



WRITTEN TESTIMONY
OF
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COMMISSIONER, ALASKA DEPARTMENT OF PUBLIC SAFETY

BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS
LEGISLATIVE HEARING ON S. 1192
ALASKA SAFE FAMILIES AND VILLAGES ACT OF 2011
AND S. 1763
STAND AGAINST VIOLENCE AND EMPOWER NATIVE WOMEN ACT

NOVEMBER 10, 2011

Good afternoon. My name is Joe Masters and I am the Commissioner of the Alaska Department of Public Safety, the statewide agency whose mission is to ensure public safety in the great State of Alaska.

Thank you, Chairman Akaka and members of the Committee, for this opportunity to comment on behalf of the State of Alaska on Senate Bill 1192, the Alaska Safe Families and Villages Act, and Senate Bill 1763, the Stand Against Violence and Empower Native Women Act (SAVE Native Women Act) and on Alaska's commitment to keeping families, homes, and communities free from the fear of sexual assault and domestic violence.

The State shares the goal of improving life in rural Alaska

Assuring that families and villages in Alaska are safe is unquestionably an objective that the State of Alaska shares with the federal government and with all of Alaska's tribes. The goal of improving the quality of life in rural Alaska while reducing domestic violence against women and children is timely and relevant and I am encouraged to see the recognition of this as a federal responsibility to Alaska native peoples regardless of Indian country. But it isn't just a federal goal; it is a mutual goal to which the State of Alaska is fully committed, and a goal which the state is taking major, concrete steps to achieve.

Alaska Governor Sean Parnell has made considerable investments into improving rural justice services including establishing a 10-year State initiative to end domestic violence and sexual assault throughout Alaska through four strategies: primary prevention; core victim services; offender accountability; and coordination and collaboration. Accomplishing these goals in our rural communities is an essential part of this initiative. We are now in year three of this ambitious program. We fully recognize that achieving this goal will take communication, cooperation, and coordination, not only on the part of state agencies like my Department of Public Safety, but also on the part of city officials and tribal administrators, and on the part of our federal partners.

Ways that the State is working hard to address sexual assault and domestic violence

Before I discuss the specifics of the pending legislation, here are some of the ways that the State of Alaska, with the full support of the Governor and the Legislature, is already demonstrating its uncompromising commitment to the goal of improving public safety in rural Alaska.

A major aspect of Alaska's Sexual Assault and Domestic Violence initiative is to **increase law enforcement presence in rural Alaska**. Governor Parnell has made the unprecedented commitment to increase the hiring of Village Public Safety Officers (VPSOs) throughout rural

Alaska by adding 15 new positions per year for the next 10 years, so that every village in Alaska that wants a law enforcement presence in its community can have it.

In addition to VPSOs, Village Police Officers (VPOs) and Tribal Police Officers (TPOs) also provide paraprofessional police services in rural Alaska. These three categories differ in the training they receive and their funding sources. Currently, there are a combined 104 VPOs and TPOs in 52 communities. This places a law enforcement presence in all but 75 Alaskan communities--a number that is ever decreasing as the VPSO program expands.

The VPSO program represents an approach to rural policing that is tailored specifically to Alaska. In recognition of the scope of village life and of the range of public safety needs in these areas, the program was designed to train and employ individuals residing in the village as first responders to public safety emergencies such as search and rescue, fire protection, emergency medical assistance, crime prevention, and basic law enforcement. Working as a team with the Alaska State Troopers, VPSOs conduct misdemeanor and minor felony investigations with and can stabilize most volatile situations and protect crime scenes in more serious incidents until Troopers can arrive.

Under the Parnell administration, the VPSO program exemplifies the real benefits of a true partnership between the State, participating native organizations and rural communities. The Department of Public Safety provides funding to nonprofit regional native corporations to hire and employ VPSOs within their region, recognizing that these organizations are aptly aware of the specific needs of the areas to be served. Regional nonprofit native corporations employ the VPSOs, and the Department of Public Safety provides training, equipment, and oversight. Both entities work to provide VPSOs with direction suited to the specific needs of the communities in which the VPSOs live and work. Additionally, three new State Trooper positions have been added in Bethel, Kotzebue, and Fairbanks to focus specifically on supporting VPSOs, and to work with VPSOs, native non-profit organizations and village and tribal councils to enhance the quality of service and strengthen the collaborative partnership.

