



Federal Bar Association

Indian Law Section

April 14, 2010

Rep. John Conyers
Rep. Lamar Smith
Rep. Bobby Scott
Rep. Louie Gohmert

Dear Congressmen Conyers, Smith, Scott, and Gohmert:

I write on behalf of the Indian Law Section of the Federal Bar Association to extend our strong support for the Tribal Law and Order Act (H.R. 1924). The legislation significantly improves federal criminal justice services in Indian country and enhances respect for tribal courts, judges and the people they serve.

The Federal Bar Association is the foremost national association of private and public lawyers engaged in the practice of law before the federal courts and federal agencies. Over sixteen-thousand attorneys and judges belong to the FBA. The Indian Law Section of the Federal Bar Association is comprised of hundreds of attorneys who practice in the federal and tribal courts throughout Indian country. The Section is dedicated to strengthening federal Indian law, the administration of justice, and tribal court practice. (The views expressed in this letter are those of the Indian Law Section of the Federal Bar Association and do not necessarily represent the policy or views of the entire association.)

This bill (H.R. 1924, S. 797 in the Senate) significantly enhances both federal criminal justice services in Indian country and respect for tribal courts, judges and the people they serve.

H.R. 1924 will provide valuable new law enforcement resources for Indian tribes and nations working to strengthen public safety on Indian lands. Much as the U.S. Constitution ensures through federalism that state and federal law enforcement, prosecution, adjudication and correctional services constantly reinforce and compliment each other, so too must federal and tribal justice systems operate seamlessly. By removing some federally-imposed limits on tribal court sentencing, H.R. 1924 recognizes the critical role that tribal courts play when concurrent tribal-federal jurisdiction extends to the same underlying criminal offense. This added sentencing flexibility will also be a considerable help in those instances involving Native Americans where the tribe may be the sole authority to adjudicate alleged criminal conduct, especially cases involving domestic violence, juveniles, and the ongoing misdemeanor enforcement that is essential to the credibility of any sovereign.

The bill also will enhance the accountability of the federal criminal justice system itself, a matter of vital importance to FBA and all Americans. Because federal law enforcement officers and United States Attorneys often function as local police and prosecutors in Indian country cases, H.R. 1924 finally makes clear that these federal officials must become more responsive to the Indian tribes they serve.

*1220 North Fillmore Street, Suite 444, Arlington, VA 22201
571.481.9100, 571.481.9090 (fax) • fba@fedbar.org • www.fedbar.org*

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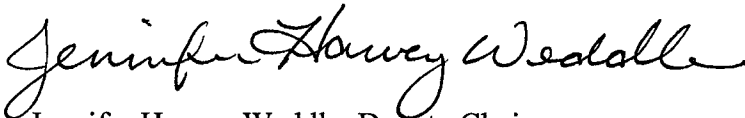
Importantly, the bill improves accountability through tools such as prosecution declination-reporting, U.S. Attorney's Offices would be responsible for explaining why they are not prosecuting cases referred to them by tribes or federal law enforcement agencies. The bill does this while protecting law enforcement-sensitive information and the rights of victims and defendants.

We also support the bill because it will improve and expand criminal justice training. This includes training and federally deputizing tribal, state and local law enforcement officers so they can enforce federal criminal laws on Indian lands when tribes request such assistance, as Colorado and some other states have done. This matters because of the chronic federal criminal justice resource gap in Indian country, which according to the Bureau of Indian Affairs is ordinarily served by one-half as many officers as similarly situated rural areas off-reservation.

Please note that the FBA would oppose any amendments or changes to the final version of the bill that would diminish tribal sovereignty, such as imposing an unfunded mandate on tribes to appoint lay advocates or representatives for all tribal defendants in criminal cases. This would mark a step backward in existing law, specifically the requirements of the Indian Civil Rights Act of 1968.

With that caveat, however, we enthusiastically endorse this legislation. Indian country suffers shockingly high rates of violent crime. The time for serious reform is now. The Tribal Law and Order Act is an important step forward, and we encourage you to pass H.R. 1924 and work for its enactment.

Sincerely,



Jennifer Harvey Weddle, Deputy Chair
Greenberg Traurig LLP, Denver Colorado

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