

INDIGENOUS LAW & POLICY CENTER NEWSLETTER

MSU COLLEGE OF LAW

Fall 2007-Spring 2008

Volume 4, Issue 1



4TH ANNUAL INDIGENOUS LAW CONFERENCE

This year the Indigenous Law and Policy Center held its 4th annual conference, "American Indian Law and Literature." Panelists flew in from around country to present at a first-of-its kind conference.

Professor Kristen Carpenter, from University of Denver Sturm College of Law, spoke first, and discussed how literary fiction would assist in the discovery of greater "truths" of federal Indian law.

Professor Sonia Katyal, from Fordham University College of Law in New York presented visual media images of Indians by others and then by Indian artists.

She demonstrated the racism behind mainstream logos, but also the work of important Native artists and their attempts to undermine those images

"Red Leaves and the Dirty Ground: Cannibalism of Law and Economics" by our own Matthew L.M. Fletcher, discussed the short story, "Red Leaves" by William Faulkner.

Dinner at the Marriott was a wonderful conclusion to the first day's presentations. Frank Ettawageshik, Chairman of the Little Traverse Bay Bands of Odawa Indians, was the keynote speaker. Chairman Ettawageshik enthralled the audience as he told

stories of his life and work.

Other speakers at the conference included Prof. Wenona Singel and her talk on rebellious judging, a panel with Professor and author Gordon Henry, and a panel of elders and storytellers, including Raymond Kiogama.

Due to harsh weather in Chicago a few of our speakers were unable to attend, but Prof. Frank Pommersheim is already scheduled to attend the 5th Annual Conference next October.

The conference this year was unique, and it was an enormous success. Speakers were innovative and thoughtful, and everyone enjoyed their presentations.

Emily Petoskey,
Newsletter Author and Editor

For More Information:

Website: www.law.msu.edu/indigenous

Blog:
www.turtletalk.wordpress.com

INSIDE THIS ISSUE:

5th Annual Indigenous Law Conference	2
Criminal Jurisdiction in Indian Country/ Cohen Panel	3
Student Successes	4
NALSA	4
Turtle Talk	5
Special Thanks	5
Director's Corner	6

IL&PC SPRING PANEL SERIES

This year the Center decided to host a series of events around newly published books in Indian law. These books included *Native Vote* by Profs. Dan McCool and Susan Olson, *Tribal Policing*, by Prof. Eileen Luna-Firebaugh, and a number of new books

about Felix Cohen, original author of the *Handbook of Federal Indian Law*.

The events began in January with a panel called, "Voting Rights in Indian Country." Panelists included Professors Dan

McCool and Susan Olson from the University of Utah, Professor Ellen Katz from the University of Michigan School of Law, and Laughlin McDonald, Director of the ACLU's Voting Rights Project. **CONTINUED ON PAGE 2**

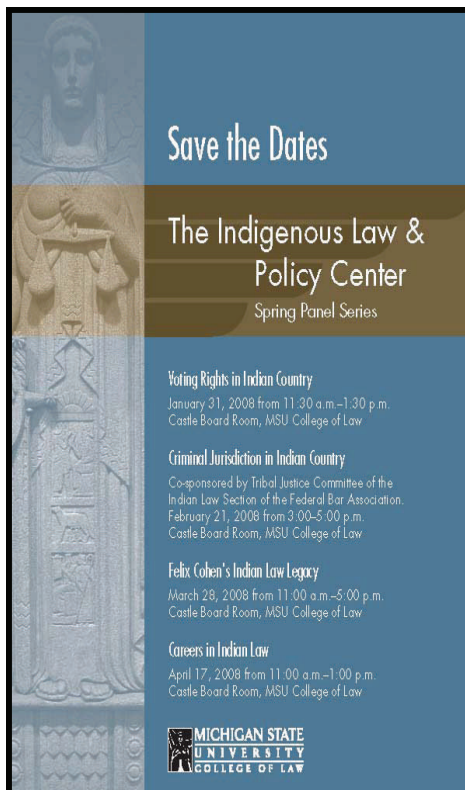
SPRING PANEL SERIES CONTINUED

CONTINUED FROM PAGE 1

McCool and Olson discussed their book and the important provisions of the Voting Rights Act as they apply to Indian Country. Katz and McDonald responded to the book and gave their own impressions on the future of the Voting Rights Act. McDonald also related stories of his many years of practicing in the court room to protect voting rights.

