Welcome from the NPLC Chair

Chokma!

Chokma is Chickasaw for “Hello” and I’m proud to share a small bit of my Chickasaw heritage with you. I am also proud to be serving as Chair of the NPLC for the second year. As have Chairs before me, I am happy to report that the NPLC continues to show a strong presence in our Association. Members have contributed Indian Law publications to various law reviews, magazine and newspaper editorials, and blogs over the past year. Our membership has stayed steady and our members continue to contribute to our profession.

This year our Caucus will again participate at the AALL CONELL Marketplace with a table and copies of our newsletter; an opportunity to reach law librarians new to AALL and the profession and share the work and mission of the NPLC. And hopefully, gain lots of new members! We will have a Caucus meeting at the AALL annual meeting this summer in Baltimore so please keep Sunday, July 15 at 12:45 pm (Hilton Amistead) open. We will keep it short as there are many other group meetings at the same time so all attendees should have enough time to make another meeting. Bring ideas for potential programs we could sponsor for the 2019 Annual Meeting and ways to enhance our My Communities web page. I hope all members attending will reach out and greet one other and keep our ties to one another strong.

Please consider active participation in our group – we still need a volunteer to serve as secretary and our newsletter is always available to accept contributions of articles, book reviews, and news of member activities. Thank you to Anne Lucke for her continuing great efforts on this! The Caucus would be more than happy to assist with program ideas and support; reach out to your fellow members for ideas and contributions! Don’t hesitate to contact me with ideas and suggestions for projects and new initiatives for the Native Peoples Law Caucus.

Gretchen Van Dam
Chair, 2017-2018
The aim of the Native Peoples Law Caucus (NPLC) is to provide a forum in which Native law and other issues that impact Indigenous Peoples worldwide can be discussed, ideas shared, information exchanged, and education offered. The Caucus encourages and facilitates the analysis, cataloging, collection, dissemination, management, organization, and preservation of Native law in accordance with cultural tradition.

MISSION & VISION

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JOIN THE NATIVE PEOPLES LAW CAUCUS!

Are you interested in Federal Indian and Tribal Law? Please join the Native Peoples Law Caucus!

Already a member? Please invite your colleagues! AALL Members can join our community by going to bit.ly/aallnplc, signing in, and clicking on the “Join Community” button.

All AALL members are welcome!

*If you are interested in volunteering for the NPLC, please contact Gretchen
The University of Oklahoma Department of Libraries has debuted a new digital collection:

AMERICAN INDIAN AND ALASKAN NATIVE DOCUMENTS IN THE CONGRESSIONAL SERIAL SET: 1817-1899

https://digitalcommons.law.ou.edu/indianserialset/

These facsimile United States government documents were assembled from the Oklahoma Department of Libraries print collection and scanned at the University of Oklahoma Donald E Pray Law Library. Librarians Marilyn Nicely and Steve Beleu identified titles to scan using Steven L. Johnson’s book, Guide to American Indian Documents in the Congressional Serial Set: 1817-1899. The database is the product of a six-year-long partnership. It was undertaken in order to provide free, online access to this historic content for the benefit of tribes, scholars, students and the public in general. The source volumes were preserved intact throughout the scanning process and may be consulted onsite at the Oklahoma Department of Libraries.

Training on the new collection is available through an FDLP Academy webinar, “American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899,” presented June 14, 2018. The recording of the session is available at the FDLP Academy Website. From this link, you can access the recording of the session and the User Guide. The archive is public, and anyone can access the recording, but viewers will be asked to indicate their name and email address. Additional FDLP Academy archived webinars can be viewed here: http://login.icohere.com/public/topics.cfm?cseq=1172
Conference Summary: Wiring the Rez

by Emily Siess Donnellan, Public Services Librarian & Assistant Professor, Concordia University School of Law

On February 1st and 2nd 2018, I attended the 4th annual Wiring the Rez conference hosted by the Indian Legal Program at Arizona State University. I moderated a panel entitled Bridging the Digital Divide that focused on the need for internet services in Indian Country and ways that service may be implemented. My fellow panelists included Geoffrey Blackwell, Tedd Buelow, and Craig Nolte. We discussed the infrastructure necessary to address current technologies and broadband services, ways that tribes may access funding for these infrastructures, and how to begin bridging the digital divide.

Aside from my own panel, my favorite conference session was The Future of Sports Betting: A New Playing Field. Kate Spilde, Keith Miller, Steve Bodmer, and Kate Lowenhar-Fisher served on this panel. They delved into the legality of sports betting, discussing shifts in this area of law and how New Jersey is presently fighting to allow sports betting despite PASPA, a piece of federal legislation that makes sport betting illegal. This interesting panel discussion actually gave me the spark of inspiration for my current law review article work-in-progress.

