

2-12-2014

Law and Order Commission Report: “A Roadmap for Making Native America Safer.”

Kevin Washburn

University of New Mexico - School of Law

Follow this and additional works at: https://digitalrepository.unm.edu/law_facultyscholarship



Part of the [Indian and Aboriginal Law Commons](#)

Recommended Citation

Kevin Washburn, *Law and Order Commission Report: “A Roadmap for Making Native America Safer.”*, (2014).

Available at: https://digitalrepository.unm.edu/law_facultyscholarship/519

This Court Filing is brought to you for free and open access by the UNM School of Law at UNM Digital Repository. It has been accepted for inclusion in Faculty Scholarship by an authorized administrator of UNM Digital Repository. For more information, please contact amywinter@unm.edu, lsloane@salud.unm.edu, sarahrk@unm.edu.

**Testimony of
Kevin K. Washburn
Assistant Secretary Indian Affairs
United States Department of the Interior
Before The
Senate Committee on Indian Affairs
On The
Law and Order Commission Report:
“A Roadmap for Making Native America Safer.”**

**Washington, DC
February 12, 2014**

Good afternoon Chairwoman Cantwell, Vice Chairman Barrasso, and members of the Committee. Thank you for inviting the Department of the Interior (Department) to provide testimony on the Indian Law and Order Commission Report: “A Roadmap for Making Native America Safer.” I am pleased to be here.

The Administration continues to prioritize the issue of addressing public safety in Tribal communities. This priority is shared by Secretary Sally Jewell, myself, Tribal leaders and members of this Committee. The Administration strongly supported enactment of the Tribal Law and Order Act, which created the Indian Law and Order Commission (Commission). The Act required the Commission to conduct a comprehensive study of law enforcement and criminal justice in tribal communities, develop recommendations for modifications and improvements to justice systems at the Tribal, federal, and state levels, and submit to the President and Congress a report that contains a detailed statement of the findings and conclusions of the Commission. The Indian Law and Order Commission Report: “A Roadmap for Making Native America Safer,” (Report) was delivered to the President in November 2013.

Most of the Department’s work in this area is carried out by the Bureau of Indian Affairs-Office of Justice Services, led by Director Darren Cruzan. In reviewing the Report, the Department saw much more than specific recommendations. The Report included overarching principles that can help strengthen justice and public safety in Indian country. We find several broad principles or themes within the Report that are crucial to improving public safety in Indian country. The Department has prioritized public safety in Indian Country in its appropriation requests in recent years.

The first is that Tribal law enforcement officers should be equal partners of the public safety community. The Report touched on the importance of increasing access to public safety information that is collected and used by all federal, Tribal and state public safety entities. It is essential that the Department provide Tribes with full and immediate access to criminal justice-related information related to their communities. Tribes must have appropriate information necessary to exercise their inherent criminal jurisdiction effectively under Tribal law as provided by the Tribal Law and Order Act of 2010 (TLOA) and the Violence Against Women Act

Reauthorization Amendments of 2013 (VAWA). The Department has drafted a formal protocol to be used by all direct service BIA duty stations for this purpose.

The Department is committed to not only sharing and providing access to information, but also working in partnership with Tribal public safety agencies to strengthen public safety in Indian Country through intergovernmental cooperation. This intergovernmental cooperation includes entering into Deputation Agreements with the Tribes which enables officers working for Tribal police departments with established Deputation Agreements to apply for Special Law Enforcement Commissions (SLEC's). Special Law Enforcement Commissions allow Tribal police officers to enforce certain federal laws in Indian Country. Tribal police officers who put their lives on the line just like federal, state, county and municipal police officers deserve the same level access to information that those officers have.

We consistently cooperate and dialogue with our public safety partners. These collaborations include our federal, Tribal and state partners in public safety. As sister federal agencies, we must collaborate and communicate with each other on public safety issues in Indian Country. Pursuant to our government-to-government relationship with the Tribal Nations, we must consult with Tribal Nations in addressing the public safety concerns in Indian Country. Moreover, since each Tribe is located within a state, and sometimes two or more states, it is paramount that we facilitate collaboration and communication between Tribes and states in addressing public safety concerns in Indian Country.

