

**the state of indian country arizona | volume 1**



Artwork: Randy Kemp, Choctaw/Euchee/Muscogee-Creek (Turtle Clan)

Randy Kemp is an environmental graphic designer, sr., for Arizona State University and an alumnus of the ASU Katherine K. Herberger College of Arts where he earned a Bachelor of Fine Arts degree specializing in Painting. Before coming to ASU, Randy earned an Associate of Arts degree from the reputed Bacone Junior College in Muskogee, Oklahoma. There he studied under the artistic leadership of prominent American Indian artists: W. Richard West, Sr., Solomon McCombs, and Ruthe Blalock Jones. His artwork has been exhibited in prestigious museums, galleries and private collections throughout the world.

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# contents

- 5 ASU Letter**  
President Michael Crow
- 6 Foreward**  
John Lewis, ITCA
- 8 Introduction**  
Diane Humetewa, Esq.
- 12 Cultural Rights Matters: American Indian Struggles for Burial Rights, Repatriation, and Religious Freedom**  
Dr. James Riding In
- 20 Profile: The Apache Tribes**
- 22 Assessing the Challenges in American Indian Population Data**  
Norm DeWeaver
- 28 Profile: The Pai Tribes**
- 32 American Indian/Alaskan Native Health and Human Services Delivery Systems**  
Dr. Eddie Brown, Dr. John Molina, Jacob Moore, and Walter Murillo
- 42 Profile: The O'odham Tribes**
- 46 Leveraging Native Language & Culture for Future Success**  
Mario Molina
- 52 Profile: Southern Paiute Tribes**
- 54 Tribes in Arizona and Sustainability: Natural Resources, Energy, and Environmental Management**  
Dr. Patricia Mariella
- 70 Profile: The River Tribes**
- 74 Economic Development in Indian Country in Arizona**  
Carl Artman, Esq.
- 80 Profile: Hopi, Navajo, Pascua Yaqui and Zuni**
- 84 Credits and Acknowledgments**





# Tribal Map



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| <span style="display: inline-block; width: 15px; height: 15px; background-color: #4682B4; border: 1px solid black;"></span> Ak-Chin Indian Community     | <span style="display: inline-block; width: 15px; height: 15px; background-color: #FFD700; border: 1px solid black;"></span> Pascua Yaqui Tribe                        |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #90EE90; border: 1px solid black;"></span> Cocopah Indian Tribe         | <span style="display: inline-block; width: 15px; height: 15px; background-color: #FFA500; border: 1px solid black;"></span> Salt River Pima-Maricopa Indian Community |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #D2B48C; border: 1px solid black;"></span> Colorado River Indian Tribes | <span style="display: inline-block; width: 15px; height: 15px; background-color: #FF8C00; border: 1px solid black;"></span> San Carlos Apache Tribe                   |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #3CB371; border: 1px solid black;"></span> Fort McDowell Yavapai Nation | <span style="display: inline-block; width: 15px; height: 15px; background-color: #D2B48C; border: 1px solid black;"></span> San Juan Southern Paiute Tribe            |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #FF0000; border: 1px solid black;"></span> Fort Mojave Indian Tribe     | <span style="display: inline-block; width: 15px; height: 15px; background-color: #8B4513; border: 1px solid black;"></span> Tohono O'odham Nation                     |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #FF00FF; border: 1px solid black;"></span> Quechan Tribe                | <span style="display: inline-block; width: 15px; height: 15px; background-color: #800080; border: 1px solid black;"></span> Tonto Apache Tribe                        |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #FFA07A; border: 1px solid black;"></span> Gila River Indian Community  | <span style="display: inline-block; width: 15px; height: 15px; background-color: #4169E1; border: 1px solid black;"></span> White Mountain Apache Tribe               |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #008080; border: 1px solid black;"></span> Havasupai Tribe              | <span style="display: inline-block; width: 15px; height: 15px; background-color: #4682B4; border: 1px solid black;"></span> Yavapai-Apache Nation                     |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #A0522D; border: 1px solid black;"></span> Hualapai Tribe               | <span style="display: inline-block; width: 15px; height: 15px; background-color: #20B2AA; border: 1px solid black;"></span> Yavapai Prescott Indian Tribe             |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #FF4500; border: 1px solid black;"></span> Hopi Tribe                   | <span style="display: inline-block; width: 15px; height: 15px; background-color: #DDA0DD; border: 1px solid black;"></span> Pueblo of Zuni                            |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #DAA520; border: 1px solid black;"></span> Kaibab Paiute Tribe          |   |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #CD5C5C; border: 1px solid black;"></span> Navajo Nation                |   |









Arizona State University's evolution into the New American University is guided by eight design aspirations that begin with *Leveraging Our Place*. This goal is first because it acknowledges that we are uniquely situated in a diverse and culturally rich geographic region—Arizona. To thrive as a top-tier public university, ASU must embrace its cultural, socioeconomic, and physical setting. ASU's physical "place" is situated on or near the ancient homelands of various American Indian tribes. Though these Tribal Nations, indigenous to the region, were relegated to reservation land, they have survived intact and continue to adapt and thrive in our ever changing and challenging environment.

5

This State of Indian Country Arizona Report was developed to shed light on the 22 Tribal Nations located primarily within the boundaries of the state of Arizona and on their unique legal status with both Arizona and the United States. This report examines the state of tribal members who are both citizens of Arizona and of their respective tribal nations, which is different than being considered a minority group. It describes the influences Tribal Nations have in shaping the future of Arizona's public policies and economies, while simultaneously maintaining their own unique cultures, values, economies, and independent governments. It captures snapshots of Tribal Nation initiatives aimed at progressive future growth while adhering to principled traditional cultures that have sustained American Indian people for centuries.

ASU is honored to partner with the Inter-Tribal Council of Arizona (ITCA) in the development of this inaugural report. Since 1975, the ITCA has served as a common voice and advocate for Tribal Nations and Communities whose perspectives have been historically disregarded even when the dialogue involved their own members and governments. I respectfully thank the ITCA and its Member Tribes for their contributions to this report. Additional contributions to this report were made by the ITCA staff, the Phoenix Indian Medical Center (Indian Health Service), and Native Health, Inc. Their expertise is critical to our efforts to present an accurate picture of Tribal Nations in Arizona.

ASU is well positioned to take on this important work because it maintains one of the largest populations of American Indian student, faculty and staff in the nation, as well as some of the largest American Indian Studies academic curricula and American Indian focused programs. Contributions were made by ASU faculty, staff and students from the American Indian Studies Program, the Center for Indian Education, the American Indian Policy Institute, the Sandra Day O'Connor College of Law Indian Legal Program, the ASU Office of Public Affairs, and the President's Office on American Indian Initiatives. We hope that the collaborative effort between ITCA and ASU faculty and programs can begin to articulate the perspective of Tribal Nations and Communities to a much broader audience that understands little of Arizona's first caretakers.

As Assistant Executive Director, Alberta Tippeconnic, helped guide ITCA for thirty-five years. ASU's legacy includes Alberta Tippeconnic as a distinguished alumni and former staff member. Alberta was known for her steadfast resolve to ensure tribal people are treated with respect and understanding. Alberta was an early contributor to the planning, development, and design of this report. While she left us before its completion, I hope that the State of Indian Country Arizona Report honors the principles that guided Alberta in her life work.

On behalf of all those that contributed to this endeavor, I hope that you find this report thought provoking, educational, and a reflection of the critical work undertaken by ASU to foster a better understanding of the dynamic place we call Arizona.

A handwritten signature in black ink that reads "Michael Crow".

Michael M. Crow  
President

“ As the inaugural *State of Indian Country Arizona* report, there were many challenges to consider. Tribal governments are individual sovereign nations with the ability to interact with other governments independent of one another and on a Nation-to-Nation basis. Therefore, *The State of Indian Country Arizona* is as much an effort to accurately describe the legal, social, and economic relationship between the 22 Tribal Nations and the state of Arizona.

# foreword





## Foreword

By John Lewis, Executive Director, Inter Tribal Council of Arizona, Inc.

The Inter Tribal Council of Arizona, and the ASU Office of the President on American Indian Initiatives, in partnership with ASU for Arizona – Office of Public Affairs, is pleased to present *The State of Indian Country Arizona*. This publication is the result of a special collaboration between the Inter Tribal Council of Arizona and Arizona State University to share the unique perspectives and rich diversity of Tribal Nations and American Indian people located throughout the state of Arizona.

ASU faculty from the American Indian Policy Institute, the American Indian Studies Program, the Indian Legal Program, and guest authors collectively contributed to this report. Considerable time was taken to ensure that the interpretation and representation of Indian Country in Arizona is presented in a way that respects the sovereignty and integrity of each respective tribe.

As the inaugural *State of Indian Country Arizona* report, there were many challenges to consider. Tribal governments are individual sovereign nations with the ability to interact with other governments independent of one another and on a Nation-to-Nation basis. Therefore, *The State of Indian Country Arizona* is as much an effort to accurately describe the legal, social, and economic relationship between the 22 Tribal Nations and the state of Arizona.

As independent Tribal Nations, access to comprehensive, available, and accurate data is an inherent challenge. However, within these limitations we discovered opportunities to build stronger collaborations between Tribal Nations and ASU that can benefit the vitality of tribal communities and build a better understanding of the tribes in the state of Arizona.

The terms American Indian, Native American, Indigenous, and Native people are used interchangeably throughout this report to identify people indigenous to North America, whose ancestors planted, hunted, danced, sang, lived, and prayed in this region throughout past millennia. What emerges in this report is an appreciation for Tribal Nations who hold fast to their core spiritual values as reflected in their traditional culture and language; diligence in continuing and protecting their governance models; and resilience in ensuring the success of future generations of American Indian people.

On behalf of the Inter Tribal Council of Arizona, thank you to all those that have helped to make this publication possible. It is our hope that through this effort, the general public will better understand the unique nature of independent sovereign nations within a nation and recognition of the economic impact, vitality, and influence the Tribal Nations have throughout the state of Arizona.

John R. Lewis  
Executive Director  
Inter Tribal Council of Arizona, Inc.



# introduction

Every tribe uses stories to pass on its wisdom and values. The oral history of story telling is common among tribes and is used to pass down traditional cultural knowledge and understanding from generation to generation.

Long before written languages, elders, parents, aunts and uncles told stories to their children to teach them valuable lessons about their relationship with the world around them.

Children understood that they were privileged to listen to these stories and that knowing these stories would help them better understand their peoples' past and to be firmly grounded in ancestral knowledge that will prepare them for their own future.

In this tradition, the State of Indian Country Arizona presents several important stories about Indian people today in Arizona. In every case, the facts presented are vital, but it is equally important to understand why we chose to share these particular topics. Every section of this report reflects the common values of our Native American communities and culture. Like traditional basketry or weaving, each story is a strand in the societal fabric that not only sustained the tribes through difficult challenges of the past, but also strengthens each tribe well into the future.

By telling our stories, our goal is to help the general public to become more knowledgeable of the cultural, social, economic, and spiritual richness that is Indian Country in Arizona.

## Introduction

By Diane Humetewa, Esq.

In 1885, when the Legislative Assembly of the Territory of Arizona established the Tempe Normal School,<sup>1</sup> Arizona Territory was an expansive landscape that appeared ripe for exploration and settlement. Yet it was home to dozens of Indian nations whose ancestors had always lived on this land. While the young Arizona legislature contemplated the role of higher education for Arizona settlers, twenty-two Indian nations grappled with how to survive in newly defined reservations mandated by the federal government Indian removal policies.<sup>2</sup>

Nearly 130 years later, Arizona State University has evolved into one of the largest public universities in the nation. Simultaneously, American Indian populations and their governments have grown in size and complexity. This growth has been multifaceted. No other group of people in the nation has been affected by federal and state government policies quite like the American Indian. To understand the state of Indian Country in Arizona, one must first understand the historic status of tribal governments in Arizona relative to their relationship with the state and the nation.

American Indians and Indian tribes have a unique status in the United States. American Indians are a distinct class of citizen because they have a political and legal relationship with the United States unlike any other racially diverse group.<sup>3</sup> Indians are at once citizens of the nation, their individual states and citizens of their own tribal governments. Tribal governments are independent sovereigns that have a direct relationship with the federal government.<sup>4</sup> This “government-to-government” relationship is complex because it is shaped by United States history and its’ political and legal evolution. That history is marred

by failed federal policies of tribal termination, removal from aboriginal homelands and attempts to assimilate tribal members into mainstream society. Over the last fifty years, federal policies have evolved to acknowledge Indian tribes as governments that are fully capable of self-governing.

The federal government’s responsibilities to and relationship with Indian nations are shaped by acts of Congress, Administrative policies and Executive Orders that are all subject to U.S. Supreme Court interpretation. The earliest decisions the Court compared Congress’s relationship with Tribes to that of a guardian and a ward and reminded Congress that Indian tribes ceded millions of acres of land to the U.S. in exchange for its protection, provision of care for the health and welfare of tribal members and specific land on which to settle.<sup>5</sup> “Indian Country” is the legal term used to describe the land to be occupied by tribal nations and the term has expanded into a complex legal description onto itself.<sup>6</sup>

By virtue of the exclusive authority of Congress to deal with Indian tribes, State governments may not interfere with tribal self-governance.<sup>7</sup> The Enabling Act of 1910 authorized Arizona’s admission into statehood and it also required Arizona to adopt a state Constitution. When Arizona convened to draft its State Constitution, provisions therein specifically exempted Indian lands from taxation and acknowledged the U.S. Congress’ jurisdiction over Indian lands.<sup>8</sup> Nonetheless, over the years, Arizona routinely challenged their own laws and made various attempts to exert its authority in Indian Country.

State challenges to tribal sovereignty, such as attempts to tax certain activity occurring in Indian country, created tension



between the states and tribes and made it more difficult for their relationships to progress.

American Indians were also among the last to be granted state voting rights, including in Arizona. In 1928, a Gila River Indian Community member filed a lawsuit to gain the right to vote in state elections. The Arizona Supreme Court denied voting rights for Indians because they were under federal guardianship and the Arizona Constitution denied voting rights to “mental incompetents and people under guardianship.”<sup>9</sup> In 1947, two members of the Fort McDowell Yavapai Nation successfully filed suit seeking to overturn the 1928 decision and gained state voting rights for Arizona’s tribal members.

Over time, tribal governments have established relationships with the states in which they reside since they share common geographic boundaries and a bona fide interest in cooperation for their own benefit and for the benefit of their tribal members. For their part, states like Arizona accepted that Indian tribes are governments operating within their state boundaries. They recognize that their own developments often warrant the use of tribal economic and natural resources. States have also acknowledged that American Indian populations in their towns and cities have grown exponentially and that tribal governments and their members significantly contribute to state identities, economies, and successes, including political successes.

The evolution of the relationship includes an important recognition that the state’s relationship with each of the twenty-two Indian tribal governments is unique because each tribe is unique as are the needs of their tribal members. To foster state and tribal relationships, in 1953, Arizona’s 21st Legislature established the

Commission of Indian Affairs to address the conditions experienced by Indians living in Arizona. The Commission’s work has culminated in a yearly “Indian Nations and Tribes Legislative Day” where the Arizona State Legislature and Arizona Tribal Government leaders meet in a Special Session at the start of each legislative session to discuss state legislation and policies that affect Indian Country in Arizona.

On September 14, 2006 the Governor of Arizona signed Executive Order 2006-14, *Consultation and Cooperation with Arizona Tribes*. Like the U.S. President’s 2000 Executive Order 13175 on Tribal Consultation, the Governor’s Order required each Executive Branch agency to develop and implement a consultation policy to guide its work and interaction with Arizona tribal governments when the state agency’s work could affect a Tribe. In December 2008, the Arizona Board of Regents established its own Executive Order 1-118, which requires the State’s three universities to establish a consultative approach with tribal governments when university activities can affect a tribal community. This signaled an historic change to the usual practices of research or project development and fosters open communication between state agencies and tribal governments.

ASU embraced the Executive Order to support research and project development that achieves meaningful impacts on issues that matter to tribal communities. This first “State of Indian Country Arizona” report was developed in this spirit. ASU is proud to partner with Arizona Tribes to produce this important and timely report. We look forward to continuing our relationship with tribal governments to contribute to and promote a better understanding of the past, present and future state of Indian Country in Arizona. ■

Diane J. Humetewa, Esq., is Special Advisor to ASU President Michael M. Crow on American Indian Affairs, Special Counsel in the Office of ASU's General Counsel and Professor of Practice in the Sandra Day O'Connor College of Law. Ms. Humetewa was the former U.S. Attorney for the District of Arizona (2007-2009) and the first Native American female to hold that position. Diane has held various positions as a public lawyer, including as counsel in the U.S. Senate and in the U.S. Department of Justice. She is a member of the Hopi tribe.

<sup>1</sup> See Arizona House Bill 164, "An Act to Establish a Normal School in the Territory of Arizona."

<sup>2</sup> The *Indian Removal Act* was signed into law by President Andrew Jackson in 1830 and was the policy of the United States through 1858.

<sup>3</sup> See *Morton v. Mancari*, 417 U.S. 535 (1974).

<sup>4</sup> *Worcester v. Georgia*, 31 U.S. (6 Pet.) 515 (1832).

<sup>5</sup> *Cherokee Nation v. Georgia*, 30 U.S. 1 (1831).

<sup>6</sup> See 18 U.S.C. 1151; See also *Alaska v. Native Village of Venetie Tribal Government*, 522 U.S. 520 (1998).

<sup>7</sup> U.S. Constitution, Article 1, Section 8.

<sup>8</sup> Arizona State Constitution, Article 20, Section 4 and Section 5 (ratified in 1910).

<sup>9</sup> See July 15, 2008, U.S. House Floor Statement of former Cong. Harry E. Mitchell "Commemorating Arizona Native American Right to Vote Day."



*A June 2012 meeting at Sandra Day O'Connor School of Law at Arizona State University, brought together more than fifty Indian delegates from Arizona and other states to discuss solutions to the problems facing them. They focused on three areas of cultural rights: the right to burial protections; the right to repatriate stolen human remains, burial offerings, and cultural items; and the right to freely worship at their off-reservation sacred places. These issues stem from an appalling history of cultural suppression.*

– Dr. James Riding In

We begin with a story about Cultural Rights as our ancestors are from here and because we are taught to hold certain beliefs, things, and places as sacred.

# cultural rights



## Cultural Rights Matters: American Indian Struggles for Burial Rights, Repatriation, and Religious Freedom

By James Riding In

*Cultural rights are human rights. For years, American Indians have been engaged in highly contentious, uphill struggles to reclaim cultural rights denied them by the U.S. government. A June 2012 meeting at Sandra Day O'Connor School of Law at Arizona State University, brought together more than fifty Indian delegates from Arizona and other states to discuss solutions to the problems facing them. They focused on three areas of cultural rights: the right to burial protections; the right to repatriate stolen human remains, burial offerings, and cultural items; and the right to freely worship at their off-reservation sacred places. These issues stem from an appalling history of cultural suppression.*

Before foreign colonizers arrived in the Southwest, Indians of Arizona had the freedom to live in accordance with their respective values, beliefs, and customs. Their sacred cultural landscapes include mountains where their

deities live and where they pray, places where their ancestors once lived, migrated, harvested medicinal plants, and buried their dead. When burying their deceased loved ones, American Indian ancestors placed objects in

graves, that are necessary for the dead to make the transition to the spiritual world.