The second panel, held in February, was co-sponsored by the Tribal Justice Committee of the Indian Law Section of the Federal Bar Association. Panelists included Professor Eileen Luna-Firebaugh, Leslie Hagen of the U.S. Attorney's office and William Gregory, Prosecutor, Little Traverse Bay Bands of Odawa Indians. More information on the panel can be found on page 3

The third panel, "Felix Cohen's Indian Law Legacy" was held near the end of March. A number of prominent speakers attended to discuss the work of Felix Cohen.



More information on the panel can also be found on page 3.

Finally, the series will end this April with a panel on April with "Careers in Indian Law," a particularly useful event for our six graduating Indigenous Law Certificate students. Speakers will include Trent Crable; Associate Attorney at Morisset Schlosser Jozwiak & McGaw, and Jeff Davis, Tribal Liaison for the State Department of the Western District of Michigan.

The Center would like to thank the law firms of Honigman, Varnum and Dykema for partly sponsoring our events this spring. In addition, the Michigan Council for the Humanities sponsored the travel of Prof. Christian McMillen, a speaker at our Felix Cohen panel.

5TH ANNUAL INDIGENOUS LAW CONFERENCE

Our 5th Annual Conference is entitled "Forty Years of the Indian Civil Rights Act - History, Tribal Law, and Modern Challenges" and will take place October 10-11, 2008. The Conference is dedicated to the Indian Civil Rights Act and Santa Clara Pueblo v. Martinez, which occurred 30 years ago. Speakers include Kristen Carpenter, Duane Champagne, Trent Crable, Carole Goldberg, Sonia Katyal, Elizabeth Kronk, Stacy Leeds, Catharine MacKinnon, Eva Petoskey, Frank Pommerheim, Angela Riley, Paul Spruhan, Melissa Tatum, Gerald Torres, Ann Tweedy, Gloria Valencia-Weber, Rose Cuisson Villazor, and others are invited.

The Indian Civil Rights Act of 1968 imposed a type of "Bill of Rights" on Indian tribes. The result has been to push tribes and their institutions, including tribal courts, to resemble mainstream rights and institutions.

Santa Clara Pueblo v. Martinez is an important federal Indian law case involving Indian civil rights and membership issues. Its holding has also been debated by feminist scholars.

Other important civil rights themes to be addressed are free speech, due process, and equal protection. Conference discussion will be comprehensive and diverse because presenters from an array of backgrounds will speak, including academics, tribal judges,

tribal leaders, practitioners etc.

Register early at www.law.msu.edu/indigenous/conf



Spring Speaker Series: CRIMINAL JURISDICTION IN INDIAN COUNTRY

The second panel of the Center's spring speakers series was on criminal jurisdiction in Indian Country. It was co-hosted by the Tribal Justice Committee of the Indian Law Section of the Federal Bar Association.

The panel came about initially due to the publication of *Tribal Policing*, by Professor Luna-Firebaugh. Professor Luna-Firebaugh, Leslie Hagen of the U.S. Attorney's office and William Gregory, prosecutor for the Little Traverse Bay Bands of Odawa Indians all gave talks on their unique perspectives on criminal jurisdiction and enforcement.

Professor Luna-Firebaugh began by addressing an important and critical issue throughout Indian country, tribal policing. Earlier in her career Eileen Luna-Firebaugh worked in San Diego, California as a tribal attorney. There are eighteen (18) reservations the county of San Diego alone. According to Luna-Firebaugh, among those reservations there is "rampant criminality" with high incidents of violence. Nation-wide there is only an aver-

age of 2 officers per 1,000 Indians on reservations. Only half of all Indian reservations have access to 911 because tribes don't have the money to afford to install that type of technology. They also can't afford to keep jails safe because of exploding populations; most Indian jails have an occupancy rate of 150%. The jails do not separate women and youth from men. Professor Luna-Firebaugh argues the reason for these problems is largely inadequate funding. In addition, cooperation among the family of governments does not always extend to tribal governments. There is a reluctance to develop the common ground in public protection, law enforcement and criminal justice process.

