

REPORT
of the
24TH ARIZONA INDIAN
TOWN HALL

“Building Partnerships to
Strengthen Families, Communities
and Cultures”

June 7-9, 2004
DoubleTree La Posada Resort
Scottsdale, Arizona

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ARIZONA COMMISSION OF INDIAN AFFAIRS
A.R.S. 41-541-545

CHAIRMAN: Todd Honyoama, Sr., Hopi
Council Member, The Hopi Tribe
P.O. Box 123 Kykatsmavi, AZ 86039
Phone 928/734-3000, Fax 928/734-3139, email ptalayumptewa@hopi.nsn.us

VICE-CHAIRMAN: Cora Maxx-Phillips, Navajo
Director, Navajo Nation Division of Health
P.O. Box 3302, Tuba City, AZ 86045
Phone 928/871-7910, Fax 928/871-4025

SECRETARY: Carrie Imus, Hualapai
Vice-Chairperson, Hualapai Nation
P.O. Box 179, Peach Springs, AZ 86434
Phone 928/769-2216, Fax 928/769-2343
Own Doka, Yavapai [Member-elect]
Council Member, Fort McDowell Yavapai Nation
P.O. Box 17779, Fountain Hills, AZ 85269
Phone 480/837-5121, Fax 480/837-3978

Johnny Enfield, White Mountain Apache
Vice-Chairman, White Mountain Apache Tribe
P.O. Box 1690, White River, AZ 85941
Phone 928/338-4346, Fax 928/338-5260, email frankE@wrmt.nsn.us

Lucinda Hughes-Juan, Tohono O'odham
Economic Development Authority, Tohono O'odham Nation
P.O. Box 1225, Sells, AZ 86534
Phone 520/792-8090, Fax 520/792-8203, email mis8090@aol.com

Rodney Marlin (Non-Indian Member)
Principal and CEO, Marlin Consulting
10140 Avenida La Primera, Yuma, AZ 85367
Phone 928/305-9176, Fax 928/305-9188, email rodney.marlin@adelphia.net

Paul Nosie, Jr. San Carlos Apache
Project Manager, Detention Center, Tribal Planning Department, San Carlos Apache Tribe
P.O. Box 386, San Carlos, AZ 85550
Phone/Fax 928/475-3183, email p_nosey@msn.com

Eric Sexton (Non-Indian Member)
Vice President, American Indian Market Manager, Community First National Bank
9502 W. Van Buren, Tolleson, AZ 85353
Phone 623/907-4608, Fax 623/907-4712, email eric.sexton@communityfirst.com

STAFF:
Ron S. Lee, Dine--Executive Director
Debra Ufacia Krol, Salinan--Project Specialist
Vera Phillips, Navajo--Administrative Secretary

OFFICE:
1400 W. Washington, Suite 300
Phoenix, Arizona 85007
Phone 602/542-3123, Fax 602/542-3223

WEB:
www.Indianaffairs.state.az.us

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24th ARIZONA INDIAN TOWN HALL**

"Building Partnerships to Strengthen Families, Communities and Cultures"

June 7-9, 2004

INTRODUCTION

"What we have seen is a shift in powers over the past 25 years," said Stephen Cornell, director of the Udall Center for Studies in Public Policy at the University of Arizona. With federal devolution now a reality, tribal communities are working towards ever more cooperation with state and local governments on a variety of issues. Some of Native Arizona's biggest concerns are education, intergovernmental relations and cultural issues.

The Arizona Instrument to Measure Standards (AIMS) test, which will determine graduation from Arizona public schools, will soon be in effect for most Arizona schools. The majority of Native American children in Arizona attend state public schools. Another education issue of concern to tribes is the possibility of public school consolidation and/or unification. While some applaud what they see as a means to combat waste and combine resources, others deary the loss of local control over their schools.

Intergovernmental relationships have engaged the tribes and state for decades as they struggle to establish and maintain the ties vital to effective service delivery to communities. The Indian tribes/nations and the state of Arizona have slowly been working toward improving intergovernmental relations. On the other hand, tribal entrepreneurs would like to gain greater access to state contracts, and the percentage of Native Americans working in state government is very low.

Cultural issues also loom large in the minds of tribal community members. For example, many tribes have long held religious and cultural objections to autopsies, and have called for a more culturally sensitive approach to performing postmortem examinations.

One of the biggest issues over the past year involved the controversial name change of a local landmark. In 2003, the State Board of Geographic and Historic Names voted to change the name of Squaw Peak to Piestewa Peak, to honor fallen Native American soldier Lori Piestewa, a member of the Hopi Tribe, as well as remove the former name, which is offensive to Native women. A possible ballot referendum, such as the failed referendum, or one that could be offered in future years, could change the structure of this

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board. Tribal members fear that any change in the board's composition change could result in a reversal of the name change.

Tribes are also increasingly concerned about the possible loss of one of their biggest sources of family income—arts and craft sales. The flood of counterfeit Native American art and crafts is severely impacting the ability of Native artisans to make a living at their craft, and is also a violation of both federal and state law. However, enforcement of these laws has been lax in recent years, possibly due to budget issues.

On June 7-9, 2004, the 24th Arizona Indian Town Hall discussed these three topics. This is their report.