Despite manifesting an unyielding desire to preserve their customary ways of living, by the late 1800, American Indians had fallen under a system of U.S. oppression that treated them as incompetent wards of the government. The U.S. government, working in concert with Christian groups, planned a coercive program to transform Indians into mirror images of white Americans in thought, beliefs, and behavior. From the 1880s to the 1930s, the Bureau of Indian Affairs outlawed non-Christian religious practices on reservations. This effort damaged Indian cultures but did not destroy them.<sup>1</sup> As evidenced by the 2012 gathering of delegates at ASU, Indians in Arizona have yet to be deterred from working to preserve their cultures and to protect their right to practice their cultures.

Through Federal Indian removal policies, American Indians lost control over millions of acres of land, which the U.S. government had appropriated. These stolen lands then became public domain. Federal agencies such as the U.S. Forest Service, Bureau of

Land Management, and National Park Service subsequently issued permits that allowed the mining, ranching, timbering, and recreational industries to desecrate sacred landscapes. Federal land managers often denied Indian religious practitioners access to those places.

Compounding matters, pothunters and archaeologists looted Indian burials on public and reservation lands with impunity. Under the Antiquities Act of 1906, U.S. authorities attempted to ban the illicit operations of pothunters while requiring archaeologists to obtain permits before conducting excavations on public and reservation lands. These legal diggers agreed to place exhumed human remains, grave contents, pottery, and other items in public repositories for study in perpetuity.<sup>2</sup> Because of its arid climate and long history of Indian occupancy, archaeologists viewed the Southwest as a rich land for plying their trade. Pot hunting continues to be a pastime in many rural communities. As a result, many Indian cultural items have been and continue to be sold on the open and black markets both nationally and internationally.<sup>3</sup>

Meanwhile, on reservations, In-

dians experienced starvation and punishments for participating in religious and healing ceremonies. In this environment, individuals oftentimes violated the customary laws and creation accounts that structured their lives by selling religious objects entrusted to their care to museum curators. Then too, outsiders sold stolen religious items to museum curators and private collectors. Museums largely functioned without moral or ethical constraints in their amassing of vast Indian collections for study and display.<sup>4</sup>

The impact of these federally sanctioned grave looting and museum collection practices was devastating. Nationwide, over 200,000 human remains and millions of burial items ended up in museums and federal agencies. Indians in Arizona suffered greatly from the looting of sacred sites. Museums obtained possession of enormous collections of Indian cultural items, including numerous sacred objects and objects of cultural patrimony. Human remains ancestral to the Tohono O'odhams, Akimel O'odhams, Hopis, Navajos, Zunis, Yavapais, Apaches, Hualapais, Mohaves, and others were excavated and shipped to such places as the

Peabody Museum, Arizona State University, the Museum of Arizona, Field Museum of Natural History, and the Phoebe Hurst Museum. These remains were placed on public display and occasionally studied.<sup>5</sup>

### **Burial Protections and Repatriation**

Despite suffering tremendous losses of land, freedom, and resources, Indians in Arizona survived the onslaught. In defending their distinct political and cultural rights, Indians drew inspiration and guidance from long-standing cultural values and beliefs. During the 1930s, although the U.S. government lifted the religious bans placed on them during the 1880s, the government did not ensure that Indian sacred lands located off reservations would be protected from desecration or made accessible to religious practitioners. Nor did it act to stop archaeologists from looting Indian graves or protect remote Indian graves from pothunters.

During the late 1960s, many Indian activists and their allies sought to halt the looting, end the destruction of their burial sites, and recover ancestral human remains and revered cultural



items from museums. They also worked to ensure that their spiritual leaders and worshipers would have access to sacred places on federal lands and that federal land managers would stop making decisions that would affect the integrity of those places. To gain attention to the injustices confronting them, Indians organized and held marches, rallies, and protests. They also lobbied Congress for assistance with some success.<sup>6</sup>

The Native American Graves Protection and Repatriation Act ["NAGPRA"] was signed into law November 1990. It provides Native Americans, defined in the law as Indian nations and Native

Hawaiians, a process to repatriate human remains, funerary objects, objects of cultural patrimony, and sacred objects in the control and possession of hundreds of museums, except the Smithsonian Museums, and federal agencies across the nation. Still, under NAGPRA, museums and federal agencies have the final authority to determine the cultural affiliation of items in their collection. As a result, Native Americans are severely disadvantaged by only having the right of consultation in this process.<sup>7</sup>

Although NAGPRA enables Native Americans to repatriate and rebury large numbers of human remains and funeral objects, many

museums and federal agencies have responded slowly, if not defiantly. Old attitudes about scientists' rights to preserve collections of Indian remains, grave goods, and cultural items continue to be championed in some settings. Nationally, institutions have retained possession of more than 120,000 human remains, or about two-thirds of all human remains, that they have classified as culturally unidentifiable. A 2009 GAO report found that key federal agencies have failed to comply fully with the law's requirements. Some agencies have not completed the required inventories of human remains and cultural items.<sup>8</sup>

### Sacred Places

The record shows that Congress responded half-heartedly to the Indian pleas for religious freedom. The American Indian Religious Freedom Act of 1978 (AIRFA) requires that federal land managers stop interfering with Indian worship at sacred places. Executive Order 13007 of 1996, Indian Sacred Sites, directed land managers to accommodate Native American religious ceremonies and avoid actions affecting the physical integrity of sacred sites. These measures ostensibly

protect Indian religious and cultural rights, but they leave decision-making authority in federal hands, without allowing Indian participation in the pre-planning and planning stages.<sup>9</sup>

Some federal land managers have worked cooperatively with Indian religious leaders, but others have ignited bitter protests by ignoring the sacred nature of lands under their care. In Arizona, since AIRFA, the Forest Service twice allowed the expansion of skiing operations on the San Francisco Peaks, a mountain of profound religious significance to at least thirteen Indian nations whose members maintain that the construction imposes a substantial burden on their free exercise of religion. In 1984, the Forest Service also approved construction of an astronomical telescope project atop Mount Graham, against the opposition of the San Carlos Apaches who view the mountain with profound reverence.<sup>10</sup> Other endangered places in Arizona include Big Mountain, Oak Flat, South Mountain, and Red Butte. Nationally, more than a hundred sacred areas are threatened.<sup>11</sup>

Indian attempts to use the colonizer's courts have not only

failed in most instances to provide relief but have also tightened the grip of federal control over Indian religious freedom. With *Lyng v. Northwest Indian Cemetery Protective Association*,<sup>12</sup> 485 U.S. 439 (1988) and a host of other federal cases, Indians learned two important lessons. First, judges have the power (and willingness) to hand down decisions that strike at the heart of Indian belief systems. Second, the U.S. Constitution does not protect their religious freedom. In *Lyng*, the U.S. Supreme Court held that the construction of a Forest Service road through an area sacred to three Northern California tribes did not violate the First Amendment's Free Exercise Clause. Writing the court's majority opinion, Justice Sandra Day O'Connor held that the road was allowable, even if it destroyed the area's sacredness and the Indians' belief system, because the government was not using coercion to prevent the plaintiffs from practicing their religion. She also wrote, "Whatever rights the Indians may have to the use of the area, those rights do not divest the Government of its right to use what is, after all, its land."<sup>13</sup>

*Lyng* threatens to undermine

the religious freedom of Indians and their ability to use the First Amendment and the Religious Freedom Restoration Act of 1993 to protect their sacred places from desecration. Attempts to stop further desecration of the San Francisco Peaks and Mount Graham ended disastrously. Yet, these defeats have not squashed the spirit of Indian resistance.

Ola Cassadore Davis, a San Carlos Apache who died on November 25, 2012, at the age of 89, was one of those gallant defenders of Indian spirituality. She led the fight to save Mount Graham from further desecration being planned by the Forest Service, University of Arizona, Max Planck Institute of Germany, the Vatican, and others. The mountain sits on a vast stretch of land that the U.S. government confiscated in 1872 from the San Carlos Apaches. Viewing the telescopes as a threat to her peoples' existence, Ola organized the Apache Survival Coalition, which included environmental groups and others. With her husband Mike at her side a few years back, Ola gained international attention to her cause as she traveled tirelessly across Europe and the United States.<sup>14</sup>



# Recommendations from The ASU Meeting on the Native American Grave Protection and Repatriation Act (June 18-19, 2012)

The NAGPRA Roundtable was hosted by the ASU American Indian Legal Program, the ASU American Indian Studies Program, and the Inter Tribal Council of Arizona. The meeting brought together tribal participants who discussed many of the cultural rights issues facing them and proposed solutions to carry tribal rights forward. The event's planners selected Arizona State University as the meeting site because of its law school's long-standing willingness to host symposia about NAGPRA and religious freedom issues. The delegates' recommendations to federal, state, and tribal governments on strengthening NAGPRA to protect Indian cultural rights are described below.

## **Disposition of culturally unidentifiable human remains and the repatriation of funerary objects**

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Adopted in 2010 by the Department of Interior, the rule governing the disposition of the culturally unidentifiable human remains requires museums and federal agencies to offer to repatriate those human remains in their collections classified as culturally unidentifiable. This rule leaves the repatriation of funerary objects up to the discretion of the holding entities, allowing hundreds of thousands of burial items to remain sequestered in non-Indian hands. All major scientific organizations with NAGPRA interests opposed the rule on the grounds that it contravened a supposed compromise between Indians and the archaeology/museum industry that had enabled NAGPRA to become law. Conversely, Indians support the rule's repatriation provision but challenge its exclusion of funerary objects from mandatory repatriation. They see this omission as a violation of their human rights and U.S. law, which specify that the dead cannot be stripped of their property.<sup>15</sup>

The participants proposed the following changes:

- Empower the Native American Graves Protection and Repatriation Review Committee to render enforceable decisions rather than advisory recommendations.
- Demand that institutions with NAGPRA responsibilities demonstrate a greater level of transparency, accountability, and understanding.
- Establish an educational process to inform museums and federal agencies about Indian beliefs concerning the dead, funerary objects, and cultural items.
- Provide training for tribal governments about NAGPRA and its consultation process beyond what is now being provided by the National NAGPRA, the agency in the National Park Service that oversees the implementation of this law.
- Encourage tribal governments to work in coalitions to pursue shared group identity claims for the repatriation of culturally unidentifiable human remains.
- Encourage individuals to write letters to Congress stating their concerns regarding NAGPRA's unresolved issues.<sup>16</sup>

## **Amend the definition of NAGPRA and strengthen its criminal provisions**

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In *Bonnichsen v. United States* (9th Cir. Feb. 4th, 2004), an appellant court upheld a lower court's decision that rejected the cultural affiliation claim by four plaintiff Indian nations to a very old set of human remains, known as Kennewick Man, on the basis of NAGPRA's definition of "Native American." "Native American" is defined as "*of or relating to a tribe, people, or culture that is indigenous to the United States.*" Indians need to keep pushing for a NAGPRA amendment to replace the "is indigenous to the United States" language with "*is or was indigenous . . .*" It should not come as a surprise that the archaeology/museum industry lobbied Congress to reject the amendment. Conversely, the Obama administration supports amending NAGPRA in this manner.

Part of the intent of NAGPRA is to penalize grave looters and prohibit the trafficking of Native American human remains. Yet, scarce arrests, few prosecutions, and inadequate fines have done little to deter these crimes. A lack of law enforcement personnel assigned to investigate NAGPRA crimes and weak fines and penalties for those who commit violations provide little incentive to enforce the law. The participants asserted that:

- The U.S. government should establish meaningful punishments and expand the statute of limitation for NAGPRA crimes to bring them into conformity with similar crimes committed against museums.<sup>17</sup>
- The Senate Committee on Indian Affairs should revive the proposed “and or was” amendment, requesting the House of Representatives to become involved, and reaching out to supportive members of the archaeology community.
- Public and floor statements should be collected from the amendment’s adherents to bolster the cause.

#### **Museum and federal agency non-compliance with NAGPRA**

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Expressing mistrust and disapproval toward museums, the participants stressed that these institutions must be held accountable for their actions and encouraged to help the process of healing within Native American communities by admitting their wrongdoing. To this end, they recommend that:

- Museums not be allowed to stall or block repatriation initiatives by claiming that the ambiguity of NAGPRA’s definitions makes such actions impossible to pursue. Rather, in these cases, the canons of construction, which hold that ambiguities in the law must be resolved in the favor of Indian interests, should be used.
- National NAGPRA must not allow museums to change the cultural designation of cultural items eligible for repatriation to suit their own designs.
- Museums should give more credence to community elders who are

reliable repositories of knowledge regarding information pertaining to sacred objects and objects of cultural patrimony instead of relying on scholars as expert witnesses in repatriation matters.

#### **Protecting sacred places, ancestors, and burial grounds**

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A critical aspect to this session was discussion on the range of problems stemming from mainstream America’s inability to comprehend Indian concepts of the sacred. U.S. court decisions pertaining to sacred sites have been particularly problematic, especially with the courts’ increasing reliance on the theory of laches to deny Indians justice. Ways to avoid the *Lyng* menace may lie in establishing protective measures through meaningful consultation with federal agencies, developing positive relations with local and state officials, and updating and strengthening existing executive orders pertaining to sacred places. Religious freedom issues could be avoided by creating co-management and co-stewardship with federal agencies over culturally sensitive lands. The nomination of Traditional Cultural Properties on public lands for inclusion in the National Register of Historic Places could protect those areas from harm allowed by the Mining Act of 1872 and other measures.

Participants declared that:

- executive order revisions must be conducted in consultation with elders and spiritual leaders;
- coalitions of Indian nations and environmental organizations be formed to create a supportive network for the purpose of protecting endangered sacred lands;
- federal agencies incorporate the principle of free, prior, and informed consent, as specified by the United Nations Declaration on the Rights of Indigenous Peoples, in their decision-making structures.<sup>18</sup>





In closing, although Indians in Arizona and elsewhere face great obstacles in their struggles for cultural rights, they are fully committed to defending these rights. ■

James Riding In is a Pawnee, an associate professor of American Indian Studies at Arizona State University, and the editor of *Wicazo Sa Review*. His scholarly works have been published in numerous academic journals and books. He is the co-editor of "Native Historians Write Back: Decolonizing American Indian History".

#### Notes

<sup>1</sup> Generally see, Suzan Shown Harjo, "Suzan Shown Harjo's Statement for UN Special Rapporteur James Anaya," *Indian Country Today Media Network.com*, April 27, 2012, assessed on December 10, 2010, [http://en.wikisource.org/wiki/Code\\_of\\_Indian\\_Offenses](http://en.wikisource.org/wiki/Code_of_Indian_Offenses);

<sup>2</sup> The American Antiquities Act, 16 U.S.C. 431-433.

<sup>3</sup> James Riding In, "Introduction: Human Rights and the American Indian Repatriation Movement: A Manifesto," *Arizona State Law Journal* 44 (Summer 2012): 620.

<sup>4</sup> Code of Indian Offenses (1833), Department of the Interior, Office of Indian Affairs, assessed on December 10, 2010, [http://en.wikisource.org/wiki/Code\\_of\\_Indian\\_Offenses](http://en.wikisource.org/wiki/Code_of_Indian_Offenses). For a discussion of the sale of Apache sacred objects and objects of cultural patrimony

under extreme duress, Steve Titla and Naomi Thurson, "The Apache and NAGPRA," *Arizona State Law Journal* 44 (Summer 2012): 803-08.

<sup>5</sup> For an overview of this history of the human remains controversy, generally see, James Riding In, "Without Ethics and Morality: A Historical Overview of Imperial Archaeology and American Indians," *Arizona State Law Journal* 24 (Spring 1992): 11-34.

<sup>6</sup> Generally see, Suzan Shown Harjo, "Native American Human Rights Acts: A Brief Account of Some Ways that Native Peoples and Friends Won Repatriation and National Indian Museums Laws," *Arizona State Law Journal* 44 (Summer 2012): 681-96.

<sup>7</sup> Native American Graves Protection and Repatriation Act, 25 U.S.C. § 3001-3013 (2006).

<sup>8</sup> Riding In, "Introduction," 621; generally see, Rebecca Tsosie, "NAGPRA and the Problem of 'Culturally Unidentifiable' Remains; The Argument for a Human Rights Framework," *Arizona State Law Journal* 44 (Summer 2012): 809-50.

<sup>9</sup> Harjo, "Harjo's Statement."

<sup>10</sup> Generally see, Elizabeth Brandt, "The Fight for Dził Nchaa Si An, Mt. Graham: Apaches and Astrophysical Development in Arizona," *Cultural Survival Quarterly* 19 (Winter 1995): 50-57.

<sup>11</sup> Harjo, "Harjo's Statement."

<sup>12</sup> *Lyng v. Northwest Indian Cemetery Protective Association*, 485 U.S. 439 (1988)

<sup>13</sup> *Ibid.*, 453.

<sup>14</sup> Alysa Landry, "Sacred Site Defender, Ola Cassadore Davis, Walks On," *Indian Country Today Media Network.com*, December 4, 2012, assessed on December 8, 2012, at <http://indiancountrytodaymedianetwork.com/article/sacred-site-defender-ola-cassadore-davis-walks-146093>.

<sup>15</sup> "NAGPRA Round Table Report," a copy of this report is in the files of this author.

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*



## Apache Tribes

The four Apache tribes with a land base in Arizona are all culturally related and share a Southern Athabaskan language.

20

### San Carlos Apache Tribe



**Federally Recognized:** 1871  
**Acreage:** 1,826,541 acres  
**Population:** 12,214  
**Peoples:** Apache

**Contact:**

San Carlos Apache Tribe  
PO Box "0"  
San Carlos, AZ 85550  
Phone: (928) 475-2361  
Fax: (928) 475-2567  
Website: [sancarlosapachetribe-nsn.gov](http://sancarlosapachetribe-nsn.gov)

**Congressional District:** 1

**Legislative District:** 7

**Brief Description:**

The tribal lands of the San Carlos Apache Tribe spans Gila, Graham, and Pinal counties in southeastern Arizona, roaming over a landscape that ranges from alpine meadows to desert. Encompassing 1,826,541 acres, the tribal lands of the San Carlos Apache Tribe was established by Executive Order on November 9, 1871.

Over one-third of the San Carlos Apache Tribe's land is forested (175,000 acres) or wooded (665,000 acres).

The Apaches are descendant of the Athabaskan family who migrated to the Southwest in the 10th century. Over time, many bands of Apache were relocated to the reservation from their traditional homelands, which once extended through Arizona and New Mexico.

### Tonto Apache Tribe



**Federally Recognized:** 1972  
**Acreage:** 85 acres  
**Population:** 110  
**Peoples:** Tonto Apache

**Contact:**

Tonto Apache Tribe  
Tonto Apache Reservation #30  
Payson, AZ 85541  
Phone: (928) 474-5000  
Fax: (928) 474-9125

**Congressional District:** 4

**Legislative District:** 6

**Brief Description:**

The Tonto Apache Tribe (originally named Te-go-suk, Place of the Yellow Water) is located adjacent to the town of Payson in northwestern Gila County approximately 95 miles northeast of Phoenix, and 100 miles southeast of Flagstaff, Arizona.