VPSOs are an effective mechanism for villages to have strong local influence and control over public safety needs, and positions can be filled through local hire reflective of the cultural composition of the region. For example, if you look at the southwest region of Alaska, the Alaska Association of Village Council Presidents (AVCP) has filled their positions reflective of 90% local hire and Alaska Native hire. Their highly effective hiring practices will likely result in more effective policing in the villages and in a way that is culturally relevant to their community.

VPSOs receive 10 weeks of training and instruction on law enforcement, first aid, and firefighting, all of which is provided by the Department of Public Safety at its Training Academy

in Sitka, Alaska. In contrast, VPOs and TPOs receive just two weeks of formal training. The Department is currently exploring ways to collaborate with criminal justice partners and private entities to increase the training to VPSOs, as well as provide the same level of training to qualified VPOs and TPOs. In this regard, I have made specific requests to the Department of Interior, BIA Office of Justice Services to partner with the state in providing technical assistance and training to villages, tribes, and officers.

In State Fiscal Year 2008, funding for the VPSO program was \$5.7M. In State Fiscal Year 2013, VPSO program funding could exceed \$19M. This is an increase of more than 325 percent in just five years. The State is further investing in this program by providing funding through the Alaska Housing Finance Corporation for VPSO housing in the amount of \$1M in both State Fiscal Year 2011 and 2012. The Governor will be asking for this in State Fiscal Year 2013 as well. The focus on housing supports a recommendation of the Alaska Rural Justice and Law Enforcement Commission to improve and expand housing for public safety officers in rural Alaska.¹

In 2008, there were 46 VPSOs in rural Alaska. Today there is funding for 101 positions, with 88 of those filled in 74 rural communities. And at the recent Alaska Federation of Natives Convention, the Governor reaffirmed his commitment to ask for 15 new positions in his State Fiscal Year 2013 budget request; this would bring the number of VPSOs to 116.

The presence of VPSOs has had a significant impact on improving the quality of life in participating villages. Studies have shown that: villages with a local paraprofessional police presence, such as a VPSO, have rates of serious injury caused by assault that are 40 percent lower than in villages without a local paraprofessional police presence;² sexual assault cases originally reported to local paraprofessionals are 3.5 times more likely to be prosecuted;³ and cases of domestic violence first reported to a VPSO or VPO are 2.4 times more likely to result in a conviction.⁴ My department is also adding trooper positions in rural Alaska. After a decades-long absence of a permanent Alaska State Trooper post, the village of Selawik will house two troopers to give the village a continual trooper presence. This was in response to requests from the community and the Northwest Arctic Borough to make villages in that region safer and would not have been possible without the cooperative and combined efforts of the State, the Borough and the village government.

¹ Alaska Rural Justice and Law Enforcement Commission. (2006). *Initial Report and Recommendations of the Alaska Rural Justice and Law Enforcement Commission, 2006*. Anchorage, AK: Alaska Native Justice Center.

² Wood, D. S. and Gruenewald, P. J. (2006), Local alcohol prohibition, police presence and serious injury in isolated Alaska Native villages. *Addiction*, 101: 393–403.

³ Rosay, André B. (20 Aug 2010). "Overview of Sexual Assault in Alaska" (PowerPoint slide presentation). Slide presentation presented to the U.S. Department of Justice Roundtable Discussion, Anchorage, AK.

⁴ Rivera, Marny; Rosay, André B.; Wood, Darryl S.; and Tepas, Katherine. (Fall 2009). "Predicting Legal Resolutions in Domestic Violence Cases." *Alaska Justice Forum* 26(3): 1, 8–12.

