# WHO BELONGS?
# FROM TRIBAL KINSHIP
# TO NATIVE NATION CITIZENSHIP
# TO DISENROLLMENT

A NATIONAL CONFERENCE IN HONOR OF VINE DELORIA, JR.

UNIVERSITY OF ARIZONA
JAMES E. ROGERS COLLEGE OF LAW
INDIGENOUS PEOPLES LAW & POLICY PROGRAM,
UNIVERSITY OF ARIZONA AMERICAN INDIAN STUDIES DEPARTMENT

TUCSON, ARIZONA
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**DEPOSITION OF , 5/2/2017**

The following conference was taken on Friday, March 10, 2017, commencing at 9:10 a.m. at the University of Arizona James E. Rogers College of Law in the Ares Auditorium, Tucson, Arizona, before LISA J. ANDERSON, RPR, CARRIE REPORTING, LLC, 2415 East Camelback Road, Suite 700, Phoenix, Arizona, a Certified Reporter in the State of Arizona.

APPEARANCES:
TRIBAL SOVEREIGNTY AND THE FEDERAL GOVERNMENT'S ROLE IN "WHO BELONGS"

SPEAKER:

Kevin K. Washburn (Chickasaw Nation of Oklahoma), Former Assistant Secretary of the Interior - Indian Affairs, Regents Professor, University of New Mexico School of Law

INTRODUCTION TO THE EPIDEMIC OF DISENROLLMENT/LOSS OF COMMUNITY/WEAKENING OF SOVEREIGNTY/POLICY IMPLICATIONS

SPEAKER:

Matthew L.M. Fletcher (Grand Traverse Band of Ottawa & Chippewa Indians), Professor of Law and Director, Indigenous Law & Policy Center, Michigan State University College of Law

STRATEGIES FOR CHALLENGING DISENROLLMENT/ETHICS FOR ATTORNEYS AND ADVOCATES: NATIONAL NATIVE AMERICAN BAR ASSOCIATION ETHICS OPINION NO. 1

SPEAKERS:

Gabriel S. Galanda (Round Valley Indian Tribes of California), Managing Partner, Galanda Broadman Law Firm, Seattle, Washington

**DEPOSITION OF , 5/2/2017**

Robert Alan Hershey, Clinical Professor of Law, Director of Clinical Education, Indigenous Peoples Law & Policy Program, University of Arizona Rogers College of Law
Diandra Benally (Navajo), General Counsel, Fort McDowell Yavapai Nation, President-Elect, National Native American Bar Association

SPECIAL RECOGNITION ISSUES OF NATIVE HAWAIIANS

SPEAKERS:

Kawika Riley (Native Hawaiian), Chief Advocate, Office of Hawaiian Affairs
Lorinda Riley (Cherokee/Native Hawaiian), Professor of Public Administration, University of Hawaii, West Oahu

TRIBAL LEADERS FORUM
MODERATORS:
Joan Timeche (Hopi), Executive Director, Native Nations Institute, University of Arizona

Miriam Jorgensen, Research Director, Native Nations Institute, University of Arizona
GUESTS:
Hon. Bernadine Burnette (Fort McDowell Yavapai Nation) President

Hon. Eddie Crandell (Robinson Rancheria) Chairwoman

Hon. Carol Evans (Spokane Tribe of Indians) Chairwoman

Hon. Reno Keoni Franklin (Kashia Band of Pomo Indians) Chairman
Hon. Verlon Jose (Tohono O'odham) Vice-Chairman
Hon. Edward Manuel (Tohono O'odham) Chairman
Hon. Greg Sarris (Federated Indians of Graton Rancheria) Chairman

Hon. Robert Valencia (Pascua Yaqui Tribe) Chairman



Hon. Robert Valencia (Pascua Yaqui Tribe) Chairman

MR. HERSHEY: Good morning, everyone. Good morning.

Everyone is saying hello to friends they haven't seen for a long time. There will be breaks, there will be lunch. There will be an afternoon break.

Good morning. Welcome back. Let me do a little housekeeping. First of all, the Native American Law Students Association auction will be closing at 1 o'clock today, so those of you who have bid on items, please make sure that you go to the lobby and get your goodies before 1 o'clock. Some of you have known that David Wilkins' book sold out yesterday. There were 12 whole copies.

Where are you, David? 12 whole copies, that's all you brought. I could have sold like 112 copies. I could have made a tidy percentage or something. "Vanishing Act." The book is coming out in July with Kathleen and Norbert's editorial. There s information that was passed out, there is more information here. So feel free to go ahead and take one of those, please.

And what else did I want to say about welcome back? Something that I would like to -- I'll tell you a little story that when I first went to the Navajo Indian Reservation in 1972, I was 24 years old, I had been an outdoors person all of my life, I went to interview for the job and I turned off the interstate and I was

following a buckboard, a horse-drawn buckboard with an elderly Navajo woman, the red rock country was on both sides of me, and I said I think I found my absolute home. And then I became an attorney for -- how many Navajo speakers are here? Promise not to laugh. (Native language.) DNA legal services. It took me three weeks to pronounce where I worked. And at that, people stopped smiling anyway after that. They were very courteous.

So I lived way back in the canyon in a one-room cabin where the mud chinking was missing, and when the wind blew the curtains would blow on the inside of the house. I had a two burner wood stove, no water, no electricity, and I would get that stove pipe going so red that even in snowstorms I would have to open up the front door. And I thought I was in absolute heaven. And the Navajo people were so appreciative of my work as a legal aid attorney for them, and I got really great generosity and spirit.

However, my landlady who was this magnificent older woman who stacked their wood tepee style, rode her horses and had goats. I was up at her house. And she had the good sense to build her house about a quarter of a mile from the road. I decided to go way back into the canyon and there is a Navajo word, it's called (native language) which I know how to pronounce really well,

because it means mutts, and it's plural. And I came down and talked to her one day and she said, "Would you do me a favor? Would you please take my goats back to your house" because there was a little tiny pen. I'm from Hollywood, you know. And I said sure. Because I was either embarrassed or I really wanted to help and contribute because I wanted to do something. I'm for the people here.

And so I take off with the goats, and they all of the sudden go somewhere where I don't want them to go, they take off way up into the hills. And there is a lead goat, and his name is Skunk, and he's got a bell, and I spend like an hour and a half trying to heard these goats back to where this little pen was at my place.

And I come back to my landlady and I say, "I'm so sorry, I've lost your goats." And she turned around and laughed and she said to me, "Don't worry, they know where to go." So when I went back, they were in the pen.

Now, this was the first of many opportunities the Native people had to play tricks on me. Many more have come across over the years. And the reason I'm telling you this story now is that I want to you to remember in all this difficult situation and who belongs, Native people have taught me what a great sense of humor you have. Sometimes white people, we don't get your sense

of humor, but you get your sense of humor. I don't want you to always be in crisis mode or things, I know you don't, you have ceremonies, you have prayers, you have close knit relationships. Don't forget what a magnificent sense of humor that you have.

We recently saw a movie and it was called the "Music of Strangers," and there was one line in there and we are not our political selves. We get wrapped up, but we are not our political selves. If you know the answer to the following question, just raise your hand and don't blurt it out. How many people know who the king was in the time of Beethoven?

SPEAKER: King of what?

MR. HERSHEY: The king.

SPEAKER: Which king?

MR. HERSHEY: Well, the king where Beethoven lived. Do you see what I mean? You know who Beethoven is, but you don't know who the king was. Hang on to that spirit, hang on to the music that you made, hang on to those relationships, all right.

So I think with that I want to turn this over to one of my glorious friends, Gabe Galanda.

MR. GALANDA: Good morning, everybody. One more trick to play on Roberto. I would like to ask my friends who I asked to participate please step forward with me,

starting with Professor Williams.

MR. HERSHEY: What? Another trick? What are you going to do?

MR. WILLIAMS: So can you hear me? Thank you. When Robert first came to me two years ago with the idea of doing a conference on disenrollment, you can imagine the political landscape at the time, and I wasn't sure if it was the greatest idea I ever heard from Robert. He comes up with great ideas. This one I thought, you know, given the issue, given the raw emotion that we've seen in Indian country about this, would it be possible to have a dispassionate, informed discussion and education process. And Robert convinced me that yes, it could be done. And I convinced him it would take two years, so we went ahead. And, you know, my only direction to Robert was, you know, just get me on the program, it sounds like a great idea.

And as Gabe said, he's put his heart and soul into this effort. I don't even count the years that Robert and I have been working together. He was the first person I brought with me into the Indian Law Program, and so we really built the program over the course of, you know, 30 years for myself and probably 23 or 24 --

MR. HERSHEY: 27.

MR. WILLIAMS: 27. I think he's much younger than me, that's why. And his service to the legal

profession, to Indian country, to the clinic and his other work, and his judging, and his representation, and his mentoring of generations of students, particularly in a clinical setting, Robert invented the first Indian law clinic in the United States. It was done right here at the U of A, put all of the models together and everybody else is just a weak imitation.

So we thought it appropriate at this point, some of you may know, that Robert is, despite his youthful looks, is going to be retiring at the end of this year, and we'll keep him close to our heart and the building of our students and schools, and we'll find many ways to continue working together.

And again, his lovely wife, Chandra, who has been by his side building his life, and my wife Joy, and all of us who put our heart and souls into our projects, we know that without our partner behind us, that close friend, nothing really gets done and achieved of any meaning.

So with that, we are going to do something very traditional, which is a blanketing ceremony, which is in many, many Native traditions is a way of honoring a warrior, a leader, a medicine person, a great speaker, someone who is a great teacher, and great mentor, and in many ways Robert is many -- all of those things.

So Gabe gets the honors next, and we'll help with the formal presentation.

MR. GALANDA: Briefly before our relative says a prayer for our mentor and our hero here, but as you heard, Roberto Hershey has been working Indian country for Indian people for 45 years, and he's been teaching in Indian country for almost 25 years. And I would like everyone who has been taught by the professor just stand for a minute. And I'm sure you can see just by recognizing these faces the mark he's left on this profession and on Indian country. And I would just tell him that when I came here, I was very lost, and he never stopped believing in me.

MR. HERSHEY: Because you are a great dancer.

MR. GALANDA: And I share that only because I know many of the students that I was here with were lost too, coming from reservations, coming from inner cities. For all the reasons we've talked about, he helped us get through a tough time, time of transition, and helped us find our way. And all of the people that are here today and in Indian countries that are now working so hard to defend Indian country are a testimony to your belief in us and your undying commitment to us.

SPEAKER: I'm going to light it and just do one leaf because we'll set off the sprinklers. Everyone gets

a blessing.

MR. HERSHEY: Water ceremony.

SPEAKER: (Native language). May this blanket give you warmth in the wintertime and give you shade in the summer and give you all the strength and guidance that you need. In memory of all of the things that you have done and all of the things that you have done for the Native people, as well as all people from all over, all of the things on your journey. Stand here.

