

TESTIMONY OF THE CHIEF JUDGE OF  
THE SHOSHONE AND ARAPAHO TRIBAL COURT  
OF THE WIND RIVER INDIAN RESERVATION  
FORT WASHAKIE, WYOMING

HEARING BEFORE THE UNITED STATES  
SENATE COMMITTEE ON INDIAN AFFAIRS

JULY 24, 2008

Mr. Chairman and members of the Committee on Indian Affairs, my name is John St. Clair and I have been the Chief Judge of the Shoshone and Arapaho Tribal Court since its creation in 1988; and prior to that Chief Judge of the Code of Federal Regulations (CFR) Court since 1983.

I wish to thank you for invitation to testify today regarding the Indian Law and Order Bill.

The Wind River Indian Reservation is in west central Wyoming consisting of approximately 2 million acres set aside by the Treaty of Fort Bridger, 1968. The Northern Arapaho and Eastern Shoshone (the Tribes) jointly occupy and own it. These are about 6000 enrolled Arapahos and 4000 enrolled Shoshones, many of whom live on the reservation along with non-enrolled Indians and non-Indians. Within the exterior boundaries there are about 35,000 people.

In 2007 the Tribal Court processed 3939 criminal, traffic and civil cases. The Court exerts criminal jurisdiction over all Indians who commit offenses prohibited in the Shoshone and Arapaho Law and Order Code and civil jurisdiction over all persons who have significant contacts with the reservation. The Court was created in 1988 by the Tribes exercising their inherent authority to administer justice that derive from their substantive powers of self government which fall within the domain of tribal sovereignty.

Budgetary needs for 2007 totaled \$490,000. Funding by the Bureau of Indian Affairs (BIA) was \$137,844 pursuant to a PL 93-638 contract, while the Department of Justice (DOJ) provided about \$170,000 in grants and the Wyoming State Bar Foundation awarded an \$8000 grant for criminal defense. When this funding is combined, there exists an unmet need of \$174,000. Because of this deficiency in funding, the court system cannot employ adult probation or sentence accountability officers to supervise, monitor and enforce the terms and conditions contained in probation agreements, deferred prosecutions agreements, suspended sentences, temporary releases and restitution orders. This directly affects the courts ability to address Title III Section 304 of "Tribal Justice Improvement Act" where a tribal court may require a convicted offender to serve an alternative form of punishment. Since grants are not secured funding the court is concerned with the proposed amendment of the Indian Civil Rights Act (25 U.S.C. 1302) to replace the present language of "... at his own expense to have the assistance of counsel for bill defense;" with, "... to deny any person in a criminal proceeding the

assistance of defense counsel;”. The concern is that tribes may be required to provide for a tribal defender, thus creating a financial obligation that did not exist prior to this proposed bill.

In 1995 the State of Wyoming passed legislation giving full faith and credit to civil orders of the Tribal Court and in compliance with the Violence Against Woman Act (VAWA) (18 U.S.C. 2265 and 2266) enacted provisions to extend full faith and credit and registration of tribal protection orders (W S 35-21-108 and 111). The Tribes have in the Shoshone and Arapaho Law and Order Code (SALOC) procedures for recognizing foreign judgments from outside jurisdictions at Title I Chapter 9 and under rule-making authority of the Chief Judge found at Rule 4-6-17 Rules of Criminal Procedure in 1999 Rule CU-109 Recognition and Enforcement of Foreign Protection Orders was made to recognize and register outside protection orders.

The Tribes have operated adult and juvenile drug courts since 2001. The courts were created pursuant to the same rule making authority of the chief judge utilized to comply with VAWA. An associate judge was assigned to carry out the duties in both courts. This has worked well because there is no conflict or competition with the existing court since the judge has the authority to sit in either court. The average number of clients in the drug courts are about 50 participants and approximately 10 of these successfully complete the program.

Law enforcement services are provided by the BIA and there exists a lack of enough officers to adequately patrol the reservation. Compared to the state law enforcement system, the Wind River Reservation’s resources are only about 60%. This impacts not only on how the department is able to deliver services, but knowledge in the communities that response may be inadequate or non-existent. As a result many crimes are not investigated or not even reported.

In conclusion, the goal of providing tools for tribal governments to address public safety concerns in Indian Country proposes \$35,000,000 for jails and \$10,000,000 for emergency shelters, but nothing for tribal courts who have vast unmet needs such as the Shoshone and Arapaho Tribal Court which totals \$350,000 without considering grants. In addition, increased resources for law enforcement will result in a corresponding increase in tribal court caseloads which will also increase with the proposed increase in sentencing authority from a year and \$5000 to three years and \$15,000 or both. The impact of increased sentencing authority will be far less federal prosecution and more tribal prosecutions. Should ICRA be amended so that tribes must provide legal defense this will be an additional cost to tribal courts.

Finally ITJA authorized but did not appropriate \$50,000,000 base support funding each fiscal year for tribal justice systems. I recommend and request that the Tribal Justice Improvement Act of 2008 include an appropriation of \$50,000,000 each fiscal year for 2009 through 2013.

On behalf of the Shoshone and Arapaho Tribal Court System I want to thank the Committee for this opportunity to testify before you and express my support for this important legislation.

Respectfully Submitted,

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