

TESTIMONY BY THE CHIPPEWA CREE TRIBE OF THE ROCKY BOY'S
RESERVATION IN SUPPORT OF S. 578 THE TRIBAL GOVERNMENT
AMENDMENTS TO THE HOMELAND SECURITY ACT OF 2002

PRESENTED BY
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CHIPPEWA CREE TRIBE

BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS

JULY 30, 2003

Good Morning, my name is Alvin Windy Boy, Sr., I serve as the Chairman of the Chippewa Cree Tribe on the Rocky Boy's Reservation. I am active in advocacy for Indian issues especially when the issue impacts our government-to-government relationship with the United States of American and our right to tribal self-determination and self-governance on our reservations. I wish to thank the Honorable Ben Nighthorse Campbell, Chairman of the Senate Committee on Indian Affairs and the Honorable Daniel Inouye, Vice-Chairman of the Committee and Committee members for allowing me to speak in support of this important bill to Indian Country, the Rocky Mountain Region tribes and to the United States

of America.

Today, I am here to support the passage of S. 578, which allows tribal governments to actively participate in our national strategy to combat terrorism and protect our tribal members and tribal homelands. If Indian Tribes are not part of the national strategy, it would leave a huge void in our national security plan. We are very patriotic people. Indian veterans have answered the call in every war this Nation has fought. They have paid the ultimate price for freedom and now our governments must be involved in retaining that freedom. The freedom to accomplish the national objectives of the homeland security plans such as border security, the protection of critical infrastructure on Indian lands, integrated law enforcement, and emergency response and medical capacity planning and implementation.

In support of S. 578, I would like to share with the Committee members some experiences my tribe has had with Border Security, Tribal Court Jurisdiction over our homelands and the need to access homeland security funding to enhance our ability as first responders and for the protection of our infrastructure.

BORDER SECURITY

Last summer, my Tribe had a horrifying experience with an across the border

abduction of tribal children into Canada. Our inability to do anything was the most frustrating experience of it all. Upon learning that our tribal children were abducted and taken across the border to Canada, approximately fifty (50) miles from the reservation in extreme north central Montana, we contacted all the federal and state law enforcement agencies for assistance. No one could help us.

It was outside the jurisdiction of every federal and state entity. The Federal Bureau of Investigation did not have jurisdiction because of the international border crossing. The State of Montana could not help us because it was out of their purview. Finally, we contacted the State Department in Washington, D.C. and they referred us to the Child Abduction Bureau. They gave us sound advice but could not do anything to help us get our tribal children back into the United States and onto our reservation where they lived. Every governmental agency we spoke with said that because we are an Indian tribe they could not help us and did not understand tribal jurisdiction. Basically, we were on our own.

As a Self-Governance tribe, we are used to taking charge and performing federal functions to the best ability that we can while maximizing the resources we have access to. With the limited resources available to us, we charged the abductor in tribal court for abduction or kidnapping which is a Class III offense in our Tribal Law and Order Code punishable for up to 6 months incarceration and a \$500 fine

and immediately issued an arrest warrant. We knew that service of process for the arrest warrant across the border was going to be a big problem because both state and federal authorities could not help us. This is as far as we could go. Everything came to a standstill.

Finally, after weeks of trying to get assistance and access governmental resources to help us locate and return our kids, we contacted a Barrister in the Canadian Justice System. The Tribe had to spend approximately \$15,000-20,000 dollars to hire a Canadian attorney to represent us in the Canadian Judicial System and relocate our tribal children back into the United States. After several months of agonizing hearings and countless phone calls we were successful in getting our tribal children back into the United States and home on our reservation. This is an experience I will never forget and have vowed to not have to go through unfortunate experience again. The helplessness and lack of coordinated resources is a shame in this day and age. We cannot allow this type of void in jurisdiction to carry over into the fight against terrorism.