Leslie Hagen, who has been traveling across the country since the passage of the Adam Walsh Act, spoke about the requirements of the act. The Adam Walsh Act, a sexual offender registration act, required tribes to either opt in or opt out of the act. Opting out, or doing nothing, would lead to states exercising

jurisdiction on tribal lands. Hagen's job was to ensure every tribe in the country knew of the Act, and what the tribe needed to do to ensure its sovereignty. She related the final numbers of her successful effort—Out of two hundred and twelve (212) tribes nation-wide eligible to make the election, one hundred and ninety-eight (198) opted out in order to preserve tribal autonomy (the opt-in provision was not available to tribes in PL-280 states).

Bill Gregory, Prosecutor for the Little Traverse Bay Bands of Odawa Indians, spoke of the importance of Michigan tribes to share criminal history information with each other. Michigan tribal members are very mobile and often relocate to other tribal communities. Protection of the public at large will improve with an open communication. In fact, the Little Traverse Bay Bands of Odawa Indians currently has a grant to explore information sharing among tribes in Michigan.

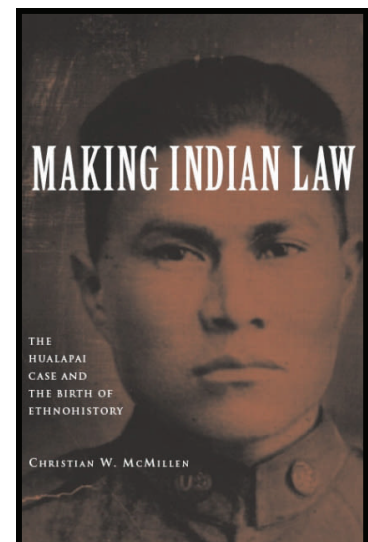
Spring Speaker Series: FELIX COHEN PANEL

The third panel of our Spring Panel Series took place in March. A number of books have been written recently about Felix Cohen's work, including Prof. Christian McMillen's *Making Indian Law*. Prof. McMillen spoke at the panel, and he focused Cohen's work on the Hualapai land claim.

Felix Cohen shaped modern federal Indian law with his book, *The Handbook of Federal Indian Law* originally written in 1942. Professor Bethany Berger spoke about the recent revision of the *Handbook* in 2005, and discussed cases which have cited to the *Handbook*.

Sam Deloria, Director of the American Indian Graduate Center, discussed his work and role with the *Handbook*.

Finally, Sam Hirsch an attorney at Jenner & Block, spoke about his detailed research on Cohen from a biographical standpoint. He pointed out what Cohen had accomplished by the time he was 28 years old, and that not only is Cohen famous in Indian law, but that he is also one of the most important legal philosophers of his time.



MOOT COURT TEAM PLACES 3RD IN NNALSA BEST BRIEF CONTEST

Michigan State University College of Law third-year students Alicia Ivory and Novaline Wilson finished in the top 16 out of over 50 teams and earned third place for Best Brief at the 16th annual National Native American Law Students Association's (NNALSA) Moot Court Competition. Held in Tempe, Arizona at Arizona State University's Sandra Day O'Connor Law School from February 22-24, Ivory and Wilson represented the Law College's Indigenous Law & Policy Center in the competition.

This NNALSA competition is the only national competition dedicated exclusively to the area of federal Indian Law and is designed to promote and recognize the finest oral and written advocacy on a significant problem in federal Indian law.

"We're proud of our students and all of the work they did to prepare. It's a difficult competition, and their work paid off. They did a great

job," said Matthew L. M. Fletcher, Director of the Indigenous Law & Policy Center.

Michigan State University College of Law Indigenous Law Program consists of a certificate program and policy center, both committed to the educational and professional development of those representing the native community. MSU Law offers one of only six Indigenous Law Certificate programs in the nation, educating law students and training lawyers to be prepared to work on behalf of tribes around the country, whether for tribal governments, private law firms, or non-profit organizations.

Alicia Ivory,
3L



Novaline Wilson,
3L

NATIVE AMERICAN LAW STUDENT ASSOCIATION (NALSA)

This year's Michigan State University's NALSA elected officials were Melissa Velky, *President*; Erin McCormick, *Vice President*; Alicia Ivory, *Secretary*; and Novaline Wilson, *Treasurer*. Other members include: Hannah Bobee, Sharon Avery, Linus Banghart-Linn, Anderson Duff, Sheena Oxendine, and Jaimie Park.

