

3. The issuing court gave reasonable notice and an opportunity to be heard to the person against whom the order is sought.⁶

According to the Act, all orders, including tribal court orders that meet these criteria, are entitled to full faith and credit.

If the current proposal's intent is to make violation of a protective order a federal felony, but only in cases where the accused was provided defense counsel, the legislation should set forth clear language directing states that this measure in no way affects Section 106 of the Violence Against Women Act. Should tribes be concerned that the states may hesitate or refuse to give full faith and credit to tribal protection orders where defense counsel was not provided, then clarifying language will allay those concerns. The language should also set forth that tribes maintain tribal sovereign powers to prosecute Indian violators of tribal protection orders that occur in Indian Country. Additionally, funding should be tied to the proposed legislation to increase the effectiveness of this section.

Domestic Violence and Sexual Violent Offense Training

Oklahoma has a jurisdictional patchwork of tribal and non-tribal lands. It is not uncommon for a victim to call 911 for assistance only to be told that she lives on tribal land and must call the BIA. When the victim calls the BIA law enforcement, the victim is told that the act was committed on state land and she must call state law enforcement for assistance. Many Oklahoma tribes are moving towards cross-deputization agreements for tribal and local law enforcement to address these issues, but the complexities of the jurisdictional queries remain.

Alaska Natives are subject to confusing jurisdictional issues as well, and because of the remote nature of many Alaska Native villages, victims must wait many hours or even days before law enforcement arrives to conduct investigations. The result is a void that leaves many victims without protection.

Despite the fact that one out every three American Indian/Alaska Native women will be raped in her lifetime, many law enforcement officers working in Indian Country lack knowledge on properly gathering and preserving evidence in sexual assault cases, including both investigative techniques and directing the victim to medical or other facilities for proper sexual assault examination.

Law enforcement officers should be trained to work closely with tribal and/or local victim services agencies. Law enforcement officers should receive training to address complex jurisdictional issues, cultural norms and practices. Additionally, law enforcement officers must be trained to investigate offenses including sexual assault. Comprehensive training will increase conviction rates for domestic violence and sexual assault crime and may lead to prevention of those crimes. Funding for training law enforcement officers in Indian Country should be provided in the proposed statute.

Trainings need to be provided on a regional level to accommodate tribes with limited financial and human resources. Some tribes may need training and technical assistance tailored to their specific needs, so a technical assistance provider should be made readily available for tribes to contact for assistance. Trainings should be designed and delivered by individuals or agencies that have extensive experience working in Indian Country.

Thank you again for the opportunity to testify on this important issue. I am happy to answer any questions the Committee may have.

The CHAIRMAN. Ms. Stoner, thank you very much. I should have, as I did at the start of this hearing, indicated that you are the Director of the Native American Legal Resource Center and Clinical Programs at the Oklahoma City University School of Law. Thank you very much for being with us.

Mr. Walt Lamar is President and CEO of Lamar Associates in Washington, D.C., Mr. Lamar, you may proceed.

STATEMENT OF WALTER E. LAMAR, PRESIDENT/CEO, LAMAR ASSOCIATES

Mr. LAMAR. Mr. Chairman, Madam Vice Chair, Senator Thune, good morning.

⁶Violence Against Women Act, 18 U.S.C.A. § §2261–2266.

I very much appreciate the opportunity to offer my remarks regarding the draft Indian Law and Order Bill. By way of introduction, I am Walter Lamar, and enrolled member of the Blackfeet Nation of Montana and a descendant of the Wichita Tribe of Oklahoma. I am a former FBI special agent and the past deputy director of the Bureau of Indian Affairs Office of Law Enforcement Services.

At the risk of concentrating on the negative, I would like to set the context that puts us in this hearing today. It seems every two or three years there is a scathing report decrying the state of Indian Country public safety. Over and over, the symptoms of a broken system are reiterated; yet we remain where we were yesterday.

