



THIS WEEK FROM Indian Country TODAY

THE PREMIER E-NEWSLETTER SERVING THE NATIONS, CELEBRATING THE PEOPLE

A Letter from the Publisher

Shekóli. A few weeks ago, the Yakama Nation celebrated a landmark occasion—the transfer of jurisdiction over certain criminal and civil matters to their own hands. As ICTMN correspondent Richard Walker relates herein, Yakama Chairman Harry Smiskin called the moment—which entailed Washington State Gov. Jay Inslee signing off on the return of that jurisdiction—“bittersweet.” Chairman Smiskin was referring to an objection raised by an official of a nearby community, and the Nation’s lack of authority over its non-reservation land. Still, there is much cause for optimism that the Yakama Nation’s successful completion of what is called retrocession will pave the way for other Nations in similar predicaments to regain rights that, quite frankly, should have never been taken away.

The local objections raised are similar to others that those of us who are familiar with the typical obstacles used by anti-sovereignty groups have encountered—that Native law enforcement agencies and courts would discriminate somehow against non-Natives on Nation territory. Never mind that Yakama police are trained at the Bureau of Indian Affairs Police Academy, and have working relationships with local law enforcement. The reality is that the Yakama are taking steps to overturn a misguided law called PL 280 that allowed some states to take over jurisdiction from Indian Nations—a law that President Eisenhower signed despite having “grave doubts” that states should have such power.



Carole Goldberg and Duane Champagne (a long-time ICTMN contributor) of UCLA’s Native Nations Law and Policy Center assembled a 556-page report for the Department of Justice. As this week’s piece states, “The report found that reservations not covered by PL 280 and under jurisdiction of tribal police had better response time, more thorough investigations and better community relations than PL 280 reservations under the jurisdiction of state and county police. State and county police were at a disadvantage because of lack of cultural understanding, location of their departments in proximity to the reservation, and insufficient resources.”

“We all want the same thing—we want our communities to be safe,” said Washington State Sen. John McCoy (D-Tulalip), who sponsored the legislation. “And our police, no matter what badge they wear, are just doing their jobs.”

No doubt the past, present and future will show that when it comes to our territory, it is a job that should be in the hands of qualified Native law officers.

NA ki' wa,

Ray Halbritter

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Of Indians, Pot and Albany

Charles Kader (Turtle Clan) considers some overlooked Native angles to New York Gov. Andrew Cuomo's decision to allow 20 hospitals in the state to dispense medical marijuana:

The 20 hospitals have yet to be identified. By any reason of the imagination, they should be assigned regionally in relation to the severity and propensity of the illnesses that they treat. Presumably, a cancer diagnosis will remain one ailment that such a controlled substance prescription will address.

I would advocate that hospitals near

the Environmental Protection Agency (EPA)-designated Superfund sites in New York State be given priority as "high intensity" pollution locations. Furthermore, the doubled injury of American Indian reserves being located in these regions should elevate the hospital status even one step further to designation to medical marijuana prescription status. Onondaga, Cattaraugus, and Tuscarora reserves are just some of the polluted Native lands adjacent to New York State.

This is a particularly ironic aspect of this executive initiative. The St. Regis Indian Reservation, also known as Akwesasne, is located near three EPA Superfund sites. State and federal officials

have repeatedly blamed the reserve for a significant volume of high-grade marijuana entering the United States. Some tribal police in Akwesasne are cross-sworn as federal agents in part to combat the apparently thriving drug trade. Many hundreds of pounds of this imported marijuana have thus been confiscated.

Is it possible that some of this "reservation marijuana" is being counted on to help inventory the state hospital pharmacies that will be involved in this nascent program? Is there enough pot to supply the entire participating hospital network? And could federal agents confiscate the contraband to spite New York State's consumptive needs? <http://bit.ly/1dOw6Sx> ☞

The Wrong Take on Patterson

"I said, 'What we're gonna do is turn Detroit into an Indian reservation, where we herd all the Indians into the city, build a fence around it, and then throw in the blankets and the corn,'" Oakland County Executive L. Brooks Patterson recently told The New Yorker. ICTMN contributor Simon Moya-Smith, Oglala Lakota, says that much of the ensuing coverage missed the real point:

Jesus! I thought. This man just called for the death of everyone in Detroit! But my fellow journo's of the non-Native kind courted his two cents re: commerce and

not his racist bellow. To wit: On January 20, ABC 7 Action News reported, "Oakland County Executive L. Brooks Patterson is facing some heat for comments he said about Detroit in a national magazine." For comments he said about Detroit, folks. Not for his blatantly racist remarks.

The journalist went on to quote Detroit natives (born and raised natives) and other denizens about the city, not about his racist statement: "We do bike a lot. There is a ton of stuff to do. The science center is offering a ton of activities, and I go to the DIA pretty often," Brittany West, who lives in Detroit, told ABC 7 Action News. "They're so many different

restaurants that we haven't even been to yet," said Trisha Hourigan.

Ladies and gents, this report should have been about Patterson's racist references, but instead it was about biking and restaurants. When someone references smallpox blankets (deliberate extermination), herding Indians (Trail of Tears, anyone?) and then building a fence (Auschwitz? ... Hello?), you don't quote passersby about all of the activities of the science center, or how many restaurants they haven't tried yet.

But this is America, Jack—a red, white and blue monument to willful ignorance, to sweeping under rugs and to skeletons in closets. <http://bit.ly/1dUZr27> ☞

A Year of Indian Action

ICTMN contributor Mark Trahan, Shoshone-Bannock, considers joining President Obama's State of the Union urge to "make this a year of action" with thoughts expressed in National Congress of American Indians President Brian Cladoosby's State of Indian Nations address:

Cladoosby, who is chairman of the Swinomish Indian Community, said that his tribe is providing scholarships for their young people to the colleges of their choice. That's smart. I wish more tribes could afford that approach. But there are other ways that this can happen, too.

Here is one idea: What if President

Obama, when he visits Indian country this year, partners with tribal leaders to raise private money for tribal colleges? How much is possible—a new billion-dollar endowment? Why not? Or what about expanding efforts to forgive student debt? Too many young Native Americans are burdened by loans. If tribal members choose to be teachers or serve tribal governments, erase what they owe.