The Tonto Apache people are the direct descendants of the Tonto Apaches, a Western Apache band, who lived in the Payson vicinity long before the advent of the Anglo. The large Rio Verde Reserve, near Camp Verde, was established in 1871 for the Tonto Apache and Yavapai Indians. The Reserve was dissolved in 1875, when they were forcibly moved to a fort near the tribal lands of the San Carlos Apache Tribe. Some Tonto Apache people gradually returned to Payson after 20 years of exile to find that white settlers had taken much of their land.

## White Mountain Apache Tribe



**Federally Recognized:** 1891  
**Acreage:** 1,664,984 acres  
**Population:** 13,500  
**Peoples:** Apache

**Contact:**

White Mountain Apache Tribe  
 PO Box 700  
 Whiteriver, AZ 85941  
 Phone: (928) 338-4346  
 Fax: (928) 338-1514  
 Website: <http://www.wmat.nsn.us/>

**Congressional District:** 1

**Legislative District:** 7

**Brief Description:**

The White Mountain Apache are part of the Western Apache group, and related to the San Carlos, and Tonto Apache people. Their traditional homelands reside in the White Mountain area. The people were once nomadic, however, they now occupy permanent dwellings and depend on livestock, agriculture, tourism, and various tribal enterprises for their livelihood.

Before the 1880s, the Apaches traveled widely through their mountain homeland to take advantage of seasonal plant and animal resources. As American soldiers, miners, and ranchers invaded Apache lands in the 1850s and 1860s, relations worsened and the U.S. Army began a campaign to remove the Apaches from their homelands. By 1875, the Army relocated all Apaches to a fort near the tribal lands of the San Carlos Apache Tribe. No longer able to move freely through the mountains, the people were forced to live on rationed foods and give up their reliance on their mountain resources. On November 9, 1891, by Executive Order, the tribal lands of the White Mountain Apache Tribe were established. The reservation originally included tribal lands of the San Carlos Apache people, but an act of Congress, in 1897, separated the White Mountain Apache Tribe and the San Carlos Apache Tribe.

21

## Yavapai-Apache Nation



**Federally Recognized:** 1934  
**Acreage:** 1750 acres  
**Population:** 2,365  
**Peoples:** Wipukpa Yavapai and Apache

**Contact:**

Yavapai-Apache Nation  
 2400 W. Datsi Street  
 Camp Verde, AZ 86322  
 Phone: (928)567-3649  
 Fax: (928)567-3994  
 Website: [www.yavapai-apache.org](http://www.yavapai-apache.org)

**Congressional District:** 1

**Legislative District:** 6

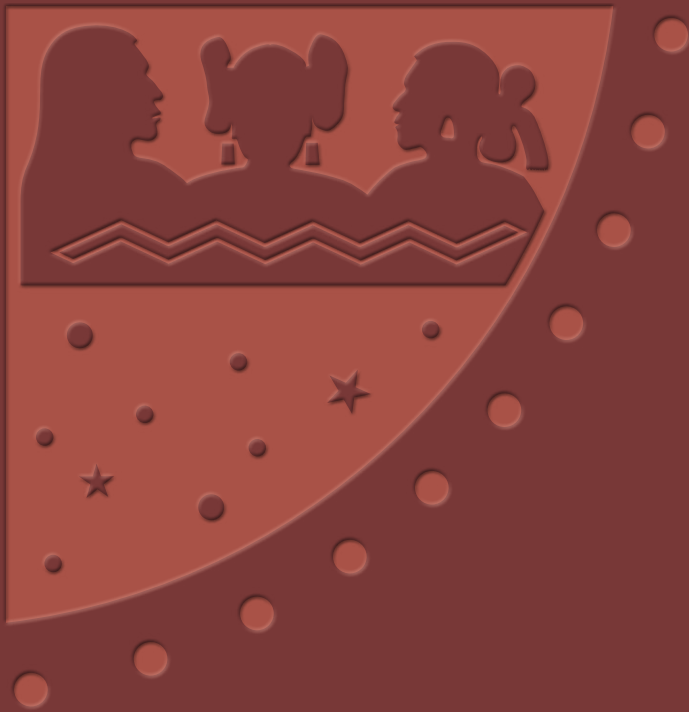
**Brief Description:**

The Yavapai-Apache Nation is comprised of descendants of two distinct cultures which inhabited the region prior to European contact; the Yavapai and Dilzhe'e Apache. On February 27, 1875, the Yavapai and Apache were force marched from the Verde Valley to the San Carlos Reservation, 180 miles away.

25 years after being forcibly removed from their homelands, approximately 200 Yavapai and Apache returned to the Verde Valley.

Despite the many hostilities they faced, the Yavapai and Apache remained within their homelands until 1909 when a reservation was re-established. Although comprised of two distinct tribes, the Yavapai and Apache shared a common history and a common community which bound them together.

In 1934, following the Indian Reorganization Act, the Yavapai and Apache people were officially recognized as a sovereign people and became known as the Yavapai-Apache Tribe.



As tribal people, we trace our history in millennia. Our modern history is a story of rigorous and sometimes murderous efforts by the United States government to exterminate and assimilate us. Today, we are citizens of our respective tribes, the state of Arizona, and the United States. Accounting for tribal populations is not an easy feat.

Population statistics validate that we're still here and shows that we will continue to be here, since we are mostly a young and growing population. Being counted based on obscure criteria creates distortions of who, what, and where we are as tribal people.

We tell this story because our traditional teachings tell us to give thanks for every living thing and the beauty all around us.

# demographics



## Assessing the Challenges in American Indian Population Data

By Norm DeWeaver

*There is a unique federal responsibility for the well being of Indian tribes and Indian people in the United States. In return for giving up most of the land, water and other resources in Arizona and throughout the rest of the country, tribes and their members were promised major economic and other support.*

Yet the federal government collects very little data on the Indian population and Indian communities. Much of what is collected is of limited value for designing effective federal policies. Similarly, the information that is available does little to help tribes plan for their own futures.

The data problem begins at the most basic level: who should be counted as an Indian person?

From a tribal point of view the answer is simple. An Indian person is a member of an Indian tribe. The principle is explicit in the basic policy statement of the relationship between tribes and the federal government, the Indian Self-Determination Act,

Public Law 93-638.

As sovereign nations, tribes are the only entities that have the right to determine who their citizens are. This is done through the process of enrollment – becoming a formal member of an Indian tribe. Enrollment records are created and maintained by each individual tribe. These records are the only accurate counts of the number Indian people.

There is no single source for tribal enrollment data covering all tribes. Estimates of the number of enrolled Indians, by tribe, were formerly published in a biennial report of the Bureau of Indian Affairs (BIA) in the US Department

of the Interior. That publication has not been issued for the last five years.

Tribal rolls include members wherever they live. This can be anywhere in the world. Though less true for tribes with land in Arizona, more than half of the members of some tribes may live outside the borders of the land base governed by that tribe. This complicates the data on Indian populations, which can be as much about where people live as whether they are counted.

Only one agency of the federal government conducts a house-to-house enumeration of the Indian population living in the United States. That agency is the U.S. Census Bureau (Census Bureau), which makes this count every ten years as part of the decennial census of the general population.

And only one agency of the federal government publishes data for Indian reservation areas, using their borders as they are legally defined. That agency is the Census Bureau.

But the Census Bureau does not count Indians in the same way tribes do. Anyone who says they are Indian, regardless of tribal enrollment, is included in the Indian population numbers

released by the Census Bureau. It's all a matter of self-identification.

To complicate matters further, starting in 2000 the Census Bureau allowed persons responding to a Census questionnaire to identify with more than one race. People could say that American Indian or Alaska Native (AI/AN) is their only race. This produces a count of what the Census Bureau calls the AI/AN “alone” population. Or people could say that they identify as Indian and, at the same time, as a member of a different race – White, African-American or another. To the Census Bureau, these people are AI/AN persons “in combination with one or more other races.” The sum of the AI/AN “alone” population and the “in combination” (Indian multi-racial) population is shown in Census tabulations as the AI/AN “alone or in combination” population.

This option to simultaneously identify as a member of two or more races produces very different measures of the size of the Indian population. In Arizona 296,529 persons were recorded in the 2010 Census as AI/AN alone. Another 56,857 persons said they were Indian but also

## American Indian Reservation Demographics in Arizona<sup>1</sup>

Labor Force Status – AI/AN Alone (Age 16 and Older) <sup>2</sup>		
Reservation land in Arizona only		
Number Employed	Participation Rate	Range
<b>39,554</b>	<b>45.4%</b>	<b>37.9% - 75.5%</b>
Number Unemployed	Unemployment Rate	Range
<b>13,449</b>	<b>16.4%</b>	<b>4.1% - 33.1%</b>

Poverty Status – AI/AN Alone <sup>3</sup>		
Reservation with any land in Arizona <sup>4</sup>		
Persons in Poverty	Poverty Rate	Range
<b>93,606</b>	<b>39.6%</b>	<b>18.2% - 58.4%</b>

Reservation Population – 2010 AI/AN Alone		
Arizona Total Reservation Population		<b>162,119</b>
Reservations with Any Land in Arizona <sup>5</sup>		<b>240,747</b>
2000/2010 Reservation Population Counts Compared – AI/AN <sup>6</sup>		
2000	2010	Pct Change
<b>243,894</b>	<b>240,747</b>	<b>-1.3%</b>
2012 Total Enrolled Member Population for the 22 Tribes <sup>7</sup>		<b>423,728</b>

<sup>1</sup>Averages for the combined 21 reservations in Arizona - except San Juan Southern Paiute

<sup>2</sup>The Employed/Unemployment Rates does not include those not in the workforce, such as elderly, students, military service, and discouraged workers.

<sup>3</sup>This data was taken from the US Census Bureau's American Community Survey (ACS) dataset for 2006 to 2010. It is subject to sampling and non-sampling error, which may significantly reduce the reliability of the data.

<sup>4</sup>Counts include all reservation land, including portions outside Arizona.

<sup>5</sup>Counts include all reservation land, including portions outside Arizona.

<sup>6</sup>U.S. Census Bureau 2010 Decennial Census

<sup>7</sup>Inter Tribal Council of Arizona – 2012 Tribal Profiles – including those living off their respective reservations and reservation land with portions outside of Arizona.

members of another race, for a total AI/AN “alone or in combination” population of 353,386.

In Arizona, as in other states, very few of those identifying as multi-racial Indian people live in reservation areas. On the reservation land in Arizona, 98% of the persons who said they are Indians said that they are not members of any other race. Outside of the reservation land in the state, just 72% of the AI/AN population said the same thing. Moreover, the characteristics of the Indian alone population and the Indian multi-racial population differ in significant ways. In any analysis of the Indian population, the count for a given area depends on which number is used – the alone count or the alone or in combination count.

In the past, the decennial census collected data on the socio-economic characteristics of the population, as well as its size. That's no longer the case, further complicating the information available on Indian people and Indian reservations with land in Arizona.

The Census Bureau now collects population characteristics information for all local areas, in-

cluding Indian reservation areas, through a survey conducted separately from the decennial census. This survey is called the American Community Survey, or ACS.

Although it collects essentially the same information – on education, employment, income and other population characteristics – that used to be collected in previous decennial censuses, the ACS is different in important ways.

The ACS is an ongoing survey, distributing questionnaires to a sample of households every month of every year, unlike the once-a-decade census with which most Americans are familiar. There is no major outreach effort to familiarize the population with the ACS, unlike the big promotional campaigns that accompany each decennial census. Most importantly, the ACS is a much smaller survey than the one in past decennial censuses that collected population characteristics information using a “long form” questionnaire.

The demise of the decennial census “long form” and the switch to the ACS have produced significant new challenges for the users of data on the Indian population.











A major challenge involves whether the ACS is producing data that accurately represents the characteristics of the entire Indian population on a given reservation or in any other local community. The ACS total for the AI/AN alone population in 2010 fails to account for 14% of the AI/AN alone population actually counted in the 2010 decennial census. In Arizona, the figures are significant, though less striking. The ACS count is 4% less than the number of AI/AN alone persons counted in the state in the last census.

The Census Bureau points out that the ACS is not about counting the total size of any population. Rather, the ACS is about counts of the characteristics of a population – the number of people in a given area with more than a high school diploma or GED, the number of people unemployed, the number of people with incomes below the poverty level and other socio-economic characteristics.

The ACS, because of its small sample size and for other reasons, appears to do a less reliable job of reporting the characteristics of the Indian population than did the “long form”

data collected in past decennial censuses.

Information from the most recent ACS data set, which includes responses to questionnaires collected from 2006 to 2010, shows an unemployment rate for the Indian population on the Navajo reservation of just 16%. This represents a nearly 40% drop from the rate recorded in the 2000 Census. It is also below the rate for the Fort McDowell Yavapai reservation, a much smaller reservation located entirely in the relatively job-rich Phoenix metro area. In context, the ACS number looks highly implausible.

ACS data is particularly unreliable for the smaller reservations in Arizona. As an example, the ACS indicates that very few Indian people on the Ak-Chin reservation have a formal education beyond high school and that none has a bachelor's degree or higher, findings that tribal officials may well question.

It is ironic that so little reliable data on Indian people and Indian reservations is available for making intelligent policy decisions or guiding planning at the tribal level. Tribes have long been required to provide voluminous

data on the people they serve to a plethora of federal agencies.

To take a case in point, the smallest tribe in Arizona running the Temporary Assistance for Needy Families (TANF) program is required to report to the US Department of Health and Human Services the same amount of very detailed information on each participant as the Arizona Department of Economic Security does for the state's TANF program. Tribal and off-reservation Indian job training programs must report specific characteristics data on every one of the participants they serve directly to the US Labor Department. Every federal program providing funding to a tribe has its own reporting system; none are coordinated with the systems of other programs, even when the same Indian people may be served, in different ways, by multiple programs.

One solution to the dearth of reliable data on the Indian population would be a major tribal-federal effort to develop the capability of tribes to collect relevant information on their populations from the records they keep for their own service

programs and in their own enrollment offices. In the end, this may be the most appropriate response to the challenge of dealing with the issues surrounding the data on the Indian population in Arizona. ■

Norm DeWeaver is a consultant who has worked with the National Congress of American Indians on census data and has provided analysis of census data for tribal workforce programs for decades. He has conducted analysis of the changes in the census over the past 15 years, particularly the transition from the “long-form” to the American Community Survey. Mr. DeWeaver was previously the Director of the Indian and Native American Employment and Training Coalition.

*UPDATE – In March 2013, Arizona State University announced the Tribal Indicators Project, which will gather, prepare, and analyze American Indian census data in a partnership between tribes, the American Indian Policy Institute at ASU, the American Indian Studies at ASU, and the Center for Population Dynamics at the ASU Global Institute of Sustainability.*

## Pai Tribes

Pai tribes are culturally related and speak diverse dialects of the Yuman language. Their ancestral lands include Central and Northwestern Arizona. The Yavapai-Apache Nation is an amalgamation of two different linguistic/cultural groups: The Yavapai are part of the Pai tribes and the Apache share kinship with the other Apache tribes.

## Fort McDowell Yavapai Nation

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**Federally****Recognized:** 1903**Acreage:** 26,400 acres**Population:** 960**Peoples:** Yavapai, Apache**Contact:**

Ft. McDowell Yavapai Nation

PO Box 17779

Fountain Hills, AZ 85269

Phone: (480) 837-5121

Fax: (480) 837-1630

Website: <http://www.ftmcdowell.org/>**Congressional District:** 6**Legislative District:** 23**Brief Description:**

The current boundaries of the Fort McDowell Yavapai Nation mark only a small portion of the ancestral territory of the bands of the Yavapai, whose homeland was the vast central area of Arizona and the Mogollon Rim. The reservation was designated in 1903 when the “kwevikopaya,” or Southeastern Yavapai, who lived in the Matazal-Four Peak and Superstition Mountain region, were granted 24,680 acres of the old Fort McDowell Military Reserve. This has been one of the most important outposts in the southwest during the Apache Wars, which occurred between 1865 and 1891.

Located in Maricopa County, the Fort McDowell Yavapai Nation lies approximately 23 miles northeast of Phoenix. The Fort McDowell Yavapai Nation economy is closely tied to the surrounding communities of Rio Verde, Fountain Hills, Mesa, Scottsdale, and Phoenix.

## Hualapai Tribe



**Federally Recognized:** 1883  
**Acreage:** 992,463 acres  
**Population:** 2,210  
**Peoples:** Hualapai  
**Contact:**  
 Hualapai Tribe  
 PO Box 179  
 Peach Springs, AZ 86434  
 Phone: (928) 769-2216  
 Fax: (928) 769-2343  
 Website: <http://hualapai-nsn.gov>  
**Congressional District:** 1  
**Legislative District:** 7

### Brief Description:

The Hualapai call themselves, "Hwal`bay", which means "People of the Tall Pine." The Hualapai live on lands encompassing about one million acres along 108 miles of the Colorado River and the Grand Canyon. The Hwal`bay call this middle river corridor "Hakataya" or "the backbone of the river."

The Colorado River is a significant landmark for the Hualapai. Historically, all of the Yuman language family tribes were located on, near, or in close proximity to the Colorado River.

An Executive Order established lands for the Hualapai Tribe in 1883. Peach Springs, the tribal capital, is 50 miles east of Kingman on Historic Route 66.

29

## Havasupai Tribe



**Federally Recognized:** 1880  
**Acreage:** 185,516 acres  
**Population:** 650  
**Peoples:** Havasupai  
**Contact:**  
 Havasupai Tribe  
 PO Box 10  
 Supai, AZ 86435  
 Phone: (928) 448-2731  
 Fax: (928) 448-2551  
 Website: <http://www.havasupai-tribe.com/>  
**Congressional District:** 1  
**Legislative District:** 7

### Brief Description:

"Havasuw `Baaja", the people of the blue green waters, are the traditional guardians of the Grand Canyon. Related to the Yuman, the Havasupai have from the beginning, inhabited the Grand Canyon and its environs.

Traditionally, the Havasupai farmed during the summer, and hunted and gathered during the winter. By 1919, with the establishment of the Grand Canyon National Park, the Havasupai Tribe was restricted to 518 acres, 5 miles wide and 12 miles long in a side canyon. When the US government restricted their use of their winter homelands on top of the Canyon, the people became dependent on the government for necessities. The Havasupai Tribe has since had returned to them 188,077 acres of their former homelands which makes up their current tribal lands.

The Havasupai tribal lands are located in Coconino County, at the southwest corner of the Grand Canyon National Park. The nearest community to their tribal lands is Peach Springs, 64 miles southwest from Hualapai Hilltop.

