

**Testimony of Affie Ellis
Commissioner, Indian Law and Order Commission**

**Before the
United States House of Representatives Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies**

**On
“Extension of the Life of the Indian Law and Order Commission
under the Tribal Law and Order Act”**

**Washington, DC
March 27, 2012**

Thank you for the opportunity to testify on a matter of importance to the Indian Law and Order Commission (“the Commission”), established under the Tribal Law and Order Act of 2010 (“the Act” or “TLOA”). My name is Affie Ellis and I serve as a member of the Commission. This is the independent national advisory commission created when the Tribal Law and Order Act was passed and signed into law on July 29, 2010. The President and leaders of Congress appointed the nine Commissioners, who are all volunteers, during the winter of 2010-2011. Two of the Commissioners are former Members of the U.S. House of Representatives who were instrumental in writing and enacting TLOA, and several other Commissioners have held important posts in federal, state and tribal government. The Commission received funding from the U.S. Departments of Justice and Interior late in the summer of 2011 to carry out our statutory responsibilities. The Commission is charged with conducting a comprehensive study of law enforcement and criminal justice in tribal communities, and then to recommend to the Congress and the President modifications and improvements to justice systems at the tribal, Federal, and State levels. The Commission’s report of recommendations is to be submitted two years from the date of the enactment of the TLOA, and thus, is due in late

July of this year, 2012. Commissioner Tom Gede and I am here today to urge the Congress to extend the life of the Commission to allow us to complete our study, necessary field hearings, meaningful analysis and a comprehensive report to the Congress and the President.

By way of background, I was appointed to the Commission by the Senate Republican Leader Mitch McConnell, at the recommendation of U.S. Senator John Barrasso. I am a member of the Navajo Nation and currently am the president of Ellis Public Affairs, a public and government relations firm based in Cheyenne, Wyoming. I have served as an Assistant Attorney General of the State of Wyoming, representing and advising the governor and multiple state agencies on natural resource and Indian law. Previously, I was a policy advisor for U.S. Senator Craig Thomas (R-WY) in Washington, DC, advising on natural resources, public lands, and American Indian issues. While in Washington, I also served as the Congressional and Public Affairs Director of the National Indian Gaming Commission. Currently, in addition to running Ellis Public Affairs, I teach a course focusing on American Indian law and policy as an adjunct professor in the American Indian Studies Department at the University of Wyoming. Being tapped to serve on the Indian Law and Order Commission was an honor and we are dedicated to produce a meaningful report to submit to Congress and the President.

As I have noted, the Commission did not receive its funding until August of 2011, more than a year after the enactment of the TLOA, and thus one of the two years that

Congress anticipated for our review, study and report preparation was lost. The Commission organized itself throughout 2011, and through the hard work of individually-appointed Commissioners and key staff members in the Department of Justice, the Commission was finally able to fund its operations and conduct its first field hearing in September 2011, at the Tulalip Indian Reservation in Washington State. The Commission adopted rules and elected one of its members as Chairman, the Honorable Troy Eid, former United States Attorney for the District of Colorado. Chairman Eid worked tirelessly at his own time and expense to secure the funding, detailing of staff as contemplated by the TLOA, and the administrative functioning of the Commission. He regrets he is unable to attend this hearing and testify on behalf of the Commission.

Commissioner Gede will testify as to some of the key duties assigned the Commission by the Congress. It is important to note that the trust and responsibility placed in the Commission and its Commissioners by the President, the Senate leadership and the House leadership is deeply felt and appreciated by each and every Commissioner. The Commission, with only three staff detailed to assist it, is made up of volunteers who have spent significant time and personal resources to work toward accomplishing a meaningful study and analysis of the issues of public safety in Indian country.

The Commission has thus far traveled to Indian country or near to Indian country for hearings on a monthly basis, meeting with tribal, state and federal officials with deep experience and knowledge of the problems in Indian country - including, without limitation, jail and prison management, tribal policing, federal/tribal law enforcement

cooperation, tribal/state law enforcement cooperation, tribal courts, juvenile justice, alcohol and substance abuse, grants and funding mechanisms for Indian country, and similar issues. To date, these visits and field hearings have included: Tulalip Indian Reservation; Portland, Oregon; Pueblo of Santa Ana, New Mexico; Salt River Pima Indian Community in Arizona; Agua Caliente Indian Reservation; and Washington, D.C. This active and high-paced work is essential for the Commission to accomplish its task, but its work is not complete and cannot be reasonably completed by July 2012, as contemplated by the TLOA.

As Chairman Eid set forth in his September 30, 2011 letters to Chairman Smith and Ranking Member Conyers of the House Judiciary Committee, and to Chairman Hastings and Ranking Member Markey of the House Committee on Natural Resources, the Commission respectfully requests you consider legislation that extends the life of the Commission for an additional year, at no cost, with no additional appropriation. As the Commission was unable to secure its designated funding until one year after the enactment of the TLOA, the existing two-year funding should meet the needs of the Commission in time to complete its congressionally-mandated study and preparation of its report.

On behalf of the Commission, let me extend sincere thanks for the support and confidence of Congress in the work of the Commission. And please do not hesitate to reach out to the Commission at any time with your concerns or questions. Thank you again for the opportunity to testify.

