State Jurisdiction in Indian Country

Presented by Ryan Langrill and Hannah Crumrine
Study request

1. What state agencies implement Public Law 280?
2. Do those agencies provide the same level of service to Indians?
3. Do state agencies receive federal funding for Public Law 280?
4. What processes have been used by other states to return jurisdiction?
Report terms

Indian is the federal term used in statutes and court opinions for people affiliated with federally recognized tribes.

Indian country is a federal term that describes land set aside by the federal government for tribal occupancy.

Reservations constitute the largest portion of Indian country. Five federally recognized tribes have reservations in Idaho.
Coeur d’Alene Reservation
Nez Perce Reservation
Kootenai Indian Reservation
Duck Valley Reservation
Fort Hall Reservation

5 reservations
13 counties
Congress passed Public Law 280 in 1953.
6 mandatory states
6 optional states
4 other states
16 states
Idaho assumed partial jurisdiction in 1963
7 matters in Idaho Code § 67-5101

1. Compulsory school attendance
2. Juvenile delinquency and youth rehabilitation
3. Dependent, neglected, and abused children
4. Insanities and mental illness
5. Public assistance
6. Domestic relations
7. Operations and management of motor vehicles upon highways and roads maintained by the county or state or their political subdivisions
State
Health and Welfare
State Police
Juvenile Corrections
Transportation Department

Counties
Sheriffs
Prosecuting attorneys
Courts
Commissioners
Highway districts

Tribes
Social services
Public assistance
Law enforcement
Courts
Transportation
Education
Jurisdiction + Public Law 280

Criminal: Non-Indian offender, no Indian victim
   State

Criminal: Non-Indian offender, Indian victim
   Federal + State

Criminal: Indian offender
   Tribe, Federal (limited) + State
Jurisdiction + Public Law 280

Civil Dispute: Nonmember defendant
   Tribe (limited), State

Civil Dispute: Member defendant
   Tribe + State

Taxation, Civil Regulatory
   Tribe (limited), State (limited)
Evaluating the level of service

Unclear scope of jurisdiction

Obligations without Public Law 280

Diverse approaches service delivery
Gaps in law enforcement

Separate legal systems

Funding concerns
Gaps in law enforcement

Lack of federal action

Insufficient jurisdiction

Coordination challenges
Recommendation

The Legislature should consider providing limited state authority to tribal police.
Separate legal systems

Access to resources

Sentencing limitations
Recommendation

The Legislature should consider facilitating the recognition of tribal court orders for involuntary commitment.
Funding concerns

Uncompensated local responsibilities

Federal funding to tribes
Recommendation

The Legislature should consider filling funding gaps for tribes or local governments caused by Public Law 280.
Retrocession is a complex issue with implications for public safety and intergovernmental relationships.
Public Law 280 was amended in 1968 to allow for the return of state jurisdiction to the federal government.
Retrocession

1. Request must come from states not tribes
2. Full or partial jurisdiction may be returned
3. Secretary of the Interior approves or denies request
4. Effective when notice is published in the Federal Register
7 states have retroceded jurisdiction
4 factors the Legislature may consider if it decides to pursue retrocession.

- Transition
- Partial jurisdiction
- Institutional knowledge
- Tribal self-determination
Shared jurisdiction contributes to complicated interactions and relationships
Good relationships and collaboration are found across the state.
Idaho has two state and tribal forums:

Council on Indian Affairs

Tribal State Court Forum
The Legislature can facilitate intergovernmental relationships with new or existing forums.
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