## Yavapai-Prescott Tribe

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**Federally Recognized:** 1935  
**Acreage:** 1,425 acres  
**Population:** 187  
**Peoples:** Yavapai  
**Contact:**  
Yavapai-Prescott Indian Tribe  
530 East Merritt Street  
Prescott, AZ 86301  
Phone: (928) 445-8790  
Fax: (928) 778-9445  
Website: <http://www.ypit.com/>  
**Congressional District:** 4  
**Legislative District:** 1

### Brief Description:

From prehistoric times, the Yavapai people lived as hunters and gatherers practicing occasional agriculture on more than 9 million acres of central and western Arizona. The three primary groups of Yavapai maintained good relationships with each other and are now located at Fort McDowell, Camp Verde, and Prescott. The Yavapai people are known for weaving excellent baskets.

The tribal lands of the Yavapai-Prescott Indian Tribe are 1,425 acres and are adjacent to the City of Prescott, Arizona, in central Yavapai County.

## Yavapai-Apache Nation

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**Federally Recognized:** 1934  
**Acreage:** 1750 acres  
**Population:** 2,365  
**Peoples:** Wipukpa Yavapai and Apache  
**Contact:**  
Yavapai-Apache Nation  
2400 W. Datsi Street  
Camp Verde, AZ 86322  
Phone: (928)567-3649  
Fax: (928)567-3994  
Website: [www.yavapai-apache.org](http://www.yavapai-apache.org)  
**Congressional District:** 1  
**Legislative District:** 6

### Brief Description:

The Yavapai-Apache Nation is comprised of descendants of two distinct cultures which inhabited the region prior to European contact; the Yavapai and Dilzhe'e Apache. On February 27, 1875, the Yavapai and Apache were force marched from the Verde Valley to the San Carlos Reservation, 180 miles away.

25 years after being forcibly removed from their homelands, approximately 200 Yavapai and Apache returned to the Verde Valley.

Despite the many hostilities they faced, the Yavapai and Apache remained within their homelands until 1909 when a reservation was re-established. Although comprised of two distinct tribes, the Yavapai and Apache shared a common history and a common community which bound them together.

In 1934, following the Indian Reorganization Act, the Yavapai and Apache people were officially recognized as a sovereign people and became known as the Yavapai-Apache Tribe.







We tell the complicated story of Health and Human Services to explain how tribal people receive these critical services, which were originally promised by the federal government in exchange for the taking of valuable land, water, and other natural resources. This report describes the many physical, social, and emotional challenges that face tribal people in our quest to be healthy as individuals, communities, and nations.

We tell this story because in our traditional culture we are taught to seek balance in our lives, mentally, physically, emotionally, and spiritually, and in harmony with the world around us.

# health and human services

## American Indian/Alaskan Native Health and Human Services Delivery Systems

By Eddie Brown, DSW, John Molina, M.D., J.D., Jacob Moore, MBA, and Walter Murillo

*Much of the general public and the health care sector do not fully understand the depth and scope of the American Indians/Alaskan Natives (AI/ANs) health and human services delivery systems. The overwhelming levels of health disparities that affect the AI/ANs population only eclipse the complexity of the delivery systems.*

The need for adequate care and services is far greater than the limited resources available. Through greater understanding between tribal governments, federal, state, and local agencies, and private providers, stronger collaborations can begin to address AI/ANs health care inequities, which will create healthier communities that bring positive benefits to both Tribal Nations and the state of Arizona.

This report provides a broad overview of the AI/ANs Health and Human Services Delivery Systems. This overview includes individual vignettes that

address; Sovereign Status and Authorities, Health Disparities, AI/ANs Health and Human Services Delivery Systems, and Report Summary and Recommendations.

### Sovereign Status

Federally recognized Indian tribes are sovereign nations that possess inherent government authority and powers for the administration and delivery of health and human services through unique government-to-government relationships with the federal government. The federal resources and services available to AI/ANs are

the result of the federal trust responsibility guaranteed by numerous statutes and presidential orders put in place throughout the history of the relationship between Tribal Nations and the U.S. federal government.<sup>1</sup>

To receive these federally mandated services, individual Indians must be enrolled members of their respective tribes. Services may vary depending upon where the individual resides; on or near, or off their reservation. State health and human resources and services are also available to American Indians as citizens of the state in which they reside provided they meet the eligibility criteria and do not receive a duplication of services.

### Health Disparities

A health disparity is the significant difference(s) in the presence of disease and health outcomes between racial and ethnic groups. Nationally, a major health disparity exists among the American Indian and Alaskan Natives (AI/ANs) as this group experiences a significantly poorer state of health (health status) when compared to other Americans. This health disparity among AI/AN

can be attributed to a multitude of factors including: lower educational achievement, increased poverty, inability to access to health services due to culturally incompetent providers, language barriers, and the unavailability of services. In Arizona this health disparity for AI/ANs is consistent with AI/ANs nationally.

Various indicators can be used to assess the health status of a population. Two important indicators to examine the health status in a population are infant mortality and the median age of death. Both of these indicators also provide useful data related to a population's access to and utilization of healthcare resources. Finally, a risk profile can also be used to assess a population's risk of dying from various diseases and conditions.

### Infant Mortality

- **The AI/AN infants have the second highest infant mortality rate (8.4 per 1,000 live births), as compared to the average Arizona infant mortality rate (4.8 per 1,000 live births).**<sup>4</sup>

Infant mortality is an important indicator of a community or population's health status as



it is impacted by factors such as maternal health, quality and access to medical care, socio-economic conditions, and public health practices.

### Median Age of Death

- **In Arizona, the median age of death for AI/ANs from all causes is 59.0 years compared to 76.0 years for all Arizonans.**<sup>6</sup>

The median age of death provides information related to the provision of health care activities such as: health education, disease prevention and detection, and treatment for chronic and infectious diseases.<sup>7</sup>

### Risk Profile

A risk profile examines specific health indicators to assess a population's risk of dying from various diseases and conditions, when compared to a state's overall average risks.

In Arizona, the 2008 risk profile for AI/ANs show that this population has a higher risk profile as compared to the state's average population.<sup>8</sup> In 2008, AI/AN residents in Arizona:

- Ranked poorly on measures of maternal lifestyle and health,

as well as in utilization of prenatal care

- On the average were 19 years younger at time of death compared to White non-Hispanics
- Had a high mortality from alcohol-induced causes, diabetes, influenza and pneumonia, motor vehicle accidents and mortality from other unintentional injuries: all contributing the premature death rate of 76.5 percent higher than the average Arizonan.
- Ranked worse than the state-wide average on 46 of 70 health risk indicators, such as;
  - 1.4 times higher: Assault (homicide)
  - 1.6 times higher: Mortality of young adult 20-44 years
  - 2 times higher: Motor vehicle related injuries
  - 2.5 times higher: Diabetes
  - 3.4 times higher: Chronic liver disease and cirrhosis
  - 4 times higher: Alcohol-induced deaths

### Trends in Health Conditions

There has been a significant change in the health trends of AI/ANs. Over the second half of

the 20th century there was a substantial decline in infectious disease, mostly due to improvements in environmental conditions. However, during this same time frame a rise in chronic diseases, especially diabetes. There is an even more alarming rise in the social pathologies of violence and unintentional injuries due to the ill effects of alcohol and drug abuse.<sup>9</sup>

This trend is evident in Arizona where the five leading causes of death of AI/ANs, in order of occurrence, are for males: disease of the heart, unintentional injuries, cancer, chronic liver disease and diabetes, and for females: cancer, diseases of the heart, diabetes, chronic liver disease and unintentional injuries.<sup>10</sup> Of these leading causes of death, cancer and unintentional injuries are the most important contributors to death for AI/ANs.

A second major contributor to AI/AN health disparities is tied to socio-economic status. AI/ANs comprise only about 4.6% of the total state population. However, AI/ANs experience disproportionately high mortality and morbidity rates compared to the general population and have a poverty rate of 39.6% among

the combined reservations lands throughout Arizona.<sup>11</sup>

### Health Disparities Summary

Although there have been substantial improvements in the delivery of health care and social services for AI/ANs, more needs to be done to narrow the serious gap in health disparities between AI/ANs and the majority population in Arizona. The disproportionate health care need of AI/ANs warrants greater collaboration and coordination between diverse health care delivery systems. The health disparities of AI/ANs are an issue of equity and equality in access to quality health care.

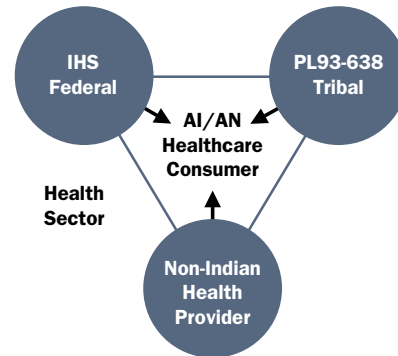
### AI/ANs Health and Human Services Delivery Systems

Given the challenges that Tribal Nations and Communities face with health disparities, it is important to know how and where AI/AN receive their health care and social services. The following is an overview of the health care and social service delivery system, which consists of many people and entities that work diligently to meet the needs of AI/ANs both on tribal lands and in urban communities.



## AZ Indian Health Care System

Graphic: American Indian Health Management & Policy



The overall system is a conglomeration of federal, state, local, and private agencies, providers, and policies. A need exists for improved coordination to provide a more comprehensive health care and social service delivery system.

### Federal and State Structures for Delivery of Health Services

Federal government responsibility for providing health care services to AI/AN can be traced back to treaties enacted between 1776 and 1858 which included medical care as partial compensation for ceding lands and other resources. Historically, AI/AN ceded over 400 million acres of Indian lands in exchange for a trust obligation to provide for the health, education, and welfare of AI/AN.<sup>12</sup>

Along with Indian Health Service, the AI/AN health care delivery system includes other agencies, such as, Centers for Medicare and Medicaid Services (CMS), various state agencies, and tribally managed and funded programs. The following chart graphically describes the primary entities involved in delivering health care and social services to AI/ANs in Arizona.

### Indian Health Service

The mission of the Federal Indian Health Service (IHS) is, “to raise the physical, mental, social and spiritual health of AI/ANs to the highest level: and its goal is to “assure that comprehensive, culturally acceptable personal and public health services are available and accessible to AI/AN people.”<sup>13</sup> IHS remains the foundation of the federal government’s obligation to provide health services to AI/AN people and communities. Unfortunately, services are severely underfunded and the need far exceeds the available resources.

### IHS health care facilities can be grouped into three categories:

- Operated directly by IHS
- Operated by the tribes by

contract or compact with IHS through a Tribal Health Authority (THA)

- Providing services to urban AI/ANs

IHS is not the sole provider of health care to AI/AN individuals. IHS, THA’s, and Urban programs have the ability to third-party bill the federal Centers for Medicare and Medicaid Services. Since the Arizona’s Medicaid agency is the Arizona Health Care Cost Containment System (AHCCCS),

the State of Arizona functions as a pass-through agency for federal funds that bring much needed health care resources to Tribal Nations and Communities. Other state agencies, such as, the Arizona Department of Economic Services, and the Arizona Department of Health Services also deliver services to individual tribal members and work collaboratively with tribal and urban Indian health care and social service providers.

35





## Federal and State Structures for Delivery of Human Services

Similar to the health care delivery system, the delivery of Human Services (social services) is coordinated through federal, state, tribal agencies and private providers. And like the health care delivery system, the need far exceeds the available resources for a population with significant social and health disparities. The following is an overview of the Human Service delivery system for AI/AN people and tribal Nations.

## Department of Interior Bureau of Indian Affairs – Human Services

The Bureau of Indian Affairs, Phoenix Area Office, Division of Human Services provides federal mandated human services to Arizona's 22 federally recognized tribes either through Federal/Tribal Self-Determination contractual agreements for Tribal governments to operate programs or through the direct delivery by the BIA Agency Offices. Services are provided to Tribal members residing on or

near their reservation community.

- **Welfare Assistance** – This program provides welfare assistance to American Indians who have no access to Temporary Assistance to Needy Families (TANF), do not meet eligibility criteria for TANF, or have exceeded the lifetime limit for TANF services. The BIA services are designed to be secondary in nature, and Indians that meet eligibility of other federal or state programs are referred to those programs for services. Services include: General Assistance, Child Assistance, Non-Medical Institutional or Custodial Care of Adults, Burial Assistance, and Emergency Assistance.
- **Indian Child Welfare Act** – This program prevents the separation of Indian families and also provides assistance for the reunification of families.
- **Housing Improvement Program** – The program is designed to provide funding for needed housing repairs and renovations to eliminate substandard housing and homelessness on or near federally recognized reservation communities.<sup>14</sup>

## Arizona Department of Economic Security

The Arizona Department of Economic Security (DES) works with Arizona's 22 Tribes to coordinate the availability and accessibility of State and Federal human services to children, youth, adults and elders. The following is an overview of DES services provided to residents of federally recognized tribes based on tribal consultations, Inter Governmental Agreements (IGA), and tribal identified needs.

- **Division of Benefits and Medical Eligibility** – Temporary Assistance for Needy Families (TANF)
- **Division of Employment and Rehabilitation Services (DERS)** – Employment Assistance (EA), Workforce Investment Act (WIA), Child Care Administration (CCA), and Rehabilitation Services Administration (RSA).
- **Division of Children, Youth and Families (DCYF)** – Indian Child Welfare Act (ICWA), Title IV-E Reimbursement, Family Support, Preservation and Reunification Services, Specialized Substance Abuse Treatment,

AI/AN Social Service Delivery System	
<b>Social Services Funded by Bureau of Indian Affairs:</b>	<ul style="list-style-type: none"> <li>• BIA funded and delivered social services on or near reservations</li> <li>• BIA 638 contracted and tribal delivered social services on or near reservations</li> </ul>
<b>Social Welfare Services Funded by U.S. Department of Health and Human Services (Pass Thru Funds):</b>	<ul style="list-style-type: none"> <li>• Federal funds directed to states for the administration and delivery to state citizens, including Indians on and off reservation</li> <li>• Federal fund directed to tribal governments for the administration and delivery to tribal citizens on, near, or off reservation</li> <li>• Federal funds passed through state administration to tribal governments for delivery of social services</li> </ul>
<b>Social Services Funded by the State:</b>	<ul style="list-style-type: none"> <li>• State funded and delivered to Indians on and off reservation as citizens of the state and meet state eligibility requirements</li> </ul>



Child Home Based Services, and Consultation.

- **Division of Aging and Adult Services (DAAS)** – Independent Living Support Services, State Health Insurance Assistant Program (SHIP), Long Term Care Ombudsman (LTCO), On-Site Monitoring and Technical Assistance, Arizona Early Intervention Program (AzEIP).
- **Division of Developmental Disabilities (DDD)** – Medicaid funded home and community-based services.
- **Division of Child Support Enforcement (DCSE)** – Office of the Attorney General and DCSE works individually with tribal governments to address jurisdictional issues and seeks to have legally obligated child support payments heard in tribal courts.<sup>15</sup>

## **US Department of Agriculture**

### **Supplemental Nutrition Assistance Program**

Eligibility for participation in the US Department of Agriculture Supplemental Nutrition Assistance Program (Food Stamps Program) is administered by the Arizona Department of

Economic Security (DES). The DES Division of Benefits and Medical Eligibility provides a single AHCCCS Health Insurance, KidsCare, Food Stamps and TANF Cash Assistance application form for eligibility determination. The single form is made available at all DES local offices.<sup>16</sup> However, tribal governments are not authorized to determine eligibility for the above benefits and American Indian reservation residents are required to visit State DES local offices to submit their application. In some cases tribal governments have developed IGA's to provide for tribal TANF/DES co-located offices on reservations that provide tribal residents with one-stop services.

## **US Department of Agriculture**

### **Food Distribution Program on Indian Reservations (FDPIR)**

Participants in FDPIR (also referred to as the Food Commodity Program) are low-income American Indian and non-Indian households that live on or near a reservation and have at least one person who is a member of a federally recognized tribe.<sup>17</sup> Tribes through the U.S.

Department of Agriculture/Tribal IGA's directly administer this program. In cases where both the Food Stamp Program and the FDPIR program are made available to tribal members on the reservation, eligible tribal residents must decide in which of the two programs they wish to participate.

### **Health and Human Service Delivery System Summary**

To someone with little knowledge or understanding of the health and human services available to AI/ANs, the initial impression based on the information listed above is that there are a multitude of agencies and programs available to address the needs of AI/ANs. However, the majority of programs operate with very limited resources and in many cases only meet a portion of the overall need. The lack of coordination and, in some cases, the lack of authority for tribal providers to make eligibility determination creates a bureaucracy of inefficiencies and limited effectiveness.

Given the magnitude of the health disparities among AI/AN people, a systematic assessment of the environment and systems

in which tribal health and social service programs function is needed. A collaborative effort of assessing the overall health care delivery system can help build a stronger more strategic framework that can mutually benefit both Tribal Nations and the state of Arizona by creating healthier communities.

## **Report Summary and Recommendations**

The history of the health and human service delivery systems for AI/ANs is steeped in commitments that were made between Tribes and the US federal government. As citizens of their respective tribal Nations and state, AI/ANs are afforded the same privileges and access to programs and services as any other citizen of Arizona.

Despite the multiple systems of care available to AI/ANs, the historic trauma that Tribal people have been subjected to has left a lasting and challenging impact. The significant health disparities in comparison to other racial and ethnic groups are staggering and, in part, the result of socioeconomic factors and inadequate resources for an effective culturally appropriate health and human



services infrastructure.

Much work needs to be done to create stronger collaborations and coordination with federal, state, and local agencies, along with private providers. The first step is to better understand the basic legal structure that tribal people are afforded as members of sovereign nations with distinct cultural considerations. Lack of understanding at all policy levels only compounds the inability to address basic health and human service needs.

The second step is to establish consistent reliable data based on sound research and information. Other states have taken the initiative to work collaboratively with their respective Tribal Nations, federal, state, and local agencies to devise better systems of support and identify and address tribally determined health and human service priorities. In April 2010, the American Indian Health Commission for the State of Washington released an American Indian Health Care Delivery Plan that provides a good model for building a comprehensive AI/ANs health care delivery system in collaboration and coordination with state government.

Ultimately, building healthy

Tribal Nations and healthy communities supports a healthy state. Arizona currently benefits from federal pass-through funding to AI/ANs as these funds reduce the burden on state resources. With the advent of Indian gaming, many Tribal Nations have become major employers and contribute revenue back to the state through multiple tax and revenue sharing sources, which includes funds directly to the state's trauma care centers. Investment by the state of Arizona into a comprehensive AI/AN health care delivery system creates a mutually beneficial relationship between Tribal Nations and the state.

In July 2003, the U.S. Commission of Civil Rights issued a report titled: *A Quiet Crisis: Federal Funding and the Unmet Need in Indian Country*, which identified the inadequacy of resources to address the disparities affecting Tribal Nations. Ten years later, available resources remain limited and never sufficient to adequately address AI/AN health disparities.

