



Lake County Commissioners

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# LAKE COUNTY

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November 30, 2023

Office of the Governor  
State of Montana  
The Hon. Greg Gianforte  
PO Box 200801  
Helena, MT 59620-0801

The Hon. Governor Gianforte:

Last week, following the decision in the Twentieth Judicial District in the Lake County v. State of Montana Public Law 280 case, we forwarded to your office certified copies of the relevant Lake County resolution, together with a letter, withdrawing the County's consent to continued assumption of the State's burden of enforcing State criminal jurisdiction on the Flathead Reservation.

*Section 2-1-306, MCA*, requires that your office issue a proclamation within the next six months, whereupon thereafter, the "state of Montana shall assume jurisdiction over offenses committed by or against Indians in the lands described in the proclamation . . . " *Section 2-1-306, MCA*.

The actual exercise of the State's jurisdiction on the Flathead Reservation is complicated, and the subject of an MOU of some thirty year's standing between the several law enforcement jurisdictions present on the Reservation. To date, we have seen no acknowledgment or evidence of any kind of the State of Montana's willingness and ability to enforce State criminal law against members of any Federally recognized tribe on this reservation.

District Court Judge Amy Eddy's Judgment Order of November 9, 2023, wrote in her opinion, "it is clear that under the plain statutory language that the State is 'obligated' to provide for criminal jurisdiction on the Flathead Reservation, with or without the consent of Lake County." To ensure a smooth transition to the State's assumption of duties previously carried out and financed by the County, it is incumbent that the State share their plans with the County and its residents as soon as possible. The bulleted list below includes examples of questions or situations that need clarity as all impacted parties move through the passage of jurisdiction from the County to the State.

- Will the State provide its own uniformed officers? If so, will they work through the State dispatch? If not working through State dispatch, how will the State integrate with Lake County dispatch?
- What happens at and after the scene to which an officer responds to a PL 280 call? For example: Field identification of Tribal/non-Tribal status of individual being detained for a PL 280 call. How does the State plan to determine whether a given alleged defendant belongs in Tribal court, State court, or Federal court?


- Has the State formulated any plan for detention of PL 280 arrests? Non-PL 280 State offenders in State court will be housed in Lake County jail in the ordinary way. What is the State's plan for detaining Tribal members, including juveniles?
- Is the Attorney General's office intending to prosecute State crimes on the Reservation by Tribal members? Is it the State's plan to attempt to shift that burden to Federal agencies?
- Where will the State try Tribal defendants? Lake County district judges are State assets, in a manner of speaking, but the courtrooms belong to Lake County. The Clerk of Court is an elected County officer. Has the State made arrangements for courtroom facilities?
- What is the State's plan for housing the approximately 25 Tribal members who will be released from the County detention facility upon expiration of the mandated waiting period?

The County has notified your office of our intent to withdraw itself from the State's obligations in this matter to conserve money that can now be used for non-Public Law 280 purposes. The County has re-directed tax-payer funds from other Departments to help pay PL 280 costs for decades. In your veto of HB 479, you characterized the implementation of PL 280 on the Flathead Reservation as "a model of success." Despite this, the fact is, the County cannot continue to fund the agreement.


As elected representatives of Lake County residents, we do not think it out of line to make an inquiry about how the State, committed as it appears to be to this course of action, intends to serve the citizens of Lake County. Law and order is an important characteristic of County and State authority; we certainly hope your office is making plans related to the bulleted issues in this letter. Our request is that you share with the Montana citizens residing in Lake County how the State proposes to fill the jurisdictional void created by the exit of the County's PL 280 jurisdiction. Our citizens deserve the courtesy of an explanation.

Respectfully,

BOARD OF LAKE COUNTY COMMISSIONERS



Gale Decker, Chairman



Steve Stanley, Member



William D. Barron, Member