



SUTTON COMMUNITY COUNCIL

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This letter is written in response to the recent request made by the Chickaloon Traditional Council, aka CVTC and their Tribal Police Department for a change of state statute that would allow sovereign tribal governments within the State of Alaska, like the CVTC, to have statewide police powers. Residents who reside along the Glenn Highway in the communities of Glacier View, Chickaloon, and Sutton were given the opportunity to speak and ask questions at the recent public meeting held on April 16, 2021 in Sutton. These residents overwhelmingly opposed this request, stating that they do not wish to be policed by a sovereign government in which they have no voice or ability for recourse because of its sovereign immunity. (UAF, n.d.) They also stated that a tribe without a reservation, on the connected road system, in a community that is more than 80% non-native should not be considered for statewide police powers. Currently the only tribal police department with recognized authority in the State of Alaska is in Metlakatla, which is also the only reservation in the state and recognized as a police department because of this special circumstance. (Alaska Law, n.d.)

What CVTC is asking for is to change the law in a way that is not only unprecedented in Alaska, it is not something that can be found in any state in the union on the level in which they are proposing. This kind of statute change would affect the entire state and should be reviewed by all legislators, with input from their constituents, before any decisions are made. It is also important to note that the responsibility for such a change falls to the State of Alaska and not the sovereign governments seeking the authority. (American Bar, n.d.) (UAF, n.d.) Research into federal and state laws across the nation offer some examples of what is being done in other states and we offer this information as reference.

Tribal police powers in the lower 48 states are given by the federal government on “tribal lands” aka reservations. (Bureau of Justice Statistics , n.d.) (Tribal Court Clearing House, n.d.) Less than half of the 50 states allow tribal police to enforce “state laws” on tribal lands, however there are some additional agreements in the form of cross-deputization that happen in areas where, for example, state highways cross tribal lands. (Bureau of Justice Statistics , n.d.) These agreements, made with state authorized departments, are also done to simplify investigations that would normally have to follow the many rules of: location, political identity of victim and perpetrator, plus the nature of the alleged crime. (Bureau of Justice Statistics , n.d.) (Tribal Court Clearinghouse, n.d.) These agreements make it easier for departments to work together and allow for accountability through the state certified department. In addition, agreements for concurrent jurisdiction in court are determined by the Attorney General.

The Supreme Court has made several rulings about tribal authority over the years. In 1978, the Supreme Court ruled that tribal governments could not prosecute non-Indians for any crimes in Indian country. In 1981 the Supreme Court ruled that “a tribe may... retain... power... over the conduct of non-Indians... within its reservation when the conduct threatens or has some direct effect on the political integrity, the economic security, or health or welfare of the tribe.” In June of 2021, the Supreme Court unanimously



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affirmed the sovereign power of American Indian tribes, ruling that tribal police officers have the power to temporarily detain and search non-Indians on public rights-of-way through Indian lands. This latest ruling clarifies that tribal police can search and detain non-Indians suspected of state or federal crimes on tribal lands until handing them off to federal or state authorities. (The Conversation, n.d.)

Within the State of Alaska, laws regarding tribal police, village police officers (VPO) and village public safety officers (VPSO) are clearly laid out in state statute and certification of officers and departments is done through the Alaska Police Standards Council aka APSC. The term “police department” has been defined by the APSC in its regulations. The definition is a “civil force of police officers organized by the state or a political subdivision of the state whose basic purpose and function is to maintain peace and order and to prevent and investigate criminal offenses.” APSC also currently states that “Tribal police, who’s sovereign authority derives from their tribal entity, are not regarded as peace officers or police officers and have no special authority to enforce laws.” They further say that tribal police officers are appointed by a village traditional council and that tribal justice agencies do not qualify as a police department under current statutes. (APSC Users Guide, n.d.) VPOs and VPSOs are authorized by a separate set of state statutes to work in villages. (AS 18.65.670) Alaska statute defines a village as a community off the interconnected Alaska road system. (13 AAC 89.150) If it is decided, as a state, that there is a need to revisit the authority and qualifications of VPO and VPSO positions to allow for better policing in villages, it would not in any way apply to the CVTC and a need for change of statute for tribal departments has not been substantiated.

While it is clear that response times for the Alaska State Troopers create a challenge for addressing emergencies and crime issues in our area, previous attempts by state agencies to partner with CVTC Justice Department have been unsuccessful. Most recently, Alaska State Troopers entered into a Memorandum of Understanding with the CVTC in late 2016 and this agreement is now null and void because the CVTC Department violated the terms of that agreement. CVTC does currently have at least one agreement, dated 2016, with the State of Alaska for the handling of court cases for tribal members. The communities in our area are not in support of police powers for this department, but this current request by CVTC reaches much farther than our local communities and the CVTC department. This is a request to change laws to give policing authority to sovereign governments over people and lands they do not have authority to govern. This is something that requires a much larger discussion than one small community meeting.

Thank you for your attention,

Sutton Community Council

(Approved at June 29, 2022 monthly meeting.)



Site Source Information:

Alaska Law. (n.d.). Retrieved from https://law.alaska.gov/pdf/opinions/opinions_1991/91-076_663790034.pdf

Alaska Leg. (n.d.). Retrieved from http://www.akleg.gov/basis/get_documents.asp?session=31&docid=58225

American Bar. (n.d.). Retrieved from https://www.americanbar.org/groups/business_law/publications/blt/2016/01/05_dreveskracht/#:~:text=Tribal%20sovereign%20immunity%20protects%20tribal,state%2C%20or%20federal%20court).

APSC Users Guide. (n.d.). Retrieved from <https://dps.alaska.gov/getmedia/aaf682f0-b014-486a-99e5-f94869db1e36/apsc-guidebook-w-regs-final-adoptionv5;.aspx>

Bureau of Justice Statistics . (n.d.). Retrieved from bjs.ojp.gov

Department of Justice. (n.d.). Retrieved from justice.gov

Harvard Law Review. (n.d.). Retrieved from harvardlawreview.org.

The Conversation. (n.d.). Retrieved from <https://theconversation.com/supreme-court-affirms-tribal-police-authority-over-non-indians-162050>

Tribal Court Clearing House. (n.d.). Retrieved from <https://www.tribal-institute.org/lists/enforcement.htm>

Tribal Court Clearinghouse. (n.d.). Retrieved from <https://www.tribal-institute.org/lists/jurisdiction.htm>

UAF. (n.d.). Retrieved from <https://uaf.edu/tribal/atcc/atccdocs/atcc2021/Sovereign%20Immunity%20.pdf>