



SB 731: Tribal Sovereignty in Policing

SB 731 clarifies tribal sovereignty over tribal police on reservation and when acting within the sovereign authority of a tribal nation.

Issue Background:

Seven of Oregon's nine federally recognized tribes have tribal government police forces. The oldest has kept the peace since 1866 on the Warm Springs Reservation (prior to Portland Police and a half century before OSP was founded). The Columbia River Inter-Tribal Fish Commission (CRITFC) also polices fishing rights along the 147 mile stretch of the Columbia River from the Bonneville to McNary dams. Federally recognized Indian tribes have their own police departments to keep people safe within Indian Country and their own governmental institutions--including tribal courts--to hold tribal police officers accountable for any potential misconduct.

Prior to 2011, tribal police officer authority to arrest suspects when they traveled off-reservation, even in hot pursuit, was unclear. This truth was laid bare in *State v Kurtz*, where the Oregon Court of Appeals found that tribal police were not "peace officers" for purposes of Oregon's criminal laws. Kurtz, a non-Indian who had initiated a high speed chase on the Warm Springs Reservation, resisted arrest and assaulted a tribal police officer, was released from custody.

In response, 2011's landmark legislation, Senate Bill 412, which recognized tribal police officers as "peace officers" under Oregon law, passed with bipartisan support from across Oregon. SB 412 expressly did not affect jurisdiction of Tribes or tribal police.

As Oregon's legislature considers police reforms in 2021, newly proposed laws regulating "peace officers" could indirectly govern activity on our reservations and trust lands and infringe on tribal sovereignty.

SB 731 proposes amending the provisions of Senate Bill 412 to ensure tribal self-governance, while recognizing the state's jurisdiction outside of Indian country.

The bill:

- Allows Oregon's Legislature to set police accountability laws without inadvertently establishing policies for Oregon's tribal governments;
- Affirms that federally recognized Indian tribes set their own tribal police accountability policies for their own tribal police officers;
- Ensures tribal governments continue to establish laws and rules within Indian country;
- Maintains SB 412 requirements for tribal police enforcement of state laws outside of Indian country.

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