SESSION 1-QUESTION 1

Public School District Consolidation: In the 2004 legislative session, Arizona legislators attempted to form a commission to examine the issue of consolidating and/or unifying school districts throughout the state. The commission's goal would have been to streamline operations, thus saving revenues. Also, Rep. Sylvia Laughter offered legislation to explore the possibility of consolidating public school districts on the Navajo Reservation. How would consolidation and/or unification of school districts benefit or not benefit schools on reservations? Should school districts on large reservations be merged into one or more "superdistricts," or are community members happy with the status quo? Would unification defeat local control? Would merging districts help or hinder students?

Background: In Arizona, 16 public school districts are either sited entirely within reservations or serve an overwhelming majority of Native American students. These districts' governing boards are primarily or heavily made up of tribal members. Another 28 public school districts serve smaller reservation communities or have significant numbers of Native American students, and therefore have Johnson O'Malley federal Indian education programs for their students. These plus another 18 districts receive Johnson O'Malley and Title VII Indian education funding from the federal government. The Arizona Department of Education also has an Indian Education program, which states that its aim is to "use state and federal funding to maximize teaching and learning levels while validating the culture and linguistic identity of American Indian students and adults and to promote general public understanding of Indian education" (1).

(1) From the "2003 -2005 Master List of State Government Programs," Governor's Office of Strategic Planning and Budgeting (OSP).

While consolidation and unification of school districts is generally intended to improve quality of education and financial responsibility, Indian Town Hall participants feel that a movement to large districts does not necessarily accomplish these goals, and may have serious detrimental impact on small communities and Indian tribes/nations (2). Indian Town Hall participants say that consolidation should not be pursued unless it can be demonstrated how it will protect the voice and leadership of small communities and improve educational performance.

Participants are also concerned that district consolidation will lessen the decision-making ability of local communities. Indian Town Hall recommends that the impact of consolidation on travel time and distance for students from small and rural schools be factored heavily into consideration of consolidation of school districts.

SESSION 1-QUESTION 2

Culturally Relevant Curriculum: How would you define culturally relevant curriculum? Please provide examples. How can the Arizona Dept. of Education and the tribes work to develop more culturally relevant curricula in Arizona schools? In 2004, Sen. Albert Hale and several others introduced SB 1365, the "school curriculum; Native American culture" bill, which would establish a mechanism to develop and incorporate tribal culture, government, sovereignty and history into school curricula. However, the enacted (final) version of the bill was stripped of most of its provisions, leaving only instruction on tribal history mandated. How could future legislation help institute cultural curricula? How would it NOT help?

Background: In 2000, the 20th Arizona Indian Town Hall recommended that, to better incorporate culture into academic curricula that the Arizona Department of Education (ADE) reinstate its old Indian education advisory council, which at the time was inactive. Also, the 20th Indian Town Hall came out against Proposition 203, which mandates that Arizona public schools conduct classwork in the English language only, and which provides for English immersion for students who are not proficient in English.

Participants feel that culturally relevant curricula should reflect each Indian tribe's/nation's ideas, traditions, values, beliefs, language, and other cultural elements. They also feel that these curricula should be incorporated into existing academic curricula in schools, which will maximize the learn-

(2) Town Hall participants requested that tribes be identified as "Indian nations" throughout this document.

ing process.

In addition to tribal history, Indian Town Hall recommends that culturally relevant curricula also incorporate learning standards on Arizona Indian tribes/nations, cultures, ways of life, cultural sensitivity and government structures. Participants stress that culturally relevant curricula demonstrate a strong cross-curriculum correlation with all disciplines, such as science, history, medicine, art, and other academic disciplines.

Indian Town Hall recommends that the development of culturally relevant curriculum addressing tribal history include historic up to contemporary developments, and that this curriculum also foster understanding of the connectivity between neighboring communities and Indian tribes/nations, such as economic interdependence.

Indian Town Hall participants strongly note that the training, recruitment, tracking and retention of highly skilled and qualified Native American teachers is essential to the successful implementation of culturally relevant curriculum.

Indian Town Hall recommends that any and all Native American advisory boards and/or councils existing within ADE be identified and utilized. Participants call for the roles of these entities to be clarified, and to determine what relationships they have developed with district liaisons, including Indian tribes/nations. The Indian Town Hall also recommends that ADE work with the Arizona Indian Education Association (AIEA) to develop and implement culturally relevant curricula in ways that can demonstrate improved student performance (3). Participants also call for the identified boards and/or councils within ADE to be empowered to hold ADE accountable for progress on these goals.

Indian Town Hall recommends that school districts provide support and funding for tribal cultural instruction. Participants also recommend that ADE develop standards to implement SB 1365, the successful bill which mandates tribal history be taught (4).

(3) The Arizona Indian Education Association (AIEA)'s mission is to "develop educational strategies and activities consistent with Arizona's academic standards and to provide research and resources to Arizona schools for their American Indian students to achieve excellence through culturally responsive education.

(4) SB 1365, the "school curriculum; Native American culture" bill, was introduced during the 46th Arizona Legislature's 2nd Regular Session by Sen. Albert Hale (D-Windward Rock). It calls for Arizona public school districts to develop and incorporate curriculum on tribal history into the general curriculum.

Participants note that Native American languages should be placed on an equal footing with other languages, such as European languages in schools.