The Indian Legal Program did a wonderful job organizing this annual conference and making every guest feel welcome. I had a great time networking with fellow Indian law scholars, tribal leaders, and others interested in solving the crisis of internet access on reservations. Make sure to have this conference on your radar for next year!

For more information on the Wiring the Rez conference, see their website: http://events.asucollegeoflaw.com/ilp-wiringtherez/

Cataloging Resources

AILA (American Indian Library Association) Announces Subject Access & Classification Working Group

The AILA Executive Board is pleased to announce the newest iteration of the Subject Access and Classification Ad Hoc Committee. Now a “working group,” members will meet online to discuss ways to improve current subject headings, thesauri, and classification schemes. The group will contribute suggestions of subject terms to the newly established “Latin American and Indigenous Peoples of the Americas” SACO (Subject Authority Cooperative Program) Funnel and will consider the possible benefits of proposing a new Library of Congress main class for topics related to Indigenous peoples. If you would like to be part of the working group, please contact Lara Aase at laase at fortlewis dot edu.

Library of Congress Releases New Indigenous Law of Central & South America, Belize, El Salvador, Honduras, and Nicaragua, Subclasses KIM-KIP (May 1, 2018)

Subclasses KIM-KIP, Indigenous Law of Central & South America, Belize, El Salvador, Honduras, and Nicaragua, are new subclasses of Law that have been developed at the Library of Congress. The subclasses KIM-KIP appear in Classification Web and are approved for use.

Proposals for additions and changes to the subclasses KIM-KIP are now being accepted through the proposal system in Classification Web following normal procedures. Questions or comments about subclasses KIM-KIP should be directed to Libby Dechman (edec@loc.gov), Policy and Standards Division (PSD).
Check out these NEW resources!

New Print Titles

American Indian politics and the American political system, fourth edition, by David E. Wilkins and Heidi Kiiwetinepinesiik Stark. Published by Rowman & Littlefield in 2017. Publisher’s description: American Indian Politics and the American Political System is the most comprehensive text written from a political science perspective. It analyzes the structures and functions of indigenous governments (including Alaskan Native communities and Hawaiian Natives) and the distinctive legal and political rights these nations exercise internally. It also examines the fascinating intergovernmental relationship that exists between native nations, the states, and the federal government. In the fourth edition, Wilkins and Stark analyze the challenges facing Indigenous nations as they develop new and innovative strategies to defend and demand recognition of their national character and rights. They also seek to address issues that continue to plague many nations, such as notions of belonging and citizenship, implementation of governing structures and processes attentive to Indigenous political and legal traditions, and the promotion and enactment of sustainable practices that support our interdependence in an increasingly globalized world.

Principles of federal Indian law (Concise Hornbook Series), by Matthew L.M. Fletcher. Published by West Academic in 2017. Publisher’s description: Fletcher’s Principles of Federal Indian Law covers the basics of federal Indian law, the relationships between tribal, state, and federal sovereigns, also touching on federalism, agency law, civil rights, and criminal jurisdiction aspects of Indian law. This concise hornbook offers comprehensive coverage of the blackletter law, with statutory, regulatory, and historical context. The origins behind important doctrines of Indian law and critical statutes are explored in detail. This book is a useful introduction to the field for both students and practitioners.

Other Items of Interest


Slides from SLA Western Canada Chapter’s webinar on ‘Decolonizing Description’: https://doi.org/10.7939/R3FQ9QM1S
What brought you to the law? Did you always want to be a lawyer?
Growing up, I had no knowledge of lawyers or lawyering. My adolescence and young adult life did not include many “white collar” professionals. My first exposure to lawyers was two professors who taught courses -- using the Socratic Method, which was completely foreign to me -- during my last semester of college. Then, in my senior year, as a college intern in the Victim Witness Program of the local U.S. Attorney’s Office, I was thrust into a world of lawyers, the law, and judges. I had a front-row seat to the law and lawyering, and I admit that I was not immediately enthralled with either. Many of the lawyers were competitive, hypercritical, and seemed uninterested with the practical effect of their decisions. The law, the courts, and its processes seemed sterile and uninviting. It was very intimidating.

After almost four years in the U.S. Attorney’s Office, lawyers and the law became more familiar to me, of course. I found a way to contribute to the lawyers and the office mission, primarily working with victims of Major Crime Act violations in Indian Country. I became intimately familiar with the federal court process and more appreciative of the advocacy aspects of lawyering. Being somewhat reserved, I was intrigued with how lawyers by necessity were often extroverted in manner. Several Assistant U.S. Attorneys encouraged me to apply to law school. Eventually, I mustered the courage to do so.

