

Tribal Law & Order Act: Facts vs. Myths

Myth – Congress has not sufficiently vetted this legislation.

Fact: The House Natural Resources Committee held a hearing on reservation violence in the 110th Congress, and the House Judiciary Committee held a legislative hearing on H.R. 1924, the Tribal Law and Order Act on December 12, 2009. The Senate has held 15 hearings on various aspects of Indian country violence in the 110th and 111th Congresses, and passed the bill by unanimous consent.

The bill is supported by the U.S. Department of Justice, the Department of the Interior, and tribal and state governments and organizations throughout the United States (list of supporters attached).

Myth – The bill creates new spending, and will commit the Government to more than \$1 billion in spending

Fact: This bill includes no mandatory spending, no new spending authorizations, and only reauthorizes existing programs at existing or last appropriated levels.

Myth – This bill grants Indian tribes jurisdiction over non-Natives

Fact: Section 6 of the Tribal Law and Order Act clearly states: “Nothing in this Act confers on an Indian tribe criminal jurisdiction over non-Indians.”

Myth – The bill removes state law enforcement authority in Public Law 280 states

Fact: Where a state with criminal P.L. 280 jurisdiction does not have the resources or ability to investigate or prosecute violent reservation crimes, Section 201 of the bill permits a tribe in such state to ask Federal officials to step in. However, the Attorney General must first ensure that Federal resources in that District are available, and must agree to accept concurrent jurisdiction. The State retains full criminal jurisdiction under existing P.L. 280.

Myth – The rights of Indian defendants are not adequately protected in tribal courts

Fact: Section 304 of the bill requires a tribe that subjects a suspect to more than one year imprisonment “effective assistance of counsel at least equal to that guaranteed by the United States Constitution”. Both defense counsel and the judge presiding over the case must be licensed and law trained. In addition, the tribe must publish its criminal laws and rules of evidence, and the tribal court must maintain a recording of the trial to preserve the defendant’s existing right to appeal to a Federal court for habeas review.

List of Supporters of the Tribal Law and Order Act of 2010

Hispanic National Bar Association
National Asian Pacific American Bar Association
National Bar Association
National Native American Bar Association
American Bar Association
Federal Bar Association
National Congress of American Indians
The Episcopal Church
Friends Committee on National Legislation (Quaker)
Mennonite Central Committee U.S. Washington Office
National Association of Evangelicals
National Council of Churches of Christ in the USA
National Council of Jewish Women
NETWORK, A National Catholic Social Justice Lobby
Unitarian Universalist Association of Congregations
United Church of Christ, Justice and Witness Ministries
United Methodist Church, General Board of Church and Society
Amnesty International USA
Family Violence Prevention Fund
Mending the Sacred Hoop
National Task Force to End Domestic Violence Against Women
New York State Coalition Against Sexual Assault
Strong Hearted Native Women's Coalition
Qualla Women's Justice Alliance
Shoshone-Bannock Tribes
Intertribal Court of Southern California
Cherokee Nation
San Juan County Commission (Utah)
Warm Springs Tribal Police Department
Puyallup Tribe of Indians