Other items in the State of Indian Nations that are important and exciting are tribes include building international partnerships. President Cladoosby mentioned Turkey, as well as tax reform, so that tribes can raise their own funds. He said tribes should get at least the same tax treatment as states. This could be

new money—action dollars. In a year of action, the most lucrative funding routes do not involve Congress or appropriations.

In his congressional response, Montana Sen. Jon Tester hit on a couple of billion dollars just waiting to be picked up, and that's the Affordable Care Act. Congress is not going to fully fund the Indian Health Service. But that full funding could happen if every eligible American Indian and Alaska Native signed up for tribal insurance, Medicaid, or purchased a free or subsidized policy through an exchange. This is money that Congress does not have to appropriate.

A couple billion dollars? It's just waiting for a year of action. <http://bit.ly/1aL1w11> ☞

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Online Gaming in Delaware, New Jersey Off to a Weak Start

Contrary to optimistic expectations, revenue from newly legalized Internet gambling has barely registered in the states of New Jersey and Delaware.

After its November launch, Internet gaming in New Jersey generated \$8.4 million within five weeks, the Division of Gaming Enforcement announced in January. That number significantly lags the state's forecast of \$2 billion total by the end of its fiscal year in June, reported *The Wall Street Journal*.

Meanwhile, Delaware online gaming brought in just \$253,000 during November and December—well behind pace for its goal to generate \$5 million in revenue during the first year, reported DelawareOnline.com. Delaware officials are confident, though, that marketing and promotion over the next few months will attract more players and boost revenue, said Vernon Kirk, director of the Delaware Lottery, which oversees gaming in the state. Delaware collects 100 percent of the first \$3.75 million of online revenue in a given year, so casinos have yet to see a profit from Internet gaming.

The low take in both New Jersey and Delaware has been due largely to poor credit card cooperation, especially Visa. Only 20 percent of Visa transactions have been processed, while about 80 percent of MasterCard payments have gone through. Many banks and credit card processors turn down online gaming transactions, but people in the industry believe banks will re-examine their policies concerning Internet gaming in the future.

The current alternatives to fund gaming accounts are more time-consuming or inconvenient: personal checks sent in by mail, bank transfers and ACH withdrawals. Another popular route for casino operators has been creating a prepaid card that customers can load with their credit or debit card. Winnings are also credited back to the card.

“There is a massive financial incentive for casinos to find ways to get money into an online account with relatively little friction,” Chris Grove, editor of the industry publication Online Poker Report, told FoxBusiness.com. <http://bit.ly/1jYhh5Q>

Farm Bill Would Cut \$8 Billion From Food Stamp Funding

A new five-year farm bill unveiled on January 27 is estimated to cut roughly \$8 billion from food stamp funding over the next 10 years. As a result, impoverished families would receive less assistance than they currently do under the Supplemental Nutrition Assistance Program (SNAP), reported *The Wall Street Journal*.

The bill cuts about twice as much from the food stamps program as senators approved in May, but just one-fifth of the \$40 billion sought by House Republicans.

“Instead of going after crop insurance or some of the excessive payments going to various interests that don't need them, they're using SNAP as an ATM machine,” Rep. Jim McGovern (D-Massachusetts), a member of the House Agriculture Committee who plans to vote against the bill, told the *Journal*.

It took lawmakers nearly two years to reach the bipartisan agreement on the nearly \$1 trillion, 949-page bill, reported *The New York Times*. The bill reauthorizes hundreds of farm and nutrition programs that must be renewed every five years. Overall, it would slash about \$23 billion from the federal budget deficit over the next decade. The reduced spending consists of about “\$19 billion in farm programs, including \$5 billion-a-year subsidies to wealthy farmers, some of whom are non-farming absentee landowners, and about \$6 billion from conservation programs run by the Department of Agriculture,” reported allvoices.com.

The House voted 251-166 to approve the legislation on January 29. The Senate is expected to pass the bill to President Obama no later than this week, Politico.com reported. <http://bit.ly/1b4Y1B5>

Indian Country Finally Gets Its Labor Force Report

BY GALE COUREY TOENSING

Approximately 21 percent of all Native American employees work for a federal, state, local or tribal government. In some states, less than 50 percent of Native Americans 16 years or older are working. An estimated 23 percent of all Native American families in the United States in 2010 earned incomes that are below the poverty line.

Those are just some of the statistics in the Bureau of Indian Affairs' newly released 2013 *American Indian and Labor Force Report*, produced under Assistant Secretary for Indian Affairs Kevin Wash-

burn. Its appearance on January 16 was delayed by two weeks in part by the government shutdown last October.

The 151-page report presents findings from the 2010 Labor Force Survey of American Indians and Alaska, combined with statistics produced by the 2010 U.S. Census—the most recent year for which adequate statistics were available. The data is based on populations of American Indians and Alaska Natives living on or near the service areas of federally recognized tribes.

Among the report's other findings:

- Approximately 28.1 percent of the

Native population is below 16 years of age, with slightly more boys than girls. Approximately 64.8 percent is between 16 and 64, with slightly more females. Those ages 65 and older represent only 7.1 percent of the population, with more women than men (4.0 percent versus 3.1 percent).

- About 50 percent of all the Native Americans studied, who are 16 years or older, are employed in either full- or part-time in civilian jobs.

- The highest estimated rate of poverty is in South Dakota, with 43-47 percent of Native American families in 2010 earning incomes below the poverty line. <http://bit.ly/1gr9XBq>

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Indian-Owned Payday Lender Agrees to \$1.5 Million Fine and Refunds

An Indian-owned payday lender has agreed to pay a \$1.5 million to settle a lawsuit with the State of New York, and additionally to refund interest payments to consumers in the state, reported *The Wall Street Journal*.

