



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #SPO-16-036

TITLE: Request Immediate Action by the United States Attorney General on the Remaining Request for Federal Jurisdiction under Section 221 of the Tribal Law and Order Act of 2010

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, Public Law 83-280 (PL-280) was enacted by Congress in 1953 as part of the Termination Policy of the United States over Indian tribes, which has become one of the most dishonorable and disrespectful times in the history of tribal/federal relations; and

WHEREAS, PL-280 was enacted to mandate State acceptance of criminal jurisdiction over native people in seven states, which resulted in ongoing conflicted application of federal, state and retained tribal law enforcement authorities, several ongoing legal cases between states and tribes, and abuse of jurisdiction by states over native people in Indian communities; and

WHEREAS, in 2010, Congress enacted the Tribal Law and Order Act (TLOA), Section 221 of which requires the United States Attorney General to accept federal concurrent criminal jurisdiction of any Indian reservation in a PL-280 State, upon the request of an Indian tribe; and

WHEREAS, five tribes around the Country submitted to the United States Attorney General requests for the Federal Government to accept jurisdiction pursuant to Section 221 of the Tribal Law and Order Act of 2010; and

WHEREAS, the United States Attorney General approved the request of the White Earth Band of Chippewa Indians in 2013 and the Mille Lacs Band of Chippewa Indians in 2015, and denied the request of Elk Valley and Table Mountain Rancherias in 2015; and

WHEREAS, the Hoopa Valley Tribe submitted one of the first requests under Section 221 of the TLOA in 2010, which was revised in 2012, yet the United States Attorney General has neither approved or denied their request; and

WHEREAS, federal regulations for implementation of Section 221 of the TLOA of 2010 provide a framework for correcting deficiencies of a tribal request, once such denial is issued by the United States Attorney General; and

WHEREAS, failure to act by the United States Attorney General for over five years provides no guidance, support or remedy for addressing problems with conflicting State jurisdiction experienced since PL-280 was enacted in 1953; and

WHEREAS, legal interpretations and the application of PL-280, the breadth of its transferred federal jurisdiction, and conflicted state political policy and funding priorities of states over the past sixty-three years have worked to create very fragmented, disjointed, piecemealed and discriminatory law enforcement practices within PL-280 States; and

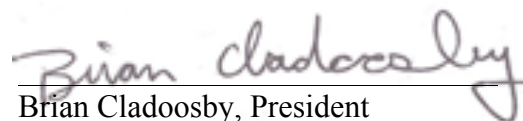
NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians does hereby request the United States Attorney General to take immediate action on the only currently pending request to accept federal jurisdiction on an Indian reservation under Section 221 of the TLOA and to bring to an immediate end any further unnecessary bureaucratic delays in moving forward with implementation of the spirit and intent of Section 221 of the Tribal Law and Order Act of 2010; and

BE IT FURTHER RESOLVED, that NCAI requests that the Senate Committee on Indian Affairs hold an oversight hearing on PL-280 and to hear from the Administration why repeated delays are occurring on re-assumption of federal jurisdiction under authorities of the Tribal Law and Order Act of 2010, as well as from Tribal Leaders on law enforcement concerns in PL-280 States; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2016 Midyear Session of the National Congress of American Indians, held at the Spokane Convention Center, June 27 to June 30, 2016, with a quorum present.


Brian Cladoosby, President

ATTEST:


Aaron Payment, Recording Secretary