SESSION 1-QUESTION 3

AIMS Testing: *How is the AIMS Testing working to measure academic progress in tribal communities? This year will be the first that high school seniors will be required to pass AIMS to graduate. Are tribes ready? If not, how can they work with each other, the state and/or other entities to bolster students' performance? The No Child Left Behind (NCLB) Act now requires the BIA to use AIMS as a testing method – how can the tribes, BIA and the state work together to promote academic standards and raise standards to ensure that BIA school students pass the test? The Governor's Office has secured a grant to train and retain "well-qualified" Native American teachers for tribal community schools. What outcome measures should be established to track the effectiveness of this program? How does parental involvement play a role in academic achievement?*

Background: In 2000, the 20th Indian Town Hall discussed the issue of the possible impact of the AIMS test on tribal communities. The Indian Town Hall supported the implementation of academic standards, but recommended deferring the AIMS graduation requirement to 2013, which would have allowed time for research to determine if the high-stakes test acceptably measures Indian economic achievement. They also expressed their strong opposition to Proposition 203, the voter-approved measure that mandates classroom instruction be conducted in English only.

Current Indian Town Hall participants feel that many if not most Native community members still do not understand the AIMS test. Many also feel that tribal communities vary in their readiness for the AIMS test, and that it is culturally insensitive. Therefore, Indian Town Hall recommends that ADE educate Indian communities about the AIMS test to ensure understanding and participation by parents and tribal leaders.

Indian Town Hall participants note that Arizona may have the lowest rate of students passing standardized tests in the country. Some participants state that 10 of the 20 lowest-performing school districts are on reservations (5). Therefore, Indian Town Hall recognizes the large role parents play in their children's learning. Personal influences, such as role models and mentors are some of the biggest factors in student success. Indian Town Hall

(5) As identified by the Arizona Department of Education in its "AZ Learns Achievement Profile" for the 2002-2003 school year.

recommends that the state and Indian tribes/nations work together to ensure meaningful involvement of parents and families in student progress. Participants also call for children to spend more time developing academic skills with their parents' and tribes' support (6). Indian Town Hall recommends that Indian tribes/nations review and update truancy policies, provide training for parents to support their children's education and track efforts to recruit, train and develop teachers. Indian Town Hall also recommends that Indian tribes/nations hold parents accountable for their children's school attendance.

Indian Town Hall recommends that the state and Indian tribes/nations work together to ensure meaningful involvement of parents and families in student progress, and in tracking efforts to recruit, train and develop teachers. Participants also feel that the state's advisory board/and councils within ADE should lead efforts to identify best practices, compile statistics and analyze the results to use in developing effective education methodology in tribal communities. After compilation, Indian Town Hall recommends that the information be disseminated to school districts. Participants also recommend that the state continue to work with Indian tribes/nations to identify and address cultural biases in learning standards, curricula and test methods.

SESSION 2-QUESTION 1

Government-to-Government: What does a government-to-government relationship mean in Arizona? What are the state's, local entities' and the tribes' expectation of a government-to-government relationship? For example: In the 2004 legislative session, Rep. Jack Jackson, Jr. introduced HB 2429, which would have formed a joint legislative committee on state-tribal relations; committee to make recommendations on building relations, establishing partnerships, and the like. However, this bill stalled in the Legislature. Also, Rep. Jackson sponsored HCM 2008, which would have called upon Gov. Napolitano to issue an executive order to develop standard protocol and procedures for government-to-government relations between the state of Arizona and the Indian nations and tribes with land located in Arizona. This bill also received no hearings. What do you think of these ideas? Should or should not the state formalize relations with Arizona tribes? Please explain your answer. If yes, is this the right approach or would another method be better?

Background: Over the decades, relations between the Indian tribes/

(6) For example, one tribe instituted a Saturday program to provide tutoring and remedial classes to its children.

nations and the state of Arizona have been primarily based upon the negotiation of intergovernmental agreements (IGA), governing joint management of specific programs and/or activities within a single agency. In the history of Arizona, no formal relationship between the state and tribes has existed; although there have been some strong relationships established between individual tribes and the state, or positions established which greatly aided intergovernmental relations, none of these have yet survived changes in administrations. Sen. Jack Jackson, Sr. (retired) introduced many pieces of legislation to formalize relations between the state of Arizona and Indian tribes/nations during his 16 years in the legislature. The only legislation passed was the establishment and enhancement of Indian Tribes and Nations Legislative Day, (A.R.S. 41-545) and the formation of a study committee to examine the relationship between the state and the Navajo Nation.

Indian Town Hall feels that the government to government relationship is imperative to build relationships between the state and Indian tribes/nations and to foster productive working relationships. Recognizing that political climates change, Indian Town Hall stresses that it is critical that Indian tribes/nations and the state develop and maintain formal intergovernmental relations.

Participants feel that a push to formalize intergovernmental relations is in order, perhaps by reviving HB 2429 and HCM 2008, both introduced in 2004, which would have established a study committee to study how best to establish a formal relationship. They also feel that the method of implementing this process should filter down from leadership to grassroots levels.

Indian Town Hall recommends that the state take action to establish a formal protocol or infrastructure that will ensure lasting and meaningful involvement with Indian tribes/nations; a positive government to government working relationship; and mutual accountability between Indian tribes/nations and the state, in a way that is not dependent on changes in the political environment.

Indian Town Hall also recommends streamlining the IGA process and procedures by resurrecting the Attorney General's IGA study committee.

Indian Town Hall recommends that training on tribal sovereignty, history and government for legislators and state agency officials is critically important. For example, the Arizona Government University's curriculum for ongoing legislative and agency training could include tribal governmental protocol, history, culture, sovereignty, values, and current issues impacting Indian communities.

SESSION 2-QUESTION 2

Intergovernmental agreements (IGA), also known as cooperative management agreements, are one tool tribal and state governments can use to streamline joint programs and/or manage inter-jurisdictional issues. How well is the system of crafting IGAs working? What improvements can be made to the process? Could the state, local governments and/or tribes do to utilize IGAs? What are examples of good intergovernmental partnerships between tribes and non-tribal governments? What special challenges, if any, are there to forming partnerships?