MR. HERSHEY: That's a tiny piece.

SPEAKER: Big medicine though. (Native language). On this journey, wherever he may go, whatever you may do, take care of the friend and family. (Native language). Strengthen his heart, his mind and body and soul, spirit in prayer. Shine light upon his journey's path.

You may cover him. You may be joined with all of his brothers and sisters that he comes across. Blessings to all of those, and love and joy in his heart, radiate his love and joy to all people, all of the things he does. (Native language).

MR. HERSHEY: Thank you. Thank you. For those of you that -- I'm so honored. And for those of you who know me, it's not easy for me to be here and have you do this, have you thank me like this. It's so appreciated.

But I don't know, my whole life has been about giving and giving to you and giving service, and I will still continue to do that. And I'm truly blessed. I told you, I couldn't think of a better life than to work with Native people, and to try and do good, and try to help promote the best in everybody's lives. So thank you. Thank you very much.

SPEAKER: May I run across your floor?

MR. HERSHEY: Nice hat.

It's a little warm in here, so I'm not going to wear the blanket. I am so truly thankful. Thank you so much. Kevin, where are you? Most everyone is sitting in these chairs and being informative. Wilkins, though, decided he wanted to be behind a podium, so I want to offer you the same possibility.

Regents professor of law at the University of New Mexico. First met Kevin Washburn when he joined our faculty here back at the University of Arizona and we wished him very well when he decided to move off to the University of New Mexico. Truly a great leader in Indian country. And then rising to Assistant Secretary of the Interior -- rising? I don't know. Maybe not rising. But becoming Assistant Secretary of the Interior for Indian Affairs for much of the Obama administration and retired November? October, November?

MR. WASHBURN: Last December.

MR. HERSHEY: Stuck it out until almost to the end of that term. So he's with us today, he's back as a professor at the University of New Mexico. And one of his greatest achievements at his young age, he just had another -- well, his wife had another baby. Three children now. And I think that's, you know, for those of you who have a lot of children, you are the real heros. How many K through 12 teachers do we have here? Or have been a K through 12 teacher? Go find a K through 12 teacher and hug them. Absolutely.

Kevin, as I mentioned yesterday, all of the bios are in your program. And Kevin, I want to turn this over to you. I do want to thank the Native American Law Students Association, I want to thank Justin Burrows. This young man has been so instrumental in helping. Give him a round of applause.

All of the sponsors that are included in your materials, in your folder, I want you to just kind of think about how they made this possible, how they helped gather all of you people together. So with no further ado, Kevin, Tribal Sovereignty and the Federal Government's Role. And be kind, people.

MR. WASHBURN: Thank you. And Robert, I think my Navajo is a little bit rusty, but I think the way he

opened that, I think what he said is: The meatball is in front of the house.

The most remarkable thing we learned there was, of course, this conference, you know, Rob Williams thought maybe this conference was too controversial, that there was something that was too political that he worried we might anger people, and Robert is the one that's going way out on the limb.

MR. WILLIAMS: It's always been that way. That's the secret of my success.

MR. WASHBURN: Fair enough. Fair enough. And I may have the hardest subject to deal with in some ways here because I've got to come in and talk about the federal government and its role. I would love to have questions and conversations because I would love to have thoughts because I certainly have a perspective that's been honed mostly from the last three and a half years or so that I've spent in the federal government as assistant secretary, but I've also got eight or ten years other experience in the federal government too. And so I can certainly speak from that perspective.

I'm Chickasaw and I've got a fundamental belief that it's up to tribes to solve our own problems and tribes will do it better than the federal government will, and I've got proof of that. When I was growing up, I went

to Indian Health Service hospitals almost exclusively and I was raised by a single mother who had three children, and one of them had asthma. Not me, my brother had asthma. And we spent a lot of time sitting around IHS hospitals waiting to be helped. Anybody have that experience before?

Well, about the time I went off to college, the governor of my tribe Bill Anoatubby, who is still our governor, decided we were going to take over the IHS hospital from IHS, it was going to be the Chickasaw hospital and took the contract to start running that hospital, and that was a brave act. My aunts and uncles I can just remember saying what does he think he's doing? We can't run that hospital better than the federal government can. This is crazy, this is healthcare, this is important and he shouldn't be messing with our health.

Well, within about six months everybody was convinced that it was the right thing to do and he became a hero, our governor, who is still our governor, became the hero of our tribe because he believed in us even when we didn't believe in ourselves. Honestly, because once we started running that hospital, it just ran a lot better. We didn't sit around all day in IHS hospitals, right, we got served. If they were going to be late, they would call us in advance and say don't come at 11:00, come at

1:00 because we won't be able to see you until after lunch. You don't need to be sitting around here all day. And our lives improved. And frankly, that was the most powerful lesson from my childhood and my family is that tribal self-determination is the answer.

And one of the hard things about all of this is I know that the federal government is responsible for a lot of the bad things in Indian country, but George Armstrong Custer isn't going to ride in here on a horse and solve all of these problems for us, I can assure you, it's up to us to solve them. The federal government is certainly part of the problem, but it's not the best source of the solution.

So that's, I guess, the main message I have here today is the federal government is not the solution to most of the problems. And this problem, this very sensitive issue that we're dealing with today, and you dealt with yesterday, is one of the hardest issues honestly. And Gabe and I talked about this a number of times, it's just one of the hardest issues because we see some of our own people doing things that we don't necessarily agree with, some of our own cousins, and that's really hard.

But I want to give a couple of anecdotes from my time in government. This isn't going to be academic, it's

going to be more practical and anecdotal. Couple different things I want to talk about, but like I said, I love to have questions about anything I talk about.

When I started as assistant secretary, some things were handed to me, this is your job, this is what you have to get done and other things I sort of pursued. One of things that was handed to me was the tribal recognition process, which is separate from enrollment obviously, but it's the process in the federal government about which tribes should be recognized by the federal government.

And in that respect, it's not completely different than -- there is some similarities here. And this wasn't something that I went to Washington to do, I wasn't -- recognition of tribes wasn't my highest agenda item, but I got there and Secretary Salazar brought me in, he said: I know there is a lot of things you want to do in this job, but one thing I need you to do is to take up the tribal recognition process, the process that the federal government uses to figure out whether or not to recognize tribes.

And he said the Department has been promising to fix this for years. For 20 years the people have said that the process is broken and needs to be fixed, and we've been promising we would fix it, and frankly, he

said, we promised throughout the first term -- I started just before the second term of the Obama administration, and he said we need to get it done. We have been promising we're going to do it and we haven't done it yet.

So I started that. And I thought, well, what a great opportunity to remake a federal process and make it more just. And I wasn't -- again, it wasn't something I particularly had passion for when I started, but I thought this is a great opportunity, take a process that's broken and fix it. I like policy, I'm -- I know a lot about Indian policy, this is a chance to fix things.

So my deputy and I, Larry Roberts and our staff, came up with some proposals to make the federal recognition process work better. And this is the process that many tribes have taken years to go through to get finally federally recognized by the federal government. And one of the problems in this process that we heard about a lot was the Grand Traverse Band in Michigan had gotten recognized, they were the first tribe to get recognized, and they had gotten recognized on the basis of a single banker's box full of documents. One person could carry the documents.

Shortly after I arrived, there was another tribe that was kind of up for this, had worked its way through this process, and the staff told me, you know, we've got a

decision ready for the tribe and it was a negative decision, and I said, boy, I don't feel good about making a negative decision. Please bring me the source materials that you used so I can look through them myself. And they brought me 35 boxes of documents, and it wasn't enough, right. The Grand Traverse Band had one box of documents and it was enough, and this tribe had 35 boxes of documents and it was not enough. So one of the things we heard was it just wasn't just, the process was no longer just, and it was too onerous.

And so I quickly realized I can't do this work. I mean, it's impossible for an assistant secretary to read 35 boxes of documents during its entire tenure because every issue in Indian country is your issue, so that would have been impossible. But we realized we needed to reform the process.

And so Larry Roberts and I came up with some reforms, and one of them, just to give you a sense, to get recognized a tribe must prove that it has a governmental structure and a community since its first contact with the United States government. So for tribes in the East Coast that means 1789, you know, that's when the federal government was formed with the Constitution. And for tribes in California, it meant in the 1850s. And we required them to prove that they've been in existence,

that they've had those issues, they've had communities, they've had a government since that time forward.

And, you know, the government -- the federal government was pretty hostile and so were local communities, very hostile to tribes during much of that history, and so that's very difficult for tribes to prove their existence. So we suggested moving the date, that we would start our analysis at 1934 because that was the time when the federal government, when the United States sort of started to embrace tribes.

We thought that was a more just date because that was the date where the United States stopped being at war with tribes, to some degree, stopped trying to terminate them entirely, or assimilate all Indian people, and it still gives us 80 years. I mean, if somebody comes and applies and they've got 80 years of information showing they've existed for 80 years, they're probably good, they are probably legit, right, if they've existed since 1934 and they are now seeking their federal recognition.

So we put that idea out. And you would have thought we were murdering babies at the U.S. Department of the Interior the way that went over. People thought it was absolutely outrageous. A bunch of fake people are going to be recognized as Indian tribes if we use the date

of 1934 to the present. And it was tribes, it wasn't just non-Indians or others, it was tribes that were upset about it too, existing federally recognized tribes. So we got our heads handed to us basically.

And a bunch of other issues came up through the recognition process. And I'll tell you another one was, one of the rules that we had in the process before the reform, was that tribes have to -- these tribes have to establish all of that information, they have to have proof from external sources. That is they couldn't prove their own evidence, they had to show newspaper articles from the local communities and that sort of thing.

And tribes, quite honestly, said during a big part of that time we were underground, we were hiding because people were trying to murder us, right. The Massacre at Wounded Knee happened in 1890, just so you know, so you might not be surprised that some Indian people were trying to kind of lay down, and so not appear in newspapers and in the public eye too much. So that was a really unfair criteria and unfair standard and so we changed that. We said if you have creditable internal evidence, that counts too.

And so we did a few things like that, and I won't go through the entire list of 12 or 15 things that we did that really made the process more just, but the

point is we got fought at every turn on this, and we ultimately did not get to use the 1934 to the present date because of compromises that we had to make. Congress made it very clear that if they weren't satisfied with what we did, they were going to take away the department's ability to recognize tribes. And, in fact, they have continued to try to do that and we'll see how it goes with the new congress and hopefully the reforms will last. We ultimately ended up settling on a date of 1900 to the present because that was more politically palatable to people and we're hoping that will save the process.

But the bottom line here, I think for us and for this conference, is the United States and BIA officials and federal officials have a lot of external political pressures that come to bear on them and it's kind of hard for them sometimes to do the right thing in Indian country. And so my, you know, big effort much of the time was just trying to keep the federal government out of tribal business when I was assistant secretary.