The lender, Western Sky Financial LLC, is based in Timber Lake, South Dakota. It is owned and operated by an individual member of the Cheyenne River Sioux Tribe of South Dakota, with no ties to the tribe and run from the “exterior boundaries” of the Cheyenne River Sioux Reservation. Last year New York Attorney General Eric Schneiderman accused the firm and its affiliates CashCall Inc. and WS Funding LLC, of charging triple-

digit interest rates, thereby violating New York lending laws.

After the state sued the companies, Western Sky ceased taking loan applications and suspended all operations on September 3, 2013. “As a result, 94 people in the impoverished Eagle Butte community have lost their jobs, undermining the economic security of their families and this entire community,” a company press release stated.

“I’m deeply saddened that so many members of the Cheyenne River Sioux tribe have had their lives turned upside down because of regulators and bureaucrats thousands of miles away,” said Martin “Butch”

Webb, founder of Western Sky Financial. “Creating jobs here on the Cheyenne River Indian Reservation has been my proudest accomplishment, and it’s painful to know that my former employees face the prospect of long-term unemployment given the few job opportunities available to them.”

“With this agreement, thousands of New Yorkers exploited by Western Sky and CashCall will get the relief they are owed,” said Schneiderman. “As individuals in New York and across the country continue to face tough economic times, we must keep up the fight against those who exploit and scam them.” <http://bit.ly/M5joJ4> 

Evergreen State College Creates New Position for Tribal Relations

With the goal of deepening and expanding relationships with tribal governments in the Pacific Northwest, The Evergreen State College in Olympia, Washington has named former Makah tribal chairman Micah McCarty to the new post of Special Assistant to the President for Tribal Government Relations. Some 4.5 percent of current Evergreen students are Native American.

“Micah is a noted tribal leader and artist, with great experience in health care, cultural survival, treaty resources, sustainable development, and energy issues,” said Evergreen President Thomas L. “Les” Purce. “We know his expertise and passion will help us strengthen our relationships with Native communities.”

McCarty is working with the Washington state-based Tribal Leaders Congress on Indian Education to review curricula and educational pathways for Native students, from the Head Start program

up to the Ph.D. level. McCarty has also established a relationship between local tribal governments and the college’s newly formed Center for Sustainable Infrastructure to improve tribal water systems.

Evergreen hosts the Longhouse Education and Cultural Center, the first Native longhouse built on a public college campus in the U.S. The college also offers a master of public administration degree with a concentration on tribal governance, a program of study on Native American and world Indigenous Peoples, and sponsors a reservation-based program where classes are offered locally and the study topics are determined in partnership with tribal authorities.

McCarty had previously served on the National Ocean Council Governance Coordination Committee and former Gov. Christine Gregoire’s blue ribbon panel on ocean acidification. <http://bit.ly/1gjU4wE> 📍

Quapaw Tribe, Arkansas National Guard Sign Memo on Sacred Places

The Quapaw Tribe and the Arkansas National Guard signed a Memorandum of Understanding (MOU) on January 15 that would protect and enhance sacred places “and other historical and cultural resources in the state of Arkansas, where the Quapaws lived for hundreds of years prior to Arkansas’ statehood,” the tribe said.

“The Arkansas National Guard will provide for the tribe’s meaningful involvement in the development and implementation of the Statewide Arkansas Integrated Cultural Resources Management Plan (ICRMP),” said the memorandum. “The Arkansas National Guard will develop and implement strategies in consultation and collaboration with the tribe, to avoid, minimize or mitigate adverse effects to cultural resources as specified in the statewide ICRMP.” The document was signed by Quapaw Chairman John L. Berrey, and Maj. Gen. William D. Wofard, Adjutant General of the Arkansas National Guard.

The Quapaw lived in Arkansas near the confluence of the Arkansas and Mississippi Rivers and consisted of four villages; the French explorers Marquette and Jolliet first contacted them in 1673. The tribe remained in the area even after the United States purchased the Louisiana territory in 1803. But in 1818 and 1824, the tribe found itself forced to surrender its lands in Arkansas to the U.S. government and was relocated. The Quapaw reservation was established in 1839 in northeastern Oklahoma; today, almost 2,000 Quapaws live near Miami, Oklahoma.

Berrey noted that the Quapaw have made similar agreements with the Army Corps of Engineers in Arkansas and with other states as well. <http://bit.ly/1aYaeqU> 📍

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Grant Aids In Head Start Project

Shakopee Mdewakaton Sioux Community steps up

With the help of a \$250,000 Challenge match grant from the Shakopee Mdewakaton Sioux Community of Prior Lake, Minnesota Rural America Initiatives (RAI) plans to build a new Head Start/Early Childhood Development/Community Center in Rapid City, South Dakota. The gift requires that its \$250,000 be matched with an additional \$250,000 in funding from other sources by December 18. "This gift is a great help to launch our campaign to replace buildings, designed to last 12 to 20 years that have now been in use for over 20 years," Bruce Long Fox, executive director of RAI, which has served the most at-risk American Indian families in Rapid City for 22 years. <http://bit.ly/1iDUyho> ☞

Tribe Endorses National Monument

Fort Sill Apache back homeland designation

The Fort Sill Apache tribe on January 24 issued a resolution of support to establish the Organ Mountains-Desert Peaks national monument located in the tribe's New Mexico homeland, in accord with legislation introduced in December by the state's two senators, Tom Udall and Martin Heinrich, both Democrats. "As the people of this land we strongly believe that this region should be permanently protected to preserve valuable tribal cultural resources that originated on these territories," said Tribal Chairman

Jeff Haozous. "National monument designation would allow our children and future generations the opportunity to understand and appreciate the bounty and beauty of their cultural heritage and aboriginal homelands." <http://bit.ly/1fwV77Q> ☞

Cherokee Start Work On New Health Center

Part of \$100 million Improvement plan

The Cherokee Nation broke ground on January 27 on the latest aspect of its \$100 million health care improvement plan—a 42,000 square-foot facility in Jay, Oklahoma that will replace their existing 30-year-old Sam Hider Health Center. The \$13.5 million center will accommodate a range of services, including primary care, dentistry, optometry, radiology, behavioral health, public health nursing, pharmacy with mail-order capacity, laboratory, nutrition, walk-in clinic, contract health and diabetes care. "The additional space gives our providers more exam rooms and allows us to expand our health services offerings, while treating our citizens more quickly and professionally," said Connie Davis, executive director of Cherokee Nation Health Services. <http://bit.ly/1fenNne> ☞