Further efforts of my department, supported through Governor Parnell's initiative, include staffing a new position to increase training to VPSOs, VPOs, TPOs, and other first responders such as behavioral health aides and village health aides in recognizing and responding to crimes involving domestic violence, sexual assault, and sexual abuse of minors; the goal being to enhance services to victims in rural Alaska and increase the reporting of these crimes to law enforcement.

Additionally, three new State Trooper/Investigator positions have been funded to provide vital follow-up investigative activities in cases involving domestic violence, sexual assault, and sexual abuse of minors, with one of these positions stationed in Bethel, Alaska. By dedicating troopers to concentrate on follow-up investigative activities we are increasing the likelihood of successful prosecution and holding offenders accountable.

With respect to addressing substance abuse, my department supports eight multi-jurisdictional teams dedicated to illegal alcohol and drug enforcement throughout the State. We have solid partnerships with federal agencies involved in drug investigation and enforcement, including: the Drug Enforcement Administration (DEA); the Internal Revenue Service (IRS); the Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATF); and U.S. Immigration and Customs Enforcement (ICE). Members of Alaska's law enforcement community and other criminal justice professionals have long known that the greatest contributing factor to violent crimes, including domestic violence and sexual assault, is drug and alcohol abuse. It is also widely recognized that many of the accidental deaths that occur in Alaska are related to alcohol use. The Western Alaska Alcohol and Narcotics Team (WAANT) covers the entire western region of Alaska including Kotzebue, Nome, Bethel, Dillingham, and the Aleutian Chain to curb the flow of illegal drugs and alcohol into these rural communities, and often works with the assistance of residents who want to keep their villages safe. In 2010, the WAANT unit seized over \$330,000 in illegal alcohol and just over \$1M in illegal drugs.⁵

Because much of the alcohol and drugs being sold illegally in Alaska are shipped through U.S. mail, the U.S. Postal Inspectors Service conducts interdictions with direct support from the Alaska State Troopers and the Alaska National Guard Counter Drug Support Program. Through this program, alcohol seizures with a street value of over \$90,000 and illicit drugs with a street value of over \$475,000 were interdicted in 2010.⁶

In 2011, the Alaska State Troopers partnered with the United States Marshals Service to conduct several outreach and crime reduction programs including: Badges to Books, a community outreach program where Troopers and Marshals visited traditional summer fish

⁵ Alaska Bureau of Alcohol and Drug Enforcement, *2010 Annual Drug Report*

⁶ *Ibid*

camps and handed out reading books to children; the Village Crime Reduction and Community Oriented Policing Program, which teamed with State Troopers, VPSOs, U.S. Marshals, U.S. Postal Inspectors, and local law enforcement to travel to villages to enforce sex offender registry, interdict alcohol and drugs, and to meet with schools, tribal and village councils.

These examples illustrate some of the federal, state, and tribal partnerships with respect to public safety that are already in place and making a positive difference in rural Alaska.

Other state agencies are working collaboratively with tribes and rural villages as well. The Department of Health and Social Services, in particular, has a number of statewide and regional programs that work directly with tribal organizations to expand and improve the delivery of health care services in rural Alaska. For example, the agency's Tribal Health Program provides statewide technical assistance to tribal health systems on Medicaid enrollment, billing, and staff recruitment and training. In the North Slope Borough and Kotzebue region, DHSS provides more than \$1.4M annually for public health nursing services run by tribal health organizations. In Dillingham, a public health nurse is working with the Bristol Bay Area Health Corporation to conduct health screenings of school children, which includes immunizations, sports physicals, TB testing, and vision and hearing screening. And in Homer, public health nurses have worked with the Seldovia Village Tribe to develop a culturally appropriate screening tool for domestic violence.

The Governor's sexual assault domestic violence initiative has also funded and completed baseline studies, both statewide and regional, of the actual incidence of sexual assault and domestic violence in Alaska to obtain verified statistics, not just anecdotal evidence, on how and where this violence is occurring. In State Fiscal Year 2011, Dr. Andre Rosay, through the State and the University of Alaska Anchorage's Justice Center, completed a preliminary victimization survey.⁷ In State Fiscal Year 2012, the survey narrowed its focus to specific regional statistics for Anchorage, Fairbanks, Dillingham, and Juneau. More data collection from rural communities is expected.