One other anecdote, one of the things I did when I first started was to go to the staff and say what needs to be done, what do you need an assistant secretary to do, what's on our agenda is housekeeping things, what do we need to get fixed? One of those was -- they came to me with two different regulatory reforms that needed to

happen. One of them was the secretary elections process and the other one was the CDIB process. The regulation for secretarial elections was hopelessly out of date and it needed to reform. I happened to be the author of the Cohen handbook on that issue, and so I knew it was out of date, I knew it was a problem. When they came to me to tell me we need to fix that, we need to modernize it, it made sense to me.

And so one of the things we did when we reformed the secretarial elections process was I made clear that -- what the secretarial elections are is elections run by the Department of Interior rather than by tribes, right. It's presumably for some processes tribal constitutions require a secretarial election rather than just a tribal election. And I'm fundamentally opposed to that whole idea, right. I mean, tribes should run their own elections is my view. This is antiself-determination, but some tribal constitutions say this and so it needed to be reformed and it needed to work better for tribes.

And so one of the things that I've always had a lot of heartburn about, teaching federal Indian law over and over, is federal Indian law is largely about peoples' lives on Indian reservations, and that's really most of the reach of federal Indian law. So urban Indians kind of lose out on the trust responsibility. The trust

responsibility doesn't help urban Indians in many respects, and so in reforming the secretarial election regulations I said two things: One, you should all amend your constitution so that you have tribal elections rather than secretarial elections, right, because there is no reason you should be going to the Department of Interior to run your election process.

But the second thing I said was if you do have a secretarial election, we're going to do those by mail-out ballot, by mail, in other words, rather than polling places, unless your constitution provides otherwise, so that we don't disenfranchise urban Indians. And I had some qualms about this honestly because I really felt this is me affecting tribal politics internally in some respects. But I've always had this concern that we don't do right by urban Indians to some degree and this is a way to do that. My tribe has always functioned by mail-out ballots, or at least since I've been an adult, and it worked great, but that was sort of the purpose.

The other -- and so that was an improvement, modest improvement, this wasn't by any means the most important thing that happened when I was assistant secretary, but it was a modest improvement that was related to tribal self-determination. The other issue though that they had come to me about was the Part 70

regulations on CDIB cards, you know, that process. I said what's the problem with the CDIB process? And they said, well, we don't have the authority to correct incorrect CDIB cards or reissue and correct those cards. And, you know, I can see where this was going.

Some people thought we need to be able to tell tribes who their members are, and so we need to be able to take people's CDIB cards if we think they are wrong and reissue CDIB cards at a lesser degree or something like that, and I said no. I said that process you may see that as broken, but I think that's a good thing, that you can't reissue CDIB cards and try to correct them because the federal government shouldn't be doing the correction of those things, it should be tribes doing that. And so I just said sorry, you can talk to the next guy that comes in about the Part 70 regs if you want to reform those, but I won't be doing it.

So those are just a couple of examples. I will tell you that a big part of what I did every day it seems like was try to prevent people in the government from telling tribes what to do. I mean, there is still today a lot of people that would like to have that power and that's what they want to do and that's kind of what they think their role is, and they've often got tribal people coming in to lobby them to do something. Maybe they lost

the vote in the tribe, and so they want the BIA officials to come in and help them overturn that vote. And to me that was just wrong, and so I spent a lot of time trying to beat that sort of thing back.

One last example of sort of how hard it is to do the right thing in the federal government. So while we were reforming the federal tribal recognition process we were also running the process, so tribes were still applying for recognition and coming in with their applications. And the old process was still working while we were trying to come up with a better process.

During that time the Pamunkey tribe of Virginia came up. The Pamunkey tribe actually is an amazing story because they had never sought federal recognition since the beginning of time in the United States, even though they had a lengthy relationship with the Commonwealth of Virginia. This is Pocahontas' tribe, by the way. And the Pamunkey tribe have been delivering venison to the governor of the Commonwealth of Virginia since before it was a state, when it was just a colony and even before that when it was a Crown colony.

And every Thanksgiving they deliver deer meat to the governor and they've got evidence of this going back more than 400 years. And for the last 100 years they have photographs, but they are legit, and they had frankly the

best application that our Ph.D.s that run this process, you know, we have these Ph.D.s, these anthropologists and genealogists and historians that run this process and they really carefully look through the data. Pamunkey had the best application they had ever seen and they were amazed by it.

And Pamunkey actually went through the process really fairly fast, five years. That's fast in the federal government, trust me. And because they had such a great application. And so the way the process works though is you give people notice. So when we had the application done and complete and we thought it was time and appropriate to recognize the Pamunkey tribe, we put out notice to the world that we were proposing to recognize the Pamunkey tribe as an Indian tribe so the world can comment and people can object.

And the first call we got was from a very powerful, in fact the most powerful United States senator from Capital Hill and said: I need Mr. Washburn to come over and talk to me about this Pamunkey thing. And I dutifully went over to talk to the senator about the Pamunkey issue and went into the meeting and the senator said, "I'm worried about this Pamunkey issue. It really could be harmful to my constituents."

And I said, you know, "Senator, we're not trying

to harm anybody here. The Pamunkey tribe has the best application we've ever seen in history for recognition and we're just going to recognize them, just recognize their existence." And he said, "No, no, no, they could harm us." And I said, "What do you mean, Senator?"

And he said, well -- and about this time he gets a call from the chief of staff at the White House, Denis McDonough, he says, "Excuse me for a second," he walks over to IHS desk, we were sitting in the little couch area. He takes the call from Denis McDonough, and they were talking in such shorthand that I think that was the call that happened probably about 12 times a day between the chief of staff and the majority leader of the United States Senate.

And the Senator said, "What I'm worried about is you are really going to harm one of my most important constituents." He said, "Have you heard of Kirk Kerkorian?" And I said, "Yeah, Senator, the name is familiar, but why do you think I'm harming him?" He said, "Your Pamunkey tribe could get a casino some day and that casino could interfere with Kirk Kerkorian's business. Kirk Kerkorian owns MGM, a big Las Vegas casino company, and they are working on building a casino out here at National Harbor right outside the Beltway in Washington, D.C., and they are putting a billion dollars into the

ground to build that casino, and if your tribe, your Pamunkey tribe down there in Southern Virginia, if they get a casino it could eat into this business of this tribe -- I mean, this MGM casino.

And I said, "Well, Senator, we've only ever recognized 17 other tribes in history and only 10 of them have gaming at this point, and it took each of them at least 10 years to get gaming. In fact, it took about nine years on average even to get into land into trust and another couple years after that even to get gaming. So I will concede, Senator, it's possible that some day in the future this tribe might have gaming, but it's probably at least 10 or 12 years down the road on average and so I don't think is a very serious threat."

And he said, "Well, you don't understand, I'm concerned that it's going to harm this constituent of mine and I will stop at nothing to prevent this from happening." And he said, "I understand your boss, Sally Jewell, sometimes tears up when she talks about our nation's history towards Native Americans. Well, I'll give her something to cry about if you recognize the Pamunkey tribe. And he said, "But I didn't call her over here, I called you because I know that you are the one that's making this decision and that's how I feel about that."

And so I left the majority leader's office and in the capital building this amazing office, intimidating office, intimidating man, former boxer and he showed it sometimes. And I had a staffer with me, the staffer was not one of my staffers, he was one of the secretary's staffers because I don't know what they thought I was going to agree to with the majority leader, but the secretary's office wanted to know about it. Got back to my office and the staffer went to, apparently, straight to the secretary's office, because I went back to my office, and my phone rang about 10 minutes later and it was Sally Jewell.

And she said, "Kevin, are you okay?" And I said, "I'm fine." I said, "I'm glad I'm an American and not a Russian because in some countries they could have you killed if they wanted to stop you from doing something." And I said, "There is nothing this guy can do to me. I've got a tenured position at a law school. If I need to leave here, I'm good. I can go back to my home in New Mexico to a much better life anyway, so I'm fine."

But I said I'm sorry -- oh, one of the other threats he made was: You will get no more legislation through the senate, you will get no more nominees through the senate, and you will feel it in your appropriations, I will cut the appropriations for the Department of Interior

if you recognize the Pamunkey tribe.

So I said to Sally, "I'm sorry, I've put the department in such jeopardy, but I said I hope you realize what this means, this now means I have to do this because nobody ever blames the guy that exerts the inappropriate political pressure, they blame the guy that caves to it. And I came here to do the right thing, and that's what I plan to do, and if I can't do the right thing I have to leave and so I hope you understand.

And she said, "Absolutely." She said, "Is it the right thing to do?" I said, "It's the best application we've ever seen." She said, "Then I stand behind you and you will have the right to do this." She said, "You probably will never be a federal judge." That's okay. That's okay. And fortunately I was able to do it, and, you know, we lost the senate, the democrats lost the senate in the next election, which I was probably the only democrat in the entire country that was secretly glad that I wouldn't have to face this guy. But, you know, there you have it. I was able to proceed and recognize the Pamunkey tribe.

But, you know, and there is a lesson here. The only reason I was able to do that is because I was a law professor from New Mexico who was just temporarily in Washington. President Obama had instituted a rule saying

we won't put lobbyists in these positions. He just said I'm not going to hire lobbyists for presidentially confirmed -- senate confirmed presidential positions. And there are probably 50 lobbyists in Washington, D.C. that are far more talented that I am, but none of them would have been able to make that decision because they've got to leave their job and then go back to K Street in Washington and work with people like Harry Reid -- oops -- to get things done.

SPEAKER: Who?

MR. WASHBURN: And so, you know, and I'll tell you that power that he used is a power that he uses a lot, and frankly mostly he uses it for good, but he wasn't using it for good from my perspective then. And he's now retired, of course, but there is a lot of pressure to keep people from doing the right thing in Washington, D.C. And, again, if President Obama hadn't put that rule in place saying we're not going to be able to hire one of these talented K Street lobbyists for these jobs and we've got to go somewhere to find somebody, scrounge up somebody somewhere, maybe New Mexico to do this job, that decision wouldn't have been made because the lobbyists would not have been able to do that and still continue with their career, frankly. They would have been so pressured. That pressure would have gotten to them.

So the bottom line, again, is the federal government's got a lot of issues. And it will do mostly what's in, you know, the interest of the most powerful constituents most of the time. It won't necessarily do what's best for Indian country. And that's what you have to do know about these issues. This is why it's so important that tribes wrestle with these issues and deal with them as best they can, the enrollment issues. And Wenona Singel has a great solution to this on tribes holding each other accountable for their issues and human rights issues and I do think this is an important human rights issue and I think mostly the thing that's been happening is actually the right thing that's been happening.

The federal government has kind of stayed out of it mostly and people have shined the light on the bad things that tribes are doing, on those handful of tribes that are kind of not getting this right. They deserve to be accountable for what they are doing, and I applaud the people that have been holding them up to that scrutiny and making sure that they are bearing that accountability in some public fashion.