As you can see, our ability to access direct governmental resources and to do so on a government-to-government basis in order to provide better border security for our tribal homelands is imperative. Today, timing is critical. We must have the ability to immediately assess and evaluate any situation we are confronted

with, especially when the protection of our homelands and members are at issue.

All Indian tribes and especially the tribes bordering international boundaries need to be part of the comprehensive maintenance of the homeland security of the United States. We already have the tribal laws, tribal court system, law enforcement personnel (albeit limited), and governmental infrastructure. What we need is the ability to work together and coordinate with our federal counterparts and have access to the various resources available to all agencies involved with law enforcement and border security.

It is my hope that S. 578 will assist us in strengthening our ability to deal with those who intrude on our lands for the purposes of committing terrorist actions. Without S. 578, there is a void and we are limited in our ability to protect our homelands, our resources and our people from these relatively new threats to our health, safety and welfare.

TRIBAL COURT JURISDICTION

We have operated all aspects of our tribal court system for many years now. Under our Self-Governance compact with the United States, we carry out all judicial and law enforcement functions on our reservation. It works for us. We know our people and having the ability and resources to carry out these

fundamental governmental functions is critical to our existence. We support Section 13 of the Act, which supports our ability to exercise jurisdiction over any terrorist entering our lands. Closing the current jurisdictional gaps is imperative to protecting our homelands. We currently exercise as much jurisdiction as the law allows us over our lands today but there are jurisdictional gaps that cannot be allowed to continue unless we want Indian reservations to become the points of entry and activity for terrorist cells. Section 13 will allow us to close the jurisdictional gap and be more responsive everyone, tribal and non-tribal, within our jurisdiction in terms of law enforcement and judicial capabilities. We realize it is limited to the purposes of the Act and should not be viewed as an across the board expansion of tribal jurisdiction.

Currently, if we have a criminal violation by a non-Indian within our reservation, we turn the case over to the federal authorities. Our local F.B.I. agents are good and we have a great working relationship with them. But they do not have the time and resources to cover what they already have on their plates, how are they going to help us deal with these new threats? If our law enforcement and judicial systems had more of a direct role we could streamline a lot of our problems and cover more ground together. We have unfortunately a number of violent crimes on our reservation lately. The federal authorities have been extremely helpful with

these kinds of cases but again they are overburdened. They cover several reservations in our area, as well as other federal cases off the reservation as well.

We can help off set their enormous load and work together in a more direct capacity than we currently do. We work together now but we can only perform law enforcement and judicial duties in a limited capacity. Section 13 will allow us to work together in a true government-to-government relationship and jointly utilize our resources to get the job done expeditiously and more thoroughly.

Unfortunately, several extremist – and frankly racist - groups have taken up the cause of tribal jurisdiction and put their “spin” on what Section 13 will do to non-Indians residing on or frequenting Indian reservations. They allege that Section 13 will overturn U.S. Supreme Court decisions and result in total chaos in Indian Country. All I can say is that we need to work together to accomplish the same goals of protecting our people and our resources. Unless you have committed some sort of terrorist, criminal act as defined in the Homeland Security Act of 2002, within our jurisdictional boundaries, you have nothing to fear. Every American should be supporting this effort to work together to make the reservation environment as safe as the off-reservation environment. The effort to combat terrorism cannot be a game plan full of loopholes and voids that begin at the reservation boundaries. The pooling of federal resources and personnel with

our own efforts to improve the health, safety and welfare of reservation residents both Indian and non-Indian is an admiral and respectable goal for us all. We strongly support the inclusion of Section 13 in our efforts to provide for the active participation of Tribal governments, law enforcement and tribal judiciary in our national strategy to combat terrorism and protect all citizens and our valuable homelands.

