

IS CALIFORNIA LAW ENFORCEMENT READY  
FOR INDIAN GAMING?

Article

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California has had two statewide elections within the last two years settling the public debate over Indian gaming. The recent legislative events have allowed California's federally recognized Native Americans the opportunity to establish Las Vegas style gaming casinos upon tribal lands.

The passage of Proposition 5 in November of 1998 set the stage for the Governor of California to negotiate compacts (treaties) with the Native American tribes to allow the development of Las Vegas style gaming facilities. The proposition was immediately challenged and overturned by the California State Supreme Court. The high court ruled that because of California's ban on slot machines and house banked games such as blackjack; the proposition was ruled as unconstitutional.<sup>1</sup>

In March of 1999, the electorate of California passed Proposition 1A, an amendment to the California Constitution that permitted the tribes to develop and operate banked percentage card games on tribal lands if the tribe reached an agreement with the governor. By the end of the 1999, 62 tribes had signed compacts and were clear to proceed with gaming casinos without fear of state interference.

The expansion of Indian gaming is underway in California. There are approximately 320 thousand Native Americans currently living within the state, more than any other. The federal government officially recognizes 557 tribes, of which 109 are in California. Of these 109 tribes, forty-five have Indian casinos in operation. There are seventeen new casinos in the planning stage and are expected to be operational within two years. Of the forty-five Indian casinos currently operating, half are under

expansion.<sup>2</sup> The Agua Caliente Tribe in Palm Springs, on April 1 of this year became the first tribe operating two Las Vegas style casinos.

The California Attorney General recently reported there are 25,196 slot machines in operation by the California Indians. These slot machines account for as much as eighty-five percent of a casino's revenue. One estimate says the amount of tribal gaming investments on the horizon have increased from \$500 million last year to \$3 billion today.<sup>3</sup> A study by Bear Stearns research agency estimates that the California Indian gaming industry will reach 4.65 billion dollars by 2004, making the state second only to Nevada's 8 billion in annual gaming grosses.<sup>4</sup> Taking into account the recent legislation, Native American population and casinos, California Native Americans, a group of people with a history of poverty, now stand on the threshold of immense wealth and political influence.

It is estimated there are about 9.3 million gamers in the State of California.<sup>5</sup> Earl Grinols, a professor of economics at the University of Illinois cites data estimating between two to five percent of gamblers have a problem or are pathological. Pathological gamblers are identified by the American Psychiatric Association as people unable to resist the urge to gamble and wind up in desperate financial straits because of gambling debts.<sup>6</sup> California can expect to have anywhere from 186,000 to 465,000 problem gamblers within the state.

There are clearly benefits and detriments involving Indian gaming and California law enforcement can expect significant impacts. The problem facing law enforcement officials in the state are the uncertainties of these impacts and how will they affect agencies charged with policing the casinos. In addition, law enforcement leaders

must recognize that although every law enforcement agency does not have an Indian gaming casino within their jurisdiction, the ramifications of uncontrolled gambling growth and corruption within the gaming industry will affect the entire state.

Recently a research project conducted by California Peace Officers Standards and Training (POST) examined this issue. The project concluded that the most significant challenges facing law enforcement was managing the growth of Indian gaming casinos, controlling gambling related crime and development of revenue to provide effective policing for Indian gaming casinos. This project also forecasted several alternative futures and provided a strategic and transition management plan identifying several concepts that if implemented could favorably impact the future for law enforcement and Indian gaming.

A few of the proposed strategies involve the education and training of law enforcement on gaming laws and Indian sovereignty, the development of new unbiased research in California on gaming impacts, and the implementation of a fair and equitable cost recovery system for those cities and counties tasked with providing services for Indian casinos. The strategic plan also addresses a concern that corruption could infiltrate the Indian gaming industry and recommends that tribal gaming commissions have more autonomy from their tribal governments.

There are currently twenty-one different law enforcement jurisdictions within California that have the obligation to suppress crime in and around Indian gaming casinos. The POST study recommended that an association or coalition be formed consisting of law enforcement agencies that have Indian gaming in their jurisdiction. The association could facilitate the exchange of information, training, intelligence updates and

become a primary organization responsible for implementing the strategic and transition management plan.

The transition management plan provides suggestions on how to actually implement the strategic plan. For example, there is currently no unbiased comprehensive research on the social or economic affects of gaming on a community in California. Available research was either conducted in different regions of the country or by special interest groups financially supporting those responsible for the data, there by creating possible bias. It is suggested that law enforcement leaders petition the State's Department of Justice to solicit research into gambling affects. The development of unbiased research into gambling will only come about with a unified law enforcement leadership demanding the information.

Law enforcement leaders must be willing to convince federal and state elected officials that unchecked Indian gaming and or state approved Class III, Las Vegas style, gambling must be limited until the social and economic consequences are fully understood. Key leaders within the state government such as the Governor and Attorney General should be lobbied through law enforcement labor groups, political organizations or a law enforcement gaming coalition explaining the importance of such data.

