

**Testimony Before
The Senate Committee on Indian Affairs
Legislative Hearing on S.1192, the Alaska Safe Families and Villages Act
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By
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Good afternoon Chairman Akaka and distinguished members of the Committee. My name is Ralph Andersen. I am Co-Chair of the Alaska Federation of Natives (AFN) and I am also the President and Chief Executive Office of the Bristol Bay Native Association (BBNA), based in Dillingham, Alaska. I am honored to be here today to testify in support of the Alaska Safe Families and Villages Act.

AFN is the largest statewide organization of Alaska Natives, representing 125,000 Natives within Alaska and nearly an equal number – 120,000 - living outside Alaska. AFN was formed in 1966, initially to fight for aboriginal land claims, and for the past 45 years has been at the forefront of efforts to advance Alaska Native self-determination. It hosts the largest gathering of Alaska Natives, the AFN Annual Convention attended by thousands of Alaska Natives. In October the convention delegates adopted Resolution 11-29 in support of the Alaska Safe Families and Villages Act. I am appending a copy of that resolution to my testimony.

BBNA is a regional non-profit tribal consortium of 31 federally recognized tribes within the Bristol Bay Region. Our geographic area in southwest Alaska is about the size of the State of Ohio. Our regional population is about 7,000 people, about 70% are Alaska Native. BBNA operates a variety of service programs for our member tribal villages, including Bureau of Indian Affairs programs that we operate under a self-governance compact agreement that has been in effect since 1995.

Both AFN and BBNA strongly support the Alaska Safe Families and Villages Act and, in fact, both organizations have supported this and similar legislative proposals to clarify tribal civil jurisdiction in Alaska for many, many years, dating at least to the Clinton administration. We are very pleased this bill has been introduced and that this hearing is being held.

Plugging the Gaps

The basic idea of this legislation is to allow local tribal courts and law enforcement – to address social problems and petty offenses involving tribal members at home, in the village, instead of relying on the state government to provide all law enforcement and judicial services, often from centers a great distance away from the village.

The bill will establish a demonstration project by which a small number of tribes, no more than three per year for three years - nine total - would be authorized to enforce local ordinances dealing with alcohol and drugs for a period of five years. The bill is also intended to

enhance tribal enforcement of domestic violence and child abuse and neglect matters. Alaska tribes already have some jurisdiction in those areas but most villages have not developed tribal laws and procedures. The ordinances and the tribe's plan for implementing the demonstration project would be subject to the oversight and approval of the Department of Justice.

The bill creates no tribal criminal jurisdiction, but simply confirms civil regulatory jurisdiction over the subjects listed in the bill - alcohol, drugs, domestic violence and child abuse and neglect. It does not address major crimes, it does not authorize tribes to jail people, and it does not diminish in any way state law enforcement authority, criminal or civil. It is intended to address what might be called entry-level offenses such as underage drinking and drug use, and to keep such problems from escalating. It makes far more sense to address low grade offenses immediately, at home, rather than waiting until they get so bad a person is caught up in the state criminal justice system, jailed, and sent to court dozens or even hundreds of miles away from home.

This is very much a common sense bill to fill gaps in existing services. Although the demonstration project starts small, we believe it will be such an obvious success Congress will expand the program and make it permanent in future years.

Alaska Native villages are far better situated to address social problems, particularly involving children and youth, at home under tribal authorities, than is the state government. It would benefit everyone, including the state agencies, if some problems such as juvenile delinquent behavior could be curtailed and the person helped by the local community before the behavior ever escalates or becomes a state issue.

While this is often discussed in terms of law enforcement – and there are gaps in state law enforcement – I tend to believe it is more a problem of inadequate courts and access to courts. The state court system is not the most culturally appropriate way for dealing with young Native offenders, nor are state courts “local” in most places. In Bristol Bay, which has 28 year-round inhabited communities spread out over an area the size of Ohio, there are state courts in only two communities – Dillingham and Naknek. Alaska has no justice of the peace courts like some states have, and there are no municipal courts outside the big cities. We have villages in our region that are more than 200 miles from the closest state court, and there are no roads in between.

Even a village that has a local Village Public Safety Officer (VPSO) or even a local city police department is still dependent on a prosecutor's office and court system in some larger community miles away.

I grew up in a Bristol Bay village, Clarks Point, which is across the Nushagak Bay from Dillingham. It's only about 15 miles away as the eagle flies, but there are no roads connecting them and if the weather is bad it is simply inaccessible until the weather breaks. Clarks Point has about 75 people. Although it has had a VPSO position in the past, the position is currently vacant and has been difficult to fill. There is no chance that a village of 75 people will ever have a state magistrate court or a resident state trooper – it simply would not be cost effective. Clarks Point does, however, have a functioning tribal council that already provides a number of services in the village. There is simply no logical reason why the tribe should not be able to prosecute and handle minor offenses at home as civil regulatory matters. That is all S. 1192 does, on a pilot basis for up to nine villages.

I will note that although some villages have city governments as well as tribal councils, the city governments in the villages do not directly enforce criminal or civil regulations because they would have to pay for the expense of a prosecuting attorney, provide public defenders, and otherwise pay for prosecution in the state courts in the regional hubs. The city government in Clarks Point has no resources to be prosecuting cases in Dillingham.

Although Alaska tribes already do have some authority in areas such as child custody and adoption, child neglect, and domestic relations based on tribal membership, Alaska tribes do not generally have land-based jurisdiction and the exact extent of tribal authority in Alaska has been very unclear. We are not advocating for the creation of "Indian Country" jurisdiction in Alaska. I want to make that very clear. We are advocating and think it makes enormous sense to explicitly allow tribes to handle some types of problems within their villages and to clearly define what those types of cases are, without getting into a complicated analysis based on land status and without waiting for decades of litigation to establish the parameters of tribal jurisdiction. The cleanest way to do this is by enacting a federal law to clarify a few subject matters areas where tribes can assert authority.