NALSA begins each year with a welcome social mixer introducing members to incoming Law students, and to illuminate the programs offered by the Indigenous Law and Policy Center. Members help out our Center every year by assisting with our events, and displaying support for our program.

NALSA's Speaker Event this past fall discussed the critical issue of tribal membership requirements. Speakers included Marilyn Vann, a disenrolled Cherokee Freedman member; and Mike Phelan, an in-house counsel for the Pokagon Band of Potawatomie Indians. Funding was provided by NALSA, MSU-COL Diversity Services, and the ILPC. The event was open to the law school and members of the local community.

NALSA students are also planning on attending the the Federal Bar Association in Albuquerque, NM this spring. NALSA also helped fund the successful NNALSA Moot Court Team, who had to travel to Tempe, AZ to

compete. NALSA also represents Michigan State University College of Law and the Indigenous Law and Policy Center at national Indian law conferences and events.



NALSA members: Hannah Bobee, Melissa Velky, Anderson Duff, Linus Banghart-Linn and Nova Wilson

ILPC BLOG: TURTLE TALK at www.turtletalk.wordpress.com

The Indigenous Law and Policy Center's new blog, Turtle Talk, exploded on to the web this fall, and now has thousands of hits each month. The blog is an example of the Center's use of technology and collaboration. There are nine contributing authors to the blog, ensuring frequent updates and interesting posts.

Posts are based on Indian law and politics with specific attention on topics dealing with Indian tribes in the Great Lakes Region. At the blog readers are able to access important articles, links to court documents, tribal publications, and other blogs about related topics. available. Comments are welcome on the blog .

**SPECIAL THANKS TO OUR SPRING PANEL SERIES SPONSORS**

HONIGMAN

Honigman Miller Schwartz and Cohn LLP
Attorneys and Counselors

Tribal Sovereignty and Development Practice Group

DyKEMA



DIRECTOR'S CORNER

Professor Matthew Fletcher's book *American Indian Education: Counternarratives in Racism, Struggle, and the Law* is tentatively set to be published in June 2008 by Routledge. He has articles forthcoming in *Hastings Law Journal*, *Tulsa Law Review*, and *Federal Lawyer*, as well as the entry on "Native American Law" in the forthcoming Oxford University Press legal history encyclopedia. Professor Fletcher continues to contribute regular editorials to *Indian Country Today*. In addition, his article, "Bringing Balance to Indian Gaming," was cited by the Fifth and Seventh Circuits.

Once again, Professor Fletcher will be a co-chair of the Federal Bar Association's annual Indian Law Conference, the largest annual Indian law conference in the nation. He has or will be presenting papers at the University of Michigan Law School, University of California, University of Oregon Law School, the American Association of Law Schools 2008 Annual Meeting in New York City, and the Law and Society Association's 2008 Annual Meeting in Quebec.

With Professor Wenona T. Singel and Staff Attorney for the Indigenous Law & Policy Center, Kate E. Fort, Professor Fletcher founded "Turtle Talk," a law blog dedicated to American Indian law and policy, with an emphasis on Michigan and Great Lakes tribes. Contributors to the blog include: Bryan Newland, '07, of Dykema Gossett, P.L.L.C.; Zeke Fletcher of Honigman, Miller, Schwartz and Cohn, LLP; Trent Crable of Morissett, Schlosser, Jozwiak and McGaw; Kirsten Matoy Carlson of the Indian Law Resource Center, and Nick Reo of the Native American Institute at Michigan State University. The blog has already been featured on *Indianz.com*, the Legal History Blog, and other blogs nationally.

Prof. Wenona Singel presented at the 4th Annual Indigenous Law Conference on Rebellious Judging. She also presented at the 2nd Annual Tribal Economic Development Conference hosted by the Honigman law firm. She spoke about the importance of a stable tribal judiciary. Professor Singel was on a panel for the annual meeting of the American Association of Law Schools on tribal labor issues. She also conducted a workshop on tribal secured transactions code for the National Conference of Commissioners on Uniform State Laws in Denver this past March.

Kathryn Fort presented at the 4th Annual Indigenous Law Conference with Prof. Jen Camden on the links between James Fenimore Cooper's *The Pioneers* and the case of *Johnson v. M'Intosh*. An article based on the talk will be published in the fall in the *American Indian Law Review*. In addition, Ms. Fort presented with Prof. Fletcher at the Michigan Indian Education Council's Critical Issues Conference on tribal sovereignty and Michigan's Proposal 2. This April, Ms. Fort presented on the Indian Child Welfare Act at the 2008 Conference on the Undefended Childhood: A Global Perspective. In May, Ms. Fort will be presenting at the Law and Society Conference in Montreal, Canada.