Indian Town Hall acknowledges that utilizing intergovernmental agreements (IGAs) provides a good tool for the state and Indian tribes/nations to improve working relationship with each other by clarifying understanding, responsibilities and protecting the interests of all parties including sovereignty issues. Indian Town Hall recommends that IGAs be strengthened by undergoing periodic review by all parties involved to ensure full compliance with the terms of agreement and to make improvements to better meet goals of the agreement.

Some participants feel that tribal consortiums are a more effective means of forming and enhancing IGAs than individual tribal effort. Examples noted include the Workforce Investment Act Working Group and the group effort to enact Prop. 202. Participants support and endorse the work by the Native Nations Institute (NNI) on IGAs and recommend their findings, including the establishment of a tribal liaison within the Arizona Attorney General's office. Indian Town Hall also recommends further investigation into other contracting processes such as the 638 process, where an Indian tribe or nation contracts with the federal government to manage certain programs, such as health care delivery (7).

SESSION 2-QUESTION 3

Procurement: Equity and State Contracting: in 2003, Gov. Janet Napolitano issued an executive order charging state agencies and the State Procurement Office to solicit more bids from minority and woman-owned firms, including Indian businesses. State Procurement Office Director John Adler said that as a result of the executive order, they were able to establish a system to track purchasing by each state agency in a way that can identify suppliers by eth-

(7) In 1975, Congress passed the Indian Self-Determination and Education Assistance Act or P.L. 93-638 (88 Stat. 2203), also popularly known as the 638 law. Among other provisions, this act governs the process by which an Indian tribe or nation may assume responsibility for managing its own programs, such as health care delivery, from the federal government.

nicity (Native-American-owned, Hispanic-owned, etc.). It is a very new system, however, and so it is too early to have any meaningful data to show how much of state purchasing is going to minority owned businesses. How well has the executive order worked so far to ensure access to state contracts by Native American businesses? What additional methods can be utilized to ensure equal access to bid on contracts?

Background: The federal government has had minority set-asides for contracts in place for many years. The state has also encouraged agencies to solicit bids from minority- and women-owned firms in the past. However, it is believed that this is the first Arizona administration to issue such an executive order mandating bids from these firms for state contracts.

Indian Town Hall recommends that Indian tribes/nations help American Indian businesses to increase their business capacity and to become more competitive as vendors to large purchasing agencies. Participants also recommend that the Arizona state government work with Indian tribes/nations to: educate native business about commodities and services that it purchases; about its procurement processes; and provide detailed, specific information about contract opportunities on a frequent and timely basis, as called for under Executive Orders 2003-09 and 2004-06 (8).

Indian Town Hall recommends that tribal community businesses join their local chamber(s) of commerce as a means to stay informed regarding opportunities. Participants also recommend that tribal community businesses and/or Indian-owned businesses educate themselves on the importance of marketing their business, and encourage others to join associations and attend industry-related conferences.

SESSION 2—QUESTION 4

Equal Employment Opportunity: What are the advantages or disadvantages to having more Native Americans working in state, county and city governments? How can the state and tribes work to recruit and retain Native Americans in state government positions? How well has the state worked to date to recruit Natives to state government? What can tribes do to take advantage of human resources (HR) departments at local and state govern-

(8) Executive Order 2003-09 requires all state agencies to track bid solicitations and contracts awarded to women- and minority-owned firms. The order also requires agencies to rotate bid solicitations among all women- and minority-owned businesses capable of competently performing the procurement obligations at issue. Executive Order 2004-06 establishes the Governor's Equity in State Contracting Executive Oversight Review Team ("Executive Oversight Team") to "consider procurement and purchasing recommendations designed to improve opportunities and participation in state contracting by small, women- and minority-owned businesses." [Courtesy Arizona Governor's Office]

ments? What is the critical focus needed to improve Native American participation in public and private entity employment sectors?

Background: the Arizona Governor's Office of Equal Opportunity states that as of March 2, 2004, 1,036 people who identified themselves as Native Americans were employed by the state; this represents 2.85 percent of the total employee population of 36,309. Of these, 23 are administrators (1.02 percent of 2,288) and 414 are professionals (2.69 percent of 15,372 total professionals); coincidentally, female Native Americans predominate the ranks of the professionals).

Native community members working in state, county and city governments serve to provide greater accessibility to services and information for Native Americans. They also help educate those agencies about Indian tribes'/nations' issues and cultural sensitivity. Indian Town Hall recommend that Indian tribes/nations work with state agencies to reaffirm advantages of maintaining diverse workforce; to help develop a competitive Native workforce that can fill key positions in government agencies; and promote job opportunities in government agencies. Indian Town Hall recommends that state agencies, boards and commissions develop policies incorporating diversity into their retention efforts (9).

Participants recommend that the state increase its effort to provide outreach to disseminate job opportunities for tribal communities utilizing the Arizona Department of Administration's resources. Indian Town Hall also recommends that Indian tribes/nations identify, recruit and refer highly skilled and educated members and promote them to human resources departments in key government agencies.

