- The impacts to the hardworking citizens of California are inestimable. Why? Because tribal governments are immune from civil liability.

This doctrine of immunity from any civil liability must be given great consideration and forethought. Tribal governments backed by the federal government, as *domestic dependent sovereigns*², have cost citizens millions of dollars in legal fees trying to defend their Constitutional and civil rights and protect their private property rights. Unfortunately, due to the inherent limitations to litigate issues with tribal governments, many citizens and communities have simply suffered irreparable harm due to the irresponsible actions of tribal governments. Even in situations where a tribal government has brought the litigation, and thus subjected itself to the jurisdiction of a court, the citizens or communities involved are unable to bear the horrific expenses and eventually must acquiesce to the desires of the tribal government.³

¹The Press Enterprise, 9-3-01, George Watson, 3 dead after rave in Mojave Desert

²*Cherokee Nation v. Georgia* 30 U.S. (Pet.) 1 (1831)

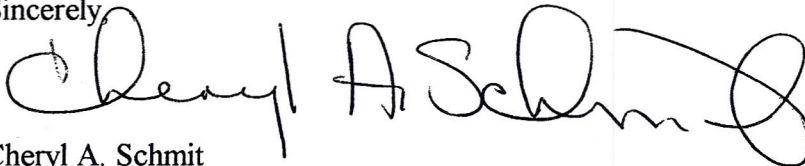
³Analyst of 103 lawsuits in California with no resolve due to tribal sovereignty

This immunity has become so distorted, that even our United States Supreme Court has recently suggested that Congress may well wish to unravel the concept so it may be reconstructed with some precise forethought.⁴ Members of the non-Indian communities in this Country are completely unable to bring a lawsuit against a tribal government, **without its consent to do so**. The only exception to this exists where a tribal government has established its own tribal court, and that jurisdiction then becomes the only recourse. States and local governments are likewise unable to bring suit against a tribal government. In contrast, a tribal government may file its own lawsuit, on issues it deems appropriate, at any time it feels is appropriate to do so. Then, and only then by making the choice to file a lawsuit, does a tribal government consent to the jurisdiction of a court by any means other than a specific waiver of its sovereign immunity and consent to be sued.

- Citizens only ask for fairness, accountability and reasonability from federally *domestic dependent sovereign* tribal governments.

Stand Up For California requests that SB 911 be amended to require a full waiver of sovereign immunity to the State of California, local governmental bodies, State agencies and citizens with regards to the enabling legislation from interested tribal governments in order to be recognized as eligible to enforce California law on or off Indian lands. Then and only then will the good citizens of California be assured of the protection of their health, safety and civil rights.

Sincerely,



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CC: All members of the Public Safety Committee

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⁴ *Kiowa Tribe of Oklahoma vs Manufacturing Technologies, Inc.* No. 96-1037, argued Jan. 12, 1998, decided May 26, 1998

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