I'm a strong skeptic about the use of federal power because federal power, I teach Indian law, sometimes, when I went to be really depressed for 14

weeks. That's what happens when I teach Indian law for a semester is I stay depressed for 14 weeks because it's basically the history of how the law has failed my people, and so I don't have a lot of faith in the federal government to be able to dig us out of problems like the disenrollment crisis that has been happening, and I don't trust it, I don't trust the United States to be able to do that well.

And so that's basically my cautionary tale about the federal government and why I asked all of you to look inward and try to solve these problems within Indian country without looking too much to the federal government. And I think what I'll do is I'll stop there.

Roberto, do I have time for questions?

MR. HERSHEY: Yes, of course. One of my students again said oh, you're too infirm to take the mic around. This is Logan. This is one of our one Ls.

Does anyone have a question or comment? Are you stretching or do you have a comment? Yes, sir.

MR. CLARK: I think it would be real easy to just everybody yell at you, right, but --

MR. WASHBURN: It's been done before.

MR. HERSHEY: Wait a second. One, two, three.

MR. CLARK: And I agree with your perspective totally. By the way, my name is Gerald Clark, Jr. Former

tribal leader for Cahuilla Band of Indians in Southern California.

And I think what's most frustrating is like when my tribe tries to enter a lease agreement with an organic farm who wants to grow lettuce on the reservation that the bureau inserts itself into that lease agreement or when the California Public Law 280 states when Cahuilla tries to form its own police force, the BIA inserts itself. So what's frustrating, I guess, for myself is the fact that the bureau seems to pick and choose, like so much of what we see in the contemporary world today, when to insert itself and when to sit out, and I think that's what frustrates me.

I would like to hear the solution about the human rights thing. I agree with you, it should happen within tribes, but I do think the bureau should have some kind of role, at least to tell the tribes to go back and look at it or ensure that there is some kind of due process in this plague of disenrollments. Thanks.

MR. HERSHEY: Thank you. I think a little later during Gabe's presentation he's going to be talking about strategies. Are you from the Romano Band of Cahuilla?

MR. CLARK: I'm neighbor.

MR. HERSHEY: Neighbor, yeah. We asked Joseph Hamilton, the chairman, to come but he could not make it

but I know that there is a whole issue that he's been dealing with about repatriating and the disenrollment.

Yes, any other comments?

MR. WASHBURN: Let me address that one.

MR. HERSHEY: Oh, yes. Sorry.

MR. WASHBURN: So one of the things that happened during the Obama administration was the Hearth Act was passed by the Obama administration, and what it does is it removes the BIA from lease approvals on Indian lands and lets tribes handle those lease approvals. Not, let, I shouldn't say lets, it returns, restores that power to tribes. And there is still a BIA role because they have to approve the tribal ordinance to do that, but I think that's a better model. And so, again, much of what we did during the Obama administration was try to get the BIA out of tribes business and get the federal government in general out of tribes. We weren't entirely successful in all respects, but there is no reason that the federal government needs to be heavily involved in leasing of tribal lands. Let the tribes run that. They can run it better because they know their needs better than the BIA officer and are less subject to political manipulation by outsiders and that sort of thing.

MR. HERSHEY: Thank you.

MR. GALANDA: Thank you for being here, Kevin.

We really appreciate your perspective. You and I have sort of been pen pals in the court of public opinion on this and I really appreciate you lending your voice to the conversation because it's a powerful one and it's really helped catalyze further conversation.

For reasons we've talked about over the last day, self-determination has really been at the mercy of 200 years of federal law and Indian policy that's been designed to eradicate Indian tribes. And it's under duress, it's weakened and in my estimation in some tribal communities it's been eviscerated by those federal forces.

I too have hope that Indian people, especially when they dig themselves into the hole that is a disenrollment problem, can dig themselves out of that hole traditionally or through self-determination. And we're going to hear from the leadership from Robinson Rancheria today that is just bringing everybody back home, even as recent as yesterday.

But what's your position on the idea that perhaps in some tribal communities the indigenous norm of self-governance or self-determination, be it on a kinship model or an IRA governance model, but that indigenous ability to basically solve one's own problems has just been so destroyed or eviscerated by federal Indian Law and policy that perhaps there isn't a way out and perhaps some

federal intercession or oversight or deterrence or some role is needed.

MR. WASHBURN: So let me put this in a different context a little bit. It's the same issue, honestly, in many respects in a different context. While I was assistant secretary, Spirit Lake Tribe in North Dakota was just imploding much of the time, and the downside is it was having a serious effect on children. The rate of sexual violence towards children was unbelievable and death of children that weren't being taken care of, and it tested my faith in self-determination and self-governance. And, in fact, while I was assistant secretary we had to the take over their 638 contract. We had to kick them out and restore federal authority over this process.

And you've all heard me, I don't think the federal government can do it better than a tribe, but politically it was such a disaster that a common refrain was do, you've got to do something. And what we did we did because politically we had to do it, and it was we sent in BIA social workers and basically took over the function. And I'm not sure that we did a whole lot better than the tribe was doing, but at least we did something, we acted. And it wasn't easy for us because the BIA doesn't actually have that many social workers in the United States. A lot of this have been contracted to

tribes, so we had to take the 20-odd social workers that we have around the country and detail them for periods of time to Spirit Lake, which is, you know, not ideal because someone who is not from Spirit Lake doesn't know what's best for Spirit Lake, but we had taken it over, we had the responsibility.

I had a social worker from Phoenix from the BIA office in Phoenix who had to go up to Spirit Lake in the wintertime for three months. And bless her heart, she left the best time of the year to be in Phoenix and she went to North Dakota. Most of the snowbirds are going the opposite direction, right, but she did it because it was what we needed her to do.

And I just -- it was the most frustrating thing I've ever dealt with because Spirit Lake could just not, could not regain control. And so it left me so frustrated with Spirit Lake that if I had the ability to say you don't get federal recognitions as a tribe if you can't solve the most important problems facing your government. I mean, a sovereign does have responsibilities, right, and it utterly failed to meet those responsibilities, so it tested my faith.

But I don't have great deal of faith that the federal government provides a better solution than the tribe does itself. Again, not that the tribe shouldn't be

accountable for those things somehow and somewhere, it's just that the United States is the last person I would say you should be accountable to.

This is the same government that brought you Wounded Knee and Sand Creek and every disaster in American history. It's the same government. It's not a genocidal government, but there's been episodes, right. What if you went to Israel and said we're going to reinstate the Nazis to have you solve all of the problems in Israel. It's crazy, right. The Nazis were dismantled, right. They are no longer a government. The government that's now in Germany is far more progressive than that.

Our government has become more progressive, but become more enlightened, but it's the same government that committed Wounded Knee massacre and Sand Creek, it's the same government, and we've hopefully made it a lot better over time, but it is fundamentally the same government. And, you know, putting your faith in them is like a second marriage, the triumph of hope over experience.

MR. HERSHEY: Here is what we're going to do right now. No, no, no, we're going to keep that sentiment until the afternoon.

MR. WASHBURN: I'll be here all week.

MR. HERSHEY: I'm going to talk to Libby a little later. I want to make room for one more quick

comment. We have to move along. And here is what we're going to do because this afternoon there is a tribal leaders forum, but again, like yesterday, there is going to be a lot of time at the end too and the speakers and people will still be here so we can still have this conversation and engage, but I have another magnificent speaker just about ready to take the floor. This man had IHS hand up. Let me ask him to -- can you keep it really short right now and then if you want to go on later this afternoon, I'll continue on. Thank you.

MR. GARY: My name is Robert Gary. I'm from the Lamon (phonetic) Colony in California. I guess one of the things or the problems that we're having is just inconsistency with the Department of Interior. Like this gentleman that was in front of me said the same thing, that they kind of pick and choose when they want to get involved. I know with us there was an issue that had to do with disenrollment that was going on before. The regional director stated herself, wrote it on letterhead and we were in the same situation that said because we didn't have a disenrollment ordinance that the people who were being disenrolled had the ability to come to the meeting to vote on their own disenrollment. If that was to go, the people that were being disenrolled now would go to the same meeting, vote on it and it wouldn't be passed.

That wasn't given to us by the Department of Interior.

So just like he was saying, they kind of pick and choose when they want to get involved. And my thing or the way that I see the situation is just the consistency that we need. You know, through our constitution it basically says that the Department of Interior has to make sure that we're following those things, and if we're not following our constitution then we run the risk of them coming in or, you know, our 638 budget not getting funded, those kind of things can happen because of that.

But it just kind of seems, like I said, it's the inconsistencies I think that are really hurting us because if what was brought to our tribe before about the loss of membership, it wouldn't have happened if we just stayed with what they said in the first place. But we can't get them to come back and to identify, you know, what they've already said, so the precedence was kind of set already, but we're just asking them to follow what they did and they won't. So that's the problem we're having.

MR. WASHBURN: Well, thank you for the comment. And you are going to get inconsistency from the federal government. I mean, these people elected Obama and then they elected Trump. That's not consistency, right. This is just natural. This is what you are going to get from

the federal government. That's again why I think as much as we can get the federal government out of Indian country, at least for decision-making purposes, we need the budgetary support to meet the trust responsibility, the United States does have that responsibility.

And one more quick story. I went over to Geneva, to the United Nations a couple of times in the job and had to help defend the United States in treaty defenses before these international bodies, and at one point, and it's because Geminia, while he was a special rapporteur, kind of complained that the United States had never apologized to Indian tribes for all of the things that had happened, and the Japanese ambassador really picked up on that, and so my job was to take these questions the human rights community has and answer them.

And the Japanese ambassador for human rights said Mr. Washburn, I have a question. Why doesn't the United States just apologize and be done with it? And I said, well, I gave him kind of this lengthy answer, but I said Kevin Gover, my predecessor, did apologize for all the things that the Bureau of Indian Affairs had done, and Congress has apologized, Congress signed a resolution, passed a resolution of apology to Indian country, and I said and finally, I know -- I don't understand the way apology works in Japan, but in the United States an

apology is fine, but the United States is still going to have responsibilities to Indian country even after it apologizes.

And I said as long as the United States continues to occupy North America, it's got a responsibility to Indian country to provide support and meet its trust responsibility. And when I said, "Occupy North America," the general from the Pentagon that was also on the delegation spit his coffee. And the Twitter sphere, you know, lit up with Secretary Washburn says the United States is just occupying North America. And so, you know, minor moment in the spotlight.

But it's fundamentally true, right. I mean, this is the thing, this is where the responsibility comes from, it comes because the United States is occupying Indian land and it has responsibilities for occupying Indian land. And so I fundamentally believe that. We'll never get rid of the United States' responsibility to Indian tribes, but we have to minimize the United States' power over Indian tribes at every turn as best we can. Thank you.

MR. HERSHEY: Thank you. Thank you very much.