Comanche Boy Wins Again

Triumphs with fourth-round knockout

Middleweight boxer George "Comanche Boy" Tahdooahnippah, Comanche/Choctaw, scored his first victory in the ring since September of 2012 when he knocked out Mar-

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teze Logan in the four round of six rounds in Oklahoma City on January 24. It was the 24th knockout of his professional career, and it brought his record to 32-1-2. Tahdooahnippah suffered his first pro loss in February when Delvin Rodriguez downed him, and he had to settle for a draw against Thomas Brown in October. But his win has brought him newfound confidence. "I'm ready to climb again," the 35-year-old pugilist said. "And in 2014, I'm really motivated to do something big." <http://bit.ly/1e4DMG9> ☞

Nez Perce Oppose Mascots

Request made of two schools

The Nez Perce Tribe has

asked two schools in northern Idaho to change their Native American team names. Currently, Sacajawea Junior High School in the Lewiston school district employs the Braves, while NezPerce High School in the NezPerce school district calls itself the Indians. In response to the request, Lewiston is reviewing documents dating from the last time it made such a change—in 1977, when the team name Savages was abandoned—and NezPerce is conducting a survey that would allow the public to weigh in on whether they would support a new name and what it might be. "We're still in the discussion stage," NezPerce School Superintendent Doug Flaming told the *Idaho State Journal*. <http://bit.ly/1bauOwk> ☞

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Alabama-Coushatta Name New Chiefs

Will serve life terms

For the first time in nearly two decades, the 1,200-member Alabama-Coushatta Tribe of Texas is welcoming a new principal and second chief—Mikko Colabe III Clem Fain Sylestine and Mikko Skalaaba Herbert Johnson Sr., respectively. Their election last October, and their inauguration on January 1, followed the death of Principal Chief Mikko Oscola Clayton Sylestine, who walked on January 31, 2013. The new principal chief is only the fourth man in 80 years to serve in that position; elections for the post were held in 1935, 1969 and 1994.

<http://bit.ly/1bauYc5>

Climate Change Is Downplayed

Obama skirts issue in speech

Climate change took up seven paragraphs in President Obama's 2013 State of the Union address but featured much less prominently this year. In the speech, delivered on January 28, Obama wove climate change adaptation into talk of reduced carbon power-plant emissions, increased uses of natural gas, and the need to invest in alternative energy to decrease dependence on fossil fuels. While he emphasized his administration's accomplishments ("Taken together, our energy policy is creating jobs and leading to a cleaner, safer planet"), he did not mention the controversial Keystone XL pipeline. But he did declare, "The debate is settled. Climate change is a fact."

<http://bit.ly/1eAeDf>

Cantwell Steps Down

Tester will become chair of Indian Affairs Committee **BY ROB CAPRICCIOSO**

Bottom Line: *By stepping down after only a year of chairing the Senate Committee on Indian Affairs, Maria Cantwell leaves a positive but also conflicted legacy.*

After a tenuous year of chairing the Senate Committee on Indian Affairs, Sen. Maria Cantwell (D-Washington) has confirmed that she is moving on, leaving Sen. Jon Tester (D-Montana) to take her place, sources have confirmed.

Following weeks of speculation that she would step down to lead the Small Business Committee after a leadership shuffle among Senate Democrats following Sen. Max Baucus's (D-Montana) retirement, Cantwell made her intentions clear at a January 29 hearing in Washington. She said it had been a pleasure to serve alongside vice-chair John Barrasso (R-Wyoming) and to work with current Assistant Secretary-Indian Affairs Kevin Washburn.

"It has been a smooth working process," Cantwell said of her working relationship with Barrasso. "We will certainly appreciate working with you again in the future."

Cantwell, while praised as the first female chair of the committee, has been criticized by some tribal leaders and advocates for not holding as many hearings and for not pushing for as much pro-tribal legislation as immediate past committee leaders by this point in their tenures.

In the weeks before the Small Business Committee chairmanship opened up, Cantwell had been working behind the scenes at tackling one of the major issues facing Indian country—a legislative fix to the controversial 2009 Supreme Court *Carciari* decision that called into question the Department of the Interior's ability to take lands into trust for tribes recognized by the federal government after 1934.

But Cantwell's *Carciari* legislation was mired in conflict before even getting out of the starting gate, since it was not drafted with wide consultation from tribal leaders. It called for a fix that would

exclude the Narragansett Tribe of Rhode Island, and it made modifications to rules that would make gaming impossible or more difficult for some tribes. Many tribes and Indian organizations have argued that land-into-trust policy should not be tied to gaming policy, as they are distinct issues.

According to sources familiar with Cantwell's effort on the *Carciari* draft legislation, she worked with Sen. Dianne Feinstein (D-California) on ideas involving historical connections tests for tribes that want to pursue off reservation gaming.

Accomplishments to be sure, but also problems arising from her role in the Carciari legislation, drafted without wide tribal consultation.

Feinstein has long been controversial in Indian country for her desire to limit tribal gaming, especially in California. In a sign of their closeness, Cantwell sat next to Feinstein at President Obama's January 28 State of the Union address, and they have introduced joint legislation in the past. Still, Feinstein's office insists the senator did not play a role in drafting the legislation.

Tribal leaders who have seen the draft *Carciari* legislation have generally let their displeasure with Cantwell's work be known, and the legislation is widely considered to be stalled with her moving on from the leadership. Cantwell's staff is well aware of the difficulties, but they say the senator has not given up. "Several

ideas are being considered with input from multiple stakeholders, and more work needs to be done," said a spokesman, Reid Walker. "She and the committee remain committed to finding a solution."

A major highlight of Cantwell's leadership was the reauthorization of the Violence Against Women Act in 2013 that included strong tribal jurisdictional provisions for prosecuting non-Indian offenders on reservations. The senator strongly supported that legislation, and she helped Indian advocates make their voices heard on the issue. She has also been strong on forcing the federal government to pay contract support costs to tribes, and she has played a role in holding up Indian Health Service Director Yvette Roubideaux's renomination to the position due to tribal concerns.