The existence of an unclear funding mechanism for cities and counties to recover costs associated with Indian gaming is another major problem. According to Harlan Goodson with the Department of Justice's Division of Gambling Control, based on the formula outlined in the tribal-state compacts, each tribe will pay approximately ten percent of money generated by Indian casino slot machines to the state. The money

generated by Indian gaming can be expected to exceed 25 million dollars by February of 2002.

The tribal-state compact does not contain a clear mechanism to fund law enforcement agencies that are impacted by Indian gaming. This creates tremendous uncertainty and an inability for law enforcement to efficiently plan for the future. Law enforcement agencies have no guarantee they will receive any of this money or what their share will be.

Law enforcement leaders using political organizations or coalitions must approach state leaders and demand a fair and effective revenue stream to counties and cities responsible for policing Indian gaming. The current tribal-state compact expires in about two years. The Governor and key state officials must be convinced to include a cost recovery system within the next tribal-state compact negotiations. This might involve direct contracts with Native America tribes, a system of directing the revenue from the state back to the areas impacted, or a combination of both.

The role of the Native Americans is just as important as the Governor's since they are both an integral part of the compact. Native Americans have a vested interest in keeping the revenue generated by slot machines within their areas. They may be more agreeable to implementing a revenue stream back to the cities and counties, rather than to the state.

The history of Native Americans and their relationship with the California governments will be a hurdle to over come. This relationship has been filled with deceptions and inconsistent flawed federal policies. According to a newspaper researcher for the Sacramento Bee, ever since California became U.S. soil in 1848, the United States

has short changed California's Indians. They were stripped of their lands and funneled into California cities. In the 1950s, the federal government enacted the Relocation and Termination program designed to end the reservation system. This federal policy was an attempt to persuade Indians to abandon their beliefs and traditions and assimilate into American culture and cities. This policy did not end until 1981.<sup>7</sup> Clearly this history creates an atmosphere of mistrust.

In addition, Public law 280, which was designed to increase law enforcement on Indian country by giving criminal authority and law enforcement responsibility to California, did not enhance this strained relationship. Since the law simply transferred authority from the federal government to the states without the needed resources, most California law enforcement agencies did not have the manpower to sufficiently police the reservations. Native Americans' perceived their concerns were ignored.

A trusting relationship between the police leadership and tribal leaders must be established and cultivated. Such a relationship will be beneficial during the state-tribal compact negotiations. If Native Americans clearly understand the concerns of law enforcement and the purpose behind the strategic initiatives, then they are less likely to perceive a threat against their sovereignty.

Community-policing philosophy and principles must be used by law enforcement agencies to build trust. Instead of law enforcement determining the needs of the Native American community, surveys and questionnaires should be used to understand their perceptions of problems. Law enforcement officers could set up community meetings with Native Americans, identify their problems and in partnership work towards solutions.

Law enforcement leadership must become just as acquainted with tribal council members and treat them with the same importance as their city councils or county board of supervisors. Whenever permitted, law enforcement officials should attend tribal council meetings. Cultural awareness training and learning of traditions specific to Native Americans must be initiated for those agencies that provide law enforcement for Indian casinos.

Corruption in the Indian casinos is a concern. A potential weakness in the current system is the tribal gaming commissions. The tribal gaming commission procedures, membership, and policies vary from tribe to tribe. A consistent standard throughout the state should be implemented. These commissions also do not have regulatory functions and are not independent from the tribal councils. Tribal gaming commissions need to have a regulatory role and not be subject to influence by tribal councils.

Law enforcement must use its influence on federal lawmakers to establish standards for tribal gaming commissions. The research conducted by POST made several suggestions regarding California tribal gaming commissions. The suggestions include having commissions with at least three members not more than five, the majority of the commissioners should be made up of non-tribal members, members must be full time and paid a standard wage based on the prevailing wage. The tribal commission would be paid from a shared fund that each gaming tribe would be required to contribute into. The terms for a commissioner should be least four years. Once the tribal council appoints the commissioner, he or she remains unless voted out by the other commissioners based on rule violations. The tribal gaming commission must have the responsibility to regulate

the gaming on behalf of the tribe without fear of being overturned by the tribal government.

The federal government needs to be kept apprised of California law enforcement's concerns about Indian gaming issues. Federal lawmakers, the Secretary of the Interior, the National Indian Gaming Commission and officials with Bureau of Indian Affairs should receive regular briefs from law enforcement leaders and or a law enforcement gaming coalition. These federal agencies must be informed on the issues, the future concerns and suggested remedies. If state elected officials and or gaming tribes cannot be convinced or simply ignore law enforcement's issues, the federal government becomes the next attempt at managing gambling and controlling gambling related crime.

