

Tanana Chiefs Conference

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UNITED STATES SENATE COMMITTEE ON INDIAN AFFAIRS

Hearing in S. 1474, S. 1570 and S. 1574

April 2, 2014

Testimony of Natasha Singh, Tribal Court Judge, Stevens Village

Chairman Tester, Vice-Chairman Barrasso and distinguished Members of the Committee -- including our very own Senators Begich and Murkowski -- thank you for holding today's hearing on three bills of particular importance to Alaska Tribes and tribal organizations, but the most important of which is S. 1474. It is a privilege and honor to testify on a measure which has the potential to bring fundamental, lasting, profound and, most importantly, desperately needed change across rural Alaska, especially for people just like me: Alaska Native women.

My name is Natasha Singh. I am a Stevens Village tribal member and a tribal court judge. Most importantly, for over a year I have been a foster mother. Stevens Village is a very small Native village situated just north of Fairbanks on the Yukon River. I am also the 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.

S. 1474

Just two 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 all too well the severe crisis facing women and children in rural Alaska. It bears repeating that, as this Committee now knows, Native women constitute nearly one-half of all rape victims in Alaska, even though Native people are less than 20% of the total state population. In many villages, all of the Native women have been sexually assaulted at some point in their lives. In fact, Native women are 7 times more likely to be assaulted than non-Native women, and we are 12 times more likely to be physically assaulted than women in the rest of the country. Our children, too, are victims -- not just the victims of disproportionate domestic violence, child abuse and neglect, but sexual assault too. Fueling all this is the stunning statistic that 95% of all crimes committed in rural Alaska involve alcohol abuse.

SUBREGIONS

UPPER KUSKOKWIM

McGrath
Medfra
Nikolai
Takatna
Telida

LOWER YUKON

Anvik
Grayling
Holy Cross
Shageluk

UPPER TANANA

Dot Lake
Eagle
Healy Lake
Northway
Tanacross
Tetlin
Tok

YUKON FLATS

Arctic Village
Beaver
Birch Creek
Canyon Village
Chalkyitsik
Circle
Fort Yukon
Venetie

YUKON KOYUKUK

Galena
Huslia
Kaltag
Koyukuk
Nulato
Ruby

YUKON TANANA

Alatna
Allakaket
Evansville
Fairbanks
Hughes
Lake
Minchumina
Manley Hot
Springs
Minto
Nenana
Rampart
Stevens Village
Tanana

Generations of Alaska Natives living in rural Alaska have been ignored by the state's public safety and justice systems, a fact which has created despair among tribal members. This summer I was in a village where an intoxicated man attempted to sexually assault a thirteen year-old girl. When the troopers were called, village leaders were told nothing could be done. This is the third time I know of that this man has attempted an assault. The man still lives and regularly drinks in the village, and the community and local women and children have very little protection from this individual.

Stevens Village, like most Tribes in Alaska, wants to focus its efforts on prevention and healing, rather than the prosecution and incarceration of "victim reactors," meaning those who assault because they were once assaulted. To end the perpetrator-victim cycle we need a justice system which understands our history and has the authority to protect tribal members and deter harmful activity. That system is the tribal system.

The interconnected scourges across rural Alaska of domestic violence, sexual assault and rape, child abuse and neglect, and alcohol and drug abuse are undeniable, both from the experts' statistics and from eyewitnesses like me, 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. Sometimes it has been through neglect, such as a land claims settlement that overlooked the need to preserve local tribal government authority regardless of changing land titles. At other times it has been through affirmative action, such as the mistaken enactment of Section 910 of the Violence Against Women Act. 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 protect women and children from sexual and domestic violence, and to address the root causes of alcohol and drug abuse. To the significant extent that Congress's decisions in the past have contributed to the status quo, Congress can make new decisions today to change the status quo.

And that is why I am here today. I ask the Committee to use S. 1474, with important amendments I will discuss, as a vehicle to make real and lasting change across rural Alaska.

As currently drafted, the bill is largely focused on encouraging more partnerships with the State of Alaska. In these provisions, the bill essentially encourages the State to look to our Tribes for pretrial diversion services, so that offenders who enter the state system can be diverted into tribally-supported activities which could result in prosecutions being dropped and, hopefully, better outcomes and fewer incarcerations. This very modest proposal does not authorize anything new, because the State and the Tribes already have the power to negotiate such agreements. In fact, for the past few months TCC and the State have been negotiating precisely such an agreement. My point is that federal legislation is not needed to enable such tribal-state agreements to be negotiated.

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 drug and alcohol abuse. That is what is needed, that is what Commission after Commission has called for, and that is what Congress, alone, can accomplish.