The governor's initiative has also funded pilot project prevention and early intervention programs in Dillingham, Kodiak, Sitka, and Bethel. And the initiative continues to fund the highly successful Family Wellness Warriors Initiative for Alaska Natives: \$200K for State Fiscal year 2012 Dillingham project; and in State Fiscal Year 2011, Dillingham received \$200K and Bethel received \$200K. The core of this initiative is an intensive education and training program that is culturally centered, faith based, and consists of both large group meetings and small

⁷ <http://justice.uaa.alaska.edu/avs/index.html>

group sessions. It's based on the premise that individuals who have been subjected to trauma and abuse themselves have learned coping skills that negatively impact or harm others. Participants are challenged to identify and replace harmful relational styles with methods that enhance safe and healthy relationships through 3-5 day gatherings that integrate spiritual and cultural renewal with evidence-based psychology.

In the past two legislative sessions, Alaska passed new laws that toughen penalties for crimes of sexual assault and domestic violence and address the uses of new technology, like GPS stalking and internet pornography, to commit those crimes.

Problems with sexual assault and domestic violence in rural Alaska are systemic and longstanding. But State law enforcement efforts, through the State's concerted efforts to hire and train local officers to serve in rural communities, and through the programs in the Governor's initiative, demonstrate the state's commitment to improving the quality of life in these communities. I submit to you that Alaska's rural justice system can be improved, and there is a justifiable perception that supports the notion that it has been under-funded. But the system is not broken. We are encouraged that Congress is evaluating Alaska's law enforcement needs, and suggest that collaborative efforts among the state, the federal government and the tribes are required to tackle this problem.

How can the federal government help?

There are significant provisions within the Alaska Safe Families and Villages Act that will promote safety and enable local communities to take a more active role in their own wellness. However, ambiguous provisions that may create Indian Country and criminal jurisdiction will be counterproductive to the collaborative efforts already in place.

For example, rather than creating a new category of law enforcement officer (as the proposal does), federal dollars directed to train existing officers, such as VPSOs and VPOs, would go a long way to increasing services in rural Alaska. Local law enforcement officers, whether village police officers, tribal police officers, or VPSOs, would benefit greatly from training and assistance in the following areas: organizing their departments and activities to provide effective services; writing police reports; documenting crime scenes with cameras and tape recorders; caring for evidence once seized; testifying in court; and ensuring that discovery is made available to criminal defendants and their attorneys. Alaska State Troopers have mini-academies in rural Alaska and a full-scale academy in Sitka with established training programs. With federal support, those programs could be expanded and rural officers could receive culturally relevant training with minimal disruption to their home and family life.

Social issues like substance abuse and truancy are at the root of many law enforcement issues. Because of this, targeted programmatic federal assistance to address these underlying issues

through prevention and early intervention programs, substance abuse programs, and education would be of benefit.

The Alaska Safe Families and Villages Act assumes that the federal government must step in and impose jurisdictional solutions. We don't believe that having the federal government divide the State into jurisdictional project areas for roughly 230 separate tribes is a practical approach for the long term. Alaska can point to specific needs for law enforcement training, technical and programmatic support to village and tribal councils, and other programs at the regional and community levels where the federal government can truly be part of the solution. We hope you will consider those.