With Cantwell making her intentions to exit the committee known, the focus turns to her successor, Sen. Jon Tester, Senate. Tester, who has served on the committee since his first term in Congress that started in 2007, has been angling for the position with support from Senate colleagues, including the retiring Baucus. Another contender was Sen. Tim Johnson (D-South Dakota), but he is retiring from Congress at the end of this year. Sens. Tom Udall (D-New Mexico) and Al Franken (D-Minnesota) were also interested, according to Senate sources.

Tester, with the strong backing of the tribes in his home state, ended up with the gavel, and he is quickly signaling his intentions to be a proactive chairman. In mid-January, he introduced legislation that would amend the Elementary and Secondary Education Act of 1965 to provide increased federal financial support to Native American language programs at American Indian-focused schools. And on January 30, he provided the congressional response to the annual State of the Indian Nations address hosted by the National Congress of American Indians.

<http://bit.ly/1bD5K6c> 

Humetewa's Smooth Sailing

Pioneering path appears clear for likely Native jurist **BY ROB CAPRICCIOSO**

Bottom Line: *With a successful nomination hearing under her belt, Hopi citizen Diane Humetewa appears all but certain to be the first female Native to become a federal judge.*

Hopi citizen Diane Humetewa smiled through a positive nomination hearing before the Senate Judiciary Committee on January 28 in her effort to be confirmed as a U.S. district judge in Arizona—and as the first female Native to serve on the federal bench.

President Barack Obama nominated Humetewa to the position in 2013 after his administration previously forced her to step down from a U.S. attorney position in Arizona in 2009. At that time, the president chose Dennis Burke to take her position, but Burke resigned in August 2011 after admitting to leaking information about a federal agent. Humetewa went on to become a professor and lawyer at Arizona State University.

Many in Indian country were glad that Obama decided to give Humetewa a second look. She would be only the third Indian in history to serve on the federal bench if confirmed to the position by the full Senate.

Judging from support given to her by both Democratic and Republican senators at her nomination hearing, she will likely easily pass the committee, and then her nomination will proceed for consideration by the full Senate.

One of Humetewa's main champions is Sen. John McCain (R-Arizona), who recommended her for both her previous U.S. attorney position and for the federal judgeship. The senator, for whom she previously worked when he led the Senate Committee on Indian Affairs, introduced her with supportive remarks at the confirmation hearing.

"It has been said that the Arizona bench 'would be enriched by a member who reflects the community it serves.' With that in mind, I am particularly excited about our third nominee, Di-

ane J. Humetewa, also to the District of Arizona, in Phoenix," McCain said. "Ms. Humetewa's nomination is truly historic: Being a member of the Hopi Nation, if Ms. Humetewa is confirmed, she would be the first Native American woman to



Humetewa is a "trailblazing" nominee, supporters say.

ever serve on the federal bench.

"Ms. Humetewa's service to the Hopi Nation, which includes work as prosecutor and an appellate court judge to the tribe, runs deep and has remained a cornerstone of her career," McCain added. "She is also a long-time advocate for victim's rights, which can be traced back to her service as a victim advocate before she attended law school."

McCain's support for Humetewa stands as a stark contrast to his criticism of the president's nomination of Cherokee citizen Keith Harper to become a U.S. representative to the United Nations Human Rights Council in Geneva. Harper's nomination stalled in the Senate last Decem-

ber in part because of McCain's concerns about Harper's human rights record. But President Obama renominated him earlier in January to the same position.

Sen. Mazie Hirono (D-Hawaii), who chaired Humetewa's hearing, said that she was impressed that McCain and committee member Sen. Jeff Flake (R-Arizona) worked in a bipartisan fashion with the White House to help fill several Arizona judicial vacancies.

Humetewa said at the hearing that she was pleased to be joined by family members, friends and colleagues. She added that her parents were watching the hearing via webcam from back home on the Hopi reservation.

In response to a question from Hirono regarding how her past judicial work with the Hopi Tribe would help her in this position, Humetewa said that she learned to be objective and timely in her decision making during her time with that tribal court.

In response to a question from Flake on the implementation of pro-tribal elements of the Violence Against Women Act and the Tribal Law and Order Act, Humetewa noted that both laws are in their infancy, but she said she looks forward to working with tribes that take on the increased jurisdictional opportunities offered under those laws.

Also in response to a question from Flake, Humetewa noted that she helped prepare a 2007 report by the Native American Subcommittee of the U.S. Sentencing Commission that found disparities in the application of sentencing guidelines to Native Americans. Penalties were harsher for Indians who committed assaults in Indian country versus non-Indian who were sentenced in state courts for similar assaults, she testified. If sentencing guidelines are to be modified in the future, she said tribal consultation would be important to achieve.

Flake, impressed with Humetewa's responses, said he was delighted by her "trailblazing way." <http://bit.ly/LoGKJC> 

Gaining Power

A Washington State tribe aims to increase its legal authority **BY RICHARD WALKER**

Bottom Line: *Despite complicated lines of governance with the state and federal government, the Yakama Nation is confident that “retrocession” will give it more of the civil and criminal jurisdiction it seeks.*

Even as Gov. Jay Inslee of Washington signed the document transferring jurisdiction over certain civil and criminal matters to the Yakama Nation, Yakama Chairman Harry Smiskin found the moment “bittersweet.” He was surprised, he said, to learn of opposition to the transfer of jurisdiction by a neighboring public official. And the Nation’s expanded authority doesn’t include its off-reservation lands; that’s a subject for continued discussion.

Smiskin envisions a day when the law and justice systems of Native nations are viewed as equal to the law and justice systems in any American jurisdiction, and when tribal police are viewed as equal to their non-Native counterparts.

Still, January 17 marked a big step in that direction.