This is why TCC, in coordination with other regional tribal consortiums in Alaska, individual Tribes, and the Alaska Federation of Natives, has called upon Congress to amend S. 1474 to add an Alaska Safe Families and Villages Self Governance Tribal Law Project. This Project would --

- recognize the authority of qualified and participating Alaska Tribes to exercise jurisdiction, concurrent with the State, in matters relating to child abuse and neglect, domestic violence, drug-related offenses, and alcohol-related offenses;

- define the local village community in which such jurisdiction would apply;
- assure that such jurisdiction reaches all perpetrators residing or located in the village;

- require tribal governments to comply with the Indian Civil Rights Act;
- specify the sanctions participating tribal governments could impose;
- establish strict qualifications for tribal governments to participate in the project, including a detailed planning phase and ultimate certification by the Attorney General;
- assure maximum notification and opportunity for the State to comment on any tribal application;

- require the Attorney General to report to Congress annually on the Project, setting forth the Attorney General's assessment and recommendations, and requiring the Attorney General to consult with the participating Tribes and with the State;
- assure that nothing in the law would be deemed to alter any preexisting jurisdiction of the State, nor to diminish any pre-existing jurisdiction of any participating Tribe;
- assure that the Project will not create any "Indian country" jurisdiction that may not already exist;
- assure that a participating Tribe's authority would be limited to civil jurisdiction, absent an intergovernmental agreement with the State providing otherwise;
- assure tribal access to Bureau of Indian Affairs funding otherwise available to 'Lower 48' Tribes for tribal court and law enforcement programs; and
- provide for the Attorney General to furnish training and technical assistance to Alaska Tribes on tribal court development.

Such measures, taken on this limited and regulated basis, is an important -- indeed vital -- first step in securing to Stevens Village and other Alaska Tribes the tools necessary to realize greater local self-determination and to deal specifically with issues of domestic violence and drug and alcohol 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.

The project I have outlined here would provide Alaska Tribes with an essential set of tools necessary to address drug and alcohol abuse, and we believe will contribute meaningfully to a substantial reduction in domestic violence, sexual assaults, child abuse and neglect, and violence against women. But to achieve these goals, S. 1474 must be amended. As currently drafted (and but for section 6), the bill will accomplish almost nothing. To be clear, S. 1474 must be amended.

Before leaving S. 1474, I want to offer special praise to Senator Murkowski and Senator Begich for agreeing to repeal section 910 of the Violence Against Women Act. Section 910 has cast a serious cloud over the ability of our tribal courts to adopt, to enforce and to secure enforcement through state courts of tribal restraining orders. As a result of Section 910, combined with continuing (albeit unsuccessful) challenges by the State against the application of tribal laws to parents of tribal children, tribal courts are reluctant to take actions against abusers of village women and children where the abuser is not a member of the Tribe. This is tragic, and sets Alaska Tribes apart from all other Tribes for no sound reason in policy or logic. If a woman in a village is the subject of domestic violence, the local tribal court must be assured that it can lawfully take immediate action against the abuser, regardless of his tribal membership. Women like me deserve at least

that much protection. To leave women who are assaulted by non-member men with no recourse and no protection except from a state machinery that is hundreds of miles and days away is unconscionable.

Thank you Senator Murkowski and Senator Begich for recognizing that section 910 is producing very real and very negative impacts for village women, and for agreeing to repeal section 910 as swiftly as possible. This is not a theoretical problem; it is real. As our former President, Chief Isaac, urged this Committee earlier this year, section 910 has created such a problem, and the cure is so straightforward, that we respectfully urge the Committee to include this provision in any relevant bill that is moving forward, including S. 919 (the tribal self-governance legislation).

S. 1574

I would also like to offer a few remarks on S. 1574, a long awaited bill that would make permanent the remarkably successful "477 Initiative." (See Pub. L. 102-477, 25 U.S.C. § 3401.) TCC and 11 other Alaska 477 Tribes and tribal organizations fully support the testimony being provided today by 477 Tribal Work Group Co-Chair Margaret Zientek of the Citizen Potawatomi Nation, and I will therefore keep my supplemental remarks brief.

The 477 Initiative has been proven to be a brilliant and forward-looking piece of legislation that permits Tribes to consolidate employment and training programs that have been authorized by different federal statutes at different times and through different federal agencies. The Initiative authorizes participating Tribes to combine these diverse programs into a single, cohesive and complementary tribal program that is responsive to local needs and conditions, to describe that consolidation in a single Plan, and (once the Plan is approved by the Interior Department) to operate these diverse programs as a single integrated program and to account for all of the Tribe's financial and programmatic activities against the requirements of the approved Plan. Funds and missions are merged; overhead, reporting requirements and administrative requirements are massively reduced; and tribal beneficiaries receive efficient and integrated services that make sense. Agency 'silos' are replaced with a single, integrated and sensible approach that is more efficient and effective to administer.