In a 1975 BIA law enforcement publication detailing history of Indian Country law enforcement can be found the following words: "Civilization has loosened, in some places broken the bonds which regulate and hold together Indian society and has failed to give people law and officers of justice in their place. Women are beaten and outraged, men are murdered in cold blood. The Indians are intimidated and preyed upon by the evil disposed; children are molested on their way to school, but there is no redress. It is a disgrace to our land. It should make every man who sits in the national halls of legislation blush. The effect of civil agents, teachers and missionaries are like the struggle of drowning men weighted with lead, as long as by the absence of law, Indian society is left without base." Bishop William Hobart Hare, quoted in an Indian Commission report dated 1877.

In the late 1930s, a BIA official reported to Congress that many characteristics of the Indian criminal justice system remained as they were at the turn of the century. Jails were so inadequate that judges rarely committed anyone.

Budget cuts for Indian Country law enforcement were so severe in the 1940s that by 1950, Senator J. Chandler Gurney, South Dakota, stated "They cannot have a dance at night because there is nobody to control the peace of the community." Indian Commissioner John R. Nicholls told the Senator that the situation in his State existed throughout Indian Country. "This is the lowest point in the history of law and order," Nicholls said.

Amazing how this all sounds so very familiar. Was it indeed the lowest point?

The Senate Committee on Indian Affairs is to be applauded for taking this affirmative step forward to ensure protection of Indian Country's citizens, visitors and residents. While this draft bill is a positive step, it is but a first step in addressing a very complex issue.

Section 2 of the draft bill entitled Findings; Purposes clearly encapsulates the devastating issues facing Indian Country that have been documented in report after report. A former tribal prosecutor and judge commented to me that this draft bill potentially represents a dream come true.

When dealing with a poorly-performing employee, a good manager will prepare a performance improvement report. I very much liken this draft bill to a performance improvement report for the Department of Justice and the Bureau of Indian Affairs, the Department of Interior. Public safety remains in a state of crisis. Most

of the tools outlined in the provisions of the draft bill are already in the hands of the Government agencies, so we must then ask, why are they not being used to their fullest potential? Is it for lack of will, understanding of the issues or simply a lack of concern? I know there exist examples for all three, but typically it boils down to the issue of funding and resources.

As an example, when I was the deputy director at BIA law enforcement over four years ago, we could count our headquarters staff on two hands. Little has changed since then. How can they possibly be expected to perform the monumental task at hand with less staff than it takes to run a fast food restaurant? Without attendant funding, the provisions of the draft bill will go simply unaddressed.

The draft bill serves to establish the necessary lines of communication and defines areas of required accountability to bring true public safety to Indian Country. I will offer a number of comments which will be submitted in my written testimony. However, I will state with regard to the BIA Office of Justice Services, considering the tremendous importance of law enforcement, the draft bill should address the need to elevate the Office of Justice Services to the Bureau of Justice Services and properly re-delegate the current Deputy Director position to a Director position.

Further, the Indian Law and Order Commission is potentially the strongest provision of the draft bill, and offers an opportunity to bring together top Indian Country experts to address the complex matters facing our tribal justice programs. However, the provision should encourage the consideration of Indian preference in commission selection.

Section 2, Findings; Purposes, reiterate the United States holds distinct legal, treaty and trust obligations to provide for the safety of Indian Country. The trust responsibility obligation is negated by Federal performance-based funding requirements of GPRA and PART. How can trust responsibility be effectively carried out when tribes are not provided sufficient funding to perform effectively and then are penalized and not provided additional funding? Only through needs-based funding initiatives can tribal law enforcement ever reach parity with their State and local counterparts.

Indian Country has the capacity to provide effective law enforcement which is demonstrated by the tribes that have financial resources to fund their public safety programs. So it is not a matter of if we can, it is a matter of the Federal Government meeting its obligation to provide the required funding and resources. It is my hope, my sincere hope that this intended legislation will give us that opportunity.

I wonder, I wonder how many lives were needlessly lost or harmed in Indian Country in the time that it takes to hold this hearing? Thank you very much.

[The prepared statement of Mr. Lamar follows:]

PREPARED STATEMENT OF WALTER E. LAMAR, PRESIDENT/CEO, LAMAR ASSOCIATES

Honorable Chairman and members of the Committee, good morning. I very much appreciate this opportunity to offer my remarks regarding the Draft Indian Law and Order bill. By way of introduction, I am Walter Lamar, an enrolled member of the Blackfeet Nation of Montana and a descendant of the Wichita Tribe of Oklahoma,