Using a process established by the Washington State Legislature in 2012, Yakama asked the state to retrocede, or return, jurisdiction over adoption proceedings, compulsory school attendance, dependent children, domestic relations, juvenile delinquency, public assistance, and operation of motor vehicles upon public roads, streets and highways. The plan now heads to the Interior Department for review and approval. That could take at least two years, according to state Sen. John McCoy (D-Tulalip), who sponsored the bill.

Dawn Vyvyan, an attorney for the Yakama Nation, said retrocession enables indigenous governments “to govern their own people on their own lands” in the civil and criminal matters covered by the retrocession law. But jurisdiction is still a complicated matter: Under retrocession, Indigenous governments have jurisdiction only over Native Americans on their lands; non-Native people still fall under

the jurisdiction of the state. The state retains jurisdiction over the civil commitment of sexually violent predators.

Meanwhile, the federal government retains jurisdiction over seven major crimes committed by Native Americans in Indian country, including homicide, arson, burglary and robbery. However, under the Violence Against Women Act, indigenous governments can prosecute Native Americans and non-Native offenders who commit crimes against women in Indian country.

To that end, the Yakama Nation and the Yakima County Sheriff’s Office developed

‘We all want the same thing—we want our communities to be safe.’

procedures that sheriff’s deputies follow when executing arrest warrants on American Indians on Yakama Nation land. Yakama Nation police must be notified first and an officer allowed to be present, and the suspect booked into the Yakama Nation jail.

Smiskin said Yakama Nation police, who are trained at the Bureau of Indian Affairs Police Academy, will undergo additional training at the state’s Law Enforcement Equivalency Academy, qualifying them to enforce state law among Natives and non-Natives and opening the door for cross-deputization and cooperative agreements with neighboring departments.

The State of Washington was one of several states that obtained jurisdiction over indigenous nations under Public Law 280, approved by Congress and signed by President Eisenhower in 1953 despite his own “grave doubts” about em-

powering states to assert jurisdiction over Indian country without tribal consent. In 1968, the Indian Civil Rights Act amended PL 280 to allow tribal governments to request retrocession. But in Washington State there was no clear process for how to retrocede until 2012, when McCoy—then a member of the state House—sponsored HB 2233.

There are cultural and social benefits to retrocession too, Vyvyan said. Under current law, a Native juvenile offender in Washington falls under state jurisdiction, is prosecuted in the state system, and if guilty is sent to one of 21 state juvenile detention facilities.

Under retrocession, the juvenile would be prosecuted by the tribal justice system and sent to a detention facility close to home—better for family contact and cultural continuity that could reduce recidivism. In 2012 the Yakama Nation opened its new \$14 million correctional center that can house up to 70 adult and juvenile inmates. The center has sweat lodges “to not only help cure the individual physically but help them heal spiritually,” Smiskin told the media at the opening.

According to University of Washington law professor Robert Anderson, Bois Forte Ojibwe, law and justice costs to county and state governments will decrease over time as indigenous governments establish systems for managing and funding the handling of civil and criminal matters.

McCoy said that county and state governments benefit from stronger American Indian law and justice systems. Tribal police officers who are cross-deputized often assist departments in neighboring jurisdictions, improving response time and bolstering public safety. And he is confident that their presence will help build bridges of understanding between cultures.

“We all want the same thing—we want our communities to be safe,” McCoy said. “And our police, no matter what badge they wear, are just doing their jobs.” <http://bit.ly/1hNkvr1> 

Conferring on Sovereignty

Signing of key document is highlight of two-day event **BY GALE COUREY TOENSING**

Bottom Line: *The Declaration on the Exercise of Inherent Sovereignty and Cooperation forcefully expresses the spirit of a new wave of recognition reform.*

It took almost two hours. But when it was over, and the usual panel discussions had resumed, the attendees at a recent conference on federal recognition had been privy to a singular event: a ceremony for the signing and witnessing of a declaration asserting the inherent sovereignty of indigenous nations.

The conference, “Who Decides You’re Real? Fixing the Federal Recognition Process,” was held January 16-17 at Arizona State University’s Sandra Day O’Connor College of Law. Close to 200 tribal leaders and representatives of both federally recognized and “unrecognized” indigenous nations, attorneys and consultants specializing in the Federal Acknowledgement Process (FAP), and federal officials attended. The discussion focused on the challenges faced by unrecognized tribes under what everyone agrees is a “broken” federal recognition process and ways to fix it.

The gathering took place in the midst of a reform effort by Assistant Secretary-Indian Affairs Kevin Washburn and other Bureau of Indian Affairs officials that has been called “the most dramatic, bold proposal made in the federal acknowledgment area in probably the last 20 years.”

“This conference is timely to talk about what those proposed changes are and also to help those people who are struggling through the system,” said Frank Ettawageshik, former chairman of the Little Traverse Band of Odawa Indians and conference co-chair.

Ettawageshik and co-chair Rev. John Norwood, tribal councilman and Principal Justice of the Tribal Supreme Court of the Nanticoke Lenni-Lenape Tribal Nation, conducted the pipe ceremony that accompanied the signing of five original copies of the Declaration

on the Exercise of Inherent Sovereignty and Cooperation by 29 tribal leaders. The leaders brought with them resolutions from their councils authorizing the signing. Everyone else present then signed five copies of witness sheets.

The key idea, Ettawageshik said, is that federal recognition constitutes two sovereigns negotiating diplomatic relations. “The relationship between the federal government and an indigenous nation isn’t a one-way street,” he said. “We need to recognize each other. But I’ve often pointed out that if we as tribes in the U.S. define ourselves as having to

A remarkable declaration of principles amid the usual panel discussions at a conference.

have federal recognition in order to be a member of this group then what we’ve done is abdicated our role as a sovereign, we’ve abdicated the role of deciding with whom we will have diplomatic relations. In other words, are we indigenous nations going to recognize each other? We need to be thinking that through. And one of the ways we do that is by signing accords or agreements or treaties with each other, which is acknowledging each other.”