Participants recommend that the state collaborate with external agencies, Native American tribal communities, and Tribal Employment Rights Offices (TERO) (10) in developing a concerted effort to recruit tribal members. In recruiting tribal members to state jobs, Indian Town Hall recommends that

(9) On December 3, 2003, Arizona Attorney General Terry Goddard issued an opinion on whether a member of the Navajo Nation was eligible to serve on a state commission. The opinion concluded, "Native Americans who meet the requirements for membership set forth in Article VI, Section 36 of the Arizona Constitution are eligible to serve on the Commission on Court Appointments." [AG Opinion No. 103-104 (R023-028)]

(10) Federal policies of hiring preferences for American Indians in certain jobs related to tribal governments and/or federal Indian agencies dates as far back as 1834. Over the years, Congress and the U. S. Supreme Court have continued to uphold Indian preference in these jobs (Getches et. al. 234-235). Many tribes have enacted tribal employment rights ordinances (TERO) to codify these preferences in tribal law. In a landmark Supreme Court decision on Indian employment preference, *Morton v. Mancari* (1974), Justice Blackmun writes, "The Indian Reorganization Act of 1934, also known as the Wheeler-Howard Act, 48 Stat. 984, 25 U.S.C. §461 et seq., accords an employment preference for qualified Indians in the Bureau of Indian Affairs (B.I.A. or Bureau)."

recruiters emphasize the benefits of working for the state [such as health insurance, pension, etc.], that add much value to these jobs.

SESSION 3—QUESTION 1

Autopsies: In 2004, Rep. Jack Jackson Jr. and several others introduced HB 2475, the "autopsies; Native Americans" bill, which would have enacted new law governing when autopsies are performed on Indian people. Although this bill was not enacted, an amendment to HB2565 does provide for counties to notify tribes whenever a member passes on and mandates that autopsies shall be performed within four days of the death. How can the tribes and the state work together to address the issue of autopsies in a way that both respects religious preferences and protects the rights of crime and accident victims? What else can tribes do to strengthen this legislation? How can tribes help educate state and local officials about tribal burial customs to ensure that tribes' spiritual practices are protected?

Indian Town Hall recognizes that the issue of autopsies is a sensitive one, and that many tribes are very uncomfortable discussing the issue.

Participants recommend that state and county agencies maintain a listing of contacts with each Indian tribe's/nation's cultural preservation office or other appropriate agency. These entities would serve as the point of contact to identify tribal members and to consult with non-Indian entities regarding appropriate handling and return of bodies.

Indian Town Hall recommends that tribal cultural preservation offices develop a standard process that state and county officials will follow when a deceased person is identified as a tribal member.

Indian Town Hall recommends that, in preparing any state legislation to address the issue, tribal spiritual leaders be consulted to better understand tribes' beliefs and standards. Participants recommend that Native spiritual leaders be empowered to define their spiritual processes, and help state and/or county agencies to understand or identify the burial process. Indian Town Hall recommends that cultural sensitivity training and orientation be provided to health care providers coming onto reservation communities, or into hospitals or clinics with a large Native client population.

Indian Town Hall strongly recommends that medical examiners consult with the family of a tribal member before any autopsy is performed, whether due to accident, natural causes or suspected homicide. Participants also recommend that law enforcement agency personnel be educated on tribal spiritual beliefs. Participants note that a task force or working group

could help formulate any legislation or administrative policies.

SESSION 3-QUESTION 2

Geographic Names: A bill to change the structure of the State Board of Geographic and Historical Names to voters in November 2004 was defeated for this year; however, some legislators have indicated that they will attempt to pass this legislation next year. Does the board need structural changes to better serve the needs of tribal communities? Why or why not? If yes, what changes need to be made? What are the issues and concerns of Arizona communities regarding names that are derogatory to tribes? How can tribes work to eliminate geographic and/or historic names that are derogatory?

Background: In 2003, after the death of PFC Lori Piestewa during the Iraqi war, the Arizona State Board of Geographic and Historical Names renamed the name of Squaw Peak in the midst of Phoenix to Piestewa Peak in honor of her sacrifice. Piestewa is believed to be the first Native American to perish in combat. However, the decision was controversial as some believed that Gov. Napolitano used strong-arm tactics to persuade the board into making the change. Currently, Indian Town Hall recommends that the Arizona State Board of Geographic and Historical Names ("Geographic and Historical Names Board" for short) establish policies that recognize "aboriginal" rights by inheritance that pertain to sacred or culturally significant sites, and which require participation from affected tribes in the consideration of name changes.

Participants also recommend that structural changes be made to the board to reserve at least one seat for tribal representation; this representative should be designated as a Native American historian or an elder.

Indian Town Hall recommends that Indian tribes/nations and the general community be educated about the Geographic and Historical Names Board's function and structure.

SESSION 3-QUESTION 3

Indian Arts and Crafts Protection: How effective are state and federal laws in protecting genuine Native American artisans from encroachment by foreign counterfeiters? How can the laws be made more effective and/or enforceable? Arizona Revised Statute (A.R.S.) 44-1231 [see appendix] governs Indian arts and crafts sales in Arizona. The Indian Arts and Crafts Act governs counterfeit arts and crafts in the United States. Is the state government doing enough to enforce the state laws? Why or why not? Is the federal government doing enough? Who is enforcing these laws and how are they enforcing

ing these laws? How might tribal artisans, governments and communities come together to help enforce these laws? How can Native and non-Indian arts organizations get involved in this issue?

