**UNITED STATES SENATE**

**COMMITTEE ON INDIAN AFFAIRS**

**Oversight Hearing to receive testimony on
“Strengthening Alaska Native Families:**

**Examining Recidivism, Reentry, and Tribal Courts in Alaska”**

**August, 20, 2015**

**Testimony of Natasha Singh, Tribal Court Judge,**

**Tanana Chiefs Conference General Counsel**

Chairman Barrasso, Vice-Chairman Tester and distinguished Members of the Committee -- including our very own Senator Murkowski -- thank you for holding today’s hearing focused on strengthening Alaska Native families. In the past, unfounded fears surrounding tribal authority have prohibited discussion of how tribal courts can work with the state to reduce recidivism and make reentry more successful. In 2014, the status quo in Alaska marginalized and ignored the potential of tribally based justice systems and tribal consortiums to provide more cost-effective and responsive alternatives to prevent crime and keep all Alaskans safe. Today, because of leaders like Senator Murkowski, the discussion is able to move forward as tribes offer innovative ways in which tribal programs can work with state and federal programs in order to improve the safety of our state and provide for strong Alaska Native families. It is a privilege and honor to testify on a topic which has the potential to bring fundamental, lasting, profound and, most importantly, desperately needed change across Alaska.

My name is Natasha Singh. I am a Stevens Village tribal member, a tribal court judge and serve as General Counsel for the Tanana Chiefs Conference. TCC is an intertribal health and social services consortium of 37 federally recognized Tribes located in the Interior of Alaska. We serve approximately 13,000 tribal members living in our villages or in Fairbanks. Our territory occupies a mostly roadless area that is nearly the size of Texas, stretching from Fairbanks clear up to the Brooks Range and over to the Canadian border.

This testimony will provide an overview of current Alaska Native tribal court successes and ways this committee is able to improve tribal courts for safer communities and stronger families.

There are 229 Alaska Native tribes in which approximately one-third have operating formal tribal courts. Tribal courts currently handle child protection, adoption, domestic and family violence, substance abuse issues, and juvenile cases. In the TCC region alone, we have over 150 on-going child protection cases.

Tribes know that over 95% of child neglect, sexual abuse, violence and juvenile issues stem from substance abuse. Armed with this knowledge, tribal courts focus on addressing the underlying issues of substance abuse. Community or restorative justice, or peacemaking are terms sometimes used to describe this approach used by tribal courts. Tribal courts are not simply replicas of western court systems. While they are required to follow the Indian Civil Rights Act they also incorporate judicial practices from the tribal governments that existed before the federal and state judicial systems made an appearance in our lands. Practices that seek to heal the individual, heal the family, and address underlying issues have worked to restore tribal communities for centuries and they work today. Alaska Native tribal court practices are successful because:

* The parties involved know the tribal court judges. In western courts this might be seen as possible judicial bias, but for tribal courts this is a proven strength. First, the judges know the family history of an individual which provides insight to the underlying causes of the substance abuse. Second, parties to tribal courts often interact with the tribal court judges on a daily basis which provides for additional accountability.
* The community is invited and involved. Circle courts provide a forum in which the community is invited to sit and discuss an issue in a circle format. The community is able to participate to ensure individuals and judges see the full picture of the history and impact of an individual’s unhealthy behavior. Finally, with the community involved, individuals are more accountable. Children may address their parents, victims may address their assailants, elders address the community, all in a safe, open and often religious circle in which the truth emerges and healing begins.
* The focus is to heal rather than to punish. Formal procedure is set-aside to ensure outcomes are achieved. If a juvenile is drinking, it is often because there are issues with the parents. If a mother is cited for domestic violence, there are likely child protection issues. State courts address cases by isolated incidents whereas tribal courts address cases by families. The circle’s participants provide suggestions for an individual and a family. Sometimes, a case plan is worked out. Sometimes parents are paired with other parents that have successfully worked a case plan in the past. Individuals obtain the necessary mental health and behavioral health assessments and community support is identified.

The tribal court model works for the limited cases our tribes are able to handle with purely volunteer courts. There is very little funding or confirmed authority for what has been described, yet tribal leaders are dedicated to improving their communities and so they’ve continued the healing practices that have been done for centuries. Tanana Chiefs Conference is one of the only entities that provides technical assistance for the tribal code and ordinances drafting necessary to ensure tribal processes meet the standards of the Indian Civil Rights Act and traditional laws. The funding TCC receives is often grant based and not guaranteed. Tribal courts need more in the form of confirmed authority and funding to have the impact necessary to change our communities for the better.