That was the thinking behind the Declaration, which was Ettawageshik’s brainchild during conference planning sessions with Norwood and co-chairs

Patty Ferguson-Bohnee, a citizen of the Pointe-au-Chien Indian Tribe and director of the Indian Legal Program at the College of Law and attorney Judy Shapiro:

“Conferences generally present a series of panels or talking heads one after the other talking about ideas. That’s an important exchange but there’s something to be said for talking about something and then doing it. That helps cement the ideas and gets you moving in their direction.”

The Declaration is written in the style of the Declaration on the Rights of Indigenous Peoples and other international documents, with a series of statements “honoring,” “building,” “expressing,” “desiring,” and so on, to the final statement, which says, “[W]e pledge, affirm and proclaim: To work with each other to exercise our inherent sovereignty as governments, to protect individual and common human rights, and to seek social justice. The dust and spirits of our ancestors that make up our cultural and national roots are deep in the waters and soil of this land, nurtured by the gifts of Mother Earth. As we stand on this land, we drink together from the waters of knowledge, we breathe the air of freedom and wisdom, and we bask in the light of cooperation and compassion. We assert these for our children’s children and beyond. We carry many lessons from our ancestors, and we share in the collective wisdom and experiences that they have entrusted to us to provide for our coming generations.”

Special engraved pens were given to everyone to sign the Declaration and embossed copies of the document were distributed. The five original copies will be preserved in different parts of the country.

“We wanted to make a memorable event that people could participate in and remember,” Ettawageshik said. From all accounts, the organizers succeeded. <http://bit.ly/1eaQdyF> 



Andra Rush, Mohawk, founder and CEO of Rush Trucking, Inc., sat in First Lady Michelle Obama's box at the State of the Union Address.



George "Comanche Boy" Tahdoohnippah celebrates his first victory in the ring since September of 2012.



A six-part miniseries about the life of the great Taino Chief Agüeybaná is under way in Puerto Rico.



"Snow rollers," seen here in Akron, Ohio, are an increasingly common natural occurrence when high winds push snow across a hill.

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NIPMUC NATION FILES FEDERAL SUIT SEEKING RECOGNITION AS TRIBE

<http://bit.ly/1aIgt4N>

TRIBAL NATIONS ARE TIRED OF WAITING FOR UNCLE SAM TO RECOGNIZE THEM

<http://ajl.am/1dOGedV>

MEMBERS OF THE LUMBEE TRIBE SEEK TO RECALL CHAIRMAN

<http://bit.ly/1exKejV>

Upcoming Events

CONTEMPORARY ISSUES IN INDIAN LAW FEBRUARY 7

Conducted by the Stanford Native American Law Students Association, the conference will feature professors from several schools and Native oriented legal professionals who will discuss “Gaming and Tribal Compacting,” “Tribal Jurisdictional Issues and VAWA” and “Modern Indian Law in the Context of Recent Supreme Court Cases.”
Location: Stanford Law School, Stanford, California

AMERICAN INDIAN STUDIES ASSOCIATION ANNUAL CONFERENCE FEBRUARY 6-7

“Activism: Continuity, Resistance, Obligation” is the theme of the 15th annual gathering, which will include two dozen sessions, among them “Indigenous Research and Epistemologies,” “American Indian Leadership & Education,” “Rules for Civilizing” and “Promoting Culture and Language Revitalization as a Com-

munity and Health Measure.”
Location: Memorial Union, Arizona State University, Tempe, Arizona

THE INGREDIENTS OF A SUCCESSFUL NAGPRA GRANT APPLICATION FEBRUARY 6

This two-hour webinar offers the chance to find out more about the application process for grants made available by the Native American Graves Protection and Repatriation Act. Participants will learn about the FY 2014 Consultation/Documentation grant application, identify fundable projects, and hear the perspectives of Grants Panel reviewers and a veteran successful grant writer on crafting a successful NAGPRA grant application.

Registration: <http://bit.ly/1esLepH>

ARIZONA INDIAN EDUCATION ASSOCIATION YOUTH CONFERENCE FEBRUARY 9-10

Hosted by the AIEA in conjunction with the University of Arizona, Tohono Oodham Community College and Pima Community College, “Dream, Inspire, Lead” aims to engage and inform American Indian youth

about opportunities that will strengthen their vision and commitment to self-empowerment. Key conference topics are education, culture, health and wellness, and career and college readiness, geared to the 7th to 12th grade levels.

Location: University of Arizona, Tucson, Arizona

TASK FORCE ON AMERICAN INDIAN AND ALASKA NATIVE CHILDREN EXPOSED TO VIOLENCE FEBRUARY 11

The theme of Attorney General Eric Holder’s second hearing in this series is “Juvenile Justice Systems’ (Tribal, State, Federal) Response to AI/AN Children Exposed to Violence”. It is expected that scheduled oral public testimony will be offered during the morning and afternoon hearing sessions, including an open microphone session just prior to the conclusion of the hearing. Anchoring the task force is a federal working group that includes U.S. Attorneys and officials from the Departments of the Interior and Justice and an advisory committee of appointed experts.

Location: Salt River Talking Stick Hotel, Scottsdale, Arizona

LETTERS TO THE EDITOR

I quote from your article “Will Keystone XL Pipeline Pump Sexual Violence Into South Dakota?” (January 27):

“U.S. Attorney Johnson has made the prosecution of these crimes a priority. After an undercover operation during the 2013 Sturgis Bike Rally, his office prosecuted nine men for sex trafficking. Victims ranged from 12 to 15 years of age.”

Small wonder South Dakota has a

reputation for being the Wild West!

I can see absolutely no good coming from this pipeline. Not only do we have to worry about the Wild West atmosphere, but also the friction between the local Native population and these transient workers who will amount to a similar flood of similar people when the Dakotas suffered the gold rush.

The reality of a worst-case scenario is only a matter of time, too. Leaks

from this pipeline will devastate every bit of nature with which it comes into contact. As usual, the responsible companies will release an apology, make a half-assed attempt to clean up the spill, then after a series of television commercials showing how clean they’ve left the area (all propaganda), will move on to rape the earth elsewhere.