The brilliance of the original 477 Initiative continues today, and should be a model for similar initiatives in other areas. The federal government may work in silos, but there is no reason why Tribes should have to replicate those inefficiencies. Like the 60 plus other 477 programs serving over 250 Tribes across the Nation, TCC's experience with the 477 Initiative has resulted in magnified and optimized employment and training for the entire region, focusing on hard-to-serve clients and moving hundreds from public assistance to unsubsidized employment.

Given the enormous nationwide success of the 477 Initiative, TCC strongly supports making the 477 Initiative permanent, as proposed in S. 1574. Amendments should clarify and assure that the efficiencies intended in the original enactment are preserved, such as accountability against Plan requirements (rather than multiple separate statutory or

regulatory requirements); consolidated financial accountability through the Single Audit Act (rather than by source of program funds); and implementation of the 477 Initiative through existing Indian Self-Determination Act agreements. TCC also supports adding new provisions that would strengthen the 477 Initiative consistent with core principles of tribal self-determination, such as provisions regarding the resolution of disputes, matching and cost participation requirements, remedies for disputes, clarified cost principles, carryover authority, interest earnings, and rules of construction (among others). TCC recommends that such provisions be added to S. 1574, together with provisions that would lay the groundwork for the expansion of the Initiative to other agencies, and we are very pleased that the Committee's remarkable staff has been working tirelessly to develop amendments along these lines.

An enormous amount of work has gone into improving the 477 Initiative and into the development of amendments that will further secure the achievements of the past and lay the groundwork for expansion of this remarkable initiative in the future. For Tribes and tribal organizations like TCC which face severe economic challenges and employment barriers, the 477 Initiative has proven to be a critically-needed and rare success story. Making it permanent will be a great legacy for the 113th Congress. TCC praises the Committee for setting this bill as a high priority for enactment this year.

S. 1570

TCC also supports enactment of S. 1570, which would authorize advance appropriations for the Indian Health Service. As this Committee well knows, IHS and the Veterans Administration are unique within the federal government because these two agencies provide direct medical services. For this reason, maximizing the effectiveness and integrity of the IHS system demands steady and predictable funding. Sharp and unpredictable funding swings cause severe disruptions and hardships, not just for IHS and tribal providers, but for the patients who depend on the IHS system as their only source of health care. The IHS system must not be forced into lock-down or suspension every time the annual appropriations cycle limps along to final enactment.

These concerns are not theoretical. Over the past 16 years only once has the IHS appropriation been timely enacted. In all other years, appropriations have been delayed, often for months (as was the case again this fiscal year). Final funding levels remain unknown and unknowable even though services must continue. When final appropriations do arrive, often extreme mid-year shifts must be made to conform with unexpected new funding decisions. In short, the ability of IHS and tribal organizations to safely plan and deliver health care services is severely compromised by the current appropriations process, and that strain compounds the challenges IHS and Tribes face in providing adequate care within a woefully underfunded environment.

With people's lives literally on the line, this is unacceptable. Fortunately, it is also easily remedied. The solution is to authorize advance appropriations, as Congress did four years ago in connection with Veterans Administration medical accounts. That precedent is particularly apt here, given the parallels between the VA and IHS direct care systems.

Advance appropriations are a budget-neutral and common sense solution to the serious problems created for the IHS system by the often dysfunctional annual appropriations cycle. TCC therefore respectfully urges this Committee to move forward with S. 1570 at the earliest opportunity.

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Thank you for the opportunity to testify today on these three important bills. TCC and all of the other tribal organizations and Tribes in Alaska will be directly impacted by these measures, and all three should be a priority for enactment in this Congress.

That said, nothing I have discussed today is as singularly important as moving forward swiftly with an amended S. 1474. As our former President Chief Isaac said to this Committee a few weeks ago, our women and children cannot wait. Every day brings new tragedy from child abuse and neglect, domestic violence, sexual assault, and alcohol and drug abuse. Fortunately, it is well within Congress's power to enact sensible policies to help turn this around.

Increased tribal self-determination to combat these challenges is not a panacea, but it is the linchpin to the effective implementation of all other solutions. Increased health aide training, promotion of safe houses and community awareness, direct and telehealth counseling and training, enhanced VPSO and TPO services, all are additional parts of the solution. But these measures will fall far short of their goal if we do not build on the foundation of tribal self-governance and local control. Solutions from outside have been tried and they have failed; we know what will not work.

Enactment of an amended S. 1474, will help our communities reverse the disproportionate horrors visited upon our women and children, conditions which persist precisely because our Tribes lack the tools they need to do something about them. Our Tribes want to step up and help themselves; please secure to them, as you have all other American Indian Tribes, the basic tools our Alaska Tribes need to do that. Please help us to help ourselves.

Thank you again for inviting me to testify on the greatest challenges facing rural Alaska today. It has been an honor to appear here before you.