The AI/AN health disparities remains a quiet crisis and is an issue of inequity and inequality that can only be pursued with a

greater understanding of the complex challenges that face Tribal Nations and people. With foresight, vision, and collaboration, Tribal Nations, federal, state, and local agencies, along with private providers, can improve the health and human services delivery systems and turn around the significant health disparities in Indian Country. ■

Eddie F. Brown, DSW, (Pascua Yaqui/Tohono O'odham) is a Professor of American Indian Studies and Executive Director of the American Indian Policy Institute at Arizona State University. Dr. Brown has administered social welfare programs at the federal, state and tribal levels and conducted research and demonstration projects addressing welfare reform, Indian child welfare compliance, mental health assessments, and diabetes prevention.

Dr. John Molina, MD, JD, (Pascua Yaqui/San Carlos Apache) is a graduate of the University of Arizona, College of Medicine and Arizona State University, Sandra Day O'Connor College of Law. His clinical practice has been with the Indian Health Service and Las Fuentes Clinic, a community-based clinic he founded in his community of Guadalupe, Arizona. His academic interest is in Indian Healthcare Law and Policy, Healthcare Disparities, and Patient Centered Medicine.

Jacob Moore, MBA, (Tohono O'odham/Akimel O'odham/Lakota/Dakota) is the Tribal Relations Coordinator for the ASU Office of Public Affairs and also a partner

in Generation Seven Strategic Partners. Mr. Moore obtained a B.S. degree in Finance and an Executive M.B.A. both from the ASU W.P. Carey College of Business. He also served on the Arizona State Board of Education for six years.

Walter Murillo (Choctaw) is the Executive Director of Native American Community Health Center, Inc. (DBA NATIVE HEALTH), where he has worked for 17 years. NATIVE HEALTH provides holistic, patient centered, culturally sensitive health and wellness services primarily to the American Indian population in the greater metropolitan Phoenix area.

<sup>1</sup> Authorities - The special relationship between Federal and State Governments and Indian Tribes is affirmed in statutes and various Presidential and Governor Executive Orders including, but not limited to:

- Indian Citizen Act of 1924
- The Snyder Act, P.L. 67-85
- Older Americans Act of 1965, P.L. 89-73 as amended
- Indian Self-Determination and Education Assistance Act, P.L. 93-638, as amended
- Food Stamp Act of 1977 (P.L. 95-113, P.L. 95-113, 91 Stat. 913-1045)
- Native American Programs Act of 1974, P.L. 93-638, as amended
- Indian Health Care Improvement Act, P.L. 93-644, as amended
- Social Security Act, Titles XIX, XX, and XXI
- Unfunded Mandates Reform Act of 1995, P.L. 104-4





- Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193
  - Presidential Executive Memorandum to the Heads of Executive Departments dates April 29, 1994
  - Presidential Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, May 14, 1998
  - Presidential Executive Order 13175, Consultation and Coordination with Indian Tribal
  - Executive Order 2006-14 Consultation and Cooperation with Arizona Tribe
- <sup>2</sup> Native American Health Care Disparities Briefing. Executive Summary. Office of the General Counsel. U.S. Commission on Civil Rights. 2004.
- <sup>3</sup> IHS Fact Sheet Rx. Indian Health Disparities. Accessed on November 21, 2012 from: [www.ihs.gov/PublicAffairs/IHSBrochure/Disparities.asp](http://www.ihs.gov/PublicAffairs/IHSBrochure/Disparities.asp)
- <sup>4</sup> Infant Mortality in Arizona, 2010, Disparities Persist among Infant Deaths. Arizona Department of Health Services. Accessed on November 21, 2012 from: <http://azdhs.gov/phs/owch/pdf/issues/InfantMortalityIssueBrief2010.pdf>
- <sup>5</sup> MacDorman MF, Rowley, DL, Solomon I, Kiely, JL, Bardner, PG, Davis, MS. Infant Mortality. From Data to Action, CDC Public Health Surveillance for Women, Infants, and Children. Accessed on November 21, 2012 from: [www.cdc.gov/reproductivehealth/ProductsPubs/.../pdf/birout6.pdf](http://www.cdc.gov/reproductivehealth/ProductsPubs/.../pdf/birout6.pdf).
- <sup>6</sup> Health Status of American Indians in Arizona, 2009 Data Book, Table 2D-1 in Arizona Health Status and Vital Statistics 2009, page 27.
- <sup>7</sup> Duffy, MLB. Topics in Health Statistics. Center for Health Statistics. New Jersey Department of Health and Senior Services. January 2004. 04-01 Accessed on November 21, 2012 from: [www.state.nj.us/health/chs/topics0401.pdf](http://www.state.nj.us/health/chs/topics0401.pdf).
- <sup>8</sup> Health Status Profile of American Indians in Arizona. Arizona Department of Health Services. 2008 Data Book, Table 5, page 5. Accessed on November 21, 2012 from: [www.azdhs.gov/plan/report/hspam/indian08.pdf](http://www.azdhs.gov/plan/report/hspam/indian08.pdf)
- <sup>9</sup> Young, TK. Recent Health Trends in the Native American Population, in Recent Health Trends in the Native American Population. Page 53-72. Accessed on November 21, 2012 from: <http://www.nap.edu/catalog/5355.html>
- <sup>10</sup> Health Status of American Indians in Arizona, 2009 Data Book, Table 5.14 in Arizona Health Status and Vital Statistics 2009, page 108.
- <sup>11</sup> US Bureau of the Census, *American Community Survey 5-year Estimates for 2006 to 2010*, Table ACS S1701.
- <sup>12</sup> Opportunities for Change: Improving the Health of AI/ANs in WA State, 2010-2013 American Indian Health Care Delivery Plan
- <sup>13</sup> Indian Health Services, Indian Health Services Introduction, <http://www.ihs.gov/index.cfm?module=ihsIntro>
- <sup>14</sup> Bureau of Indian Affairs, U.S. Department of Interior, *Budget Justifications and Performance Information for Fiscal Year 2013*.
- <sup>15</sup> Arizona Department of Economic Security Tribal Consultation Report for State Fiscal Year 2012.
- <sup>16</sup> <http://www.fns.usda.gov/snap/>
- <sup>17</sup> <http://www.fns.usda.gov/fdd/programs/fdpi/>
- <sup>18</sup> American Indian Health Commission for Washington State, *Opportunities for Change: Improving the Health of American Indians/Alaskan Natives in Washington State*, American Indian Health Care Delivery Plan – 2010-2013, April 2010



## O'odham Tribes

The four O'odham tribes are linguistically related and their ancestral lands include Central and Southern Arizona and extend into Mexico, which is primarily arid desert lands that once included perennial rivers and lush riparian areas. The Maricopa Tribe is equally incorporated into the Gila River Indian Community and the Salt River Pima-Maricopa Indian Community.

## Ak-Chin Indian Community

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**Federally Recognized:** 1912  
**Acreage:** 21,480 acres  
**Population:** 934  
**Peoples:** O'odham

**Contact:**

Ak-Chin Indian Community  
4507 West Peters & Nall Road  
Maricopa, AZ 85239  
Phone: (520) 568-1000  
Fax: (520) 568-1001  
Website: <http://www.ak-chin.nsn.us>

**Congressional District:** 1

**Legislative District:** 11

**Brief Description:**

The Ak-Chin Indian Community is nestled into the Santa Cruz Valley of Southern Arizona. Located at an elevation of approximately 1,186 feet, the Ak-Chin Indian Community lies 58 miles south of Phoenix in the northwestern part of Pinal County. In this arid Sonoran desert climate, no streams slice through the landscape and no mountains rise steeply from the desert floor. Two washes traverse the reservation from north to south.

Ak-Chin is an O'odham word, which means, "Place where the wash loses itself in the sand or ground." The people of the community depend on the flood plains created by winter snows and summer rains for water and farming.

## Gila River Indian Community



**Federally Recognized:** 1859  
**Acreage:** 373,365 acres  
**Population:** 16,500  
**Peoples:** Pima, Maricopa  
**Contact:**

Gila River Indian Community  
 PO Box 97  
 Sacaton, AZ 85247  
 Phone: (520) 562-6000  
 Fax: (520) 562-6010  
 Website: [www.gilariver.org](http://www.gilariver.org)

**Congressional District:** 1  
**Legislative Districts:** 8, 27

### Brief Description:

The location of the Gila River Indian Community (GRIC) traces its roots to the Hohokam, prehistoric Indians who lived and farmed along the Gila River Basin centuries ago, and ancestors to today's O'odham speaking peoples. Today, the community is the homeland for two distinct Tribes, the Akimel O'odham (O'odham), and the Pee-Posh (Maricopa). The Pee-Posh, a Yuman band that migrated from the southern Colorado River area, became an ally of the O'odham. Together they banded and fought against surrounding warring enemies. The Pee-Posh established residency in a hamlet called Maricopa Colony, located in the most western part of the reservation. The two groups agreed that each would follow their own traditions and have a single council govern its affairs. For these reasons, the term "Gila River Indian Community" was coined.

The 373,365-acre reservation, which lies south of Phoenix, Tempe, and Chandler, was formally established by Constitution in 1939. Tribal administrative offices and departments are located in Sacaton, Arizona.

43

## Salt River Pima-Maricopa Indian Community



**Federally Recognized:** 1879  
**Acreage:** 53,000 acres  
**Population:** 9,500  
**Peoples:** Pima, Maricopa  
**Contact:**

Salt River Pima-Maricopa Indian Community  
 10005 East Osborn Road  
 Scottsdale, AZ 85256  
 Phone: (480) 362-7400  
 Fax: (480) 362-7593  
 Website: <http://www.srpmic-nsn.gov/>

**Congressional District:** 6  
**Legislative District:** 26

### Brief Description:

Consisting of 53,000 acres, the Salt River Pima-Maricopa Indian Community is located 15 miles northeast of Phoenix. It is adjacent to Scottsdale, Tempe, Fountain Hills, and Mesa, Arizona. Created by Executive Order on June 14, 1879, the Salt River Pima-Maricopa Indian Community has dedicated its resources to finding its way through the maze of urban pressures. Out of respect for their land, the Salt River Pima-Maricopa Indian Community maintains 19,000 of its acres as natural preserve. The secondary land use is agriculture, which supports a variety of crops including cotton, melons, potatoes, brown onions, and carrots.

The Salt River Pima-Maricopa Indian Community is home to 9,500 enrolled members who represent two Indian tribes: the O'odham ("Akimel Au-authm"-River People) and Maricopa ("Xalychidom Pipaash"-People who live toward the water). Historically, the O'odham are descendants of the Hohokam (Hoo-hoogam), people who farmed the Salt River Valley and created an elaborate canal irrigation system, centuries ago. In contrast, the Maricopa originally lived along the lower Gila and Colorado Rivers and migrated toward Pima villages in 1825.

## Tohono O’odham Nation

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44



**Federally Recognized:** 1874, Gila Bend:  
1886

**Acreage:** 2,854,881 acres

**Population:** 31,171

**Peoples:** Tohono O’odham

**Contact:**

Tohono O’odham Nation  
PO Box 837  
Sells, AZ 85634  
Phone: (520) 383-2028  
Fax: (520) 383-3379  
Website: [www.tonation-nsn.gov](http://www.tonation-nsn.gov)

**Congressional District:** 3

**Legislative District:** 4

**Brief Description:**

The Tohono O’odham, formerly known as the “Papago Tribe,” reside primarily in the Sonoran Desert of southern Arizona and northwest Mexico. Tohono O’odham means “People of the Desert.” The people rejected the name “Papago” (“tepany-bean eater”), which they were first labeled by conquistadores who had heard them called this by tribes unfriendly to the Tohono O’odham.

The Tohono O’odham Nation is comparable in size to the state of Connecticut. Its four non-contiguous segments total more than 2.8 million acres at an elevation of 2,674 feet. Of the four land bases, the largest contains more than 2.7 million acres. Boundaries begin south of Casa Grande and encompass parts of Pinal and Pima Counties before continuing south into Mexico. The largest community, Sells, functions as the Nation’s capital. San Xavier is the second largest land base, and contains 71,095 acres just south of the City of Tucson. The smaller parcels include the 10,409-acre San Lucy District, located near the city of Gila Bend, and the 20-acre Florence Village, which is located near the city of Florence.









The report on education and the teaching of Native languages in the classroom describes the challenges that parents, grandparents, and tribal communities must overcome to educate their young people. Educational opportunities vary dramatically among Tribes, depending upon the location and resources available. This report describes how introducing Native languages is helping to make education more relevant for our young people to thrive in two distinct worlds, the native and non-native world.

We tell this story because our cultural teachings place significant value in being stewards of traditions and resources for future generations of our people.

# education and native languages

## Leveraging Native Language and Culture for Future Success

By Mario Molina, M.Ed

*Tribal education systems in Arizona are as diverse as the communities they serve and present a wide range of educational models. Depending on location, Tribal Nations and Communities may be served by public, federal (Bureau of Indian Education), private, parochial, and charter schools. Generally, tribal communities in remote areas of the state have few educational options, while those located near or in metropolitan areas have multiple opportunities. However, every Tribal Nation and Community has an interest in incorporating their respective language and culture into their school's curriculum in a way that perpetuates the language and traditional knowledge well into the future.*

While these schools differ widely in their level of academic opportunity and educational approach, it is important to point out that each system shares the same values and expectations – which are to produce life-long learners that pursue their own individual educational goals with their own desire to become

successful in their own eyes and the eyes of their tribal community and culture.

### **Incorporating Native Language and Culture**

In conjunction with the academic curriculum, tribal communities express the need for their schools to incorporate

a Native Language and Cultural component into the curriculum. For Tribal Nations, Native Language and Culture are inherently linked. The opportunity to build strong Native Language programs has been enhanced by the implementation of the Native American Language Certification Policy (R7-2-614J) by the Arizona Department of Education.

The recently implemented teaching certificate allows traditional Native language teachers to be state certified language teachers once their respective tribe has determined that they are proficient in the specific Native language. This policy creates collaboration between Tribal Nations and the state of Arizona and responds directly to the cultural needs and preferences of Tribal Nations and Communities. This enhancement to Native language teaching is not new but timely when the established education system of math, science and language arts are becoming more rigorous through the expected implementation of Common Core standards.

Incorporating Native language and culture into curriculum provides relevancy to American

Indian/Alaskan Native (AI/AN) students and is well supported by research on effective schools for language minority students that demonstrates how strong bilingual programs can foster improved academic achievement (August & Hakuta, 1998; Baker, 2006; McCarty, 2009; Thomas & Collier, 2002).

### **Sustaining Native Language and Culture**

Tribal Nations are reclaiming their own heritage and language as a critical component in the educational development of their tribal members. Tribal communities also recognize that to produce life-long learners, AI/AN students must be able to identify and understand their own self-identity. For previous generations of AI/AN, the early federal boarding school system forced the use of the English language as a method of assimilation to the dominant American culture. However, Spencer (1999) points out, cultural themes involved in phenomenological processes during childhood and adolescence that fundamentally influences behavior and attributional inferences about oneself and others. In other words, traditional





cultural influences at an early age helps to establish a balance of oneself and how they relate to people around them.

Incorporating Native language into the classroom to improve academic success coincides well with efforts of tribal Nations to revitalize and promote the continued use of Native languages across generations. Currently, indigenous languages are diminishing at alarming rates as older generations of traditional speakers pass on and English becomes the primary language – since new traditional

speakers do not take their place.

Tribal Nations and Communities are searching for methods and theoretical frameworks to reverse the language shift from English to Indigenous Languages. Research in AI/AN communities has demonstrated how use of an endangered language as the core language of instruction can benefit both children who come to school speaking that language, as well as children who come to school speaking mostly English. (Castagno & Brayboy, 2009; Demmert, 2001; McCarty, 2009)

“Currently, indigenous languages are diminishing at alarming rates as older generations of traditional speakers pass on and English becomes the primary language – since new traditional speakers do not take their place.”

### Academic Rigor and Expectations

In the summer of 2012, when the Arizona State Board of Education enacted the Native American Language Teaching Certificate, state educational policies shifted as well. This effort is a positive step for all tribal communities within the state of Arizona as it enhances the opportunity for Native language and culture to be taught side-by-side with the same rigor and expectations as the academic curricula required in schools today. This rule affords schools and their administrators the ability to recognize the Native languages as a true subject of knowledge and learning. In the past, Native languages were not given such privileges and were less important in terms of academic relevance.

The search for teaching methods and frameworks has ignited a desire to develop a process of learning that will help bring the

vision of Native languages as a relevant component of education for tribal communities to reality. To understand this fundamental starting point, Tribal communities have instituted programs to educate and prepare their own members to teach in their schools. Tribal communities have come to understand that teachers, doctors, engineers and other professionals can be developed or found within the membership of their own communities. Educational equality and equity is important to Tribal Nations and Communities and is critical in exercising tribal sovereignty in a very practical way.

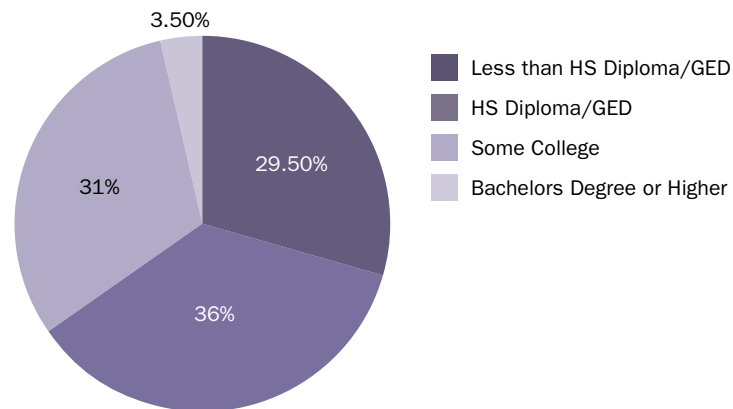
### College and Career Readiness – Nation Building

Today, a larger number of college educated tribal members are returning to their communities to teach and help pass on canonical knowledge within their respective fields. Some scholars refer to this

### Average Education Attainment

Reservation with any land in Arizona

US Census Bureau's American Community Survey (2006 to 2010)



movement as a nation building approach (Brayboy, Fann, Castagno & Solyom, 2012) in which tribal nations seek to build local capacity to address their myriad educational needs and desires.

Building from this model, tribal nations have reached out to local colleges and universities to create higher education curricula that will assist tribes to prepare tribal members to take on high-level positions within their own tribal governments, enterprises, and businesses. In some cases, tribal members can attend classes on the reservation and within their own tribal communities. Rather than having tribal members go away to college, the colleges are now coming to tribal communities. Again, tribal nations seek to create their own teaching cadre that can teach the required curriculum with an intimate understanding of the tribal community and their cultural

construct systems. This concept is very much in line with local control and invokes the sage words of Simone Weil (1987) who noted, “To be rooted is perhaps the most important and least recognized need of the human soul” (p. 41). With this belief, tribes have set out to re-establish the norms of the education standards, and influence those standards with their own culture and language, which will allow their members to learn both the outside world and tribal world.

Each tribal nation is unique and to establish a standard Native curriculum would be impossible. However, what can be achieved is the development of the human mind and self-identity through an appreciation and understanding of one’s Native language and culture. A common term in public and private educational institutions is the concept of scaffolding. This building of

knowledge incrementally is compatible with traditional AI/AN methods of learning. Tribal communities utilize their own traditional understandings to define what is referred to as “college and career ready”.