Indian Town Hall stresses that Indian tribes/nations acknowledge the existence of a federal law to deal with the issue of misrepresentation of imported and/or non-Indian made products being sold as Indian-made. (11) Indian Town Hall recommends that Indian tribes/nations work together to develop and maintain a common listing of certified vendors of Native American artists and merchandise. They also recommend that standards and criteria by which vendors would qualify as certified Native American arts & craft vendors be established. Indian Town Hall also recommends that Indian tribes/nations also work together to provide outreach and education to promote authentic Native American arts and crafts.

Indian Town Hall recommends that Indian tribes/nations continue to lobby state and federal governments to allocate resources necessary to effectively enforce laws that protect Native American arts and crafts.

Participants also recommend that Indian tribes/nations implement processes to protect tribal members' intellectual property, to include, but not limited to, arts and crafts, symbols and other representations belonging to tribes.

Indian Town Hall recommends that artists, artisans and crafters be educated on the law, and how to market themselves; they also recommend that artisans not cross the lines in another tribe's art forms. (For example, if an artist copies an art form of another tribe, proper disclosure should be made noting such.) Participants recommend that information on the arts and crafts laws be disseminated to vendors, dealers, galleries, manufacturers, artisans, tribal cultural preservation offices, and to the general public for educational purposes.

Indian Town Hall recommends that Indian tribes/nations view their artists

(11) "The Indian Arts and Crafts Act of 1990 (P.L. 101-644) is a truth-in-advertising law that prohibits misrepresentation in marketing of Indian arts and crafts products within the United States. It is illegal to offer or display for sale, or sell any art or craft product in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization, resident within the United States. For a first time violation of the Act, an individual can face civil or criminal penalties up to a \$250,000 fine or a 5-year prison term, or both. If a business violates the Act, it can face civil penalties or can be prosecuted and fined up to \$1,000,000." [From the Indian Arts and Crafts Board's Website, www.doi.gov/iacfb/enter.html.]

as full-time businesses, not just a side business.

Tribal artists contribute greatly to Arizona tourism by generating income and revenues for their communities and families, providing a cultural experience for visitors and preserving their respective cultural traditions by virtue of practicing their art. Therefore, participants recommend that tribal and state tourism offices work together to educate and promote certified Indian artists.

SESSION 3-QUESTION 4

NAGPRA & Antiquities Act: How successful are the state and tribes in working together on preserving artifacts and remains on any lands? How could the tribes and state better work to protect Native sites on private land, which is not currently protected by NAGPRA? Example: In 2004, at the request of tribal communities, Rep. Deb Gullett introduced HB 2653, the "archaeological assets; private land" bill. This bill would have established the Historical Site Protection Fund, made the excavation, willful destruction or other alteration of an important historical, cultural or archeological site on private land without first giving notice to the Arizona State Museum an unlawful act, and make intentional violations a class 5 felony. It also would have required counties to include protection of cultural, historical or archaeological sites in their long-term plans. However, it failed. Would you support such legislation again? Why or why not? What else could the state do to protect Native sites on non-Indian lands? How could tribes aid in this effort?

Indian Town Hall recommends that Indian tribes/nations inventory cultural, historical and archeological sites on private property and actively work to protect them. Participants also recommend that real estate and land use policies be revised to address and clarify procedures for the protection of Native American cultural, historical and archaeological sites (NACHAS) located on private property.

Indian Town Hall recommends that Indian tribes/nations work with local governments to protect sacred sites on private land from development, and to negotiate control of public access to these sites when tribal ceremonies are performed. Wherever possible, Indian tribes/nations should be given the opportunity to purchase/acquire NACHAS located on private property.

Arizona tribes should examine methods currently in place in other states that address protection of NACHAS located on private property. Indian tribes/nations should strengthen enforcement of their own laws for protection of NACHAS on tribal lands. Indian tribes/nations should collaborate

with the State to develop and implement penalties and incentive programs for the protection of NACHAS on private land. (12)

Indian Town Hall recommends that Indian tribes/nations use the model of the National Historic Site Preservation Fund and Arizona State Historic Preservation Office's infrastructure to benefit private landowners in exchange for tribal government to access sacred sites. Private incentives, i.e. tax breaks, might be provided for those private landowners. The state and counties could access incentives to preserving historic sites. A working group should be established which would define incentives, establishing criteria and develop a process of compensating landowners. Also, the working group would develop a process to determine what sites meet the criteria.

Participants recommend that HB 2683, which would establish private site protection be reconsidered in the Arizona State Legislature (13).

CONCLUSION

As the United States continues along the path of devolving powers formerly wielded by the federal government to local governmental entities, the Indian tribes/nations and the state of Arizona face challenges in constructing models for intergovernmental communications and relations. However, the reward for intergovernmental cooperation promises to be greater than ever in the form of more efficient and responsive services to an ever-expanding population, and increase in resources available for direct services and opportunities to build sustainable economies throughout the state.

The 24th Arizona Indian Town Hall spotlighted some of the challenges, such as the need to enact stronger protection of tribal sites on private land; the concerns over how school district consolidation could affect tribal community schools; and the challenges to enacting IGAs between the state and Indian tribes/nations.

By utilizing the recommendations in this report, stakeholders have a power-

(12) Currently, the Native American Graves and Repatriation Act (NAGPRA) provides for protection of Native artifacts, village and burial sites on federal land; however, NAGPRA does not govern sites on private-owned land. Only a few states have enacted statutory protection of Native sites on private land.

(13) HB 2683, introduced in 2004 by Rep. Deb Gullett (R-Phoenix), was assigned to three committees, but hearings were never held. The positive effect of this bill would be to extend greater protection to Native village, ceremonial and burial sites throughout the state. It may stall some development efforts, as the bill called for consultation with the Arizona State Museum before excavating any sites.

ful tool to use in crafting policies and/or legislation that could greatly enhance intergovernmental cooperation and help build partnerships to strengthen families, communities and cultures through the breath and depth of Arizona.

