



Legislative Hearing on S. 1763 Stand Against Violence and Empower (SAVE) Native Women Act

On November 10, 2011, the Senate Committee on Indian Affairs (Committee) convened a legislative hearing on several new bills, including S. 1763, the Stand Against Violence and Empower Native Women Act (SAVE) Native Women Act. Members of the Committee attending the hearing, included two co-sponsors of S. 1763, Committee Chairman Daniel Akaka (D-HI) and Al Franken (D-MN), as well as Lisa Murkowski (R-AK) and Mark Begich (D-AK). In his introduction, Senator Franken noted that the SAVE Native Women Act would provide common sense and much needed updates to the law.

The following three panelists addressed the provisions of S. 1763, the SAVE Native Women Act, and the issue of violence against Native women generally:

- Tom Perrelli, Associate Attorney General, U.S. Department of Justice (DOJ)
- Suzanne Koeppinger, Executive Director, Minnesota Indian Women's Resource Center
- Thomas B. Heffelfinger, Attorney, Best & Flanagan LLP

Opening Remarks from Senator Murkowski

In her opening remarks, Senator Murkowski noted that statistics regarding rape, domestic violence, and murder of Native women are chilling, and that these are not just statistics, but friends, neighbors, and family members. In Alaska, a recent regional survey shows that 1 out of 2 women have experienced partner violence or sexual violence, or both. Murkowski stated that “this compels us to act,” and that it is “well past time we made this a national priority.”

Testimony from Tom Perrelli

Mr. Perrelli noted that violence against Native women is a high priority issue for the DOJ. He elaborated on the issue by stating that “violence against Native women has reached epidemic rates.” He further emphasized that “tribal leaders, police officers, and prosecutors tell us of an all too familiar pattern of escalating violence that goes unaddressed, with beating after beating, each more severe than the last, ultimately leading to death or severe physical injury.”

Mr. Perrelli stated that “something must be done to stop the cycle of violence,” commenting that, the SAVE Native Women Act would address three key areas where legislative reform is critical. Title 2 of S. 1763 would incorporate the DOJ's proposal, address concerns from a number of tribal leaders, and fill three major gaps in the law. First, Title 2 would recognize tribal power to exercise criminal jurisdiction over certain domestic violence crimes, regardless of the defendant's Indian status. This builds on provisions in the Tribal Law and Order Act (TLOA) and abides by the philosophy in the TLOA that tribes with sufficient

resources and authority are best able to address violence in their own communities. Second, Title 2 of the bill also would clarify that tribal courts (including those in Alaska) have full civil jurisdiction to issue and enforce protection orders involving any person, regardless of Indian status. Finally, Title 2 would allow federal prosecutors to seek the following sentences in crimes of violence against Native women: 1 year for striking, wounding or beating; 5 years for committing substantial bodily injury; and 10 years for injuring a spouse or intimate partner by strangulation or suffocation.

In addressing questions from the Committee, Mr. Perrelli attested to the importance of the treatment of tribal protection orders with full faith and credit. Mr. Perrelli noted that domestic violence is a crime of escalation, and credited the SAVE Native Women Act with proposing a graduated sanction regime and a division of labor among courts that will provide Native women with protection along the spectrum of domestic violence. Finally, Mr. Perrelli conceded that there is simply not enough data on the issue of violence against women in Indian country, but noted that S. 1763 would provide some additional funding for data collection.

Testimony from Suzanne Koeplinger

Ms. Koeplinger credited S. 1763 with acknowledging the disproportionate and varied forms of violence against Native women, and with allowing effective steps to intervene and prevent these crimes. She urged its passage in order to increase the safety and security of Native women, and to give tribes authority to intervene effectively and protect the women in their communities.

Ms. Koeplinger summarized various reports that have been published in the last few years on violence against Native women and particularly focused on the recent uncovering of reports on sex trafficking and similar exploitation of Native women in the 2009 “Shattered Hearts” report. Since that time, additional evidence was uncovered in the “Garden of Truth” report, which has “deepened concern about the breadth and depth of this egregious human rights problem.” She noted that the rates of gender-based violence in Indian country are believed to be much higher than reported because Native women and girls frequently don’t report assaults. The Justice Department’s research reports that 70% of sexual assaults in Indian country are not reported. Ms. Koeplinger cited her own experience with under-reporting among Native women and girls. She also noted that, among this population, she is finding that Native girls at age 15 and 16 are already the recipients of substantial and multiple trauma, including childhood sexual assault, dating violence, sexual exploitation, and sex trafficking.

Ms. Koeplinger encouraged the Committee to support the passage of the SAVE Native Women Act to bolster tribal authority to prosecute these crimes against Native women and girls and to include sex trafficking with other crimes against Native women. She emphasized that acts of violence against Native women must be addressed as a systemic problem. These abuses are often concurrent and cumulative, and early exposure to gender based violence puts young people at higher risk of adult violence. Ms. Koeplinger also urged collaboration between urban Indian centers and tribes to address the unique needs of Native women and girls, and emphasized the importance of front line advocates in collecting baseline data (she noted that the abused are more likely to report their trauma to these advocates) and in prosecuting pimps and traffickers. In response to an inquiry from Senator Franken, Ms. Koeplinger emphasized the critical need for

“wraparound” services to support the overall healing process related to violence against Native women.

Testimony from Thomas Heffelfinger

Mr. Heffelfinger focused his comments on Title 2 of the bill. He noted that, by providing tribes with jurisdiction over violent crimes committed by all offenders, regardless of Indian status, S. 1763 would recognize tribal sovereignty and tribal responsibility, and remove a significant barrier that prevents tribes from effectively protecting the women and children in their communities. He acknowledged that the deprivation of tribal criminal jurisdiction over non-Indians by federal courts “has had a dramatic and detrimental impact on public safety in Indian country” as identified in a recent Amnesty International report.

Mr. Heffelfinger noted that Section 201 of the bill should clearly provide for concurrent jurisdiction with federal and state law enforcement so that tribes have maximum resources at their disposal in addressing violence against women. He expressed disagreement with the provision in Title 2 that would allow a case to be dismissed if a tribal prosecutor cannot establish certain community ties between the victim, the defendant, and the tribe. He noted that this makes issues of employment and residence elements of a domestic violence prosecution, which would be unduly burdensome to prosecutors. Mr. Heffelfinger also noted that, if S. 1763 is going to require tribes to provide new rights to defendants, clarification of those rights is needed.