

Written Testimony of Representative Stephanie Herseth Sandlin
H.R. 1924, Tribal Law and Order Act of 2009
House Judiciary Subcommittee on Crime, Terrorism & Homeland Security
December 10, 2009

Thank you, Chairman Scott and Ranking Member Gohmert for holding today's hearing on the Tribal Law and Order Act and for allowing me to testify in support of this important legislation.

As South Dakota's lone member of the U.S. House of Representatives, I have the privilege of representing nine Sioux tribes. The Tribal Law and Order Act is a bipartisan and bicameral initiative to improve coordination between tribal, state and federal law enforcement agencies and increase accountability standards.

Senator Byron Dorgan, chairman of the Senate Committee on Indian Affairs, has introduced nearly identical legislation in the Senate that has been approved by that committee. And President Obama announced at the Tribal Nations Conference in Washington last month that: "I ... support the Tribal Law and Order Act, and ... look forward to Congress passing it so I can sign it into law."

The federal government has a unique relationship with the 562 federally-recognized American Indian and Alaska Native tribes. This government-to-government relationship is established by our founders in the U.S. Constitution, recognized through hundreds of treaties, and reaffirmed through executive orders, judicial decisions, and congressional action. Fundamentally, this relationship establishes the responsibilities to be carried out by one sovereign to the other.

Native American families, like all families, deserve a basic sense of safety and security in their communities. Law enforcement is one of the federal government's trust obligations to federally-recognized tribes. Yet, as the tribes across the country know all too well, on many counts, we are failing to meet that obligation and have done so for too many years.

Tragically, there is a pervasive sense of lawlessness in too many areas of Indian Country. Public safety has reached a crisis level for many tribal communities in South Dakota and across the nation and tribal communities face many law enforcement challenges.

Amnesty International has reported that American Indian and Alaska Native women are more than two and a half times more likely to be raped or sexually assaulted than women in the United States in general. Yet, the majority of these crimes go unpunished. In addition, the use of methamphetamine in tribal communities is three times the national average.

Moreover, fewer than 3,000 law enforcement officers patrol more than 56 million acres of Indian Country. That reflects less than one-half of the law enforcement presence in comparable rural communities. On many Indian reservations, officers respond to emergency calls without backup and travel to remote locations without adequate radio communication. The situation is particularly challenging for large, land-based reservations in South Dakota and elsewhere.

In South Dakota, officers can cover hundreds of miles each shift. During a typical eight hour shift on the Oglala Sioux Tribe's Pine Ridge Reservation, there are only five tribal law enforcement officers on duty to patrol an area larger than the state of Delaware.

In April, Oglala Sioux Tribe President Theresa Two Bulls testified at a House Interior Appropriations oversight hearing. She described the case of a young woman living on the Pine Ridge reservation who had received a restraining order for an ex-boyfriend who battered her. One night, she was home alone and woke up as he attempted to break into her home with a crow bar. She immediately called the police, but due to the lack of land lines for telephones and the spotty cell coverage, the call was cut off three times before she reported her situation to the dispatcher. The nearest officer was about 40 miles away. Even though the young police officer who took the call started driving to her home at 80 miles an hour, by the time he arrived, the woman was severely bloodied and beaten. The perpetrator had escaped.

As I meet with tribal leaders in South Dakota and throughout Indian Country, stories like this are common. At a 2007 Natural Resources Field hearing in South Dakota on tribal law enforcement,

the Cheyenne River Sioux tribal chairman testified that his tribe had only three officers per shift to cover 19 communities and 15,000 people spread across an area almost the size of the state of Connecticut. The sheer size of these reservations, coupled with understaffed departments, outdated equipment, and high gas prices, strain tribal law enforcement efforts.

As crime rates increase, the state of jails and other facilities fail to keep pace. Many Indian detention facilities, police stations, and tribal court buildings are in disrepair, and some in South Dakota have been condemned. These facilities often have broken furnaces, no running water, or asbestos in the air. However, the tribes are forced to keep them open because the Federal government has no plan to replace them. One tribal detention facility in South Dakota was forced to remove its prisoners four times in one year because of a lack of heat and air conditioning.

For families who take a basic sense of safety and security for granted, these stories should serve as a wake-up call. Clearly, these problems will continue to worsen until the federal government dedicates the resources necessary to address these problems, and just as importantly, address the complex and broken system of law and order in Indian Country.

The Tribal Law and Order Act would improve law enforcement efforts in Indian Country by clarifying the responsibilities of Federal, State, tribal, and local governments with respect to crimes committed in tribal communities; it would increase coordination and communication among Federal, State, tribal, and local law enforcement agencies; empower tribal governments with the authority, resources, and information necessary to effectively provide for the public's safety in tribal communities; reduce the prevalence of violent crime in tribal communities and combat violence against Indian and Alaska Native women; targets youth prevention by authorizing funding for summer education programs and at-risk youth treatment centers; reduce at-risk youth and lower drop out rates; address and prevent drug trafficking and reduce rates of alcohol and drug addiction in Indian country; and increase and standardize the collection of criminal data and the sharing of criminal history information among Federal, State, and Tribal officials responsible for responding to and investigating crimes in tribal communities.

Here are some examples of improvements the bill would make. Currently, only federal agents such as the FBI can make arrests for sexual assaults on reservations in cases in which the perpetrator is non-Indian. In many cases, including my home state, those FBI offices can be hundreds of miles from a reservation. A provision in this bill will expand a training program to give Special Law Enforcement Commissions to tribal law enforcement officers. With an SLEC, a tribal law enforcement officer can be federally deputized to arrest any person on tribal land who commits a federal crime such as rape, murder, and drug trafficking.

The bill also streamlines the process for IHS officials to testify in rape or sexual assault cases. In order for an IHS official to testify in court, approval must be given by the director of IHS in Washington, DC. That would be changed so that if approval is not given within 30 days, the request to testify will be considered approved.

By expanding training programs to grant tribal law enforcement officers arresting authority of non-Natives on tribal land and making it easier for IHS experts to testify in court, we can slow the flood of crimes that go unpunished.

While there will be no simple or quick fix, this comprehensive legislation is a step in the right direction. Native American families, like all families, deserve to live in safe communities with the critical law enforcement protection and services that are standard in nearly every town and city across the country. By passing this legislation, we'll make important strides in improving law enforcement in Indian Country during this Congress.