### Multiple Pathways

Native peoples understand that offering a variety of options for higher education is important. Traditionally and historically, tribal communities have functioned through village systems. Clans and communities had, and some still have, certain tasks and responsibilities designated to those particular families and villages, which required unique skills and knowledge. This concept of distributed skills for the best interest of the tribe and villages serves as a foundation for producing different educational options for anyone to pursue. More importantly, multiple pathways to educational success do not assume that everyone must follow one track of educational pursuit. Arizona’s tribal communities are vast and include variations of this traditional village model. It is this deeply rooted traditional concept that fosters tribal communities to establish

Career and Technical Education (CTE) schools and traditional schools of learning to serve the overall needs of their respective communities and governments.

These methods of teaching have been culturally embedded in these tribal communities for generations and it is this recognition that encourages the movement of change for tribal communities in a way that is relevant and authentic to these communities. The confidence to know that tribal members can contribute as change agents within their communities is impressive. In essence, tribes can now see themselves as true leaders and educators of their own communities. With the early western influence, this role was abdicated to an education system that didn’t value traditional concepts and teaching. The idea of self-reliance has gained momentum and serves as the beginnings of forming self-identity and the self-esteem not just for students but for entire communities.

### Thriving in Two Worlds

Lastly, the true common denominator throughout Indian Country is the resiliency that Tribal Nations and Communities have

**“ In essence, tribes can now see themselves as true leaders and educators of their own communities. With the early western influence, this role was abdicated to an education system that didn’t value traditional concepts and teaching.**



found and rely upon within their own construct systems. Some would say, “a tool or a skill that has been developed”, but others would claim this to be a common trait among the strong Indigenous communities that have relied on their resiliency through many adversities over centuries. Resiliency is an English based term that describes a traditional concept of thinking that helps to promote the self-efficacy that all tribal members can be successful in any path they choose in their life. In turn, Native students that learn academics with a greater appreciation of their Native language and culture will lead to a stronger life-long learners that possess both the outside world knowledge along with their tribal knowledge and can thrive in both worlds. ■

Mario Molina is the Director of the Gila River Tribal Education Department where he pursues positive change in the areas of academics, Akimel O’otham/Pee Posh culture and language, higher education, and many other endeavors by working with local, state and national level of governments on behalf of his community. Mario is a member of the Gila River Indian Community and a doctoral student at Arizona State University.



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## Southern Paiute Tribes

The Southern Paiute traditionally lived in the Colorado River basin and Mojave Desert in northern Arizona and southeastern California including Owens Valley, southern Nevada and southern Utah. The Southern Paiute has multiple sub-groups, bands, or tribes, including the Chemehuevi Tribe.

## Kaibab-Paiute Tribe

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**Federally****Recognized:** 1934**Acreage:** 120,413 acres**Population:** 240**Peoples:** Paiute**Contact:**

Kaibab-Paiute Tribe

HC 65 Box 2

Fredonia, AZ 86022

Phone: (928) 643-7245

Fax: (928) 643-7260

Website: <http://www.kaibabpaiute-nsn.gov>**Congressional District:** 1**Legislative District:** 7**Brief Description:**

The Kaibab-Paiute Tribe is a member of the bands of the Paiute people who have lived on the lands north and west of the Grand Canyon. Traditionally hunters and gatherers, the Kaibab-Paiute moved around in small groups as the seasons changed. In 1863, Mormons settled near the Kaibab-Paiute disrupting their traditional ways of life.

The tribal lands of the Kaibab-Paiute Tribe were established in 1934.

Most of the businesses on the Kaibab Paiute Indian Reservation are owned and operated by the tribe, and include a visitor's center at Pipe Spring National Monument, convenience store/gas station, which the tribe operates, along with an RV park and campground. The tribe is also involved in agriculture, and owns an 1,300 tree fruit orchard.

Because of its location in scenic northern Arizona, the Kaibab Paiute economy centers largely around tourism and the livestock industry.



## San Juan Southern Paiute Tribe

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**Federally  
Recognized:** 1990

**Acreage:** 0

**Population:** 300

**Peoples:** Paiute

**Contact:**

San Juan Southern Paiute Tribe  
POB 1989

Tuba City, Arizona, 86045

Phone: (928) 283-1066

Fax: (928) 674-9714

**Congressional District:** 1

**Legislative District:** 7

**Brief Description:**

The San Juan Southern Paiute Tribe is a small newly recognized tribe of approximately 300 members. The San Juan Southern Paiutes have lived for the last several hundred years in territories east of the Grand Canyon, bounded by the San Juan and Colorado Rivers, with the Navajo and Hopi Tribes as their neighbors. They share a common heritage with the Southern Paiutes of northern Arizona, Utah, Nevada, and California. They retain and maintain their native language, which is distinctly separate from their neighbors.

Many San Juan Southern Paiute tribal members reside in several distinct communities located on the Navajo Nation, primarily in northern Arizona and southeastern Utah. The largest of these communities are located at Willow Springs, near Tuba City, and at Navajo Mountain on the Arizona and Utah border.







This report on the natural resources describes the role tribes play both in stewardship of the land, air and water and in active energy production and conservation. Land that still remains with tribes contains vast stores of minerals, timber, natural vegetation, and wildlife. Others are prime for renewable energy opportunities and many tribes control significant water rights.

We tell this story because we are taught that the decisions we make today will have long term implications and affect the world around us. The traditional concept of seven-generation decision-making supports long-term sustainability and protection of our mother earth.

# sustainability

## Tribes in Arizona and Sustainability: Natural Resources, Energy, and Environmental Management

By Dr. Patricia Mariella

There are twenty-two (22) federally recognized tribal governments within the boundaries of the state of Arizona. These Tribal Nations have jurisdiction over approximately 28% of the land within Arizona. Tribal resources also include significant amounts of surface and ground water that are critical to economic well being in arid Arizona. Tribal lands also contain major sources of fossil fuels, as well as renewable sources of energy. Because many tribal lands are not highly developed, they often contain natural ecosystems with large game, fish, and recreation values, as well as forests with substantial stands of timber.

This report provides a broad overview of the extensive natural and energy resources of Tribal Nations within Arizona. It also summarizes the environmental resources management programs and regulatory work being conducted by tribes within the state.

The Tribal Nations within Arizona vary in land base, population

size, natural resources and cultural traditions. Tribal lands are distributed throughout the state, with some near or adjacent to urban areas and others in remote locations. These lands vary greatly in size. Most of the Navajo Nation, which has the largest tribal land base in the United States, is primarily in Arizona; there is also

a tribe with no current land base (the San Juan Southern Paiute), as well as the Zuni Pueblo, which has its main village and tribal administration in New Mexico, but has land within the boundaries of Arizona that is primarily used for traditional religious purposes.

Tribal governments are found in every region of the state except the southeastern corner where the Chiricahua Apache once lived in what is now Cochise County, named for one of the tribe's historic leaders. A number of the tribes in Arizona are among the most remote in the United States. The Havasupai occupy a western canyon of the Grand Canyon with no road access to their village; it is the only community in the U.S. where mail is still delivered by mule. Villages and housing on Navajo, Hopi, Tohono O'odham, San Carlos Apache and White Mountain Apache reservations are miles from even mid-sized cities.

On the other end of the continuum, there are tribes that share boundaries with the densely populated Phoenix metropolitan area (Salt River Pima-Maricopa Indian Community, Gila River Indian Community, and Fort McDowell Yavapai Nation). In addition, the

lands of a number of tribes within Arizona extend beyond the state and in the case of the Tohono O'odham Nation, beyond the international boundary line with Mexico. The Pascua Yaqui Tribe's homeland is within what is now Mexico. Because of historical persecution in their homeland, many Yaqui families moved north and now live on reservation land as well as other historical Yaqui communities within Arizona.

### Background

The varied geology and ecosystems within what is now the state of Arizona provided the basis for the diverse traditional economies of Native people. Today, tribal land continues to support modern tribal economies and also offers the potential for continued sustainable development and growth. The lands have long been coveted for resources including uranium, coal, copper, timber, and water.

Prior to Europeans coming to the territory, tribal people inhabited and made use of virtually all of the land in the state. It is important to acknowledge that Arizona State University campuses are on the ancestral lands of the Akimel Au-Authm (Pima) and



Reservations in Arizona

Piipaash (Maricopa) peoples. Tribes were forced to give up large tracts of land when reservations were established primarily in Territorial Arizona by the United States government after the Civil War.

Most tribes in Arizona, unlike tribes in much of the eastern part of the United States, have reservation land that is located within their traditional homelands. Despite the Navajo Long Walk in the 1860's to Bosque Redondo (Fort

Sumner) in New Mexico, and the forced march of the Yavapai from Camp Verde to San Carlos, both Navajo and Yavapai were able to return to their homelands and their reservations today lie within their traditional territories.

Early explorers and settlers coming to North America saw the land and the natural and biological resources associated with it as the tribal resources of the greatest commercial value. The history of the tribes like Fort

McDowell Yavapai Nation, Yavapai Prescott, and Yavapai Apache Nations demonstrates the dramatic loss of land when the federal government determined reservation boundaries and land beyond those boundaries made available to non-Indian settlers. According to the federal Indian Land Claims Commission, the Yavapai traditionally lived on close to one-fifth of what is today central and western Arizona. Today, Yavapai lands are only relatively small, non-contiguous parcels of their original homelands.

For tribes, the loss of land and the water associated with it increasingly made traditional land-based economies difficult. This loss also undermined tribal social and political structures that were consistent with these traditional ways of life. The loss of land also jeopardized cultural and religious practices, which are

deeply connected to ancestral homelands.

American Indian peoples have longstanding knowledge of the land on which they lived and from which they subsisted. As is true of most indigenous peoples throughout the world, American Indian cultural identity is closely associated with specific ecosystems and landmarks of their homelands. Native perspective of land possession is unlike that of non-Natives. Concepts of ownership versus stewardship brings forth an attitude and treatment of land in a conservationist rather than exploitative approach

Almost all Native peoples within Arizona were farmers who supplemented their agricultural economies with hunted and gathered foods, such as mesquite beans and agave, along with a wide range of seeds, berries, nuts and fruits. Native people also used

“ The varied geology and ecosystems within what is now the state of Arizona provided the basis for the diverse traditional economies of Native people. Today, tribal land continues to support modern tribal economies and also offers the potential for continued sustainable development and growth.



“ Sustainability, from a tribal perspective, goes beyond maintaining the environment. Tribes also seek to sustain their cultures that are intimately connected to the health of their lands and the well-being of their communities.

plants for medicinal purposes, basket-weaving and clothing. Many of these natural resources are critical for Native artisans and healers and are seriously threatened by a loss of habitat.

#### **Sustainability is a Core Value of Tribal Nations**

While sustainability is increasingly becoming part of contemporary American vernacular and a global consideration, it has always been a core value for tribes. Tribal Nations are intrinsically tied to the land and have been in this place for millennia. Therefore, Tribal Nations have both practical and cultural reasons to protect their homelands and natural resources for future generations.

Sustainability, from a tribal perspective, goes beyond maintaining the environment. Tribes also seek to sustain their cultures that are intimately connected to the health of their lands and the well-being of their communities.

It stands to reason that tribal sustainability must look well into the future. For example, one tribal government has developed a 100-year Strategic Plan. Many speak of the concept of planning ahead seven generations into the future.

#### **Wildlife, Forests and Timber**

Because Indian Country lands located within the Arizona boundaries are not densely populated, significant areas of tribal lands are naturally functioning ecosystems that support wildlife, including fish and large game such as elk and moose. Many tribes make the conscious decision to keep certain lands undeveloped to support natural ecosystems. Tribal Nations manage their game and fish effectively by issuing sustainable numbers of hunting and fishing permits. These natural areas encompass mountain and desert vistas, waterfalls, canyons and other unique and beautiful



“Many tribes make the conscious decision to keep certain lands undeveloped to support natural ecosystems. Tribal Nations manage their game and fish effectively by issuing sustainable numbers of hunting and fishing permits.

features that often have cultural and religious significance to tribal people but are also sought-after by hikers, campers, tourists, and developers.

Tribal lands also support significant timber resources. The largest, contiguous stand of Ponderosa Pine in the United States is found on the San Carlos Apache and White Mountain Apache reservations. The Navajo Nation also has a large amount of timber resources. Tribes are highly skilled at forest management as was demonstrated by the varying impacts of the large Rodeo-Chedeski wildfire on and off the White Mountain Apache reservation.

### **Water Rights and Agriculture**

Tribes have quantified rights thus far to close to a third of the surface water within the state, with potential claims to more as several large tribes do not yet have settled or quantified rights

(e.g., Navajo and Hopi). Tribes also have rights to groundwater beneath their lands and a number of Tribes have specific rights to groundwater identified in their water settlements.

The legal basis for tribal water rights is well established in federal law, both through statute and court decisions. When tribes ceded large tracts of land to the United States government, they retained sovereign authorities on the lands that were ultimately established through the reservation system. This legal construct is the basis for the doctrine of reserved rights, established in 1908 by the Supreme Court in *Winters v. United States*. The famous Winters Doctrine recognizes and confirms tribal rights to water associated with their lands.

Tribes were Arizona's first farmers, having developed an intensive agricultural tradition that goes back millennia. The pre-historic peoples whom archeologists

refer to as Hohokam, Sinagua and Anasazi (among others groups) all farmed. A number of tribes, especially those along the Salt, Gila and Colorado rivers, practiced labor-intensive, irrigated agriculture. Some depended on canal diversion of surface water and they laid out a sophisticated canal system and dug the canals by hand. The ancient canal systems are often the foundation of the modern canal systems used today. With an assured supply of food, these Tribes were able to support comparatively dense populations.

In northeastern Arizona, Native people grew crops without large riparian systems, using dry-farming techniques that traditional farmers at Hopi and Navajo still practice. The key food crops grown traditionally by American Indians in the Southwest, primarily corn, beans and squash, provided a balanced and nutritional diet; particularly when supplemented with protein from meat obtained by hunting as well as domesticated animals, such as turkeys. American Indian innovation and experimentation throughout North, Central and South America led to domestication of a wide range of crops and animals

that are critical to economies and diets of people throughout the world today. Native peoples likely domesticated tepary beans, as well as varieties of cotton and maize. It was Native farmers who supplied food to the early Spanish as well as American settlers and military forts in the Phoenix area and along the Colorado River.

By the late 1800s and 1900s, the once-thriving agricultural economies were devastated by non-Indian farmers diverting more water upstream. The significant and increasing reduction of flow to tribal lands downstream made it increasingly difficult to continue farming. As the diversions increased, the loss of water threatened the survival of Native farmers who depended on the rivers to grow their crops.

Upstream diversions and, in many cases, the complete loss of flow in the river systems, were supported by the federal government's program to construct numerous dams on the Colorado, Salt, Gila and Verde rivers during the first half of the 20th century to provide water for farms and growing towns and cities. The single biggest environmental degradation in the









Indigenous Maize

Gila River and Salt River tribal communities was losing their free-flowing rivers. Not only were thriving traditional tribal life ways compromised, the lack of water flow in riverbeds doomed the associated riparian ecosystems.

For over a century, tribal governments have devoted precious resources in legal and political efforts to quantify and affirm their water rights. However, even after these rights are quantified, Tribes often must reconstruct irrigation systems and other infrastructure to make use of the water. And oftentimes, restrictions are placed on how tribes can sell their water. This is why tribes make a distinction between water rights and 'wet water', or water that can actually be used. As an example, the Pima-Maricopa Irrigation Project is being completed within the Gila River Indian Community to deliver water to farming operations throughout the Community. This system of canals and culverts will enable the Community and its farmers to regain farming acreage and increase agricultural production. Today, tribal farm enterprises, individual American Indian farmers, and non-Indian farmers, who lease tribal land,

conduct commercial farming operations on approximately 500,000 acres within Indian Country in Arizona.

### **Land Allotments**

After the Civil War, the United States adopted a policy with the stated goal of assimilating American Indians through small-scale farming. This era is defined by the General Allotment Act of 1887 (also known as the Dawes Act). During the allotment era, the federal government began dividing tribal lands, starting in the Midwest and Northern Plains, into relatively small, individual parcels (generally 20 acres or less) that were assigned or allotted to individual Indian heads of household. After a transition period, often 25 years, individual American Indians privately owned the allotted land. Privately owned land no longer had federal trust status and could be sold, mortgaged and taxed, unlike *reservation land* which cannot be sold by tribes or by individuals. Only Congress can authorize the purchase or sale of reservation land, all of which is owned and held in trust by the federal government.

Tribal lands that were not al-





lotted were termed 'excess' and sold by the federal government to non-Indian homesteaders. As a result, American Indians lost almost two-thirds of their remaining land. Tribal lands were reduced from approximately 138 million to only 48 million acres. In 1928, the famous Merriam Report detailed the loss of land and associated devastation of tribal communities and, in response; Congress halted the process of allotment in 1934 by passing the Indian Reorganization Act.

In Arizona, the federal government began the process of allotment on several reservations towards the end of the allotment era, dividing lands where, for the most part, tribes had a history of practicing irrigated agriculture. These allotments did not pass out of trust and into private



status but the policy left a legacy of complicated land tenure. There are six tribes in Arizona that have a combined total of approximately 172,100 acres in allotted land status.

Since the leasing rights of allotted land on reservations

within Arizona are inherited over many generations, ownership has become fractionated, with common examples of 100 tribal landowners of a single acre. This fractionated ownership system makes it difficult for descendants of original allottees to make eco-

nomics use of the land. Federal regulations require permission of most (and in some cases all) of the tribal landowners for the land to be leased or used for a home-site or commercial development. This requirement creates a heavy administrative burden for housing

**“ Tribal governments are critical players in energy production and distribution in Arizona since essentially all of the mineral-based sources of energy within the state are found on tribal lands, as well as two large, coal-fired generating stations.**

and economic development projects as well as individuals trying to create a land base for personal or commercial use.

### Energy

Tribal governments are critical players in energy production and distribution in Arizona since essentially all of the mineral-based sources of energy within the state are found on tribal lands, as well as two large, coal-fired generating stations. Furthermore, as a result of historical rights-of-way and leases, numerous natural gas pipelines, transmissions lines for electricity and hydroelectric dams are located on tribal lands.

The Navajo Generating Station, the second largest power plant in Arizona, and the Four Corners Generating Station (which is located in New Mexico) are both located on the Navajo Nation and burn coal mined on tribal land. The Black Mesa re-

gion, home of the Hopi and Navajo, has one of the largest coal deposits in the United States, with approximately 21 billion tons of coal and a long-term value as high as \$100 billion. However, more than 18,000 Navajo households do not have electricity. Nationwide, 14% of American Indian households on reservations lack electricity compared to less than 1.5% of non-Indian households. This disconnect occurs largely because infrastructure is lacking. Transmission lines, substations and, household wiring is not yet available to households on remote areas of reservations.

Because of their locations and land use patterns, many tribes also have substantial potential for renewable energy generation (wind, solar, and biomass). Particularly in southern Arizona, tribal nations have made use of the high levels of solar radiation to install photovoltaic panels

on houses, government buildings and facilities. There are also tribal lands in the northern portion of the state with potential to generate wind energy. The Navajo Nation is planning a utility-scale wind energy project (Big Boquillas).