We have previously commented on Alaska-specific jurisdictional issues that are presented by the Alaska Safe Families and Villages Act and we are attaching a recent letter from Attorney General John Burns to Senator Lisa Murkowski that specifically addresses those concerns. The State's chief concerns regarding the proposed legislation include: the creation of jurisdictional "project areas" that appear to create ambiguity as to the status of these areas and their relationship to Indian country in Alaska; the apparent provision of tribal court criminal jurisdiction both off-reservation and over non-tribal members, in derogation of the U.S. Supreme Court's decision in *Oliphant v. Suquamish Tribes*;⁸ the provision of general tribal civil jurisdiction over non-members where consent to a tribal court's jurisdiction can be inferred by the mere fact of a "relationship" with a tribal member, which we believe is an expansion of law not supported by the U.S. Supreme Court's decision in *Plains Commerce v. Long Family Cattle*;⁹ and, the provision of full faith and credit recognition of tribal court orders, when a more appropriate and conventional recognition standard would be under the doctrine of comity.

SAVE Native Women Act

I would also like to comment briefly on the SAVE Native Women Act. Decreasing violence against Alaska Native women is a goal that is part and parcel of Governor Parnell's sexual assault and domestic violence initiative, an initiative that reaches every man, woman, and child in the state. Thus, the State fully supports efforts to assure that violence against all women, including Native women, is curbed at its root.

Historically, because of the Alaska Native Claims Settlement Act and the U.S. Supreme Court's interpretation of it in *Alaska v. Venetie*,¹⁰ the jurisdictional paradigm, especially regarding tribal criminal jurisdiction in Alaska, is unique. Alaska has only one reservation, and apart from that

⁸ *Oliphant v. Suquamish Tribe*, 435 U.S. 191 (1978)

⁹ *Plains Commerce Bank v. Long Family Land and Cattle*, 554 U.S. 411 (2008)

¹⁰ *Alaska v. Native Village of Venetie Tribal Government*, 522 U.S. 520 (1998)

reservation, virtually no Indian country. In a previous draft version of section 204 of the SAVE Native Women Act, tribal court criminal jurisdiction was explicitly limited to Indian country and therefore did not extend to most of Alaska. Thus, in these comments, Alaska would ordinarily leave it to states like New Mexico with Indian reservations to weigh in on whether this legislation, on its merits, appropriately aids in the protection of Native women. But as introduced, S. 1763 contains language in section 201 (amending 204(b)(1) and (e)(3)) that may create ambiguity as to its applicability in Alaska. We believe the explicit limitation of tribal criminal jurisdiction to Indian country, as defined in 18 USC U.S.C. § 1151, has been made less clear by referring to “inherent” tribal criminal jurisdiction in section 201. We also believe that Section 202(e)’s reference to “Indian land” could be clarified by referring instead to “Indian country.” These changes would leave intact the overall laudable and important goals of the Act, while making clear that the Act is not intended to confer criminal jurisdiction outside of Indian country in Alaska.

Again, we look forward to working with the committee and staff to seek programmatic solutions that assist rural Alaska.

In summary, we are grateful for the opportunity to address this committee today on issues of such critical importance. Alaska’s leaders, through the administration, my agency, the Departments of Law, Health and Social Services, Corrections, and others, are working hard to bring justice to all of its citizens, rural and urban alike. We are one state, one people. We respect and acknowledge the role of the federal government in Alaska’s affairs, but ask that that role include consultation and collaboration with the State. We believe there are practical, programmatic solutions to the issues of violence and crime in our rural communities, short of legislation that imposes a top-down, federal jurisdictional solution. We welcome the opportunity to work with the committee and staff to seek a consensus about how best to proceed in Alaska.

STATE OF ALASKA

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August 19, 2011

Via U.S. Mail and E-mail to: Kristen_Daimler@murkowski.senate.gov
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The Honorable Lisa Murkowski
709 Hart Senate Office Building
Washington, D.C. 20510

Re: Alaska Safe Families and Villages Act
S. 1192

Dear Senator Murkowski:

I am writing to you because of concerns the State of Alaska has with the Alaska Safe Families and Villages Act (S. 1192-ASFVA) introduced by Senator Begich. The State of Alaska shares the goal of addressing domestic violence and alcohol problems in Alaska. However, Alaska does not agree with the approach proposed in S. 1192. ASFVA was drafted in part by tribal advocates who have goals far beyond addressing domestic violence and alcohol problems. Not surprisingly, the legislation unnecessarily emphasizes issues of sovereignty and Indian country rather than focusing on addressing the difficult drug and alcohol problems faced by Alaska citizens. The legislation, if passed, would effectively divide Alaska into multiple jurisdictional operating zones. Alaska does not believe this solution is prudent in the long term for Alaska, or Alaskans.