To illustrate the problems tribes run into in addressing social problems through tribal courts, one of the larger Bristol Bay villages operated a tribal court that handled juvenile cases for about ten years. The particular village has a city police department, and my understanding is

that the tribe had a written agreement with the city by which the local city police referred some juvenile cases to the tribal court. The agreement was also signed off by the State of Alaska. This agreement and arrangement worked well and the tribe successfully handled a number of cases, each of which would otherwise been in the state system and prosecuted 70 miles away in Dillingham. Recently, someone in the city government had questions about the agreement that were referred to the state attorney general's office. The AG's office concluded this diversion of cases was improper and that the state could not honor its own prior agreement with the tribe. Understandably the city, which is a subdivision of the state, is now no longer willing to honor the agreement either.

Sadly, a cooperative effort that was working, that was probably within the normal discretion of state law enforcement anyway, and that benefited all parties was ended because someone in a state office in Anchorage or Juneau hundreds of miles away decided it was a bad thing to work cooperatively with tribes. It has been our experience that state opposition to tribes almost always comes from state elected officials and the higher echelons of state government. People who actually do the work in the field – state troopers, social workers, judges, prosecutors – are practically always more than willing to work with tribes because they correctly see the tribes as a resource.

The Need

I do not wish to spend too much time talking about the severity of social problems in rural Alaska. We have told our story over and over and the bill itself recites many of the statistics. Alaska Natives probably have the highest suicide rate in the nation and perhaps the world. We have hugely disproportionate rates of sexual assault, domestic violence, alcoholism, and accidental death. Many of the sexual assaults and domestic violence goes unreported, but the scars can be seen. Too many of our people are in prison. Too many of our adults find it difficult to get jobs because they have criminal records. Most of these problems trace back to alcohol abuse.

For too long law enforcement in rural Alaska has been underfunded and in many small remote villages virtually non-existent. The Alaska Court system does not reach out far enough or fast enough for many of our remote, isolated villages. For too long, village residents have had to travel great distances at great expense for court cases. For too long

we have seen bootleggers and domestic violence and sexual abuse offenders walking our village streets unabated because state law enforcement is slow to respond and prosecutions too difficult. While the lack of courts or law enforcement is not the cause of our high rates of suicide and other social problems, it is certainly an obstacle to addressing them.

The bill is a tool, and a step in the right direction. It is a break with past practices and attitudes and shows a practical understanding that sheer economics, budgetary and political constraints will always preclude the Alaska state government from providing truly adequate law enforcement and judicial resources in dozens of tiny, geographically remote villages, scattered across an area the size of the State of Ohio. It also recognizes that tribal governments can help plug the gap, and it adds an element of prevention and early intervention that is lacking in the state system.

We appreciate that Senator Begich, Chairman Akaka, and this Committee, are willing to roll up your sleeves to help us put into place locally-controlled, culturally-relevant practices to help reduce social problems. You will help save lives in some of our most remote and neediest villages in the country and in Alaska. I want to be very clear that we don't want to take over responsibility for criminal courts, jails, and law enforcement. We simply want to do our share – to do our part -- to do what we can to help. Complicated jurisdictional disagreements with the state really should not get in the way of providing needed, common sense solutions in the villages. The longer they go on, the longer our people will suffer and lives will be destroyed or lost.

In addition to establishing the demonstration project on tribal law enforcement and courts, the bill will open a new temporary federal funding stream in support of the project. This includes both training of our tribal courts and administrators and some additional funding for law enforcement. The demonstration project as provided in the bill is well designed and provides a step by step process. It will work.

Closing.

In closing I wish to stress I mean no disrespect for the Alaska state government or the current state administration. I have great respect for Governor Parnell. He has shown a deep commitment to addressing alcohol and drug abuse, domestic violence and sexual assaults in

Alaska. In rural Alaska, in recent years the state has expanded the Village Public Safety Officer Program. I have great respect for Village Public Safety Officers, and the Alaska State Troopers and the Alaska Court System. Our VPSO's have the most difficult jobs that I can imagine. But there are simply inherent constraints such that the state is never going to pay for magistrates and state police officers in 200-plus villages. The bulk of the population and the political power in Alaska are in the urban areas of Anchorage, Fairbanks and Juneau. Even the VPSO program, which is an excellent program specifically designed for villages, is hampered by relatively low wages, lack of housing, difficulty in recruitment and other limits.

I have witnessed first-hand the largely unchanged social problems in many villages that have existed since my childhood days. We still hear of family violence, bootlegging, and sexual abuse. It seems not a week goes by when we hear of another suicide or death.

There is no single solution to these difficult problems nor are there any easy answers. The right solutions will likely vary from region to region, community to community, and involve more than just one agency and more than one just one program or approach. We need and want our tribal governments and tribal law enforcement and courts to be part of the equation. We want to be part of the solution. Tribes are already there, providing services on the ground.

The Alaska Safe Families and Villages Act will break new ground by actually recognizing that Alaska tribal governments have a role in and are part of addressing the important needs for law enforcement and judicial services in remote areas. For this reason the Alaska Federation of Natives, the Bristol Bay Native Association, and our sister regional Native non-profit tribal consortiums consider this bill a very high priority. We believe this bill will be a very positive step toward empowering local communities and local residents to take care of problems at home.

Thank you again Chairman Akaka and members of the Committee for giving me this opportunity to testify.