2) Law librarians are always interested in how research is done! Are you primarily an online legal researcher or print?
I conduct research online (Westlaw, primarily). However, I prefer reading from printed pages. I like to highlight passages and make notes in the margins. I often keep folders of cases and statutes on issues that reoccur. I do not and likely never will own an e-reading device. I enjoy the “activity” of reading: holding a book or article, flipping pages, writing on margins et cetera.
Do you do most of your research yourself or do your law clerks do a first "look see?"

It depends on the project. Often, while my law clerks are researching and drafting memos or opinions, I am reading the parties’ briefs and reviewing the case docket. I will also read their seminal supporting case(s). I find this process makes my review of draft orders or memos much easier. It permits the law clerk and I to engage in meaningful discussion with the issues fresh in both our minds. And frankly, owing to our heavy caseload, I do not have the desired extra time to conduct my own research. Although when I am able to research, I do enjoy it.

Favorite research resource?

Westlaw (for law), then Google (for generic matters). I also frequently visit Indianz.com to keep abreast of national Indian Country news.

3) Do issues relating to tribal law ever come to your court?

In Arizona, there are 22 federally recognized Indian tribal governments. A majority of those governments have their own tribal court systems. The federal criminal cases over which we preside in district court and those that arise in Indian Country are often simultaneously or subsequently handled in these tribal courts. Therefore, we are often called upon to determine whether a defendant’s prior tribal conviction may be counted in calculating his/her federal sentence under the U.S. Sentencing Guidelines. We also have the potential of presiding over habeas corpus petitions challenging a tribal court conviction and detention of a tribal member detainee. There are also issues of federal Indian law that can and do arise in both criminal and civil cases, and I do find those of great interest.

4) What’s the best thing about being a federal judge?

The myriad of interesting fact and law issues that I am confronted with everyday keeps me intellectually stimulated and personally interested. Some cases are legally complex and require deep research and analysis. Others are factually interesting for the nature of the claim and the parties involved. Being a federal judge personally challenges me to, every day, meet the parties’ expectation of justice. That includes treating all who come into my court with dignity and ensuring that the parties have a complete and understandable explanation of my ruling, even if they disagree with it.
Movie Review: *Wind River*

It Addresses Violence Against Native Women, Law Enforcement & Other Issues, But Mostly It’s About Relationships

By Darla Jackson, Oklahoma Bar Association Practice Management Advisor

*Wind River* is a chilling thriller that follows a rookie FBI agent (Elizabeth Olsen) who teams up with a local game tracker with deep community ties and a haunted past (Jeremy Renner) to investigate the murder of a local girl on a remote Native American Reservation in the hopes of solving her mysterious death.¹

While the above is a succinct plot summary for the film, *Wind River* is a film that is much more than just a simplistic murder thriller. In fact, there are those that believe that the writer and director as well as the actors in *Wind River* gave Oscar worthy performances² or at least the best performances of their careers.³ Some have opined that despite the merits of the film, efforts to cut ties with the Weinstein Company, and contribution of royalties to the National Indigenous Women’s Resource Center⁴, the film was overlooked for real Oscar consideration because of the controversy surrounding the disgraced Weinstein.⁵

Some critics of the film have also criticized the fact that the film is focused around “a Native American story” but is written by and told primarily with “white main characters.”⁶ Even though *Wind River* stars well-known Canadian First Nations actor, Graham Greene, and several actors of indigenous descent including Gil Birmingham (Comanche), Julia Jones (Choctaw, Chickasaw, and African American), Tantoo Cardinal (Metis descent), Martin Sensmeier (Tlingit, Koyukon-Athabascan and Irish descent), Tokala Clifford (Oglala Lakota actor from Pine Ridge) and Kelsey Asbille (disputed - Eastern Band Cherokee), it is “difficult to escape the fact that the person telling this story is a non-Native. Critics have noted that, while *Wind River* features excellent performances from a number of actors of Native American heritage, most notably Gil Birmingham as a grieving father, the film’s protagonists – the ones coming to the rescue of the reservation – are both white.”⁷ Yet, even those making this criticism note that “the movie does make a point of sending a message about the shameful fact that -- unlike women in any other culture -- Native American women who go missing aren’t tracked or counted.”⁸ And Sheridan gets the message across “with compassion and without preaching.”⁹

However, others aren’t so sure that the message is clear.