ASFVA is a complex piece of legislation with wide-ranging problems. A few of the more troubling aspects of the legislation are as follows:

(1) Congressional Findings Used to Justify Federal Intervention

ASFVA starts with a list of what are purportedly Congressional "findings" which are used to justify Congressional intervention in Alaska. The findings indict State law enforcement efforts, and suggest that, as a result of the perceived deficiencies, Congress must exercise its "plenary authority" in Alaska to establish a federally mandated system of concurrent state-tribal jurisdiction.

It's not entirely clear where these "findings" came from, or whether any study or studies were ever done to support them. These findings should not be made lightly.

Congressional findings can last for decades, and have the potential to influence federal-state-tribal relations for years to come. For example, the Congressional findings in the Indian Child Welfare Act—enacted in 1978—are still commonly cited today in court decisions, by federal administrative agencies, and in child custody literature. Even if the ASFVA pilot program ends after the stated five year duration, the findings could be used for many years to justify future broad-based federal interventions in Alaska.

We recognize, of course, that Alaska—particularly rural Alaska—poses challenges. That is why the Parnell Administration plans to fund, train and support a VPSO for every community that asks for that law enforcement presence. There were 46 filled VPSO position in July 2008. Since then, the State of Alaska has added 41 VPSOs and intends to add 17 more by the end of 2011 under current authorized funding. The State also supports training for Village Police Officers (VPOs). These and other ongoing efforts demonstrate a long-term State commitment to address and improve the very issues which are the subject of proposed findings. Memorializing the negative findings in law when so much positive momentum is underway is bad policy, and it will accomplish nothing more than to drive a larger wedge between the federal government and the State of Alaska.

While tribal advocates may want to encourage broad-based federal intervention in Alaska, we believe the more appropriate focus is on existing and future State efforts to care for state citizens. The roughly \$18 million budgeted for establishing a comprehensive “pilot program” could be put to better use in existing State programs and initiatives such as VPSO housing.

(2) The “Project Areas” Could Be Construed as Indian Country, and Undermines ANCSA by Geographically Dividing the State Based on Claims of Native Use or Occupancy

The statute provides that Tribes and the Office of Justice Programs will establish “project areas” within which Tribes will exercise jurisdiction concurrent with the State of Alaska. ~~The project areas are specific, geographically-identified zones proposed by a~~ Tribe and approved by the OJP. The State has no apparent role in the project area designation process.

The federal government has a trust responsibility to Tribes, and the act of creating a geographic area within which Tribes exercise concurrent jurisdiction raises concerns about the creation of Indian country. Merely saying that the legislation neither “confirms nor denies” (Sec. 4(k)) the existence of Indian country only heightens the overall concern. Although we do not support the idea of project zones, at a minimum the legislation should clearly and unequivocally state that no Indian country is created.

Allowing Tribes to exercise geographically-based jurisdiction runs counter to the Alaska Native Claims Settlement Act which settled Indian land claims. The project areas raise the specter of a state divided into various geographic zones—with different rules and laws depending on which zone a person works or lives in.

ANCSA was intended to end the “sort of federal supervision over Indian affairs that had previously marked federal Indian policy.” *Alaska v. Native Village of Venetie*, 522 U.S. 520, 523-24 (1998). ANCSA sought to end all claims of “aboriginal right, title, use or occupancy of land or water areas,” or claims based on statutes or treaties. 43 U.S.C. § 1603(c). ANCSA specifically intended to avoid any “permanent racially defined institutions, right, privileges or obligations,” or creating a “lengthy wardship or trusteeship.” 43 U.S.C. § 1601(b). ASFVA, by contrast, moves the State of Alaska in the wrong direction by revisiting these issues, and it directly and indirectly undermines the spirit and intent of ANCSA.