Who do we have, Matthew? This next session with Matthew Fletcher, Professor of Law at Michigan State University, Director of the Indigenous Law and Policy

Center there, he will be talking about the Epidemic of Disenrollment. We had one of the tribal leaders that could not make it here today, but sent this particular presentation.

I apologize for my vast technological skills.

(Video played:)

MR. SARRIS: Good afternoon, everyone and thank you for asking me to speak. It is an honor for me to speak to all of you on this topic and share my time with all of you Indian leaders.

You've asked me to talk about the issue of disenrollment. And my tribe has gotten a lot of attention because we're one of the first to amend our constitution to ban disenrollment. As I begin this talk, the first thing I want to say and make clear is that I honor the sovereignty, the absolute sovereignty of every nation to make decisions for and about itself. My opinions and what my tribe has done in no way are meant to suggest laws or control or anything else for any other tribe. It's what we have done, and I can talk a little bit about the reasons that we have done this. I have strong opinions about the matter and, you know, would be happy if other tribes followed suit, but again, it is up to the tribes to decide what they want to do with their sovereignty. I would never recommend federal regulation of disenrollment

or anything of that nature. Again, the sovereignty of each nation is supreme.

Having said that, I want to give a little bit of brief history about the reasons behind why we amended the constitution. The history of California Indians is, for the most part, somewhat particular or unique in this nation. Particularly in the area where I am in North Central California. Here, as a consequence of omissions first, and then the gold rush, we suffered an incredible genocide.

The missions took us in from -- one mission would take us in, say San Francisco or San Rafael, which is in our area, there were Indians that were moved there from other missions, other tribes as far as 100 miles away. Two or three generations of people were born in those missions, dislocated from their original homes and when the missions were secularized in 1834, of course those missionized Indians could not go back to their homes because they were not there, the villages were abandoned, and often one, two, three generations of people had not lived there or knew how to live there anymore.

North, in the north and north central or north areas and northeastern areas of the state followed with mass genocides by the early, early Americans. Again, leaving small numbers of survivors greatly dislocated.

When the reservations were created, most of the reservations, not all of them, but many of the reservations, known locally here as Rancherias, were created in the early part of the 20th century. They were created for the, quote, unquote, homeless Indians in given areas. So in our area, for instance, the Graton Rancheria, which is only 15.5 acres, was created for the homeless Indians of Tomales Bay, Bodega Bay, Sebastopol and the vicinities thereof. That means in 1923, any Indians who happened to be on the census in these areas became designees for these Rancherias.

Now, by that time we had been greatly displaced, and yes, many of us had ancestry back to aboriginal villages here, but many of us on those original rolls did not, or it could not be proved, some were and some weren't; it didn't matter, survivors ended up in a certain area. They married -- and remember, the census that were taken from 1850 forward, the census takers didn't go around and ask are you originally from here, what's your ancestry, that sort of thing, they just took Indian. They put Indian down. And we were left the best way we could to take care of one another.

So again, de facto nations were created here of groups of survivors. And certain of the languages in the areas survived and unique, in particular, cultures

survived, but the mixture of people and people taken in as a consequence of moving around was so fluid that it's very hard to say who was from where when by the time you get to 18 -- or excuse me, 1923 when, in our case, our Rancheria was created. This is a similar scenario throughout California. And people, of course, would move around and marry one another, the survivors on one Rancheria were a very small group of people, maybe 100, maybe 2- or 300, and there wasn't much work in these areas, so people moved around and whatever census were taken again, say in the 1930s, somebody might be working over here and end up on a census on a Rancheria next door.

So the question then always was where -- we were all Indian people, all California Indian people, here in the area sharing a similar culture. And taking care of one another for the most part with what little we had. Well then, of course, it became suddenly -- and nobody was asking who is from where or shouldn't be here, none of those questions as I remember growing up hearing or people being preoccupied with. Suddenly, we get land and the issue of gaming and money and suddenly, all of the sudden, all of us are saying, well, this person isn't really from here and this person isn't really from there and his father was really from here and married somebody from in here, and all of the sudden, we're starting to split

hairs. And the problem here is that it becomes arbitrary depending on who has the most family members voting, you can decide anybody from one area you can find a reason or an ancestor that would give you reason to disenroll these people. It's a question of power. And then, I would argue, greed.

Now, the issue of greed is tied to something much more problematic here and ongoing. I just outlined for you a history of dislocation, of illegitimacy, of basically a kind of surviving a genocide. And what's become very sad among too many Indian people is that in various ways, as a result of this greed, as a result of suddenly being so concerned about who belongs where and all of this sort of thing, we have found yet a new way, a new way in place of alcohol or whatever you want to call it, of delegitimizing, destroying our own people, of dislocating people, of not taking care of people, of repeating a history that was done to us so that we don't know any better and rely upon these often unconscious patterns to justify greed and everything else. You are really not from here, you are really not from there. The old-time people never thought like that.

What we are doing when we disenroll is ignoring the truce of our particular history here and at the same time justifying actions that are predicated on behavior

that is not our indigenous behavior, but something we inherited as a consequence of pain, suffering, which came from colonization that in so many ways destroyed us and left us with a few ancestors to take care of one another. And how sad that those ancestors' offspring are now repeating the actions that destroyed us in the first place. That is dislocating, making them illegitimate, making them no longer Indians, throwing people out. It's got to stop.

So for us, as we saw this, it isn't only for us to not be swayed by greed, but to address something that has been inherent and done to us as a consequence of colonization, and that is the ways we hurt one another. So we thought no, we must stop this, we must amend our constitution so that we forbid disenrollment. And this tribe went one step further, when we made the compact with the governor for our casino and resort. Part of that compact there is a -- part of a tenet of that compact is that for every person we disenroll we have to pay the governor more money in our revenue share. Now, we don't disenroll, there's no problem. But, again, what's interesting here is that where I would argue money has been the incentive to disenroll people, now Graton has created an incentive that is legally and binding for 20 years with this compact to not disenroll people. Anybody

can come along and amend the constitution. I could be thrown out after 13 consecutive terms or whatever and this council could be thrown out and we could have people come in and say, no, no, we're going to disenroll everybody, and Greg's family isn't from here, this family isn't from there, we're going to throw them out. Sure, you can do that, but it's going to cost you a lot of money, particularly if you do it in the next 20 years.

In the meantime what we must do, all Indian people, is heal and acknowledge these things and not go crazy with the greed and the other kinds of unconscious ways in which we continue to finish the white man's work for him by destroying, delegitimizing and dislocating each and every one of us. Thank you.

(Video concluded.)

MR. HERSHEY: Matthew Fletcher.

MR. FLETCHER: It's nice to be here. I have a lot to say. It's so many things going through my head as I listen to all of this testimony and all of those ideas. I think I'm going to focus on tribal leadership. My background is, professionally, is as in-house attorney for four different Indian tribes, including one here. My very first job was here at Pascua, and I'm a member of the Grand Traverse Band. So for the former assistant secretary to call us out is wonderful. And I'm going to

talk a little bit about some of the work he's actually personally done. He's sort of our federal government hero over the years for the Grand Traverse Band.

As somebody who has represented tribes and seen tribal leaders up close on a day-to-day basis, I'm going to talk about tribal leadership. And I think it was wonderful to see the video from our brother here, the chairman. Dude obviously works out. And it's too bad he's not here personally. I think he would back us all up. Maybe we need more strong boxer-like tribal leaders.

SPEAKER: I didn't notice that.

MR. FLETCHER: No? I was up closer than you are. Those were big arms.

All right. So I'm going to tell you about three tribal leaders that I -- well, four actually, but tribal leaders from Michigan Indians, from tribes that I have a familiar relationship with. So one of my favorite tribal leaders in history is the guy that I refer to as the Boba Fett of Michigan Indian tribes, a guy named Aishquagonabe. He went down with a bunch of little tribes to fight on behalf of the British in the war of 1812. He wasn't the guy who thought of going, that's Siganack (phonetic), he gets all the credit. The guys who always thinks of it gets all the credit. No, Aishquagonabe was the guy who did all of work, he was the cook. In order for a good

fighting force, you need to have somebody to feed you. I mean, that's why the Army Corp of Engineers was probably one of the first federal agencies in the country, you need engineers to fight, you need cooks. And he came back with scalps.

And then 20 years later when he went to D.C. to meet Andrew Jackson and Lewis Cass and Henry Schoolcraft to negotiate the 1836 treaty for currently five federally recognized Michigan Indian tribes, he brought his scalps with him. And I like to think that when he brought those scalps and met Andrew Jackson, there was a moment there, and that Andrew Jackson is truly a son of a bitch and, you know, it saddens me to see his portrait behind the current president's office, and I hope that thing is taken down as soon as possible.

In any event, Aishquagonabe was the tribal leader. We call him Ogema now. I mean, there was probably more detailed words for it at the time, but basically he was the guy in charge for a particular job. He was the one that Grand Traverse Band Indians decided to send to D.C., along with his nephew Aghosa, to talk to the federal government, right. He was the tough guy that they needed to negotiate this big treaty, and he did a really good job.

I mean, we still have extant treaty rights from

the 1836 treaty. It's not perfect, but it is what it is. And it is a source of our federal acknowledgement of our sovereignty. That's why that first petition was so small because all we really needed to do was link ourselves to Aishquagonabe's signature, his mark on the 1836 treaty and the other tribes don't have the benefit of those treaty linkages with the United States and they have more work to do. It's not fair, but it is what it is.

That's why they picked us, Kevin, because we were the easiest -- we were a treaty tribe and then we could be used over and over again to test other tribes, to set the bar higher. They did it again a few years later when we were negotiating, after 1980 we were federally recognized, the federal government used us as a test to see how much they could push back on tribes in terms of their first constitution and limiting tribal enrollment. We fought over that throughout the '80s. And then when they conceded on certain points, the Department of Interior took our concession and went to other tribes and said, see, Grand Transverse Band did this.

And then later on when Kevin was general council at the National Indian Gaming Commission, we were the first tribe, one of the first tribes, to expound upon the restored lands, restored tribes exceptions to off after -- gaming on after-acquired lands. So once we got an

opinion, a wonderful one frankly, out of the general council, that was used to test other tribes. This is how the federal government works. It's a little bit of an aside. I'm going to come back to Aishquagonabe, who I think is still the Boba Fett guy.

There is another leader, I think more of as like Han Solo, the Han Solo of Michigan Indian tribes. His name is Leopold Pokagon. Pokagon means the rib. He's your shield. He's the one who went into the tent with the treaty negotiators in 1833 where the United States was saying -- after Southwest Michigan, Northern Indiana tribes we're going into the tent to negotiate their removal. This is again during Andrew Jackson's tenure. But Han Solo, Leopold Pokagon, went in there with a knife and threatened the American military treaty negotiator and was able to bargain for some concessions. And to this day, the Pokagon Band is still in Southwest Michigan. They were able to avoid the Potawatomi Trail of Death, for the most part.