At the end of *Wind River*, the major-film directorial debut of Taylor Sheridan, we are informed that no records are kept of how many Native American women go missing each year. It is an odd political note on which to conclude. Because while *Wind River* revolves around the disappearance and death of a young Native American woman, she is largely missing from the film herself, appearing alive only in one brief flashback.

Instead, the film is concerned principally with the fates of the fathers of such young women, two of whom appear in the film as principal characters. Which raises the questions: Is *Wind River* a story about the unacknowledged trials of Native American women? A sincere exploration of male grief? Or simply a vengeance movie that leverages the deaths of young women to up its emotional kick? I don’t doubt that Sheridan aspired to some combination of the first two; I fear that what he wound up with was closer to the final one.¹⁰

Sheridan has on several occasions disclosed his “close association”¹¹ with Native American groups and during one interview stated:
I have a good deal of friends in Indian Country," Sheridan explains, "and it required a lot of trust on their part for me to tell this story. And the only way I could guarantee that these things were handled in a way that did not betray that trust was for me to do it. I've built enough of a relationship with that community that I could go, 'I'm thinking about doing it this way – is that ok?' Which was a question I asked a lot. A person who's never spent time in that world, or who would go at it in what some people call a 'Social Justice Warrior-y' kind of way ..." "There are certain things they're just not going to get."

These types of statements support a conclusion that Wind River is not a mistakenly produced “vengeance movie” with “extra emotional kick.” Instead, the movie sends not only a message about the violence against Native American women but communicates many messages; some unique to tribal communities and some not. The final outcome resulted because Sheridan “was keen for their [a Native American] presence in Wind River not to act as a backdrop for the film, their culture cherrypicked as set dressing for a conventional crime drama” but as a non-idealized depiction of Native America. A depiction that is consistent with approach of Tunica-Biloxi Economic Development Corp., a Louisiana-based tribal business that operates Native American gambling casinos, and that was looking for opportunities to invest in films that raise awareness about Native American culture,warts and all.

Regardless of the concerns about intended messages, the film has raised awareness of the issues regarding Native American communities. The success in raising awareness has been acknowledged by reviews of the film both in the United States and Europe. For example, a review on the European Independent Film Festival website acknowledges:

Taylor Sheridan’s latest crime thriller is one of the rare films in mainstream cinema to address the ongoing epidemic of sexual violence on Indian reservations ... Sheridan emphasized that while his film does not recreate a specific real-life case, “it is based on thousands of actual stories just like it.” Policy reports by the National Congress of American Indians (NCIA) estimate that Native American women are twice as likely to experience sexual assault as women of any other race and, on some reservations, are murdered at ten times the national average.

In Washington, a new law, that was sponsored by Representative Gina McCabe, aims to provide more information on how many [Native] women are missing. McCabe said she became aware of the problem after watching the movie “Wind River, which follows the story of a murdered Native American woman...”

But if you watch carefully or numerous times (as I have) there are many messages that seem to flow from the movie. For example, the deterioration of the youth and their involvement with addiction. In one scene following a violent exchange with youth who are heavily involved with drug trafficking and use, the tribal police chief says, “These kids expect to go to prison. It’s a rite of passage. Hell, I think they look forward to it. Three hots and a cot and free cable. Anything’s better than being here, the way they see it.” This scene is followed by a conversation between Cory (the character portrayed by Renner) and Chip (Martin Sensmeier’s character). Chip asks, “Do you think this is who I wanted to be? Man, I get so mad I wanna fight the whole world. You got any idea what that feels like?” Feelings of anger, hopeless and lack of options create an environment that is often present on reservations. Sharing this situation is a powerful message of the film.

But the feelings of loss and hopelessness are not just seen in the youth. Loss of tribal culture, customs and ceremony are concerns of older tribal members. In a discussion between the Cory and Martin (played by Gil Birmingham) Cory inquires, “What’s with the paint?” and Martin says that the paint is his death face. When Cory then asks, “How would you know what that is?” Martin responds, “I don’t. Just made it up. Cause there’s no one left to teach me.”
Another important message communicated by the film are the restraints regarding the lack of jurisdiction and law enforcement resources available in Indian Country. This message is continually visited throughout the film but nowhere as poignantly as the scene in which the FBI Agent (played by Olsen) expresses her frustration with the medical examiner’s decision not to list the cause of death as homicide. The medical examiner tries to explain that despite the fact that the cause of death is a pulmonary hemorrhage the death “is very prosecutable as a murder.” The examiner then suggests that the FBI agent “… present the rape, present the assault … “ but he is interrupted with an emotional response that “Those [crimes] don’t fall to the jurisdiction of the FBI. They fall to the Bureau of Indian Affairs.” Following this exchange is a discussion of lack of resources the Tribal Police Chief has to investigate this and other crimes.