Interestingly, ASFVA does not offer any hints about what happens when the demonstration project ends. Does the project area disappear as a matter of law? What becomes of the tribal rules and authorities? Difficult questions about state-tribal relations are simply not addressed.

(3) Potential Creation of Tribal Criminal Jurisdiction Outside Indian Country

As a general matter, no tribal criminal jurisdiction exists outside Indian country. Yet ASFVA does not clearly limit its scope to civil jurisdiction matters. ASFVA does not place any explicit limitations on the topics of tribal laws or ordinances “certified” by the Office of Tribal Justice. (Sec. 4(h)(2).) Perhaps more troubling, ASFVA would appear to invite criminal sentences of incarceration by Tribes. (See Sec. 4(j)(3), Sec. 7.) ASFVA also recognizes banishment as a penalty. (Sec. 4(j)(4).) Permanent banishment is almost certainly “punitive” and therefore a criminal penalty, and Congress may not by legislative fiat simply treat punitive measures as being a “civil remedy.” Finally, the appropriate “sanctions” are also not explicitly restricted to civil remedies, saying only that Tribes may impose any sentence as “appropriate.” (Sec. 4(j)(2).)

ASFVA’s overall intent is simply not clear enough. If the goal is to allow the imposition of certain non-punitive, civil remedies, that goal must be clearly and unequivocally stated.

(4) Jurisdiction Over Non-members

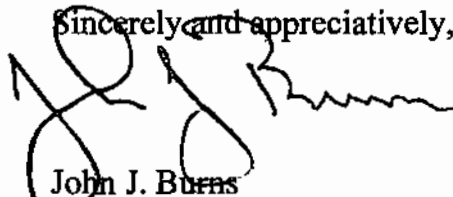
ASFVA broadly provides that Tribes can exercise jurisdiction over anyone who has a "consensual relationship" with the Tribe. Current federal law narrowly limits the circumstances under which a Tribe may exercise jurisdiction over a nonmember to areas such as commercial dealings. A broad and ill-defined nonmember "consent" standard represents a truly enormous expansion of tribal jurisdiction. Virtually any act could be deemed "consent": living in a project area, entering a personal relationship with a tribal member, or perhaps even driving through a project area. On the important issue of "consent," ASFVA fails to provide any guidance. This lack of detail is unfair to all Alaska citizens, but it is particularly unfair to non-tribal members who as a general rule have no role in setting tribal policies or rules.

The proposed ASFVA statute does not limit project areas to rural regions, thus raising the prospect of a Tribe exerting concurrent jurisdiction with the State of Alaska even in urban regions like Anchorage, Fairbanks, or Juneau. Merely living in those areas could potentially subject thousands of Alaska citizens—whether tribal members or not—to a Tribe's jurisdiction. To most non-tribal members, this would be a baffling, probably unfathomable, outcome.

Two central problems with ASFVA exist: (1) ASFVA focuses too much on trying to advance tribal jurisdictional goals, and not enough on the specific problems it claims it wants to address: alcohol and drug problems, and law enforcement; (2) it is too vague about topics like criminal jurisdiction and Indian country. The way to move forward on these issues is to work in tandem, not to further balkanize the State of Alaska into multiple jurisdictional operating zones.

The State of Alaska is closely monitoring this legislation with John Katz in our Washington, D.C. offices. I know John has spoken with you about this legislation on one or more occasions. We would be happy to answer any follow-up questions or concerns you might have.

Sincerely and appreciatively,



John J. Burns
Attorney General

cc: John Katz, Director of State/Federal Relations & Special Counsel,
Office of the Governor, State of Alaska

Senator Lisa Murkowski

Re: Alaska Safe Families and Villages Act
S.1192

August 19, 2011

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bcc: The Honorable John Coghill, Senator, Alaska State Legislature
John Moller, Senior Advisor for Rural Affairs, Office of the Governor
Katie TePas, DVSA Initiatives Coordinator, Office of the Governor