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Prepared Statement of the Honorable Isidro B. Lopez, Vice Chairman  
Tohono O'odham Nation  
to the Senate Committee on Indian Affairs

July 17, 2008 Oversight Hearing  
"Implementation of the Adam Walsh Act by Indian Tribes"

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S-ke:g si'alim. Bañ ce:gig Isidro Lopez. Good morning Chairman Dorgan, Ranking Member Murkowski, and distinguished Committee members. My name is Isidro Lopez and I am the Vice Chairman of the Tohono O'odham Nation. Thank you for the opportunity to testify today.

The Tohono O'odham Nation comprises the second-largest reservation in the United States and the Nation's government has formed long-standing partnerships with state and federal law enforcement officials to protect public safety on the Nation's 75 miles of international border and throughout our lands. Despite the Nation's limited law enforcement resources and the added burden of border protection, we are at the forefront of sex offender registration and notification in Indian Country.

Many years before the Adam Walsh Act was enacted by Congress, the Tohono O'odham Legislative Council enacted a stringent tribal registration and notification law. The Tohono O'odham Police Department, in turn, has implemented a rigorous registration and notification program staffed by a full-time, state-certified police detective. As a result, the Nation has a current database listing more than 216 registered sex offenders on a reservation with a resident

population of 14,000. We understand the dangers posed by sex offenders whose identities remain hidden and we are committed to public disclosure of offender information.

Because the Nation has had a sex offender registration process in place for a number of years, it has been a relatively simple transition for the Nation to comply with basic mandates of the Adam Walsh Act and the Nation did elect to carry out these functions under Section 127 of the Act. Because our registration functions are already performed by a certified police officer, expanding the descriptive data and identifying information, recording finger and palm prints, and, now, collecting DNA samples, has been a manageable, yet costly task.

That said, I would also like to alert the Committee to some challenges we have encountered that have hampered our efforts to implement the Act. Second, I will present several successes we have had in achieving compliance.

Although the Tohono O'odham Nation is making progress toward achieving full compliance, an obvious problem is funding. Because FBI funding for Indian Country crime lab services ceased in 2006, the Nation recently entered an intergovernmental agreement with the State of Arizona to reimburse the State \$130,000 annually for crime lab services. These services include not only standard blood alcohol content analysis and similar processing of physical evidence, but the analysis and storage of DNA samples. This data is then submitted to the FBI's Combined DNA Index System database (CODIS).

We understand that the level of tribal-state cooperation we experience is not necessarily the norm throughout Indian Country. At national meetings, tribes in other parts of the nation report they not only lack access to, for example, state crime lab services, but are denied access to state criminal databases and other critical law enforcement tools that we all need to protect the general public from the same offenders. We all know offenders are not limited by invisible

jurisdictional boundaries and the Adam Walsh Act can only truly succeed if states fully include tribes as fellow governments fighting crime together.

Another issue for the Nation is the public website development. While again funding to establish a specific website for the Tohono O'odham Nation has been difficult to obtain, the Nation has been seeking vendors with experience working within Indian Country. This problem is compounded by the jurisdictional issues that hamper Indian Country law enforcement and on occasion are seen as a barrier to cooperation by law enforcement agencies outside of Indian Country. We are fortunate that this has not been an issue but it is certainly looming over our cooperative efforts should a non-Indian offender challenge the authority of the Tohono O'odham Nation based on the *Oliphant* decision and the resulting lack of tribal authority over non-Indian offenders on our lands.

While the Nation is deeply committed to protecting the public from sex offenders, we are concerned with the burden the Act has placed on the Tohono O'odham Police Department. We operate our program with one officer and on occasion have been able to assign additional part-time help. This makes it difficult to track offenders. We currently have 216 offenders registered, all of whom must be monitored for changes of addresses, employment, and periodic visits, etc.

Despite these needs and the always present jurisdictional challenges, the Tohono O'odham Nation has been working well with our neighboring counties Pima, Pinal, and Maricopa, the State of Arizona, the City of Tucson and our tribal and federal partners in implementing and strengthening our Sex Offender Registration program. These partnerships operate informally without an official agreement but have been successful.

In addition to the DNA collection kits and services provided by the State of Arizona crime lab, the State has also been providing public website service and has entered our offenders

into the State Criminal Justice Information system for years. However, in light of the Adam Walsh Act, the State is anxious to obtain a formal intergovernmental agreement.

Work with our federal partners, specifically the U.S. Marshal's Office, has resulted in apprehension, and charging of offenders for non-compliance. To date, there have been five registered offenders charged with an Adam Walsh violation, including non-Indian offenders who were required to register with Tohono O'odham Law Enforcement because they occasionally pass through the Nation or failed to comply with registration laws once registered here. Federal and state probation offices provide background information on the risk assessment and classification of the offenders. Consistent contact with federal and state probation offices to register offenders who enter or work on the Nation is usually accomplished by registering offenders at half-way houses before release.

Our tribal police partners would very much like to establish a specific Indian Country website because of the constant travel of offenders between the twenty-two tribal reservations in Arizona. It has been difficult for state and federal entities to track these offenders, who are aware of the jurisdictional issues and exploit them to their advantage. A specific Indian Country website that is not hampered by jurisdictional concerns and that can incorporate the unique knowledge each tribal law enforcement agency has of offenders would prove effective not only for tracking of sex offenders but also other offenders. This tool would close the all too common information gap between tribal, state, local and federal law enforcement.

Our successful efforts reflect on the environment of cooperation we are fortunate to have within the State of Arizona spurred by the motivation to protect our women and children, the most common victims of these terrible crimes. Tohono O'odham law enforcement has the

attitude that they will reach out to our State, tribal, local and federal partners to enhance our efforts.