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Indian Law & Order Commission

RE: Tribal Testimony on Tribal Justice

Dear Commission Members,

Last week the Washington State Supreme Court reversed its decision and ruled that Tribal Police do not have the authority to follow a drunk driver off the reservation to make an arrest. The same court had heard this case on two prior occasions and ruled that Tribal Police did have a legal right to pursue off the reservation.

The case stemmed from an August 2005 DUI stop by a Lummi Nation Tribal Police Officer. The judge, Mary Fairhurst, writing for the majority acknowledges that this decision would allow drunk drivers and others to run for the reservation boundaries in order to avoid arrest. The judge further stated that this issue should be addressed through cross-deputization and mutual aid pacts.

This decision is a direct attack on the Tribal Police ability to protect Tribal members and others who live and travel within reservation boundaries. It restricts their authority to make the arrests and in fact creates an incentive for perpetrators to drive at high speeds towards reservation boundaries in order to avoid prosecution.

In Justice Mary Fairhurst's suggestion solution of just having Tribal Officer cross-deputized by counties, she gave county Sheriff's even more power. Under the current system Tribal Officers who graduate from the Indian Police Academy in New Mexico must complete the Washington State Equivalency Academy. This course is primarily internet/email based goes far beyond instructing Washington State laws and court decisions. This new format has been in place about a year and Tribal Officers are struggling and some are failing. In essence this gives the state of Washington the power to keep Tribal Officers from obtaining these county deputizations.

The Federal government has a responsibility to protect Tribal members and descendants. Tribal police departments within Washington State are charged with this task either through 638 contracts with the BIA or self-governance. Until this Washington State Supreme Court decision is legislatively addressed Tribal members are again placed at a greater risk than the rest of the population.

Respectfully submitted,
Matt Haney
Colville Tribal Police Chief