Sixteen months ago this Committee held an oversight hearing on The Indian Law and Order Commission Report: A Roadmap for Making Native America Safer. That report was a mix of new research and a summary of many past studies, all of which have documented too well the severe crisis facing Alaska Native tribal communities. The interconnected scourges across rural Alaska of domestic violence, sexual assault and rape, child abuse and neglect, and substance abuse are undeniable, and the time for positive congressional reform is long overdue.

The status quo in our villages is unacceptable in any civilized country. It is unacceptable in America. And, it is unacceptable in Alaska. The Law and Order Commission’s report repeats what has been amply documented for decades: that (1) the state judicial and law enforcement system does not serve rural Alaska well, and (2) due to reasons of funding, size, remoteness, hub centralization, and deep cultural divides, that system will never serve rural Alaska well. What is needed is a new world order in rural Alaska, but one that is an old world order in Indian policy, and one that is very familiar to this committee: enhanced tribal self-determination at the local level.

Forty-four years ago President Nixon proclaimed an enlightened new federal policy of tribal self-determination, and Congress responded with scores of new initiatives designed to make self-determination a reality and a success for the Nation’s Indian tribes. In time, one small volume of the federal code grew to four, and in due course many tribes across the country made enormous strides toward greater self-determination. Yet some of the most important of these initiatives have missed Alaska villages.

But fortunately, these legal errors can be corrected, and new legal rules established that will support and add to the tools Alaska tribal governments need to strengthen our families, and to address the root causes of substance abuse. What is needed is federal legislation which recognizes the authority of our tribal governments to deal in the first instance with issues of local domestic violence, sexual assault, and substance abuse. That is what is needed, that is what Commission after Commission has called for, and that is what Congress, alone, can accomplish.

Such measures, taken on this limited and regulated basis, is an important -- indeed vital -- first step in securing Alaska tribes the tools necessary to realize greater local self-determination and to deal specifically with issues of domestic violence and substance abuse. Local control in these areas will assure that (1) actions are taken by the authorities having the greatest local knowledge; (2) actions can be taken locally to intervene in unstable conditions which, if unchecked, would otherwise lead to criminal acts, assaults or worse; (3) actions can be taken by those who are in the best position to swiftly respond to developing situations.

I applaud this Committee for taking action on specific recommendations from the Law and Order Commission’s report. First, thank you for the repeal of Section 910 of Title IX of the Violence Against Women Reauthorization Act of 2013. Next, thanks to Senator Lisa Murkowski for including language in the Consolidated and Further Continuing Appropriations Act of 2015 which mandates that “within 180 days of enactment of this Act, the Bureau [of Indian Affairs], in coordination with the Department of Justice, is directed to report to the House and Senate committees of jurisdiction on the budgetary needs of tribal courts in [Public Law 280] States. *See* 160 Cong. Rec. H9764-5 (Dec. 11, 2014). The Law and Order commission has identified funding for tribal courts as an issue and our Senator has taken this recommendation seriously.

We thank Senator Lisa Murkowski for her leadership in requiring this report under the Act because the report is absolutely fundamental to understanding the scope of the public safety epidemic facing tribal in Alaska. The report will allow Congress to identify the true need facing our tribal nations and quantify the amount of funds it will take to address this need. Obtaining this budgetary data is an obvious first step to addressing the public safety situation in our communities.

 Unfortunately, the joint BIA and DOJ report was due to Congress in June, but it has not yet been completed. The Tanana Chiefs Conference met with the BIA in February and July, and sent a letter in April, advocating for the completion of this report while also offering our technical assistance and expertise. The BIA and DOJ declined TCC’s offer and proceeded without our help, but they have yet to produce the report. It is now 60 days overdue. We appreciate that the BIA attended the Alaska Tribal Court Development Conference earlier this month but what we really need from the BIA at this point is the report. I hope that this Committee will continue to hold the BIA and DOJ accountable for the report and that it will be complete in September before the end of this fiscal year.

In conclusion, the tribal court model has proven to heal and strengthen families. This model has sustained on very little funding or confirmed authority. Federal legislation to confirm tribal court authority of domestic violence and substance abuse matters would go a long way to see that individuals and families heal.