**Testimony of Tom Gede
Commissioner, Indian Law and Order Commission**

**Before the
United States House of Representatives Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies**

**On
“Extension of the Life of the Indian Law and Order Commission
under the Tribal Law and Order Act”**

**Washington, DC
March 27, 2012**

Thank you for the opportunity to testify today on behalf of the Indian Law and Order Commission (“the Commission”). My name is Tom Gede, and I serve as a member of the Commission, having been appointed in December 2010 by then-House Minority Leader John Boehner. The Commission was established under the Tribal Law and Order Act of 2010 (“the Act” or “TLOA”), signed into law on July 29, 2010. As Commissioner Ellis has reported, the President and leaders of Congress appointed the nine Commissioners during the winter of 2010-2011, but that due to funding uncertainties and budget restrictions, the funds designated for the operation of the Commission were not available for the Commission until late Summer of 2011. Therefore, we face a very short deadline to complete our final report. We have just one year to accomplish our mission, instead of the two years envisioned by the TLOA. I join Commissioner Ellis in respectfully requesting the support of this Committee and the Congress for an extension of one year for the Commission to complete its charge - a comprehensive study of public safety in Indian country and recommendations for improvements. Our elected Chairman, Troy Eid, has communicated with the relevant Committees of Congress to make the same request. Today, I would like to discuss the important work that Congress expects of the

Commission, and by a brief description, introduce the Committee to the dynamic, well-qualified, experienced members of the Commission.

Let me introduce myself. As noted, then-House Minority Leader, now Speaker of the House of Representatives John Boehner appointed me to the Commission in December of 2010. I am an attorney in private practice with Bingham McCutchen LLP and Bingham Consulting Group LLC in Sacramento, California, and previously served as the Executive Director of the Conference of Western Attorneys General, and before that as a Deputy and Special Assistant Attorney General for the State of California under Attorneys General John Van de Kamp, Dan Lungren and Bill Lockyer. Although I am an appellate lawyer and a generalist by trade, I served in the state's Attorney General's criminal division and worked extensively on Indian criminal justice issues, and have experience in Public Law 280 and issues unique to Alaska Natives. I have taught Federal Indian Law as an adjunct professor for more than ten years at the University of the Pacific - McGeorge School of Law in Sacramento.

I am especially proud of this Commission and its Commissioners, appointed by the President and the Senate and House leaders. Each appointment reflects a person of exceptional experience and judgment, appropriate to the task assigned to the Commission by the Congress. They include Commission Chair Troy Eid, who recently served as the United State Attorney for the District of Colorado, and is a member of the Navajo Bar; Affie Ellis (Navajo), public policy expert and a former Assistant Attorney General for Wyoming; UCLA Law Professor Carole Goldberg, Indian law scholar and a Justice of the Hualapai Tribal Appellate Court; Former U.S. Representatives Stephanie Herseth-

Sandlin (SD) and Earl Pomeroy (ND), who were instrumental in writing and enacting TLOA; Jefferson Keel, Lieutenant Governor of the Chickasaw Nation and President of the National Congress of American Indians (NCAI); Chief Judge Theresa Pouley (Colville) of the Tulalip Tribal Court; and Ted Quasula (Hualapai), the General Manager of Grand Canyon Skywalk Development Corporation and the former leader of the BIA Office of Law Enforcement Services.

The Commission does not have offices. It organized itself to operate, confer, travel and meet in order to accomplish its study, research, planning and to conduct field hearings. It also operates virtually -- by teleconference calls, email and the web at www.indianlawandordercommission.com. The Commission is fortunate to have loaned to us two distinguished career federal employees of the U.S. Department of Justice, to help us discharge our statutory duties, including Assistant United States Attorney Jeff J. Davis, a member of the Turtle Mountain Band of Chippewa Tribe, as our Executive Director. He is a veteran Indian Country prosecutor and tribal liaison with the United States Attorney's Office for the Western District of Michigan in Lansing. Eileen Garry, the Deputy Director of the Justice Department's Bureau of Justice Assistance, is serving as the Deputy Executive Director of the Commission. As Chairman Eid has noted, these are two extraordinarily talented and hard-working public servants, for which we are greatly indebted. The U.S. Department of Interior, Bureau of Indian Affairs (BIA), has also loaned us the services of Laurel Iron Cloud, a member of the Oglala Sioux Tribe, and a distinguished public servant with extensive knowledge of the BIA.

Congress has charged the Commission with certain key tasks. The TLOA requires the Commission to conduct a comprehensive study of law enforcement and public safety in Indian country, including key issues of jurisdiction over crimes committed in Indian country, tribal jail and Federal prisons systems, rehabilitation of offenders, tribal juvenile justice systems, the prevention of juvenile crime, rehabilitation of Indian youth in custody, reducing recidivism among Indian youth, and similar issues. The Commission is to provide the President and Congress with a report of recommendations for the necessary modifications and improvements to justice systems at the tribal, Federal, and State levels. These may include consideration of simplifying jurisdiction in Indian country, improving services and programs focused on preventing juvenile crime on Indian land, adjustments to the penal authority of tribal courts, changes to the tribal jails and Federal prison systems, and related issues. But, as Chairman Eid has testified to the Congress previously, our real role is to recommend ways to strengthen justice and public safety for people living and working on and near Native American communities and lands throughout the United States. Needless to say, the task is challenging and of utmost importance. The Commission needs its full two years to complete this comprehensive study and to prepare effective and meaningful recommendations to the President and Congress.

Thank you for your support and confidence in the work of the Commission, and thank you for the opportunity to testify today.