Traditionally, Indian people developed ways that were energy efficient and well adapted to the geography and climate. Even today, households on tribal lands use the least electricity of any population group within the state. Many American Indians, particularly elderly, desire to continue traditional lifestyles that provide a substantial level of self-sufficiency, but most tribal people of all ages would like the benefits of electrification. Given that American Indians living on reservations are the poorest group of people in the United States (2010 US Census), the cost of delivering electricity to these communities is a serious concern.

The mines and electrical generating stations (though owned by non-Indian utility companies) produce jobs for Native people, and lease revenue to the Navajo Nation and Hopi Tribe. However, these large generating stations are a substantial source of greenhouse gases and a source of pollutants that may affect health and visibility. The significant levels of revenue as well as employment are major factors affecting tribal government decisions. Individuals and groups within the Navajo and Hopi reservations influence these decisions as well as non-tribal organizations that seek to accelerate the pace of transition by tribal governments to other sources of revenue.

Tribal governments today are attempting to manage the costs and benefits of mining and coal-based energy production while moving toward a future in which tribes have increased ownership and control and management

**“ The Black Mesa region, home of the Hopi and Navajo, has one of the largest coal deposits in the United States, with approximately 21 billion tons of coal and a long-term value as high as \$100 billion.**







“ Tribal Nations are developing innovative, on-site renewable energy projects, as well as utility-scale solar, wind, and biofuel projects, that have the potential to provide best practices both within Arizona and throughout the US.

of energy production on their own lands. In this respect, their approach is similar to interests sometimes expressed by Arizonans concerned about exporting energy to other states, while leaving Arizona to deal with the costs. Tribal governments and their members want to ensure that, at a minimum, the benefits outweigh the costs of energy generation on their lands. While they continue use revenues from coal mining and coal-fired power generation, tribes are also planning a range of renewable energy projects and are working through the challenges of accessing federal renewable energy tax credits through financial partnerships with third parties. Learning how to leverage assets while maintaining conservation strategies will allow the continued practice of preserving resources for future generations.

To make use of increasing opportunities, tribal governments

are systematically working toward ownership in power generation on their lands and increasing their expertise and capacity in energy development, financing and project management. In addition, tribes are also turning to traditional materials and designs to obtain energy efficiencies in their homes, public buildings and infrastructure. Additionally, Tribal Nations are developing innovative, on-site renewable energy projects, as well as utility-scale solar, wind, and biofuel projects, that have the potential to provide best practices both within Arizona and throughout the US.

### **Tribal Environmental Management and Regulation**

As previously stated, Tribes within Arizona have a wide-range of environmental and natural resources, many of which are largely undisturbed because Tribes have preferred to leave

much of their land in a natural state rather than develop it intensively. Since natural resources often have religious, cultural and practical value, protection is a high priority of Native communities. Native plants are used by basket-weavers and other artists and craftspeople for healing and food, particularly for special events and ceremonies. For example, tribal people gather wood for heating, cooking, and for ceremonial fires; hunting game is cultural tradition as well as a basic food source for families.

Tribes are stewards of lands with great natural and scenic beauty. Some of the most mag-

nificent mountains, rivers, and canyons in the West are found on tribal land. Many of these areas also provide recreational opportunities, tourism revenues, and the need for environmental protection.

In order to protect the environment, Tribes in Arizona have developed capacity to protect air and water quality and prevent soil contamination. The US Environmental Protection Agency (EPA), particularly Region 9, which works with tribes located within Arizona, has made substantial effort to provide program resources to every tribe. In several instances, Tribes have



led the way nationally in environmental management.

The Gila River Indian Community is the first tribe in the U.S. to develop a comprehensive air quality regulatory program under the Clean Air Act. The Navajo Nation is the only tribe in the U.S. to implement the public water supply program under the Safe Drinking Water Act. Several tribes within Arizona have developed water quality standards under the Clean Water Act and many Tribes have met the national requirements for closing open dumps under the Resource Conservation and Recovery Act. Tribes in Arizona are conducting substantial remediation projects of groundwater and soil, contaminated by industrial activities and agricultural pesticides used in the past.

Cocopah and other tribes located along the Colorado River have taken national leadership in assessing the impacts of climate change and developing adaptive strategies. The Salt River Pima Maricopa Indian Community has established wetlands preserve, while the Colorado River Indian Tribes, Ak-Chin, Hopi and others have removed invasive plants in riparian ecosystems and

replanted indigenous trees. The White Mountain Apache Tribe, San Carlos Apache Tribe and the Hualapai Tribe each have effective game and fish management programs. Tribes with substantial agricultural production, including Salt River Pima-Maricopa Indian Community, Gila River Indian Community, Ak-Chin Indian Community, Cocopah, and Quechan, have long-standing pesticide regulatory programs.

Unlike states, which derive their authorities from the federal government, Tribal Nations have inherent authorities to regulate under tribal law. Many tribes in Arizona have taken the initiative and responsibility to manage and protect their land, water, and air. Generally, in the absence of tribal regulation, the federal government has regulatory authority in Indian Country. However, when originally enacted by Congress, federal environmental laws provided for states to assume regulatory responsibility after meeting certain conditions and standards developed by the EPA. These authorities are often accompanied by funding from the EPA to assist in implementing the programs.

This initial federal-state struc-

ture for environmental regulation left a 'tribal gap' since there were no specific statutory or regulatory authorities for tribal governments to receive funding or delegated authorities from EPA. While the federal EPA had authorities to regulate the environment in Indian Country, it did not have the staff to implement day-to-day regulatory programs. In addition, most federal environmental laws and regulations envision that states will develop specific statutes, regulations, and permit requirements to implement the federal laws.

As a result, some industrial facilities in Indian Country were largely unregulated. For example, the U.S. has authority to issue permits under the Clean

Air Act to major industrial sources of air pollution on reservations, but many of the federal air quality rules lack specific permit requirements; the federal laws and regulations envision that the states will develop the specific requirements within the overall federal parameters. Many major source air quality permits in Indian Country were issued without substantive requirements (referred to as 'hollow permits').

With increasing awareness of the tribal gap, Congress included language in the re-authorizations of the major federal environmental laws in the 1980's that specifically acknowledged tribal regulatory authorities and established a process for Tribes to receive delegated authority as well as

“Some of the most magnificent mountains, rivers, and canyons in the West are found on tribal land. Many of these areas also provide recreational opportunities, tourism revenues, and the need for environmental protection. In order to protect the environment, Tribes in Arizona have developed capacity to protect air and water quality and prevent soil contamination. In several instances, Tribes have led the way nationally in environmental management.



“ With significant support by the Inter Tribal Council of Arizona, Tribes provided national leadership in the re-authorizations of the Clean Water Act, Safe Drinking Water Act and Clean Air Act and were critical to successful enactment by Congress of tribal eligibility provisions in the 1980’s and early 1990’s.

program funding. This became known as ‘treatment as a state’ (also referred to as ‘tribal eligibility’) for the purposes of assuming federal environmental regulatory authority. The amendments specified that tribes must demonstrate the administrative and programmatic capacity to conduct federal regulatory programs to be eligible for program delegation (sometimes referred to as ‘primacy’). With significant support by the Inter Tribal Council of Arizona, Tribes provided national leadership in the re-authorizations of the Clean Water Act, Safe Drinking Water Act and Clean Air Act and were critical to successful enactment by Congress of tribal eligibility provisions in the 1980’s and early 1990’s.

Tribal regulatory authority, in general, extends to activities of American Indians conducted on tribal lands. Regulating activities of non-Indians on tribal lands is

a more complex issue. The activities of non-Indians on lands within a reservation require consideration of the impact of the activity on the tribe or if the nonmember has agreed to tribal jurisdiction (such as through signing a lease). The Montana test, established in the Supreme Court case of 1981 is used to determine tribal regulatory jurisdiction over non-Indians or non-trust lands located within the exterior boundaries of a reservation. A number of lawsuits over the past three decades, some of which were decided in the U.S. Supreme Court, further defined (and generally further limited) inherent tribal regulatory authority over non-Indians within reservations. However, in the tribal amendments to the federal environmental laws, particularly the Clean Air Act, Congress delegated federal authorities to Tribes that are determined

to be eligible. Consequently, Tribes that develop regulatory programs under federal laws (rather or in addition to using inherent tribal authorities) may be better able to serve their goals for long-term sustainability of resources and economic viability because: 1) They have clear regulatory authority over members and non-members – particularly important for Tribes that have industrial facilities owned by non-Indians on their lands; and, 2) They have more control in determining the regulatory requirements.

### **Pollution Does Not Recognize Political Boundaries: Cooperation Among Regulatory Agencies**

Many tribes, particularly those adjacent to urban areas, deal with substantial illegal dumping on their lands and have developed legal tools, including solid waste laws, to prohibit dumping. Many tribes make use of law enforcement rangers who police the uninhabited areas of reservations, as well as regulatory and legal staff to investigate and fine illegal dumpers.

Because pollution does not recognize political boundaries,

Tribal Nations and regulatory agencies in surrounding jurisdictions are increasingly working cooperatively. Often, individuals who dump trash on tribal lands also are dumping in rural areas of counties and municipalities and it can be helpful for law enforcement and regulators to share information. The Arizona Department of Environmental Quality (ADEQ) was the first state environmental agency to develop a formal tribal policy in 1992. That policy specifically recognizes tribal jurisdiction in environmental management and acknowledges that it is mutually beneficial for each jurisdiction to be as effective as possible protect the environment within its own jurisdiction.

Recognition of tribal jurisdiction opened the door to substantial cooperation so that, today, Arizona is known nationally for a generally positive and effective relationship among Tribal, state, and local environmental regulatory programs. The US EPA Region 9 has also supported and fostered these productive relationships.

An example of a highly successful partnership is the Joint Air Toxics Assessment Project.

The Salt River Pima-Maricopa Indian Community initiated the effort, funded in part by the U.S. EPA, to assess the sources, distribution and risks from air toxics in the greater Phoenix metropolitan airshed. The project also developed health risk reduction programs. The core project partners included the Salt River Pima-Maricopa Indian Community, Gila River Indian Community, and the Arizona Department of Environmental Quality.

### **National Environmental Policy Act (NEPA) in Indian Country in Arizona**

The National Environmental Policy Act (NEPA), signed into law by President Nixon in 1970, requires federal agencies to assess the potential impact of federal actions on the environment and to provide for public comment. NEPA is overseen by the Council on Environmental Quality in the Executive Office of the U. S. President. NEPA is often triggered by land development in Indian Country since federal agencies are often involved in approving leases or because federal funds are being spent on a project.

NEPA review, such as environmental assessments or more intensive environmental impact statements, add to the administrative requirements for development of land within Indian Country. However, NEPA also provides an opportunity for Tribes and tribal citizens to learn about developments and participate in the environmental review process. In the past two decades, tribal governments have increasingly taken on the responsibility for conducting environmental assessments under NEPA, which has helped reduce the administrative burden and provided for greater tribal control of the process.

### **Leadership into the Future**

Tribal Nations located within Arizona continue to provide leadership in preserving, protecting, and managing their natural and environmental resources. Using planning, energy efficiency, renewable energy, as well as environmental regulation, Tribes will continue to be sustainable stewards of the land, water and air, providing a model for Arizona, the Nation, and the world. ■

Dr. Mariella is the Director of the American Indian Policy Institute and oversees the projects conducted by the ASU American Indian Policy Institute. She came to ASU after eleven years as Executive Director of the Department of Environmental Quality of the Gila River Indian Community, which received numerous regional and national awards under her leadership. Prior to joining Gila River, Dr. Mariella worked for four years at the Arizona Department of Environmental Quality where she was the director of the Arizona Comparative Environmental Risk Project.

Throughout the 1980s she worked at the Inter Tribal Council of Arizona, where she was the Research Director, focusing on natural resources and environmental management. She did her doctoral work with the Fort McDowell Yavapai Nation, working on the water settlement and the successful effort to prevent the construction of the Orme Dam.

### **References and Additional Readings**

- <sup>1</sup> the federal government owns an additional 45%, and the state owns 14%, and privately held land is approximately 13%.

<sup>2</sup> National Park Service, "Indian Land Areas Judicially Established 1978," National Park Service. <http://www.nps.gov/history/nagpra/DOCUMENTS/ClaimsMAP.htm> (accessed June 28, 2007).

<sup>3</sup> The mission system in California mission also extensively exploited Native labor.

<sup>4</sup> These include (but are not limited to): maize (corn), beans, squashes, potatoes, tomatoes, chili peppers, chocolate, tobacco, quinine, cotton, sunflowers, sweet potatoes, avocados, cranberries, peanuts, vanilla, turkeys, llamas, alpacas and guinea pigs.

<sup>5</sup> The substantial challenges posed by fractionated land inheritance resulted in the 1982 Indian Land Consolidation Act in which tribes are given first right of refusal to buy fractionated as well as privately held land within reservation boundaries.

<sup>6</sup> US 2000 Census

<sup>7</sup> Glaser, Leah S. 2010 "An Absolute Paragon of Paradoxes" *In Indians and Energy*, Sherry Smith and Brian Frehner, eds., School for Advanced Research Press, Santa Fe.

“Because pollution does not recognize political boundaries, Tribal Nations and regulatory agencies in surrounding jurisdictions are increasingly working cooperatively. Often, individuals who dump trash on tribal lands also are dumping in rural areas of counties and municipalities and it is helpful for law enforcement and regulators to share information.





<sup>8</sup> US Department of Energy “Energy Consumption and Renewable Energy Development on Indian Lands” 2000

<sup>9</sup> NGS employs over 500 people and over 85% of whom are American Indians. According to Congressional Hearings in May 2011, the revenue from the coals mines and leases for the generating stations provide close to 30% of the Navajo Nation’s tribal budget and close to 88% of the Hopi Tribe’s operating budget that comes from non-governmental sources.

<sup>10</sup> In the 1950’s during a period in which the federal government attempted to end its trust relationship with a number of tribal governments nationwide, Congress passed Public Law 83-280. Generally referred to as Public Law 280, it authorized states to assume jurisdiction over tribal lands under certain conditions. However, the impact was limited by the fact that only a few states took on jurisdictional responsibilities

for Indian lands. Shortly after the passage of P.L. 280, the Arizona legislature made a 280 claim over water and air quality, but did not take the follow-up steps required to actually assert jurisdiction. In 1986, the passage of the Arizona Environmental Quality Act formally removed the unenforceable statutory language asserting jurisdiction over water quality. In 2003, the Arizona legislature passed an amendment that specifically removed the unenforceable 280 language concerning air quality.

<sup>11</sup> *Montana v. United States* 450 U.S. 544 (1981).



## River Tribes

These tribes are not all linguistically related, but have contemporary and/or ancestral ties to the Colorado River, including the Colorado River Indian Tribes, whose membership includes Mohave, Chemehuevi, Hopi, and Navajo. The Maricopa Tribe has ancestral ties to the Colorado River area but maintain an alliance with the Akimel O'odham (River people) established hundreds of years ago and co-exist in the Gila River and Salt River Valleys.

### Fort Mojave Indian Tribe

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**Federally****Recognized:** 1910**Acreage:** 32,970 acres  
22,820 in AZ,  
3,862 in NV, and  
6,298 in CA**Population:** 1,120**Peoples:** Yuman**Contact:**

Fort Mojave Indian Tribe  
500 Merriman Avenue  
Needles, CA 92363  
Phone: (760) 629-4591  
Fax: (760) 629-5767  
Website: <http://mojaveindiantribe.com>

**Congressional District:** 4**Legislative District:** 5**Brief Description:**

Spirit Mountain is the earthly origin of the Fort Mojave Indian Tribe whose tribal lands spans land in Arizona, California, and Nevada. The reservation is home to 1,120 people. Living along the banks of the Colorado River, the Mojave Indians are the "Pipa Aha Macav" – The People by the River.

Prosperous farmers, when the Spaniards encountered them, the Mojave people had established villages. They also had developed trade routes that stretched to the Pacific Ocean.

One hundred years later, as the American frontier was opened, the Pipa Aha Macav resisted the military wagon trains and American migrants who crossed the Colorado River on the California Trail. They defended their rugged homeland, the Basin and Range southern deserts. The intruders responded by establishing Fort Mojave as a military outpost in 1859, locating it on the east bank of the Colorado River.



## Cocopah Indian Tribe



**Federally Recognized:** 1917  
**Acreage:** 6,524 acres  
**Population:** 1074  
**Peoples:** Cocopah  
**Contact:**  
 Cocopah Indian Tribe  
 14515 S. Veterans Drive  
 Somerton, AZ 85350  
 Phone: (928) 627-2102  
 Fax: (928) 627-3173  
 Website: <http://www.cocopah.com/>

**Congressional District:** 3  
**Legislative District:** 4

### Brief Description:

The Cocopah Indian Tribe is located in low-lying desert approximately 13 miles south of Yuma and bounded by the Colorado River. Just five miles north of San Luis, it is situated 180 miles east of San Diego and 180 miles west of Phoenix. The Cocopah Indian Tribe is divided into three parcels. The Tribe's members reside in East Cocopah, West Cocopah, or North Cocopah.

The first Europeans to visit the Cocopah Indian Tribe in the sixteenth century received gifts of garden foods. The Cocopah, a generous people, had trouble adjusting to the ways of the Spaniards, Anglos, and Mexicans, who took over their homeland. As river people, the Cocopah traveled the waterways on tule rafts, poling them down to the mouth of the Colorado River to collect wild wheat. The Cocopah walked known trails to the north into what is now California, east along the Gila River, or into the Sierra de Juarez. After spring planting, some Cocopah families would travel to the high country to visit their Pai Pai or Kumeyaay friends and relatives, sometimes not returning until harvest time. Later, they traveled by horseback, and today, many adult Cocopah travel this course by automobile.

71

## Colorado River Indian Tribes



**Federally Recognized:** 1865  
**Acreage:** 268,964,  
 225,995 in AZ  
 and 42,969 in CA  
**Population:** 7,466  
**Peoples:** Mohave, Chemehuevi,  
 Navajo, Hopi  
**Contact:**  
 Colorado River Indian Tribes  
 26600 Mohave Road  
 Parker, AZ 85344  
 Phone: (928) 669-9211  
 Fax: (928) 669-1391  
 Website: <http://www.crit-nsn.gov>

**Congressional District:** 4  
**Legislative District:** 5

### Brief Description:

The tribal lands of the Colorado River Indian Tribes (CRIT) are located in western Arizona near Parker, Arizona, 189 miles from Phoenix, Arizona. The tribal lands of CRIT span the Colorado River and include land in Arizona (La Paz County) and California (San Bernardino).

The Colorado River Indian Tribes was established on March 3, 1865, for the "Indians of said river and its tributaries." The indigenous people were the agricultural Mohave and the Chemehuevi people. In 1945, a portion of the lands of the CRIT was reserved for colonization by Indians of other tribes, specifically the Hopis and Navajos.