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APPENDIX

1. Arizona Indian Arts and Crafts Statute

Arizona Revised Statutes, 44-1231. Definitions

In this article, unless the context otherwise requires:

1. "Authentic Indian arts and crafts" means any product which is Indian handcrafted and is not made by machine or from unnatural materials, except stabilized or treated turquoise.
2. "Findings" means an ingredient part of the product which adapts the product for wearing or display, including silver beads, leather backing, binding material, bolo tie clips, tie bar clips, tie tack pins, earring pins, earring clips, earring screw backs, cuff link toggles, money clips, pin stems, combs or chains.
3. "Indian" means a person who is enrolled or who is a lineal descendant of one enrolled upon an enrollment listing of the bureau of Indian affairs, or upon the enrollment listing of a recognized Indian tribe domiciled within the United States border.
4. "Indian handcrafted" means the skillful and expert use of the hands in making products solely by Indians within the United States, including the use of findings, hand tools and equipment for buffing, polishing, grinding, drilling or sewing.

5. "Made by machine" means the producing or reproducing of a product in mass production by mechanically stamping, casting, blanking or weaving.
6. "Natural turquoise" means turquoise, exclusive of any backing material, whose composition has not been chemically or otherwise altered.

7. "Nonauthentic Indian arts and crafts" means any product which is made to imitate or resemble authentic Indian arts and crafts and which is either:

- (a) Not Indian handcrafted.
 - (b) Made by machine or from unnatural materials, except stabilized or treated turquoise.
8. "Reconstituted turquoise" means dust and turquoise particles which are mixed with plastic resins and are compressed into a solid form so as to resemble natural turquoise.
9. "Stabilized turquoise" means turquoise which has been chemically hardened, but not adulterated so as to change the color of the natural mineral.
10. "Synthetic turquoise" means any compound or mineral which is manufactured or treated so as to closely approximate turquoise in appearance.

11. "Treated turquoise" means turquoise which has been altered to produce a change in the coloration of the natural mineral.

12. "Turquoise" means a hydrous copper sulphate, containing aluminum salts, plus iron.

13. "Unnatural turquoise" means any substance which is not natural turquoise, including stabilized turquoise, treated turquoise, reconstituted turquoise or synthetic turquoise.

44-1231.01. Unlawful acts

It is unlawful for any person to knowingly do any of the following:

1. Sell or offer for sale any products represented to be authentic Indian arts and crafts unless the products are in fact authentic Indian arts and crafts.
2. Sell or offer for sale any authentic Indian arts and crafts represented to be of silver or nonauthentic Indian arts and crafts represented to be of silver unless the products are made of coin silver or sterling silver.

3. Sell or offer for sale nonauthentic Indian arts and crafts unless the nonauthentic Indian arts and crafts are clearly labeled as to any characteristics which make them nonauthentic.
4. Sell or offer for sale any unnatural turquoise, mounted or unmounted, without a written disclosure of whether the turquoise is stabilized, treated, reconstituted or synthetic.
5. Sell or offer to sell reconstituted turquoise or synthetic turquoise unless the turquoise is clearly labeled as synthetic turquoise.
6. Engage in any false, misleading or deceptive advertising or any unconscionable trade practice regarding Indian arts or crafts. In this paragraph "unconscionable trade practice" means any act or practice in connection with the sale or offering for sale of Indian arts or crafts to a person which to the person's detriment takes advantage of the person's lack of knowledge, ability, experience or capacity to a grossly unfair degree or results in a gross disparity between the value received by the person and the price paid.

44-1231.02. Sale of Indian arts and crafts; inquiry; labels

- A. A person who sells or offers to sell nonauthentic Indian arts and crafts shall post a sign bearing the words, in letters not less than three inches in height, "nonauthentic Indian arts and crafts" above or adjacent to the articles being sold.
- B. A person who sells or offers to sell a product that is represented to be authentic Indian arts or crafts shall make due inquiry of his suppliers concerning the true nature of the materials, product design and process of manufacture to determine whether the product may be lawfully represented as authentic Indian arts or crafts.

- C. A person who sells or offers to sell Indian arts and crafts may elect to label or otherwise clearly and conspicuously disclose as authentic Indian arts and crafts all articles that are authentic Indian arts and crafts in accordance with this article and rules adopted pursuant to this article.

44-1231.03. Enforcement; civil action and penalty; injunctive relief; restitution; private right of action; damages

- A. The attorney general or the county attorney shall enforce the provisions of this article. An authorized tribal prosecutor may assist the attorney general or the county attorney in determining whether the provisions of this article are violated.

B. In addition to the criminal penalties provided in this article, the attorney general or the county attorney may bring a civil action for a violation of this article, and the court may order temporary or permanent injunctive relief. In such an action the court may order restitution to the injured party and such other relief the court determines is appropriate.

C. In an action brought under this section, if the court finds that a person is wilfully using or has wilfully used a method, act or practice that is unlawful under this article, the attorney general or county attorney may recover a civil penalty of not more than five thousand dollars for each violation.

D. Civil penalties collected pursuant to this section shall be deposited in the state general fund if the action is brought by the attorney general and in the county general fund where the action is prosecuted if the action is brought by the county attorney.