These are -- he was not even Potawatomi. The Pokagon Band Potawatomi is named after a guy who is not Potawatomi. He's actually from Grand Traverse Bay area. He would be now a Grand Transverse Band member, ironically. He wouldn't even be eligible at Pokagon. Strange world.

This is one of those things about tribal membership I think we all know if you have relatively small tribes and you are looking around, you're getting into your late teens, early 20s, and all you see are your cousins, it's time to move on. So Pokagon had to take a look around in Southwest Michigan, see what was available down there. Turned out to be the daughter of Topanobi, who was the head chief of all of the Potawatomis in the region, so he married up, so to speak.

The third tribal leader I want to talk about, really two, I think, they are more like the R2-D2 and C-3PO of Michigan tribal leaders, and I don't mean that really in a bad way, but one of the them is Match-E-Be-Nash-She-Wish, the other one is a guy named Kobogum. Now they were leaders of sort of weird disparate bands in Southwest Michigan again, Potawatomis and Ottawas. Kewaygoshkum, it's not Kobogum, was up by where the Grand River area is, and Match-E-Be-Nash-She-Wish was the son of Match-E-Be-Nash-She-Wish the elder, who was sort of another kind of Boba Fett kind of character.

In the 1820s they went to Chicago and signed off on a treaty, and that treaty, again, forms the basis for, you know, those tribes claiming sovereignty within the federal government system, but it really wasn't the treaty that they were sent to Chicago by their people to

negotiate, it really wasn't a treaty that the tribes got much for. Most of Southwest Michigan was ceded for pretty much nothing back in those days. Although the fact that these guys signed the treaty was an expression of sovereignty.

When they came back because it was the job that they were not supposed to do, they were not authorized to do by their people, Kewaygoshkum got ran out of town. There are some who say he was executed by his community and there were others who say he went to hang out with his buddy Match-E-Be-Nash-She-Wish, in Elgin County, Michigan, it's close to Grand River, and he sort of lived the rest of his life in exile there.

Match-E-Be-Nash-She-Wish is the guy for whom the Match E Be Nash She Wish Potawatomi Indians is named. And if you want to know what that translates to it's Gun Lake Tribe. That's a joke. You are supposed to laugh at that one too. Match-E-Be-Nash-She-Wish actually means big -- or bad bird, although I think Singel over there has a different interpretation. These are all very interesting tribal leaders. Tribal leadership has changed dramatically from that time, right. Now you get tribal leaders who are elected, right. In my experience, especially in my own tribe, Grand Traverse Band, the people who are elected don't tend to be the best people

for the job, they tend to be the people who don't necessarily leave the reservation, they tend to be the people who have big families, and they tend to be the people who have, and this is actually a good part of it, who have something salient on their minds they want to deal with.

Some of the most effective tribal leaders at Grand Traverse Band when I look worked there, and I didn't always like what they were doing as in-house counsel because it was disruptive, but they were effective because, for example, one council member was elected because she got fired at the casino for refusing to work on December 31st, and so she ran on a platform of representing tribal members who were casino employees, that was her thing.

And other people were interested, other council members who were effective were interested in particular departments, say housing or health, law enforcement, public safety, those sort of things. And at times they could be incredibly effective in doing and advancing policies, programs that they liked.

And so there are moments where tribal leadership in the modern era under our IRA-style constitutions can be very effective, but there are also moments where that same person who might be really good at advocating for the

elders who live at the tribal housing are really quite terrible at appearing before the Senate Committee on Indian Affairs. They don't want anything to do with it. They refuse. They don't want to show up at a meeting with the governor on gaming compacts, they don't want to talk to the Michigan state police on negotiating cross deputization agreements. That's just not within their area. They don't want to talk about tax agreements because taxes sound boring, right, and they are. From someone who has had to negotiate tax agreements, not interested.

In any event, sometimes tribal leaders are incredibly effective, and I defend them wholeheartedly. More accountable probably to their constituents than you will ever see in the federal government for sure, and especially in the upper levels of state government and probably more or less accountable than local units of government. But with the amount of authority and responsibility that tribal leaders exercise they are really quite, I think, the most remarkable leaders in the entire United States in terms of combining authority and responsibility and accountability. You just don't see that.

The local school board is accountable on school issues in a way that is pretty impressive, right, but they

are only dealing with school board officials. The tribal council might be dealing with that same issue on Monday and then flying out to D.C. to talk to, you know, the Wage and Hour Division at the Department of Labor and doing some lobbying on a bill, and then back to the home turf to face a housing committee or an Indian Child Welfare committee meeting, and then Thursday is a council meeting where they have to appear before their rather sometimes loud constituents. These are all really remarkable things, and I'm always very impressed by that.

But what I want to conclude with is to talk a little bit about obviously tribal membership, tribal citizenship, whatever you want to call it, about who belongs, some of the solutions that have been kicked around, and I think there have been quite a few of them.

The solution we have right now is, frankly, a moment where there is an acknowledgment of tribal sovereignty and respect for tribal sovereignty within the federal government and then there is really not much remedy for some tribes. And Gabe obviously with the Nooksack tribe, and there are other tribes in a similar boat, are running up against the law when it comes to dealing with how to correct injustice, right. There's only so much you can do. It turns out Gabe has found more things to do than I ever could have possibly imagined

within the current system.

But I want to imagine different ways of looking at these issues, and a very broad way is to reassess what it means to select tribal leaders. You know, it was really good to have us, in 1836, to have Aishquagonabe meet Andrew Jackson and maybe bully him around a little bit, talk big, but he might not be the right person in a different context. We have tribal leaders who are good at certain things and quite terrible at others, right. We need to reassess how we select tribal leaders.

There are other solutions as well. I wrote a whole list. You know, one possible thing we could do is ask Congress to amend the Indian Civil Rights Act to allow for federal court review of certain tribal decisions. Where in a context like Nooksack, which is truly what the Department of State would call a failed state, they don't really have a functioning government, is there a federal remedy there. We run into some of the same problems that Kevin Washburn mentioned, which is do you really want the federal government to be the solution to your in-tribal problem. There may be international human rights mechanisms out there that we can assess.

The big problem with that, as Professor Singel mentioned in her paper, which I think we should all send out to everybody, Indian Tribes and Human Rights

Accountability, the problem with using international mechanisms is, for the most part, Indian Tribes in the United States are not considered international bodies, so tribes are not somebody to whom an international agreement like even the United Nations declaration or other human rights declaration can be applied to.

So Singel also mentioned, and Kevin brought this up, that what about intertribal accountability, and actually proposed maybe an intertribal treaty or agreements between tribes so that in the event that there is a dispute, an intractable internal political dispute, other tribes could exert force in some way to try to break down some of these difficult issues. There is quite a bit of difficulty in making that happen, obviously.

But think of who is harmed in addition to the people, say of the who have been disenrolled, right. Who is harmed by the news coverage and the press coverage and the political pressure that comes to bear as a result of disenrollments? We all are. Every one of us. Even tribes that don't do disenrollments, even tribes that fight against disenrollments, or even ban disenrollments. Every tribe is injured by that.

It's a part of our shared structure within this American political system. We're all different as Indian tribes and Indian people, but when it comes to the federal

government, we are all the same. And when it comes to state governments, we're basically all the same as well. And if we're going to do something to respond, if we, being the federal government, the United States is going to do something to respond to human rights violations in Indian country, every tribe will be affected. Absolutely every single one. The federal government does not cut with a -- it cuts with a very sharp scalpel. And so we need to consider lots of different mechanisms.

And let me conclude with a final example. And it might seem a little bit esoteric at first, so just bear with me. In 1990 my tribe, Grand Transverse Band, and another tribe in the state of Michigan, the Sault Ste. Marie Tribe of Chippewa Indians, which, and I'm making a joke here, we used to call the Darth Vader of Michigan Indian tribes. We don't do that anymore. They are much nicer. But back in those days, if a tribe in the Lower Peninsula wanted to do something like start a gaming operation or become federally recognized, you could be sure a Sault tribe would be there to raise a finger and say wait a minute, let's rethink this. That's why we called them Darth Vader, they raised more than a finger. In any event, one of the things that differentiates Grand Traverse Band from Sault Ste. Marie, and we signed the same treaties, 1936 treaty where Aishquagonabe was the

speaker, was that our tribe is a tribe, and again, we fought through with the BIA, we ended up adopting a blood quantum of one-quarter Indian blood to become a member of the tribe, like so many other tribes have, this is something that the BIA assisted on, thank you, Scott Keif.

In any event, Sault Ste. Marie around the same time was able to persuade the BIA that it was okay for them to adopt a lineal descendancy requirement. Meaning, that if you were a descendant of anybody on a Durant roll -- the Durant roll is named after a guy named Durant -- it was a treaty annuity payment from the 1900s, then you were in. And while our tribal membership ranged from 3- to 4,000 during the '80s and '90s, Sault Ste. Marie's was ten times that.

And in fact, of the seven federally recognized tribes in Michigan in 1990, Sault Ste. Marie had three-quarters of all of the tribal members in the state of Michigan, and one of the reasons they had done this was to grab a greater share of federal appropriations that were coming from Congress to the state of Michigan, and it was very successful. And this one case in 1990 involved a split in how federal money was to be appropriated for a particular purpose, and ultimately the Grand Traverse Band and the other tribes who had blood quantum requirements and therefore smaller tribal membership were able to at

least win this one small fight involving appropriations.

There's lots more to this story. It's good stuff. I used to tease all of my -- I get a lot of Sault tribe members in class, and I would say go look at your tribal website, it says you are a tribe of lineal decadency because there was a misspelling on the website. That spelling has since been corrected because nobody knows how to have a standard of decadency so as a legal matter it's difficult.

In any event, what you had here was an intertribal conflict. We have intertribal conflicts in Michigan that are pretty robust. There's multiple lawsuits pending. I actually just posted on Turtle Talk documents from a case that's pending right now, Bay Mills versus Michigan where two other tribes who are in opposition to Bay Mills tried to intervene and were kicked out of the case. There is another case involving the Sault Ste. Marie, another case involving the Sault Ste. Marie again. These are gaming cases where the tribes are at loggerheads with each other.

And if you go deep enough into Turtle Talk, you'll see a couple of pictures that actually Singel took of a casino that Little Traverse helped to shut down, that Bay Mills opened years ago. A case that went to the Supreme Court. These look like really bad things,

intertribal conflicts, and they are. Tribes should really get together. We do so much better in Michigan, especially when it comes to treaty negotiations and tax agreements and gaming compacts when we're all on the same page. But there are times where I'm starting to think intertribal conflicts might actually be beneficial.

And I'm starting to think that if the tribes in Michigan really wanted to push back on a tribe, say like Saginaw Chippewa. Saginaw Chippewa is the kind of tribe that disenrolls people. They disenroll people if they speak out against tribal government. This has been happening for decades at Saginaw Chippewa. They are the ones who, I think, invented the notion of disenrolling people who are currently dead because dead people don't hire lawyers. And so just ugly stuff. We've all been watching it and being critical of it.

