

Addressing Victimization Issues Through Effective Implementation of the Tribal Law & Order Act

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TLOA Background

- 15 SCIA hearings (2007-2010) confirmed longstanding crisis of violence:
 - Epidemic domestic and sexual violence
 - Non-Indian gangs/DTOs target reservations for drug smuggling and other crimes
 - Lack of police presence, limited training, difficulties with recruitment & retention
 - High federal declinations to prosecute and inadequate federal response to crime

TLOA Background

- TLOA proposed a comprehensive approach to reform **system**
- Seeks to address 3 aspects of the justice system:
 - Longstanding lack of adequate & consistent funding
 - Lack of local tribal government authority
 - Lack of federal government accountability

Funding Tribal Justice Systems

- **Issue #1:** *Longstanding / severe unmet funding needs for tribal justice systems*
- BIA-OJS reports on unmet needs, and share crime data with DOJ
- BJS annual IC crime report
PURPOSE OF DATA
- Crime prevention planning / strategy
- Government document to justice funding
- Educate the Administration and Congress

Funding Tribal Justice Systems

- **Issue #2: Reauthorize / Expand existing programs**
- Sec. 241 – Indian Alcohol and Substance Abuse Act
- Sec. 242 – Tribal Courts
- Sec. 243 – Tribal Community Oriented Policing Services
- Sec. 244 – DOJ Tribal Jails program
- Sec. 246 – Tribal Youth Program

- Little opposition to funding– except for “*Senator NO*”

Mending the Broken System

*PROBLEM: Justice system is divided and broken.
Consists of piecemeal laws and decisions, that
created gaps and ignores realities*

SOLUTIONS:

- Empower tribal governments
- Hold United States accountable
- Establish avenues to fill gaps in jurisdiction

- Significant comments FOR and AGAINST

Federal Accountability: Transparency in Federal Declinations

- **Issue #3:** Tribal reliance on federal investigations and prosecutions. High declination rates for alleged IC crimes. No coordination or information sharing.
- **Sec. 212.** Disposition Reports – ILERA section 2809
 - U.S. Attorneys & Federal LE officials must coordinate with tribal justice officials when declining to prosecute reservation crimes
 - LE and U.S. Attorneys required to maintain data, by Field Division and District: type of crime, suspect, victim, reason for declination
 - AG must submit annual report to Congress containing investigation & prosecution data on federal declinations in Indian Country
- SUPPORT and OPPOSITION

Local Control: Expanding Tribal Court Authority

- **Issue #4:** *Limited tribal authority to combat crime*
- **Sec. 234.** Tribal Court Sentencing (amending ICRA)
 - Enhanced tribal court sentencing authority
 - 1-3 years imprisonment, \$15,000 fine, or both
 - 9-year cap on stacked sentencing
 - Protections for accused where subjecting D to 1+ year
 - Licensed defense counsel and judges
 - Trial must be recorded (audio or video)
 - Must publish laws, rules of evidence/procedure
- SUPPORT and OPPOSITION

Addressing the *Oliphant* in the Room

- **Issue #5: Lack of authority over non-Indian crime**
 - Non-Indians targeting reservations, many act with impunity
- **Sec. 231. Tribal Police Officers**
 - Enhances Special Law Enforcement Commission (SLEC) program
 - Mandates access to NCIC, Federal Gang Intelligence Database, and other federal criminal history databases
- **Sec. 213. Deputize Tribal Law Experts as SAUSAs**
 - Focus on prosecution of misdemeanor crimes
- SUPPORT and OPPOSITION

CONCLUSION

- TLOA is a step towards greater local control, platform for future efforts
- Tribal participation is critical
- Hold Administration and Congress accountable to fully fund Act and fully consult with Tribes prior to implementation
- FY 2011 is critical funding year for programs reauthorized in the Act