The point is also made in a scene in which the Tribal Police Chief and the FBI Agent are about to enter a trailer housing known drug dealers. The FBI agent suggests that they wait for back-up. The Tribal Police Chief seemingly speaking about the lack of jurisdiction as well as life on the reservation answers, “This isn’t the land of backup … This is the land of: You’re on your own.”

But while these messages may be unique to the Native American story, there are other messages that are not unique. One reviewer states it well:

This movie is not about “White Saviorism.” Taylor Sheridan has created a profound and gripping reality about the complexities of relationships between different peoples ... Wind River spoke to me and resonated with me and, in a necessary way, is a devastating look at reality. [emphasis added]18

Picking up on the way that the depictions of relationships are handled in Wind River, another reviewer says:

At times, Sheridan has his characters spell out a little too clearly what they’re thinking and feeling, and that’s often the case in the exchanges between Cory and Martin. But the words are so beautiful and come from such a place of deep truth, it’s hard not to be moved, and they help give Wind River a simultaneous sense of timelessness and immediacy.19

Living and working in Indian Country (in both Oklahoma and South Dakota), Wind River also resonated with me. In fact, it resonated with me to such an extent that I made a digital purchase of the film. (But if you don’t want to purchase the film, it is currently available for viewing on Netflix).

I felt the film added a realistic depiction and raised awareness of important issues and messages. While several of the interfaces between Natives and non-Natives were realistically depicted as less than positive,20 the film and story left me with an optimistic view that relationships between Native and non-Natives can be strengthened and can serve as a basis to help address some of the serious issues that have historical and current context.

I am also encouraged by the positive views of the film coming from the Native community. As noted previously, Wind River was made with an investment from the Tunica-Biloxi Economic Development Corp. Additionally, the movie received the 2017 Best Film Award from the American Indian Film Institute, which was established to foster “understanding of the culture, traditions and contemporary issues of Native Americans.”21 And reviews from Indian Country, such as the review by Vincent Schilling appearing on Indian Country Today, conclude that Wind River is “the most realistic and respectful portrayal on film of the relationships between Native people and others outside ‘the rez.’ ... Look no further, Wind River is the film to see ...”22

I agree.
Endnotes:

9. Id.
17. While the intricacies of jurisdictional issues based on the interplay among statutes such as P.L 280, the Major Crimes Act (which does include rape) and the Indian Civil Rights Act, is not an area that expect filmmakers to have a complete grasp of, the film did have advisors on tribal relations and accurately depicted a long-standing view that the FBI is hesitant to investigate sexual violence. In 2007, Amnesty International documented the “consider that the failure of the FBI to investigate crimes of sexual violence against Native American women ... research suggests that FBI involvement in the investigation of such crimes is rare and that even those cases which are pursued by the federal authorities there can be lengthy delays before FBI agents start investigations ... federal authorities may not pursued cases in which tribal police have begun an investigation. Officers from tribal law enforcement ... were reluctant to take steps to preserve evidence at a major crime scene for this reason.” Amnesty International, Maze of Injustice: The Failure to Protect Indigenous Women From Sexual Violence In The USA, https://www.amnestyusa.org/pdfs/mazeofinjustice.pdf [https://web.archive.org/web/20180418112325/https://www.amnestyusa.org/pdfs/mazeofinjustice.pdf].
20. One scene that portrays the strained interaction between Native and non-Native is the FBI agent’s questioning of the family of the murder victim. The FBI agent asks, "Why would you let your daughter stay with a guy that you’ve never met? whose name you don’t even know? ... I don't mean to offend you. I'm trying to understand the dynamic here, Mr. Hanson I'm trying to help.” The father’s responds to the provided explanation, “Why is it whenever you people try to help, it starts with insults.”
22. Vincent Schilling, supra note 3.
Going to the Annual Meeting in Baltimore?
Please join us for the following events!

**AALL Marketplace at The Conference of Newer Law Librarians (CONELL)**
**Date:** Saturday, July 14th
**Time:** 10:00 am - Noon
**Location:** Baltimore Hilton (Key Ballroom 9-10)
NPLC will be hosting a table. Stop by to say hello and welcome new AALL Members!

**Caucus Meeting**
**Date:** Sunday, July 15th
**Time:** 12:45 pm
**Location:** Baltimore Hilton (Amistead meeting room)
Bring ideas for potential programs we could sponsor for the 2019 Annual Meeting and ways to enhance our My Communities web page. We will keep it short as there are many other group meetings at the same time so all attendees should have enough time to make another meeting.