

## **NCAI Task Force on Violence Against Women**

National Congress of American Indians

1516 P Street NW

Washington, DC 20005

Phone: (202) 466-7767

Fax: (202) 466-7797

February 7, 2013

The Honorable Patrick Leahy, Chair  
Senate Judiciary Committee  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Michael Crapo  
239 Dirksen Senate Office Building  
United States Senate  
Washington, DC 20510

Dear Senators Leahy and Crapo:

The National Congress of American Indians (NCAI), founded in 1944, is the oldest, largest and most representative American Indian and Alaska Native organization serving the broad interests of tribal governments and communities. The NCAI Task Force on Violence Against Women focuses on addressing crimes of violence against Native women. This letter is to express our strong opposition to any amendment offered which would strip or alter the current language in S. 47.

The Task Force knows that unfortunately Native women are victimized at rates higher than any other population in the United States. It is estimated that 34% of American Indian and Alaska Native women will be raped in their lifetimes; 39% will be subjected to domestic violence in their lifetimes; 67% of Native women victims of rape and sexual assault report their assailants as non-Native individuals, and, on some reservations, Native women are murdered at more than ten times the national average.

These startling statistics, coupled with the unfortunately high declination rates (U.S. Attorneys declined to prosecute nearly 52% of violent crimes that occur in Indian country; and 67% of cases declined were sexual abuse related cases), provide ample reason for Congress to act in passing S. 47 with Section 904 intact.

Section 904 does not take away constitutional rights from offenders, it guarantees swift justice for Native victims. There are safeguards built into the provision which ensure that all rights guaranteed under the Constitution are given to non-Native defendants in tribal court. Further, the special domestic violence jurisdiction is narrowly restricted to apply only to instances of domestic or dating violence where: 1) the victim is an Indian, 2) the conduct occurs on tribal lands; and 3) where the defendant either lives or works on the reservation, i.e., where the defendant has significant ties to the community.

The NCAI Task Force on Violence Against Women is extremely concerned that misunderstandings of the political status of Indian tribes and the internal workings of the tribal court system are causing confusion on how this provision will work on the ground. Indian tribes are not a racial class, they are a political body – so the question is not whether non-Indians are subject to Indian court – the question is whether tribal governments, political entities, have the necessary jurisdiction to provide their citizens with the

public safety protections every government has the inherent duty to provide.

Amendments which place more funding in the hands of federal authorities will not address this immediate local need. We believe strongly that local government is the best government for addressing public safety concerns. For example, an amendment is being offered today which would require that tribal governments petition a U.S. District Court for an “appropriately tailored protection order excluding any persons from areas within the Indian country of the tribe.” This level of procedure for an intimately local issue is not practical and will do little to improve matters on Indian reservations. Tribal courts are the appropriate venue to issue such protection orders.

Also, tribal courts and authorities are the appropriate triers of fact for domestic violence matters conducted on Indian reservations. The federal system has proven ineffective in many respects, but none as detrimental to the backbone of a community as the area of domestic violence against Native women. Further many tribal courts operate in much the same manner as state courts, albeit with smaller dockets and lesser degrees of crime as their sister governments: state and federal courts. Also, all tribal courts are bound by the Indian Civil Rights Act, which, as amended, guarantees all of the constitutional rights non-Native defendants have in state courts.

For these reasons, the NCAI Task Force on Violence Against Women strongly opposes any amendments to S. 47 and offers its strong support for the current language in the bi-partisan Senate VAWA Reauthorization: S. 47. Thanks for your time and your continuous efforts to provide greater protections for women in Indian Country.

Sincerely,



Juana Majel Dixon  
Co-Chair  
NCAI Task Force on Violence Against Women



Terri Henry  
Co-Chair  
NCAI Task Force on Violence Against Women