

Legislators call for GAO to study inequitable justice system facing tribal nations

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Recently, Representative Jared Huffman (CA-02), U.S. Senator Alex Padilla (D-Calif.), Senator Lisa Murkowski (R-AK), Vice Chair of the Committee on Indian Affairs, and Jeff Merkley (D-OR), Chair of the Appropriations Subcommittee on the Interior, Environment, and Related Agencies, sent a letter to the Governmental Accountability Office (GAO) requesting they examine tribal criminal justice outcomes in states that have civil and criminal jurisdiction over Tribal lands – Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin – as compared to the rest of the country. They also requested GAO investigate how these complex criminal justice jurisdictional challenges impact investigations and protections for missing or murdered Indigenous women and people.

“We are concerned about the extent to which complex jurisdictional rules governing criminal justice inside and outside of Indian Country impact American Indian and Alaska Native Tribes and communities, and we ask that GAO examine criminal justice outcomes in states that have jurisdiction over tribal lands as a result of Public Law 83-280 (P.L. 280) compared to other states,” wrote the lawmakers.

“As recently as 2021, GAO noted that Tribes and Tribal stakeholders expressed concerns about challenges with cross-jurisdictional cooperation and a lack of comprehensive national data on missing and murdered Indigenous cases, among other concerns. We believe that P.L. 280 has created jurisdictional and funding

challenges that result in crimes, particularly those committed by non-Native individuals, going uninvestigated and unpunished.”

In 1953, Congress enacted Public Law 83-280, or “PL-280,” over the unanimous objection of Tribal governments and without any meaningful tribal consultation. The law ceded criminal jurisdiction over tribal lands from the federal government to certain states, mandating this transfer of jurisdiction from the federal government to state governments in Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin and allowing certain other states to opt in.

Absent PL-280, states would not have any criminal jurisdiction over Tribal lands. Notably, when PL-280 passed, it did not provide any additional resources to states to offset the assumption of the new jurisdiction.

In effect, the Bureau of Indian Affairs does not provide federal law enforcement funding to tribes in PL-280 states like they do with other tribes in non-PL-280 states. The lack of resources and structural consequences of PL-280 have created a dire situation for public safety on affected tribal lands.

“We applaud the efforts and leadership of Senator Alex Padilla and all the legislators who have joined this letter requesting that the Government Accountability Office study the impact of Public Law 280, a law that was imposed on tribes without tribal consent, or even consultation.

Since its enactment 70 years ago, Tribes in PL 280 states like ours have struggled to create public safety on our reservations. We have fewer federal resources for our courts, law enforcement, and public safety systems, yet are challenged by the same issues that Tribes in non-PL 280 states face.

We believe this study is a critical first step in the federal government taking accountability for PL-280’s devastating impact on tribes and states, which receive no support for increased jurisdictional responsibilities,” said Yurok Justice Abby Abinanti.