E. Unless restitution is ordered in an action brought under subsection B, a person who suffers financial injury or damages by reason of any conduct which is in violation of this article may sue in the superior court and recover actual damages sustained and the cost of the suit, including reasonable attorney fees.

44-1231.04. Rules

The attorney general shall adopt necessary rules to implement and enforce the provisions of this article. Rules adopted under this article may specify designations other than "authentic Indian arts and crafts", including a designation such as "Indian crafted", for authorized labeling as Indian arts and crafts.

44-1231.05. Violation; classification

Unless the conduct is prohibited by section 13-1802 or section 13-2310 in which case those sections shall apply, a person who knowingly violates the provisions of this article is guilty of the following:

1. A class 3 misdemeanor if the violation involves property offered for sale at less than two thousand five hundred dollars.
2. A class 2 misdemeanor if the violation involves property offered for sale at two thousand five hundred dollars or more but less than twenty thousand dollars.
3. A class 1 misdemeanor if the violation involves property offered for sale at twenty thousand dollars or more.

THANKS TO OUR MASTER OF CEREMONIES:

Hans Klose
 Director of Community and Economic Development, Salt River Pima-Maricopa Indian
 Community
 10005 E. Osborn Rd., Scottsdale, AZ 85256
 P: 480/850-5737, F: 480/850-8270
 hans.klose@altriver.pima-maricopa.nsn.us

SPEAKERS:

The Honorable Delia Carlyle
 Vice-Chairperson, Ak-Chin Indian Community
 42507 W. Peters & Nall Road, Maricopa, AZ 85239
 P: 520/568-2227; F: 520/568-4566

Rose Chischille
 Senior Office Assistant, Native Nations Institute, Udall Center for Studies in Public
 Policy, University of Arizona
 803 E. First Street, Tucson, AZ 85712
 P: 520/884-4393, F: 520/884-4702

Stephen Cornell
 Director, Native Nations Institute, Udall Center for Studies in Public Policy, University
 of Arizona
 803 E. First Street, Tucson, AZ 85712
 P: 520/884-4393, F: 520/884-4702

The Honorable Albert Hale
 Senator, District 2, Arizona State Senate
 1700 W. Washington St., Phoenix, AZ
 P: 602/926-4323, F: 602/926-3429
 ahale@azleg.state.az.us

Jesse Monongva
 Co-Chairman, Indian Arts and Crafts Board
 6102 E. Charter Oak Road, Scottsdale, AZ 85254
 P: 480/991-2598, F: 480/922-0766
 monongva@cox.net

Nathan Pryor
 Native Nations Institute
 803 E. First Street, Tucson, AZ 85712
 P: 520/884-4393, F: 520/884-4702
 npryor@email.arizona.edu

FACILITATORS AND RECORDERS:

Linda Benally
 Attorney, Pinnacle West Capital Corporation
 400 N. 5th St., MS 8695, Phoenix, AZ 85012
 P: 602/250-3633, F: 602/250-3639
 Linda.benally@pinnaclewest.com

Michele Crank
 Public Relations and Tourism Manager, Fort McDowell Yavapai Nation
 P.O. Box 17779, Fountain Hills, AZ 85269
 P: 480/816-7211, F: 480/816.0294
 Mcrank@ftmcdowell.org

Tina Culleeny
 President, American Marketing Solutions
 P.O. Box 18667, Fountain Hills, AZ 85269
 P: 480/837-5922, F: 480/837-1544
 tina.c@pm121.com

Kimberly Irwin
 Public Affairs Specialist, Social Security Administration
 1801 S. Extension Road, Mesa, AZ 85210
 P: 480/649-1430
 kimberly.irwin@ssa.gov

Royce Jenkins
 Director of Development, The Hopi Tribe Office of Community Planning and Economic De-
 velopment
 P.O. Box 123, Kykotsmovi, AZ 86039
 P: 928/734-3242, F: 928/734-3248
 Rjenkins@hopi.nsn.us

Chatham Kitz
 Executive Director, Valley of the Sun Community Diaper Bank
 5025 North Central Avenue, #437
 Phoenix, AZ 85012
 T: 602/253-0050, F: 602/296-0293
 Chatham@valleydiaperbank.org

Alberto Olivas
 Center for Civic Participation, Maricopa Community College District
 145 N. Centennial Way, Mesa, AZ 85201
 P: 480/461-6140, F: 480/461-6215
 alberto.olivas@domain.maricopa.edu

Sylvia Polacca
 Program Facilitator, American Indian Studies Program, University of Arizona
 Harvill Bldg, Room 430, PO Box 210076, Tucson, AZ 85721
 P: 520/626-9110
 Spolacca@u.arizona.edu

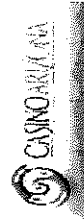
Cheron Watchman
 Native American Liaison, Arizona Department of Economic Security
 1789 W. Jefferson, Phoenix, AZ 85007
 P: 602/542-0282, F: 602/364-2940
 cwatchman@mail.de.state.az.us

TRIBAL ROYALTY:

Marla Billy, Miss Navajo Nation
 Office Of Miss Navajo
 PO Box 2860, Window Rock, AZ 86515
 P: 928/871-6379, F: 928/871-6835
 missnavajocia@yahoo.com

Elfina Kalerisa, Miss Hopi
 C/o Marlene Joshevama
 P.O. Box 123, Kykotsmovi, AZ 86039
 Celine Moreno, Miss Tohono O'Odham, Tohono O'Odham Nation
 P.O. Box 837, Sells, AZ 85364
 P: 520/883-8650, F: 520/883-3379

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