

August 13, 2010

Governor Christine Gregoire
State of Washington
P.O. Box 40002
Olympia, WA 98002

Secretary Eldon Vail
Department of Corrections
State of Washington
P.O. Box 411000
Olympia, WA 98504

Re: Tribal Member DOC Inmates' Religious Freedom Violations

Dear Governor Gregoire and Secretary Vail:

We write to express our concern about the treatment of our Washington State Tribal members and other Native American citizens who are being rehabilitated by the Washington State Department of Corrections. Our Tribal member inmates' civil rights and religious freedoms are being violated by the DOC in multiple ways. With a view towards a forthcoming initial meeting between Chairman Brian Cladoosby and staff and DOC Tribal Liaison Scott Blonien and the Monroe Superintendent, the goal of this letter is to bring an acute set of problems to your attention, and to propose that the State and Tribal Governments work together to immediately solve those problems.

Based upon information we and several local tribal and civil rights lawyers have obtained from within the DOC, our Native inmates' civil rights and religious freedoms are being violated, under both federal and state law. These discriminations cut across both traditional and Western religions practiced by Native Americans.

- Tobacco: In April 2010, traditional tobacco, which is used by Indian people to make prayer offerings to the Creator (or other Tribal religious deities), was banned from religious use within the DOC. Prior to April, the DOC allowed our Native inmates to make tobacco offerings to a pipe-carrier and smoke tobacco through ceremonial pipes in relation to sweat lodge ceremonies, and to burn tobacco while inside the sweat lodge, under specific religious program regulation. The DOC cites I-901, the State Smoking Ban of 2005, as justification for the recent ban on spiritual tobacco use. However, according to a State Attorney General Opinion, "the use of ceremonial pipes is not the kind of 'smoking' envisioned by the Initiative and is, therefore, lawful." Tobacco use is a vitally important part of Tribal religious exercise. Our Native inmates' right to use tobacco and tobacco-like substances during sweat lodge and other authorized religious ceremonies must be restored.

- Sweat Lodge: Our Native inmates' religious sweat lodge ceremonies have been curtailed. In October 2008, the DOC limited how much fire wood our Native inmates could use relative to their sweats, citing budget constraints. The wood is needed to burn a bonfire long enough to allow rocks to reach a high heat so that when they are taken into the sweat lodge and water is poured over them, the rocks emanate steam, for an adequate length of time to allow for prayer. Indian herbs and medicines, including tobacco, are also burned on the rocks, the smoke from which carries our prayers to the Creator. The

Letter to Governor Gregoire & Secretary Vail
Re: Tribal Member DOC Inmates' Religious Freedom Violations
August 13, 2010

sacred hot rocks – called “elders,” in respect – are essential to sweat lodge ceremony. Without adequate fire wood, our Native inmates have been forced to forgo their opening sweat for Change of Seasons, and alter or rush their other sweats given the shortage of wood. (Imagine Christian church services on Sunday being cancelled or rushed.)

To make matters worse, in March 2010, the DOC reduced the number of sweats for our Native inmates. Prior to March, the DOC allowed them to sweat twice per month, as well as for each of the four Change of Seasons – meaning, every fourth month, they could conduct three sweat lodge ceremonies. However, the DOC now “incorporates” the Change of Seasons ceremonies “into one of the two sweats during the month in which Change of Seasons occurs.” (Imagine a Catholic’s Ash Wednesday or Good Friday services being combined with Easter Sunday services.) Sweat lodge and Change of Seasons ceremonies are each also vital to the free exercise of Tribal religion. Both are religious purification ceremonies, during which those who sweat are spiritually reborn. Our Native inmates’ religious right to sweat twice each month, as well as for each Change of Seasons, must be restored..

- Traditional Foods: In April 2010, the DOC also banned the use of traditional foods, including salmon, buffalo and frybread, during sweat lodge ceremonies, pow wows and other authorized religious or cultural ceremonies. Prior to April, salmon and buffalo “enhancements” were made available to our Native inmates and their guests during pow wow ceremonies; frybread was authorized during pow wows and sweat lodge ceremonies. Salmon and buffalo have now been replaced by “light refreshments” consisting of fruit and pastries. And “flat bread” has been substituted for Indian frybread, although according to the policy “the name will remain the same.” The substitution of Middle Eastern pita bread, for Indian frybread, is particularly offensive. These traditional foods are vital to Indian religious or cultural ceremonies. Frybread, for example, is used by our Native inmates to break their four-day fast from the beginning of a Change of Seasons ceremony, until the end of that ceremony. These foods must be returned to our Native inmates during pow wow, sweat lodge and other ceremonies.

- Sacred Items: In April 2010, the DOC also reclassified many of our Native inmates’ religious items as “non-sacred.” Per DOC policy, “sacred” items can be kept by an Indian prisoner in his or her own “sacred items box”; the contents of that shoe box can only be visually inspected or searched by guards in order to maintain the integrity of the religious items in the prisoner’s box. Non-sacred items must be stored elsewhere in the prisoner’s dwelling and are subject to a general “hands-on” property search by guards, which can involve rifling through and dumping out a prisoner’s belongings. Since April, the DOC has not allowed our Native inmates to store religious herbs and medicines like bitterroot, cedar, kinnikinnick, lavender, mint, osha root, red willow bark, sage and sweetgrass in their individual sacred items box because those herbs and medicines have been deemed “non-sacred” by the DOC. As “non-sacred,” they are being subject to “hands-on” property searches and thus occasionally dumped out and desecrated. We do not generally take issue with DOC property search policies or practices, understanding that prison security is paramount. But we are very concerned about the DOC’s recent

Letter to Governor Gregoire & Secretary Vail
Re: Tribal Member DOC Inmates' Religious Freedom Violations
August 13, 2010

decisions about what is "sacred" and "non-sacred" to Indian People and thus to our Native inmates, especially with regard to how those sacred Indian religious herbs/medicines are then treated by DOC staff. Our Native inmates' religious right to keep religious herbs and medicines in a safe and sacred place must also be restored.