ACCESS TO HOMELAND SECURITY PROGRAMS

In Montana, Tribal access to homeland security opportunities and resources has been limited. Much of the planning and the resources are allocated to the State of Montana. Tribes need to be included in the development of Homeland Security preparedness plans. Tribal input would bring to the table specific issues that may have national impact such as:

1. Bovine spongiform encephalopathy (BSE) or commonly called “mad cow disease” – the spread of BSE – obviously including any bio-terrorism in this regard by terrorists - could literally decimate the Montana Indian cattle industry. What is the being done to insure the integrity of Montana Indian cattle operations? Because many Montana Indian cattle operations are in isolated areas near the US-Canadian border, there is real concern for safeguarding the cattle from any infection of BSE through terrorist actions. Montana Tribes are challenged with

economic development and the cattle industry is a primary source of income. The challenges of a multi year drought and decreasing beef prices have left the Montana Indian cattle operations struggling for survival. A bioterrorist infection of BSE would completely destroy the Montana Indian cattle industry and have a significant negative impact upon the total economy of Montana and that of the US.

2. Transporting and sale of methamphetamines by foreign nationals – Montana Tribes and other Tribes that border Canada and Mexico have recognized challenges in the transport and sale of illegal drugs on and near their reservations. This problem is multi-fold but to effectively address law enforcement, Montana Tribes need resources to recruit and train our law enforcement personnel. As more than a health issue, Montana Tribes need the resources to identify and develop innovative programs towards drug prevention.

3. Tribes are “at-risk” communities; American Indian/Alaska Native mortality rates for many diseases are 200-300 times that of All-US races rates. This is concerning as Tribes are susceptible to bioterrorism with diseases like smallpox. With the added challenge of a healthcare infrastructure system made vulnerable through years of inadequate funding, Tribes are in a precarious position and are concerned for our communities.

EMERGENCY RESPONSE AND MEDICAL PLANNING AND IMPLEMENTATION

Emergency response and medical planning and implementation are absolutely

critical components in the development of tactical and strategic homeland security plans. Not having the ability to be full partners in the development and implementation of these critical plans is particularly offensive to Indian Country. The citizens of Montana both Indian and non-Indian have a particular concern with emergency response and medical planning in the event of a catastrophic terrorist event. It is well known to the citizens of Montana that we have a great arsenal of Inter-Continental Ballistic Missiles strategically placed around our expansive State. Indian people share the same risks and concerns as the general population in case of a terrorist attack at these sites. We also share the same support for our military people and armed forces who protect our great country. We understand the need to strategically place ICBM's in our State and near our reservations. Having said that, we as most citizens of the United States wholeheartedly support the protection of our great country and of the freedom we enjoy, knowing that we have at great risk the potential to be exposed to massive radiation in the event of a tragic terrorist attack on our State. We do ask that we be part of any effort to develop and improve our emergency response capability and access to medical planning and implementation sources.

The new Homeland Security Department created last year has a multi-faceted and complex mission – promoting homeland security, preventing domestic

terrorist attacks, reducing the vulnerability of Americans and our infrastructure, and mitigating the effects of terrorist acts should they take place – I am here today to support S. 578 and the effort to be aided by every resource at our collective disposal, including those of Indian tribes and our law enforcement agencies, our medical facilities and our tribal personnel. Together we can truly ensure our continued survival and the protection of the great freedoms we enjoy in this country and uphold the respect our great nations have jointly strived and fought for.

In closing, Chairman Campbell, Vice-Chairman Inouye and Committee members, the Chippewa Cree Tribe wholeheartedly supports the passage of S. 578 to amend the Homeland Security Act of 2002, to provide direct tribal participation in Homeland Security activities. The direct participation of Indian Tribes is critical and vital to the implementation of policies and programs of the Department of Homeland Security. The United States must deal with Indian Country on a true government-to-government basis and ensure the inclusion of tribal governments in the national homeland security strategy. The passage of S. 578 will enable tribes to enhance emergency response capabilities to address the new reality of terrorism, and allow tribes to develop and maintain programs related to the campaign against terrorism. Thank you.