The federal government is the only branch of government that could impose a gambling tax upon gaming tribes. If the state is unable to increase the revenue from the Native Americans during the compact talks, then the federal government must be lobbied to federally tax the gambling proceeds. The tax legislation must include language that guarantees communities impacted by the gaming casinos a procedure to obtain the funds from the federal government. This would avoid the potential problem that exists with the current state-tribal compacts.

If the state-tribal compact discussion breaks down over the standardization of tribal gaming commissions, The National Indian Gaming Commission (NIGC) becomes important. The NIGC must be approached by the coalition of law enforcement leaders and convinced that local tribal gaming commissions need more standards and more of a regulatory role over the casinos.

Indian gaming casinos and their future impacts on law enforcement often becomes a moral issue. There are many Californians that believe Indian gaming will cause severe social problems. There is a concern that gambling sends a sinister message to our younger generation. The message is not to look towards education or hard work, but rely on luck for your future. Anti-gambling groups believe that the poor are the victims of gambling, spending their limited income on the roll of the dice. Families begin to disintegrate when a member exhausts the income in a casino. Problem gamblers increase and many trade one addiction for another. It is believed by some that this social decay contributes to an increase in calls for service for law enforcement and rise in crime rates.

The other side of the argument, gaming must be looked upon as any other successful, legal business. Problems blamed on gaming are unmerited; gambling is the symptom not the cause of increase crime and family dysfunction. The truth probably lies somewhere in between. A key problem is limited, unbiased credible research in California regarding social and economic impacts of gambling. Decisions to implement strategies supporting or limiting Indian gaming casinos are often made on personal convictions and not on valid research.

Regardless of the moral arguments, one could intuitively reason that a successful Indian gaming casino will bring a larger population to the area, thus an increase in crimes and calls for law enforcement service. Prostitution, loan sharking, money laundering, and cheating schemes would likely increase in rural areas. There also exists the possibility that many of these types of crimes existed before, but were not brought to law enforcement's attention until the arrival of gambling.

The POST research on Indian gaming made predictions on probable impacts to a community. One such prediction; an increase demand on city and county infrastructures such as roads, sewers, and hospitals. Since most of the Indian gaming casinos are located in rural areas, it was also forecasted there would likely be quality of life changes as more and more tourists arrive to gamble. Finally, Native Americans are expected to gather enormous wealth and begin to diversify from gambling into other business ventures. They will grow stronger politically, and be able to influence public policy, especially in the area of gaming.

The impact upon law enforcement in the next five years will be significant. Law enforcement must be willing to become proactive rather than reactive to the impacts of California Indian gaming. Clearly if law enforcement does not become involved in the gaming issue, other organizations and individuals will. Their concept of the gaming future may not be favorable for law enforcement. Law enforcement must assume a leadership role in the gambling issue and not leave their future in the hands of others.

## Notes

- <sup>1</sup> Amy Spector, "Prop 1A win: Calif. Indians Raise Stakes in Casino War with Vegas." Nation's Restaurant News, 20 March 2000, 22.
- <sup>2</sup> "Statistics." Bureau of Indian Affairs, U.S. Department of the Interior (Internet). <<http://www.doj.gov/bureau-indian-affairs.html>> Accessed: 5 April 2001.
- <sup>3</sup> Benjamin Spillman, "Gaming Is It a Safe Bet?" Desert Sun Newspaper Online. (Internet). <<http://www.desertsunonline.com> > Accessed: 12 March 2001.
- <sup>4</sup> Jason Ader, Marc Flacone, "Native American Gaming in California." Bear Stearns Report. (February 2000): 7-9.
- <sup>5</sup> Ibid.
- <sup>6</sup> Earl Grinols, David Mustard. "Casinos and Crime." (June 1999). University of Illinois. (Internet). <<http://www.admin.uluc.edu/NB/99.06/14casinos.html>> Accessed: 28 February 2001.
- <sup>7</sup> Stephen Magagnini. "California's Lost Tribes." (June 29, 1997). Sacramento Bee Newspaper Online. (Internet). <<http://www.sacramentobee.com.html>>. Accessed 12 April 2001.

## BIBLIOGRAPHY

- Adler, Jason and Flacone, Marc. "Native American Gaming in California". Bears Sterns Report. February 2000.
- Grinols, Earl and Mustard, David. "Casinos and Crime". June 1999. University of Illinois web site. Available from <http://www.admin.uluc.edu/NB/99.06/14/casinos.html>. Internet accessed 28 February 2001.
- Spector, Amy. "Prop 1A win: California Indians Raise Stakes in Casino War with Vegas". Nation's Restaurant News, 20 March 2000.
- Spillman, Benjamin. "Gaming Is It a Safe Bet?" Desert Sun Newspaper Online. Available from <http://www.desertsunonline.com>. Internet accessed 12 March 2001.
- "Statistics". Bureau of Indian Affairs. U.S. Department of Interior web site. Available <http://www.doi.gov/bureau-indian-affairs-html>. Internet accessed 5 April 2001.