But I'm starting to think that maybe there is some tribes in Michigan and maybe it will rise in a different context, federal appropriations, gaming compacts, I don't know, that could bring some pressure upon a tribe that does disenrollments to point out some of the problems with all of that. And I'm just speculating on a proposition, but I think it's in line with Singel's argument about intertribal human rights accountability.

And it comes back to my ultimate thesis which is

tribal leaders are really the people that need to be considering this. Tribal leadership can come from anywhere, it can be elected officials, but it can also really be people within a tribal community. There's no reason that anybody in this room can't go back home and talk to their tribal leaders and talk to each other, talk to the elders, talk to groups on a reservation community and organize. That's really how American politics is. There's no reason tribes can't be the same.

So I'll just conclude with, you know, I was really inspired by the chairman's discussion. I mean, this was a real stand that some tribes have made to say we're not going to disenroll people. There are actually people who are incorrectly enrolled. I worked on those cases. I didn't like them, trust me, they were the hardest cases I've ever had to deal with, and we've dealt with them, but there is also a rule an easy one we could adopt which is let's just not disenroll people. And I think that's probably a road that we are starting -- I think all tribes will head to eventually. It just takes time, it takes responsibility from everybody around. So (native language) and thank you.

MR. HERSHEY: Thank you, Matthew. Thank you very much. I want all of the Indian men in the audience to be very honest with their response to this question.

How many people are jealous of Matthew's beard? Because you know you can't grow hair.

MR. FLETCHER: They say the Ojibwe is the biggest, not currently, non-colonized French colony in the world.

MR. HERSHEY: Let's take a few moments. Yes, Wayne. We're going to get a mic to you. Just a second.

SPEAKER: Thank you, Matthew, first of all, for all of the Star Wars references. I'm assuming Leopold Pokagon's wife would then be Princess Leia?

MR. FLETCHER: I'm sure she thought so, yes.

SPEAKER: I'm really interested in maybe hearing some more examples specifically with the Michigan tribes when we talk about the epidemic of disenrollment and the weakening of sovereignty. Do you have any of those that you could specifically talk about where we see how that epidemic is actually damaging tribal sovereignty?

MR. FLETCHER: So it hasn't yet, but in Professor Singel's paper she details a case out of the Ninth Circuit where tribal members tried to sue the tribe in federal court to avoid disenrollment, to prevent disenrollment, and the Ninth Circuit judges were saying, nope, tribes are immune from suit, there is nothing we can do about it, Supreme Court precedent. But man, if we could get around that precedent, we absolutely would. And

actually specifically warned Indian tribes generally that if you go much further down this road the Supreme Court is going to take umbrage, or perhaps Congress.

You know, tribal sovereign immunity is judge-made law, let's be frank. And the last time the questions of sovereignty immunity came up to the Supreme Court, the judge, who has now passed away, Justice Scalia, said you know I've always ruled in favor of sovereign immunity because we have all these precedents, but I'm changing my mind. It turns out sovereign immunity is judge-made law and if I don't want to rule in favor of sovereign immunity, I don't have to. Congress has never told us we had to acknowledge tribal sovereign immunity. That's just one example, but my sense is tribes around are getting dinged because of internal decisions.

You know, vendors don't want to necessarily talk to a tribe, don't want to do business with a tribe that has a history of treating its employees poorly, say, and that is a labor relations context, so you end up suffering commercial consequences. My understanding is, and perhaps Gabe can add, or somebody from Nooksack, can add some flavor to this, but Nooksack had a casino and they got so obsessed with this membership disenrollment issue that their casino went stagnant and actually had to shut down. There's no reason for that. Nooksack is within a gaming

market. And, I mean, I think there are consequences you see that aren't just related to sovereignty, there's commercial consequences, and there's certainly political consequences.

MR. HERSHEY: Yes. We need to get you a microphone. Beautiful colors.

SPEAKER: Oh, thank you. I made it myself. I make all of my clothes. Anyway, there's a plug there. Yes, question. Now since we're dealing with this issue of immigration, now how is disenrollment dealing with the descendants who were invited over by the government that were Europeans who were given land and purchased $5 tribal Indian cards, how are they being -- well, will those descendants, how are they being dealt with if tribes want to would disenroll them because then that's a sticky issue since it was a federal policy done under Jackson, which is ironic, and now Trump, this is his hero, so, yeah, that is sort of a tricky situation. Now, how is that being handled? And next --

MR. HERSHEY: No, no, let's just do that one for now.

MR. FLETCHER: You know, I don't really know that much about what you are talking about. And I do know a lot about immigration and how that relates to Indian tribes and who the tribes are as consider themselves

sovereigns and as nations. One of the things that some tribes are thinking about now is to adopt more of a rational decision-making mechanism in terms of deciding who should be allowed in. The people from white earth stood up yesterday and talked about how they had not only liberalized their blood quantum requirements but they also had some other requirements relating to residency, political and cultural presence within a tribal community that sort of starts to make it look like this tribe is thinking about creating a nationalization or immigration law. And tribes can do what they want when it comes to tribal citizenship and membership. And I'm surprised that tribes don't do more in that vein. And it's politics, it's internal tribal politics. It's everything that the Graton chairman said, which is some of it's about greed.

Tribes are really, in some ways, the tribal government is a federal contractor. They receive money from a federal government, they have to comply with federal contracting rules and everything depends on limitations and resources. And because tribal governments are like that, they start to extend, tribal members, extend their thinking out to limiting resources, limited resources. And even where resources aren't so limited, they still think in that same vein, and that's where you get the allegations of greed.

But that doesn't mean there aren't tribes out there that have done some pretty interesting things in terms of opening up doors to even non-Indians becoming at least partial citizens. I mean, the biggest example probably in American history is the story of the freedmen, and the descendants of the freedmen in Oklahoma, you know, the tribes in Oklahoma, the so-called five civilized tribes where they basically signed on to the confederacy with or without, you know, maybe through some corrosion there.

In any event, at the end of the Civil War they were in the same boat as the southern states, they had all of these slaves that were being freed under federal law. And the treaties around that time were basically saying, you know, the tribes have to allow these citizens, these freed slaves, the freedmen that you've brought into this community, not through their own choice, they have a right to nationalize. So there is a lot of people within a bunch of tribes, mostly from the South, who were descendants of slaves who may not have any Indian blood within them.

So it's very conceivable that tribes could begin to admit people as citizens who are not Indians or not Indians from that community. And it makes much more sense for tribes to think in that vein because that's the way

Leopold Pokagon became a tribal member at a tribe that wasn't even his tribe. He became the leader of the tribe.

And when we think of looking at things through blood quantum and lineal descendancy, we lose out, right. I mean, what if I wanted to become a member at Little Traverse, where my wife is a member down the road, I couldn't do it. I couldn't prove any blood quantum from Little Traverse. I mean, the tribes are so closely related that, I mean, it's comical that I can't go down the road and become a member of that tribe, right. And tribes are limiting themselves by doing this. And it's disappointing.

MR. HERSHEY: Thank you. I would like to take a break for a few minutes, and then we'll still have plenty of time this afternoon, we're going to go ahead and get into more discussions. Can we please be back by 10 after. 10 after, please. We have to keep going.

(Recess took place from 11:00 a.m. to 11:24 a.m.)

MR. HERSHEY: Hello, everybody. Okey-dokey. We have to get under way. Quick announcement for those of you who are from out of town or those in town that haven't heard about it, the Festival of Books is taking place on the university campus both tomorrow and Sunday. And it's pretty extraordinary. You'll see the entire length of the

mall filled with book vendors, they will also have speakers and it's a magnificent event.

I want to introduce, everyone knows by now, Gabriel Galanda. Gabe Galanda. One of my most amazing students ever who has gone on to become an extraordinary practitioner, and who has created a firm dedicated to the importance of fighting for Native American rights. Not only for tribes, but for individual Native people. And many of you know him from a lot of notoriety that he's been representing the Nooksack 306, the people that have been fighting disenrollment. And that young man back there spoke yesterday about what is happening with the situation in that tribe.

Further biographies for both Dave and also Diandra Benally, she's Navajo from Shiprock, she is the general counsel for the Fort McDowell Yavapai nation. She's also the president elect of the National Native American Bar Association and so she's going to be talking to you, especially you attorneys and advocates out there, about the ethics of representing tribal governments that are considering disenrollment and employing the attorneys and advocates and people to do that work.

But first off, my great friend, an amazing Indian law practitioner and all around amazing individual, Gabe Galanda.

MR. GALANDA: Thank you. Thanks again to everyone who is here. These last two days have been nothing short of historic in my estimation. I don't think there's ever been a gathering of Indians, certainly of tribal leaders, tribal academics, tribal lawyers and scholars, and community members like the one that we've been participating in and witnessing today, and it's my hope that this moment will prove historic and moving forward catalyze conversation throughout Indian country before disenrollment in particular or related citizenship challenges gets the best of all of us.

I was remiss yesterday in speculating that for all the reasons of intergenerational trauma and genocide that we wouldn't have any full bloods in the room, and I was really delighted to receive word from my two relatives here from Yavapai Apache, right? Who both told me and wanted to correct me in telling me that they are both full blooded. And then I heard our Leach Lake relative was full blooded too. And as much as we've talked about the drawbacks of racialized identity in terms of blood, it's just beautiful that we still have full-blooded Indians in our presence and so I just want to recognize the three of you. Thank you very much.

I also want to recognize my clients, the Nooksack 306, and if everyone could stand, we have a new

delegation that was in on a plane late last night from 306 country, if you could just stand along the relatives who stood yesterday. It's these relatives who called upon Ryan and I and my law firm in March of 2013 and have changed my life and I just want to raise my hands to you for the privilege to be your lawyer.

I also want to draw attention to another group of disenrollees. And if you look on your materials, there is a logo that says "Chief Tumulth made his mark." That was the logo of a family of direct descendants of Tumulth, a treaty signer to the Treaty of Kalapuya in Oregon and they are modern-day members of the Grande Ronde tribes who are disenrolled and have since been re-enrolled because of their court victory. And they financially sponsored this, which I think is particularly beautiful, and I can only suspect that some of these monies came from gaming per capita and since we're all talking about the problems associated with gaming per capita, most notably disenrollment, I think there is some beauty in that some of those monies are now sponsoring this conference. And as you munch on a cookie or drink some coffee, just think for a moment about the Grand Ronde gaming money that helped put this conference on.