- Native Chaplains: The DOC recently terminated two Native Chaplains who were under contract to help our Native inmates with their rehabilitation. In early April, Whaa ka dup, a Tulalip Indian whose Anglo name is Robert Monger, was terminated from service at Monroe Corrections Facility, ostensibly for "introducing contraband (tobacco) into the facility, without prior approval." Whaa ka dup did attempt to bring tobacco – it is not "contraband" – into Monroe, for a Change of Seasons sweat lodge ceremony, as he believed was his job duty. Until tobacco was banned later that month, the DOC declared that: "The Native American Chaplain will be authorized to bring enough tobacco into the institution to be used during sweat for Sweat Lodge ceremonies. . . . [and to] take all unused tobacco out of the institution after the ceremony." We have heard that the Native Chaplain at Walla Walla, Edua Cheshire (Paiute), was terminated under similar circumstances. Whaa ka dup and possibly also Mr. Cheshire were improperly terminated for advancing the religious rights of our Native inmates. Their contracts should be restored, and the duties of all of the DOC's Native Chaplains clarified, so that they can continue to help our Tribal brothers at Monroe and Walla Walla find peace.

In sum, it seems there has recently been a dramatic policy-based shift in temperament within the DOC concerning our Native inmates' exercise of religious freedoms.

We are unaware that the DOC consulted with any of our Tribal Governments, or with anybody else with Tribal cultural, spiritual or religious knowledge before changing its religious policies that impact our Native inmates, this past spring. That shift must be reversed, and our Native inmates' constitutionally protected religious rights must be restored, immediately. To that end, we hereby request government-to-government consultation with Secretary Vail and other State officials to discuss these matters and to hear the State's side of this story. We are also open to hearing from the State about other DOC-related issues of mutual concern that the State may wish to bring to our attention.

Thank you for your consideration of our concerns for our Native inmates. Please know that in addition to fulfilling our commitment to our brothers and sisters in the DOC by bringing the problems they are facing to your attention, we are committed to working with the State to reach solutions to those and other problems.

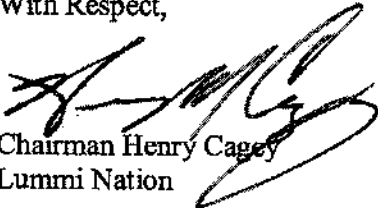
With Respect,


Chairman Brian Cladoosby
Swinomish Indian Tribal Community
Association of Washington Tribes


Chairwoman Frances Charles
Lower Elwha Klallam Tribe

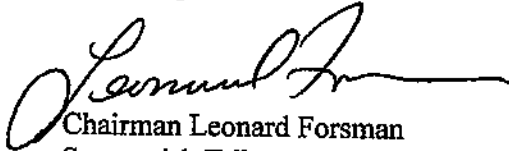
Letter to Governor Gregoire & Secretary Vail
Re: Tribal Member DOC Inmates' Religious Freedom Violations
August 13, 2010

With Respect,


Chairman Henry Cagey
Lummi Nation

Letter to Governor Gregoire & Secretary Vail
Re: Tribal Member DOC Inmates' Religious Freedom Violations
August 13, 2010

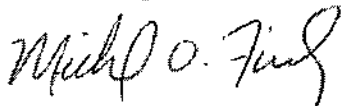
With Respect,

A handwritten signature in black ink, appearing to read "Leonard Forsman", with a long horizontal flourish extending to the right.

Chairman Leonard Forsman
Suquamish Tribe

Letter to Governor Gregoire & Secretary Vail
Re: Tribal Member DOC Inmates' Religious Freedom Violations
August 13, 2010

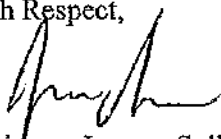
With Respect,

A handwritten signature in black ink that reads "Michael O. Finley". The signature is written in a cursive style with a large, looping initial "M".

Chairman Michael Finley
Confederated Tribes of the Colville Reservation

Letter to Governor Gregoire & Secretary Vail
Re: Tribal Member DOC Inmates' Religious Freedom Violations
August 13, 2010

With Respect,

A handwritten signature in black ink, appearing to read "Jeromy Sullivan". The signature is written in a cursive style with a large initial "J" and "S".

Chairman Jeromy Sullivan
Port Gamble S'Klallam Tribe

Letter to Governor Gregoire & Secretary Vail
Re: Tribal Member DOC Inmates' Religious Freedom Violations
August 13, 2010

cc: Craig Bill, GOIA Director
Scott Blonien, DOC Tribal Liaison
Sen. Claudia Kauffman
Rep. John McCoy
Gabe Galanda
Jennifer Shaw & Nancy Talner, ACLU
Beth Colgan, Columbia Legal Services Institutions Project