The CRIT economy is centered on agriculture, recreation, as well as government and light industry. The fertile river bottom lands and available water allows the production of agricultural and produce, such as cotton, alfalfa, wheat, feed grains, lettuce, and melons.



## Quechan Tribe

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72



**Federally Recognized:** 1884  
**Acreage:** 43,958 acres  
**Population:** 3,037  
**Peoples:** Quechan

**Contact:**

Quechan Tribe  
PO Box 1899  
Yuma, AZ 85366  
Phone: (760) 572-0213  
Fax: (760) 572-2102

**Congressional District:** 3, 4

**Legislative District:** 4, 13

**Brief Description:**

The Quechan (pronounced Kwuh-tsan) Tribe is located along both sides of the Colorado River near Yuma, Arizona. The reservation borders the states of Arizona, California, Baja California, and Mexico. Encompassing 45,000 acres, the reservation is bisected on the south by Interstate 8 (I-8).

The Yuma, who today prefer to be called the Quechan, have long been known as fighters. For centuries, they battled the O'odham, Apache, and other tribes for control of the fertile flood plains of the Colorado River, which is the boundary between California and Arizona.





This report presents an overview of the current economic opportunities of tribes in Arizona. Long before contact with European explorers, tribal people in the southwest developed thriving economies – farming, hunting, fishing, trading, and raiding.

In modern times, specifically since the development of Indian gaming, tribes in Arizona have expanded their economies by leveraging gaming as the economic engine. The purpose for revitalizing these economies remains unchanged, to use revenues to improve the lives of tribal members and support necessary and much needed government functions.

We tell this story because we are taught that it is important to provide for the well being of others and not only for oneself. Sharing has always been foundational with tribes and a necessary component in the redistribution of wealth.

# economic development



## Tribal Economic Development in Arizona

By Carl Artman, Esq.

Arizona tribes have contributed to a robust era of economic development on their reservations and their economies will continue to expand through the foreseeable future. This conclusion is based not only on strong past performance, but on the strength of the tribal governments that are the impetus of the reservation-based economic growth.

Arizona tribes have expanded the control over their land, resources, and infrastructure over much of the last century. They expanded their economies by engaging in a wide range of economic activities ranging from tourism, gaming, energy, agriculture, and manufacturing. The twenty-two Arizona tribes have become economic forces in their regions, the state, and across the nation.

Arizona tribal economies continue their expansion, providing dividends for the tribal members and the surrounding communities. Indian gaming has provided the firm economic foundation for many of the Arizona tribes, but most are growing their economies

through the provision of improved reservation infrastructure and expansion into non-gaming related businesses ventures built on the unique geographic, geological, or cultural aspects of the particular tribe. This report will offer an overview of key growth areas for tribal economic development, and will then consider the features of tribal government that laid the foundation for the strong performance in those industries.

### Gaming

Indian gaming is thriving in Arizona. The Indian Gaming Regulatory Act restricts tribal casinos to only Indian lands.<sup>1</sup> Tribal casinos are an economic engine in their

regions, providing jobs in a new industry at the casinos and its related facilities, such as the hotels and restaurants. In the state of Arizona, tribal gaming comprises nearly 2,000,000 feet of gambling space, 2,500 hotel rooms, and nearly 80 restaurants. According to a recent report by the Arizona Indian Gaming Association, if the tribes were considered a combined single employer in the state of Arizona, which they are not, their combined employment would rank them as the third largest employer in Arizona.<sup>2</sup>

Communities located near tribal gaming operations share in the economic benefits of Indian gaming. The tribes rely on both tribal members and non-tribal employees to fulfill employment requirements for these industries. The local tribal casinos also rely upon local firms to provide every day services ranging from house-keeping services to restaurant supplies to transportation.

The combined direct, indirect, and induced impact of annually recurring casino purchasing and hiring reached nearly \$1 billion of gross state product in 2011. Of that, \$705 million accrued to Arizonans as wages, salaries, and

benefits, inclusive of an estimated \$7 million in state personal income taxes. Instate interest, rents, royalties, dividends, and profits added an additional \$220 million. Arizona state and local governments collected \$63 million in sales and excise taxes. The direct, indirect and induced impacts are estimated to be associated with over 22,000 jobs statewide.<sup>3</sup>

In 2011, Arizona tribal gaming revenues were approximately \$1.7 billion, ranking it as one of the top industries in the state. Tribes have used these revenues to invest in their community's physical infrastructure, provide social services for their members, and create a diversified and sustainable tribal economy. Tribes have diversified their gaming revenues into tourism, entertainment, construction, natural resource development, and agriculture.

### Natural Resources Development

The following are only a few examples of the tribal natural resource economy in Arizona. Natural resource exploration and development includes coal, oil and gas, sand and gravel, water, wind, and sun. Nearly every

tribe in Arizona participates in natural resource development at some level. In the past, tribes were often passive participants, leasing their lands under federally imposed terms and conditions to companies that did not share the tribe's goals or cultural values. This has changed, as tribes demand control over their land, resources, and the revenues derived from those resources.

Arizona's abundance of sunshine and windy plains has yielded vast potential for the development of renewable energy in the state. Yuma County hosts the Agua Caliente Solar Project, the largest photovoltaic plant in the world. Wind turbines are being constructed throughout northern Arizona to take advantage of the wind classifications that the National Renewable Energy Lab rates as outstanding for energy development.<sup>4</sup> Either through

commercial-scale projects or local development, Arizona tribes will contribute to the expansion of renewable energy in Arizona.

Tribes are developing local and regional projects throughout Arizona's Indian country. The Salt River Pima and Maricopa Indian Community Housing Division is building a 70 kilowatt solar project to provide energy for its Lonely Cactus Subdivision. The Hopi Tribe is developing both wind and solar power projects to provide energy for its Moenkopi Day School and Hopi Day School. The San Carlos Apache Tribe and the Pascua Yaqui Tribe are engaged in comprehensive feasibility studies for the development of solar energy generation facilities on tribal lands that will provide energy for a range of services within the respective communities.

The Navajo Nation has the largest reservation in the United

States. To provide a sustainable economy for its tribal members the Navajo Nation has actively developed the natural resources within its reservation, though until recently it has been through passive measures, such as the leasing of land for oil, gas or coal development. The Navajo Nation has consistently been at the forefront of large-scale tribal energy development, and it continues to do so as it expands its portfolio of energy development to include renewable energy.

The Navajo Nation, through its statutorily created Navajo Tribal Utility Authority, is building 48 wind turbines for the Big Boquillas Wind Project, located near Seligman, Arizona. The project will have an estimated capacity of 85 megawatts for the first phase, and 200 megawatts for the second phase of development. The first phase will be completed by December 2013 and it will be a Navajo Nation's first tribally owned utility scale wind project. The Navajo Nation, in conjunction with partners, seeks to build a wind farm near Gray Mountain, near Cameron Arizona. The proposed wind farm would generate about 500 megawatts.

The Navajo Nation's energy

economy will benefit from an expansion of its traditional energy resources, such as oil and gas. In 1993, the Navajo Nation created the Navajo Nation Oil and Gas Company ("NNOGC") as a tribal corporation for the purpose of engaging in oil and gas production as an integrated, for-profit business entity. The goal of the Nation was to partake in the value accruing from oil and gas production on its own trust lands. Today the NNOGC operates wells, owns working interests in oil fields, owns and operates an oil pipeline, and owns and operates Chevron gas stations in Arizona. Through NNOGC, the Navajo Nation has a role in the up-stream, mid-stream, and down-stream phases of oil and gas production on its lands.

### **Tribal Economic Development in the Community**

Tribes are investing in economic development projects in their local communities. For example, the Salt River Pima and Maricopa Indian Community is developing the Odyssey in the Desert, a 35-acre, \$170 million entertainment complex east of Scottsdale. It will feature a butterfly Pavilion, an aquarium, and other attractions. The project will complement the

**“ In 2011, Arizona tribal gaming revenues were approximately \$1.7 billion, ranking it as one of the top industries in the state. Tribes have used these revenues to invest in their community's physical infrastructure, provide social services for their members, and create a diversified and sustainable tribal economy.**







existing entertainment venues on the Salt River Pima-Maricopa Indian Community's reservation that includes the Talking Stick Resort and Casino, two golf courses, and the Salt River Fields spring training baseball complex.

Similarly, Ak-Chin Indian Community is constructing an entertainment complex next to its

resort just south of the city of Maricopa. This 162,000 square-foot complex will be the largest entertainment center in Arizona, featuring a 12-screen movie theater, 24 Lane bowling alley, an arcade, laser tag, restaurants and an outdoor amphitheater. The Ak-Chin development will provide 200 jobs in the community, in

addition to the construction jobs.

### **A Stable Future Based on Stable Governance**

The outlook for future economic development by Arizona tribes is very good, and this is due, in part, to the tribal governments that represent Arizona tribes. The tribal government is the

foundation and impetus for tribal economic development. Effective governing institutions are stable, separate from day to day business and program management. They provide objective adjudicatory bodies, efficient and responsive bureaucracies or administrative bodies, and are culturally unique



**UltraStar Multi-tainment Center at Ak Chin Circle**

**“ The outlook for future economic development by Arizona tribes is very good, and this is due, in part, to the tribal governments that represent Arizona tribes. Effective governing institutions are stable, separate from day to day business and program management.**

to the tribe. Tribes, investors, and entrepreneurs need rules that permit them to achieve their legitimate business goals at the least expense while minimizing the risk. The tribal legal system should establish rules that permit business owners and lenders to make decisions quickly; to calculate their risks and act accordingly; to allow them to protect their interests through governmental processes; and to carry out their business in a fair and honest manner.

Arizona's tribes have developed stable governments, open political and regulatory processes, and transparent and predictable processes by which to enforce the transaction and finance laws and regulations within the reservation. Most Arizona tribes have adopted commercial codes and developed jurisprudence around those codes that parallel that of the states. A stable and transparent government instills confidence in investors and partners.

Arizona tribal governments actively seek economic growth opportunities through the creation of separate economic development entities and corporations. For example, the Gila River Indian Community has created a wide swath of entities that seek out business and investment in the reservation in industries ranging from telecommunications to commercial leasing to tourism. The Salt River Pima and Maricopa Indian Community created similar enterprises that actively seek investment on the reservation in the areas of tourism and commercial development. The White Mountain Apache Tribe, Yavapai Apache Nation, Hopi Tribe and Colorado River Indian Tribe have similar economic development entities and corporations to seek and attract economic development opportunities.

Each tribe has found its success by building upon that which makes it unique, such as its geographic location, underlying

geology, history, tribal culture, or all of the above. Tribes have accomplished this while battling against decades of standardization promulgated by the federal government. Over the last forty years, the era of tribal self-determination has altered the stature of the tribal governments with its peers, its members, and outside stakeholders; it has altered also the interaction between the tribes and the federal government, often leading to a relationship better characterized as a partnership, not paternalism.

## Conclusion

The economies of the twenty-two Arizona tribes will continue to expand, contributing to an improved standard of living for their members and an improved economy in the state. The Arizona tribes will continue to be vibrant forces in the state's business community. And as they have done in the past, the Arizona tribes will continue to work amongst themselves and with their neighbors to bolster the sustainability of the region. ■

Carl J. Artman is an attorney and adjunct professor at Arizona State University College of Law. He served as the tenth Assistant Secretary – Indian Affairs at the

U.S. Department of the Interior and also as the Department's Associate Solicitor for Indian Affairs and chief counsel for his tribe, the Oneida Tribe of Indians of Wisconsin.

Mr. Artman received a Bachelor of Arts degree from Columbia College, a Masters in Business Administration from the University of Wisconsin-Madison, a Juris Doctorate from the Washington University – St. Louis, MO, and an LLM in Natural Resources and Environmental Law from the University of Denver.

<sup>1</sup> 25 U.S.C. 2710.

<sup>2</sup> Arizona Indian Gaming Association, *The Impact of Tribal Government Gaming in Arizona*, 16 (2013).

<sup>3</sup> Arizona Indian Gaming Association, *The Impact of Tribal Government Gaming in Arizona (Executive Summary)*, 4 (2013).

<sup>4</sup> National Renewable Energy Laboratory 50-meter Arizona Wind Resource Map. This resource map shows estimates of wind power density at 50 meters above the ground and depicts the resource that could be used for community-scale wind development using wind turbines at 50 to 60 meter hub heights. [http://www.windpoweringamerica.gov/maps\\_template](http://www.windpoweringamerica.gov/maps_template).

<sup>5</sup> *Hearing before the Subcommittee on Indian and Alaska Native Affairs on The Native Energy Act (H.R. 3973)*, 112th Congress (2012), Testimony of Wilson Groen, President and CEO of Navajo Nation Oil and Gas Exploration and Production.

## Hopi, Navajo, Pasqua Yaqui and Pueblo of Zuni

These four tribes do not neatly fit into a linguistic or regional grouping within the boundaries of what is now the state of Arizona. For example, the Pueblo of Zuni is strongly affiliated with the Pueblo tribes of New Mexico. Like other Arizona tribes, the Pasqua Yaqui Tribe has ancestral roots in northern Mexico. Both the Hopi Tribe and Navajo Nation inhabit adjacent territories, but have distinctly different languages and culture.

### Hopi Tribe

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**Federally  
Recognized:** 1882  
**Acreage:** 1,542,213 acres  
**Population:** 12,008  
**Peoples:** Hopi, Tewa  
**Contact:**

Hopi Tribe  
PO Box 123  
Kykotsmovi, AZ 86039  
Phone: (928) 734-2441  
Fax: (928) 734-2435  
Website: <http://www.navajo-nsn.gov>

**Congressional District:** 1  
**Legislative District:** 7

#### **Brief Description:**

The Hopi's continual occupancy of northern Arizona area since 500 A.D., gives the Hopi people the longest authenticated history of occupation of a single area by any Tribe in the United States. The Hopi call their ancestors, the "Hisatsinom," or People of Long Ago, although the public and archaeologists refer to them as Anasazi. By 700 A.D., the Hopi were cultivating corn, beans and cotton and settling down to a more sedentary life in small settlements of two to five pit houses. At about 700 A.D., the first substantial presence in the Hopi mesa area was established on Antelope Mesa, east of present-day Keams Canyon. By the 1500's, Hopi culture was highly developed with an elaborate ceremonial cycle, complex social organization, and advanced agricultural system.

In 1882, President Chester Arthur established 2.5 million acres of land for the Hopi Tribe. The Hopi Tribal Council was formed in 1936.



## Navajo Nation



**Federally Recognized:** 1868  
**Acreage:** 17,686,465 acres total  
 11,601,856 in Arizona  
**Population:** 275,000  
**Peoples:** Dine'  
**Contact:**  
 Navajo Nation, PO Box 9000  
 Window Rock, AZ 86515  
 Phone: (928) 871-6352  
 Fax: (928) 871-4025  
 Website: <http://www.navajo-nsn.gov>  
**Congressional District:** 1  
**Legislative District:** 7

### Brief Description:

The Navajo Nation extends into the states of Utah, Arizona, and New Mexico, covering over 27,000 square miles and is larger than 10 of the 50 states in the United States.

For more than three centuries, Navajos, or "Dine'", were primarily a pastoral people who relied on their herds of sheep, cattle, and horses for their subsistence. After 1848, prospectors and settlers began to intrude on "Dine Bikeyah" or Navajo land. In 1863, after a campaign of destruction by the U.S. Army, the Navajo people were deported to Bosque Redondo (Fort Sumner) in New Mexico. In 1868, they won the right to return to their beloved Dine Bikeyah. 9,000 Navajo people took the "Long Walk" to Bosque Redondo while only 4,000 returned home.

81

## Pascua Yaqui Tribe



**Federally Recognized:** 1978  
**Acreage:** 1828 acres  
**Population:** 18,161  
**Peoples:** Yaqui  
**Contact:**  
 Pascua Yaqui Tribe  
 7474 South Camino de Oeste  
 Tucson, AZ 85757  
 Phone: (520) 833-5000  
 Fax: (520) 833-5014  
 Website: <http://www.pascua-yaqui-nsn.gov/>  
**Congressional District:** 3  
**Legislative District:** 3

### Brief Description:

The Pascua Yaqui people are among the original inhabitants indigenous to the Sonoran Desert Region extending from present day State of Sonora, Mexico in the south, to Central Arizona in the north. There are currently 7 Yaqui communities in Arizona. They are New Pascua, Old Pascua, Barrio Libre, Marana, Guadalupe, Coolidge and Scottsdale. Today the Pascua Yaqui tribal lands are located on 1828 acres in southwestern Arizona, approximately 15 miles southwest of Tucson. The reservation was formally established in 1964 by Congress.

In 1978, the Tribe succeeded in attaining the same status as other federally recognized Tribes. An additional 690 acres of land was acquired in 1982, and in 1988, the first constitution was approved.

## Pueblo of Zuni

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82



### **Federally**

**Recognized:** 1877  
**Acreage:** 463,287 acres  
**Population:** 18,692  
**Peoples:** Zuni (Ashiwi)  
**Contact:**

Pueblo of Zuni  
PO Box 339  
Zuni, New Mexico 87327  
Phone: (505) 782-7021  
Fax: (505) 782-7202  
Website: <http://www.ashiwi.org/>

**Congressional District:** 1

**Legislative District:** 7

### **Brief Description:**

The ancient homelands of the Zuni people are along the middle reaches of the Zuni River where their cultural ancestors lived for centuries. Near the settlements and villages left by the ancient people, the Zuni people built compact villages of multi-storied houses. These were the towns seen by Coronado and his men and called them the "Seven Cities" in the land of Cibola. The mythical Seven Cities of Cibola (Spanish word for "buffalo") lured Coronado to the southwest in 1540, in a treasure quest.

For the last three hundred years, most of the Zuni people had lived in a single village, the Pueblo of Zuni in New Mexico. The Pueblo of Zuni has sacred ceremonial land in Arizona.





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Diane Humetewa, Esq.

## **State of Indian Country Arizona Student Interns**

Ruben Guerrero, Jr.  
Mario Molina

## **Office of the President**

Michael Crow  
Delia Saenz

## **Office of Public Affairs**

Angela Creedon  
Kenja Hassan  
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Charlene T. Vasquez

## **Graphics, Layout & Artwork**

GMH Design – Gary Hill  
Randy Kemp

## **State of Indian Country Arizona Advisory Committee**

Dr. Eddie Brown  
John Lewis  
Ivan Makil  
Dr. Patricia Mariella  
Dr. John Molina  
Dr. John Tippeconnic, Jr.  
Dr. Fonda Walters

## **Copy Editors**

Catherine Aragon  
Bryan Brayboy  
Pam Hait  
Martha Hunter

## **Contributing Writers**

Carl Artman, Esq.  
Dr. Eddie Brown  
Norm DeWeaver  
Diane Humetewa, Esq.  
Dr. Patricia Mariella  
Dr. John Molina  
Mario Molina  
Jacob Moore  
Walter Murillo  
Dr. James Riding In

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The 22 Tribal Nations in Arizona  
Wayne Taylor  
Shane Anton  
Sandy Ferniza  
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## **Photos & Graphics**

Anthony “Thosh” Collins  
Annette Alvarez  
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