



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #SD-15-053

TITLE: Enforcement of Exclusion Orders, Protective Orders, and Trespass Violations in Indian Country

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, crimes related to drugs, including the efforts of organized crime to sell drugs to tribal citizens, as well other violent crimes relating to drugs and alcohol, or domestic relations crimes, and other crimes against people and property, have increased dramatically on Indian reservations; and

WHEREAS, tribes are unable to address problems with non-native sexual assault and stalking offenders as well as domestic violence perpetrators who are subject to civil protection or exclusionary orders, but continue to return to the reservation and harass victims; and

WHEREAS, tribes are also experiencing problems with timber theft, illegal mining, illegal dumps and illegal marijuana grow operations, serious crimes that are infrequently enforced by the federal government; and

WHEREAS, tribes also have difficulties with former tenants who overstay agricultural and residential leases and refuse to leave or pay rent. Also some sportsmen are repeatedly warned to avoid unpermitted hunting and fishing in Indian country, but refuse to respect the law and tribal property rights; and

WHEREAS, often a person who is subject to a tribal government exclusion order, or a tribal court protection order, or who have been found to commit criminal activity on the reservation simply goes back to the reservation and commits more crimes; and

WHEREAS, Indian Country trespass crime clarification should be considered to increase federal notice and deterrence for violations of tribal exclusion orders, protection orders, and for those who cause serious threats to persons and damage to property; and

WHEREAS, in *Duro v. Reina* the Supreme Court addressed the authority of tribal law enforcement to detain non-Indians, holding that tribes possess “traditional and undisputed power to exclude persons whom they deem to be undesirable from tribal lands,” and therefore “where jurisdiction to try and punish an offender rests outside the tribe, tribal officers may exercise their power to detain the offender and transport him to the proper authorities”; and

WHEREAS, the United States has trust and treaty responsibilities to protect tribal lands and communities from harm.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) urges Congress to consult with Indian tribes and develop legislation to increase federal penalties and deterrence for Native and Non-Natives who violate tribal exclusion orders and protection orders, those who cause serious threats to persons and damage to property in Indian country, and repeat offenders of Indian country hunting, fishing and trespass laws; and

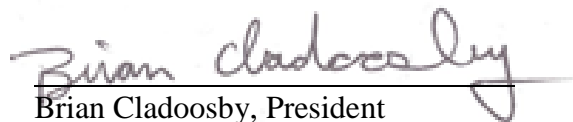
BE IT FURTHER RESOLVED, that NCAI calls upon tribal law enforcement, federal law enforcement and federal prosecutors to fully enforce tribal exclusion orders, protection orders and trespass laws against those who cause serious threats to persons and damage to property in Indian country; and

BE IT FURTHER RESOLVED, the NCAI calls upon the federal government to provide improved training to tribal and BIA law enforcement on their authority to arrest non-Natives who commit criminal offenses in Indian country, and where jurisdiction to try and punish an offender rests outside the tribe, to detain the offender and transport to the proper authorities; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2015 Annual Session of the National Congress of American Indians, held at the Town and Country Resort, San Diego, CA, October 18-23, 2015, with a quorum present.


Brian Cladoosby, President

ATTEST:


Aaron Payment, Recording Secretary