— Michael Madrid
Las Cruces, New Mexico

Let us know what you think. To have your letter to the editor considered for publication, please email us at editor@ictmn.com



TOP NEWS ALERTS

From IndianCountryTodayMediaNetwork.com

BREAKTHROUGH ON EARLY POLLING STATIONS

The state of South Dakota has overcome another hurdle in creating early voting places in remote Native areas. The agreement followed months of frequently acrimonious discussion with the nonprofit group Four Directions; at issue was paying for the outlets. Four Directions had urged the use of federal money drawn from the Help America Vote Act (HAVA), but Secretary of State Jason Gant was unsure he could spend the funds. Persuaded by federal officials that he could, Gant is now revising the state's HAVA plan accordingly.

TRIAL OF ACCUSED CASINO SCAMMER DELAYED

A new trial of Anthony Laughing, accused of operating the unsanctioned Three Feathers

Casino on the St. Regis Mohawk Reservation in New York, will not take place until May. A mistrial was declared on November 18 in Laughing's original trial in U.S. District Court in Albany because of medical issues; he was set to be tried again beginning on February 24, but medical issues have again arisen. Three of Laughing's codefendants were acquitted of the charges against them, and a fourth is currently a fugitive, court documents say.

SUIT AGAINST ME-WUK IS DISMISSED

The 9th Circuit Court of Appeals has dismissed a lawsuit that challenged a Class III gaming compact for the Buena Vista Rancheria of Me-Wuk Indians, declaring that the California tribe may not be sued without its consent on the grounds of

sovereign immunity. "The tribe has been federally recognized since at least 1985 and it thus has 'the immunities and privileges available to other federally acknowledged Indian tribes by virtue of their government-to-government relationship with the United States,'" the court told the appellant, a group called Friends of Amador County.

MOHEGAN REPORTS REVENUE DECLINE

The Mohegan Sun casino in Uncasville, Connecticut has experienced a 28 percent decline in first-quarter operating profits; the figure is \$34.6 million, compared with \$48.1 million last year. In addition, gaming revenues were down 6.2 percent, while non-gaming revenues grew by 8.1 percent. Overall the casino's parent company, the

Mohegan Tribal Gaming Authority, which also runs a casino in Pennsylvania, reported 36.3 percent lower operating profits and a net loss of \$67.3 million.

LIST OF TRIBES PUBLISHED ON SCHEDULE

In contrast to recent years, the Bureau of Indian Affairs last month published its list of federally recognized tribes in accordance with federal law, which mandates that the BIA publish the list "annually on or before every January 30." Previously, the agency had been late four times in publishing the list and failed to publish it at all in 2011. The list, issued in *The Federal Register*, contains the names of all 566 federally recognized tribes in the lower 48 states and Alaska; although there are some name changes, there are no additions.

UPCOMING POW WOWS

Cox Osceola Pow Wow 2014

February 06 - 09
Cox Osceola Indian Reservation
Orange Springs, Florida
Contact: 352-658-1REZ(1739), 352-546-1386
rez@coxosceola.com
CoxOsceola.com

Bois Forte Mid-Winter Pow Wow

February 14 - 17
Nett Lake School Gymnasium
Nett Lake, Minnesota
Contact: Donald L. Chosa Jr.
218-757-3261
dchosajr@boisforte-nsn.gov
BoisForte.com

40th Annual Denver March Pow Wow

March 21 - 23
Denver Coliseum
Denver, Colorado
Contact: Grace B. Gillette
303-934-8045
denvermarchpowwow@comcast.net
DenverMarchPowWow.org

4th Annual Ida'ina Gathering

March 28 - 30
Dena'ina Civic & Convention Center
Anchorage, Alaska
Contact: Emil McCord
907-646-3115
emccord@tyonek.com
TebughnaFoundation.com

Anadagisi

April 05
University of Tennessee-Knoxville Campus
Knoxville, Tennessee
Contact: Tiffany Donner, Savannah Hicks
931-302-3699, 828-734-5727
tdonner@utk.edu, shicks17@utk.edu
[Facebook.com/groups/80588568624](https://www.facebook.com/groups/80588568624)

Circle of Nations Indigenous Association's 30th Annual Pow Wow

April 05
University of Minnesota Morris
Morris, Minnesota
Contact: Kelsey Scareshawk
952-992-9813
ummcnia@morris.umn.edu
studentorgs.morris.UMN.edu/cnia/powwow.htm

44th Annual Idaho State University Spring Pow Wow

April 19 20
ISU Reed Gymnasium
Pocatello, Idaho
Contact: Nolan Brown
208-282-4220
brownola@isu.edu

42nd Annual UC Davis Pow Wow

April 19
University of California Davis Outdoor Quad
Davis, California
Contact: Crystal Marich
530-752-7032
cmarich@ucdavis.edu
<http://ccc.UCDavis.edu/powwow.html>

16th Annual National Pow Wow

July 10 - 13
Vermilion County Fairgrounds
Danville, Indiana
Contact: 434-316-9719
info@nationalpowwow.com
NationalPowWow.com

11th Annual Roanoke Island American Indian Cultural Festival and Pow Wow

August 09 - 10
Manteo, North Carolina
Contact: Marilyn B. Morrison
757-477-3589
pacoeagle1@ncalgonquians.com
www.NCAIgonquians.com

Manito Ahbee Festival

September 13 - 14
MTS Centre
345 Graham Ave
Winnipeg, Manitoba
Contact: Candice Hart
204-956-1849
powwow@manitoahbee.com
ManitoAhbee.com

16th Annual 2014 Kauai Pow Wow "Rejuvenate Your Spirit"

September 26 - 28
Kapaa Beach Park
Kapaa, Hawaii
Contact: Dr. Kani Blackwell
808-651-7733
kauaipowwow@gmail.com
KauaiPowWow.com

Bacone College Fall Pow Wow 2014

October 25
Muskogee Civic Center
Muskogee, Oklahoma
Contact: Wil Brown
918-687-3299
brownw@bacone.edu



The sleek chocolate-colored “cocoa frog,” seen here in Suriname, is one of some 60 new species that was first identified by scientists in that country last year.

AP IMAGES/CONSERVATION INTERNATIONAL, STUART V. NIELSEN

THE BIG PICTURE