A second compelling theme of the Report is that all tribes have an interest in public safety. The Report notes that all Tribes have an interest in protecting their members and lands and further recommends that federal funding for Tribal Justice Systems should be made available on equal terms to all federally recognized Tribes, whether their lands are under federal jurisdiction or congressionally authorized state jurisdiction and whether they opt out of federal or state jurisdiction. This Administration strongly supports the principles of Tribal self-determination and self-governance, and we are reviewing the Report and its recommendations to consider if there are ways that we could improve and support the tools available to address their public safety concerns.

In light of the importance of providing public safety to all Indian communities, the Department shares the Department of Justice's views regarding the repeal of Section 910 of VAWA 2013 to allow Alaskan Tribes full civil jurisdiction to issue and enforce domestic violence protection orders to protect Alaska Native victims of domestic violence. This is a sound initial step toward addressing public safety issues for Alaska Natives.

A third compelling theme in the Report is the recognition that where we have strategically invested resources in public safety in Indian Country, we have seen success. Reducing crime in Indian Country is of paramount importance and the Department has been successful in promoting safe communities. In 2010-2011, the Department initiated the Safe Indian Communities - High Priority Performance Goal (HPPG) initiative, which was targeted at achieving a significant reduction in violent criminal offenses of at least 5 percent within 24 months on four Indian reservations by increasing staffing levels to the national rural policing level (2.8 police officers per 1000 residents), implementing a comprehensive strategy involving

community policing, tactical deployment, and critical interagency and intergovernmental partnerships. At the end of the measurement period, there was an average 35 percent decrease in violent crime across all four HPPG sites. This result suggests that public safety improvements can be achieved when a comprehensive strategy is implemented.

We also find a compelling theme in the Report that public safety is more than simply law enforcement. The Report recommends a more inclusive view of public safety in Indian Country. This view of public safety includes not just our police officers, but also our detention programs, our Tribal courts programs, and our Indian Services programs, such as Social Services. The Report encourages Tribes to develop and enhance drug courts, wellness courts, residential treatment programs, combined substance abuse treatment-mental health care programs, veterans' courts, clean and sober housing facilities and reentry programs. We need to work harder to address substance abuse and re-entry issues, and facilitating housing and education, and supporting families to improve public safety in Indian Country.

The Department is pursuing an Indian Affairs Agency Priority Goal to reduce recidivism across three targeted reservations by a total of 6 percent. This reduction we hope will be realized through implementing a comprehensive strategy involving alternative courts, increased treatment opportunities, probation programs, and critical interagency and intergovernmental partnerships between Tribal, federal and state stakeholders.

The Department is pleased with the efforts of Tribes and the Department of Justice to address violence against women in Indian Country. The Department has been a partner in these efforts. During the past year, the Department has trained over 300 tribal court personnel on trial court advocacy skills with specific emphasis on issues affecting the safety of Native Women. Specifically, the trainings focused on issues surrounding domestic violence and sexual assault on adults and children. These trainings have been a collaborative effort between, the Department of the Interior, the Department of Justice Access to Justice Office and the United States Attorneys' Offices. Together, we have offered a trial court advocacy training specifically for Tribal court personnel. In an effort to provide realistic and pertinent issues specific to Tribal courts, the trial court advocacy training sessions have included fact patterns which address violence against Native women such as homicide, rape, assault and battery in the home, and workplace.

Conclusion

Thank you for the opportunity to provide the Department's views on the Indian Law and Order Commission Report. The Department is anxious to hear the views of Indian Tribes about all the important subjects addressed in the Report. The Department will continue to work closely with this Committee, Tribal leaders through consultation, and our federal and state partners, collaboratively and cooperatively, to address the law enforcement, corrections and inter-agency issues to better address public safety in Indian Country.

Thank you for focusing attention on the Commission's work. I am available to answer any questions the Committee may have.