DIRECTOR



Matthew L.M. Fletcher
fletcher@law.msu.edu

ASSOCIATE DIRECTOR



Wenona T. Singel
singel@law.msu.edu

STAFF ATTORNEY



Kathryn E. Fort
fort@law.msu.edu

PROGRAM COORDINATOR

Emily S. Petoskey
petosk10@law.msu.edu

ADDRESS

Indigenous Law & Policy
Center
405 Law College Building
East Lansing, MI 48824
(517) 432-6939

IL&PC FACULTY AND ADMINISTRATION

Matthew L.M. Fletcher

Matthew L.M. Fletcher is an Assistant Professor at Michigan State University College of Law and Director of the Indigenous Law and Policy Center. He teaches American Indian law courses and Constitutional Law I. He also sits as an appellate judge for the Pokagon Band of Potawatomi Indians, the Turtle Mountain Band of Chippewa Indians, and the Hoopa Valley Tribe, and is a consultant to the Seneca Nation of Indians Court of Appeals. In the summer of 2005, he was the Indian Law instructor at the American Indian Law Centers Pre-Law Summer Institute and served as co-chair of the Federal Bar Association's Annual Indian Law Conference in Albuquerque in 2006 and 2007. Professor Fletcher will join David Getches, Charles Wilkinson, and Robert Williams as a co-author of the 6th edition of the casebook *Cases and Materials on Federal Indian Law* (forthcoming West). Professor Fletcher graduated from the University of Michigan Law School in 1997 and the University of Michigan in 1994. He is admitted to practice in Michigan, Arizona, and Washington. Professor Fletcher is a member of Grand Traverse Band of Ottawa and Chippewa Indians, located in Peshawbestown, Michigan. He is married to Wenona T. Singel, a member of the Little Traverse Bay Bands of Odawa Indians.

Wenona T. Singel

Wenona T. Singel is an Assistant Professor at the Law College as well as the Associate Director of the Indigenous Law and Policy Center. Professor Singel is the Chief Justice of the Little Traverse Bay Bands of Odawa Indians and a former member of the tribe's Economic Development Commission. She is Of Counsel to the law firm of Kanji & Katzen, PLLC, a firm with offices in Ann Arbor and Seattle that specializes in representing tribes in Indian law matters. Professor Singel graduated from Harvard University in 1995 and Harvard Law School in 1999. She has worked at Dickenson Wright PLLC, Kanji & Katzen PLLC and was an Assistant Professor at University of North Dakota School of Law. She is admitted to practice in Michigan and the 6th Circuit Court of Appeals. Professor Singel is an enrolled member of the Little Traverse Bay Bands of Odawa Indians.

Kate E. Fort

Kate Fort is the Staff Attorney and Adjunct Clinical Instructor for the Indigenous Law & Policy Center. Prior to this position, she was the Indian Law Fellow for the Indigenous Law & Policy Center. Previous work includes jobs with Congresswoman Lois Capps, the Democratic National Committee, and the National Association of Letter Carriers. Ms. Fort received her J.D. from the MSU College of Law where she graduated with a Certificate in Indigenous Law. She received her B.A. in History from Hollins University in Roanoke, Virginia. She is licensed to practice law in the State of Michigan.

Emily S. Petoskey

Emily Petoskey is the Program Coordinator for the Indigenous Law & Policy Center. She is an undergraduate student at Michigan State University focusing in International Studies. Emily is originally from Traverse City, Michigan.

The artwork for our newsletter, blog and conference materials were all done by Zoey Wood-Salomon of the Odawa Nation, Wikwemikong Unceded Indian Reserve on Manitoulin Island, ON, Canada.





.....

INDIGENOUS LAW & POLICY CENTER
405 Law College Building
East Lansing, MI 48824-1300



Indigenous Law & Policy Center

The Indigenous Law and Policy Center provides competent, experienced, and inexpensive legal assistance to tribal governments in an effort to assist them to attain their judicial and governmental goals. By offering the highest quality legal services and policy advice, tribes are empowered to improve their communities.

.....