I'll speak quickly, and Roberto, just cut me off when you are ready. We're here to talk about belonging

and it's important to recognize the United Nations' declaration on the rights of indigenous people doesn't talk about membership and it doesn't talk about citizenship and it certainly doesn't talk about disenrollment; it talks about belonging. And the mantra that has now swept over Indian country thanks to the Nooksack 306 is: We belong. And it's been respectfully and powerfully adopted by other disenrolled families. And I have to give credit to the family, that wasn't something that came out of advice from me, hey, look to the United Nations' declaration and let's grab this word "belongs." That came from the family organically, which just speaks to how simple this is in terms of identity.

It doesn't need to be as complicated as citizenship or membership or legality or due process or remedy of law; it's very simply belonging. And the mantra now, we belong, I think is just very powerful and one that should be reflected upon because that's really what we're here to talk about. And as I said yesterday, the question of who belongs is one that's impacting us as a broader American society, given the president that we're now enduring.

Citizenship, we had a great discussion yesterday about this, but let's be clear: Tribes weren't necessarily governments and we certainly were not citizens

really before John Marshall decided the Marshall Trilogy. We were kinship-based organizations, which again is why belonging makes more sense than, say, citizenship or membership. I don't have an answer yet in terms of the alternative to citizenship, but I would suggest to you that it is foreign to us, and you heard Rob described exactly how foreign it is to us. You heard him describe it as a racialized formation, and so I prefer it to membership, but I don't prefer it to kinship or belonging. I lob those tribes who are moving towards citizenship because it does suggest nationhood, and I think there is more protection to be had under a citizenship paradigm. Look to the 14th Amendment of the United States Constitution which reads, "All persons born in the United States and subject to the jurisdiction thereof are citizens of the United States. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

This provision is now under siege by President Obama [sic], especially as it relates to what I read about 3.3 million children of so-called immigrants of this country who are now being threatened with deportation. But very simply, if you are born in America, you belong here. And the 14th Amendment makes very clear that the Congress and no state can deprive of your natural born

right to be here. So the beautiful thing about citizenship is it does align with one of the most sacred rights that we hold dear as Americans, the right to belong and the right to be a citizen.

What's also beautiful, and please write this down, is 8 United States Code 1401(b). "The following shall be citizens of the United States at birth: A person born in the United States to a member of an Indian, Eskimo, Aleutian, or other aboriginal tribe." Indian birthright citizenship is a matter of federal law. We know it's our birthright as a matter of our customs, our traditions, our tribal laws, but the good thing about citizenship in the 14th Amendment in 8 USC 1401(b) is it makes very clear that we as Americans and American Indians born to this land, born to our parents in this country have a right to be here, have a right to belong, both as American citizens and tribal citizens, as a matter of that birthright. And it's very simple. And to me disenrollment is a stealing of that most sacred birthright.

Membership and disenrollment, to be clear, was foisted upon us during Indian reorganization in the 1830s, as Rob alluded yesterday. My research suggests this concept didn't exist before 1934. Again, we were kinship-based societies. We were clans, we were moieties,

we were communities, we were societies of some variety before 1492, before the Constitution, before the Marshall Trilogy; we were not membership groups.

And Rob sort of stole my thunder with this yesterday, but I had asked all of the disenrollees who I have met with, including Uncle George Adams, to tell me the traditional word in your language that is disenrollment. Bob Gary, is there a word that connotes or even comes close to disenrollment in your language?

MR. GARY: Not at all.

MR. GALANDA: Uncle George? There is no indigenous word that even comes close to the word "disenrollment," which to me explains how foreign it is to our ways.

I want to spend my time talking about defense strategies to disenrollment. And I'll keep it relatively abstract because every particular case is unique. First and foremost, disenrollees are in a race against time. I have seen families disenrolled on a Saturday afternoon at a so-called general council meeting and that was that. Practically speaking, disenrolled, exiled, banished. Not even with a sweep of a pen, with the wave of a hand or the raise of a hand. Gone forever, in a state like California where, for reasons of Public Law 280, in Santa Clara/Martinez and all the reasons we've been talking

about, there is no due process of law or remedy to be had. It can happen that fast.

And disenrolling politicians by design and through counsel of lawyers move as quickly as they possibly can to disenroll. Which creates a very difficult situation for disenrollees. If any single one of you is asked on a moment's notice or a day's notice or seven day's notice or 28 day's notice to prove that you belong, to go back and find a birth or death certificate for an ancestor or a grandma from the 1800s or the early 1900s that doesn't exist, you would be disenrolled too.

The Tumulth folk sort of started to joke, appreciating that sense of humor, that they were out looking for the magic unicorn. They could not find a birth or death certificate in the late 1800s for two Indian women. Why? Because the United States, as was said yesterday, one, didn't treat Indians as citizens; and two, didn't treat women with any form of humanity. There is no death or birth certificate to tie a great-great-grandma to a great-grandma in the late 1800s. That's the magic unicorn.

But what there was in Skamania County was a cemetery and there was a grave with Susan etched on it, and we knew that Susan was one of multiple wives of Tumulth who signed the treaty, and we knew her daughter

was Indian married not because of a birth or death certificate tying the two. Do you know why? Because Skamania County cemetery records showed that Indian married children to predecease their mother were buried with who? Grandma, Susan. That's belonging. And that's kinship. But you were in a race against time to try to find that sort of proof with a proverbial gun to your head when you were forced with disenrollment.

And you heard Mark on behalf of Carla talk yesterday about all of the evidence in the world that you could stack up and it doesn't matter. And this is the saddest reality, disenrollment has nothing to do with the truth, it has absolutely nothing to do with the truth of who belongs or not.

The chairman said it best: It's about power, it's about greed, and it's about ulterior motive. But with a gun to your head, proverbially, disenrollees are forced to race to Provo, to race to Washington, D.C., to race to Sand Point national archives, to race to the Arch Dioceses in British Columbia, to race to all these colonial federal genocidal places to find something that suggests they belong and it will never prove to be enough because it's not about the truth. But the sad reality is you are in an absolute race against time when you are subject to disenrollment.

The lawyers, and Professor Singel talked about the double whammy, you have to find jurisdiction, be it a federal question or some private right of action, and on top of that, you have to find some waiver of sovereign unity. I re-read Santa Clara/Martinez today, the worst Indian Civil Rights case ever decided, written by one of the heros in the Civil Rights movement, Justice Thurgood Marshall. Amazing case for tribal sovereignty. It really gave tribal sovereign immunity foundation. Led the cases in the 1990s where states were assailing tribal sovereignty and tribes were able to beat back state government. Led to the Bay Mills case, same dynamics, states assailing tribal sovereignty, beat back state government.

Without those cases, without Santa Clara/Martinez, we wouldn't have tribal governments necessarily to speak of as we do today, but it's proved to be a double edged sword because some footnotes in that case suggested, and these footnotes have taken on a life of their own, that the federal courts, not Indian government, federal or state, have no business deciding membership issues or interfering with membership issues. And I don't necessarily disagree with that.

But when there is no due process anywhere else, for example, in California where in the 1950s Congress

unilaterally gave the states absolute civil authority and judicial power over Indian country, which caused judicial systems to basically never exist or to die, there is no tribal court there, state court has full authority under Public Law 280 to readdress these issues but just doesn't because they looked at the footnotes in Santa Clara/Martinez and says it's not our business.

There's no jurisdiction in some places, there's no due process in some places, and so what you see in some places you see people resort to what would be called vigilantism or you see people resorting to what is essentially natural law. Where there is no civil redress, people will take matters into their own hands and we've seen some horrific consequences associated with that. But the job of lawyers is to find jurisdiction and to find a waiver of immunity.

And as Professor alluded, at Nooksack we've done our very, very best, starting with the tribal court that has since been incinerated, to find constitutional waiver of immunity and private right of action to allow prospective equitable relief against tribal officials for violating their own laws. That court has now been completely destroyed by the politicians at Nooksack.

So we've moved into state court under Public Law 280 to find redress, we've moved into federal court,

initially we did it under the Freedom of Information Act. As Professor Washburn alluded to, secretarial election procedures. We've since moved there under federal racketeering laws, the tribe has since moved there on its own accord against the United States arguing breach of self-determination contract, but the challenge of lawyers is to find jurisdiction.

And I will tell you that the role of the disenrollment defense lawyer is the toughest role in Indian country, without question. You are advocating and litigating against every conceivable legal act. Against the lack of federal question jurisdiction, against the lack of waiver of sovereign immunity, you are litigating in courts, candidly, where the judges may be appointed by the very tribal politicians who are disenrolling those relatives, paid by those politicians and protected by those politicians.

And so there is no more difficult of a circumstance, but the challenge of disenrollment lawyers has to be to find jurisdiction and find waiver or exception to sovereign immunity. Ex parte Young doctrine is an exception to sovereign immunity. Waiver in the constitution of the Nooksack -- in the provision of the Nooksack constitution. And we've done our very, very best to do that. But that is a very difficult, extremely

difficult, if not impossible, challenge, especially in a place like California.

And I'll just say you heard the numbers yesterday, half of the tribes in the country, and we have 15 percent of all tribes in the country have done that, think about that for a minute, 15 percent of the 567 tribes, and I think Professor Wilkins' numbers may actually be a little bit low because we don't know the extent of it. Tribes remain pretty confidential, pretty ancillary, we don't know how many have done this to their people, but if it's at least 15 percent, that should stun you that that many people would do this to their relatives. But over half of those, as he said, were from California, and you can look at particular to Public Law 280 which has removed any form of check and balance in those governments that would disallow that from happening.

The biggest lesson we've learned in disenrollment advocacy is that judges, Indian judges, state judges, federal judges, but particularly tribal court judges will not answer the question who is a tribal member, who is a Nooksack, who a Grand Ronde, who is an Elem Pomo. They won't. Santa Clara has been so brainwashed into our head to suggest that it allows for disenrollment when it was a case about whether someone could plead a federal private right of action under the

Indian Civil Rights Act and whether the provision that allows for habeas corpus operated to waive tribal sovereign immunity in that context. It wasn't about disenrollment. But it has been so ingrained in our head, if not brainwashed into our head, that the courts have no business asking or answering that question that they won't. But they will, however, hold tribal politicians accountable, equitably.

At Grand Ronde, they would not ask and answer the question of whether the descendants of Chief Tumulth were rightfully the descendants of Chief Tumulth given their lineage. And his signature on a treaty, the seminal document of the Grand Ronde tribes, and his wife's, Susan's existence on census from the late 1800s, they wouldn't ask and answer those questions, but they would hold that 30 years after those relatives were enrolled, after the restoration of that tribe, latches had taken hold and latches suggest over the passage of time at some point the status quo must prevail.

And 30 years later, you waited too long having enrolled descendant -- or the next generation of those relatives, and then next generation of the those relatives, and then the next generation of those relatives, you waited too long to suggest that they didn't belong, and you can't go back now and change all of those

past decisions of the tribal council and the past decisions of the enrollment committee because if you do that, your tribe is in trouble.

And a recent tribal court judge at St. Croix said the same thing, if you go back in time 30 years and start to re-ask those questions, you are not going to have a tribe left. Not just on membership, but on all forms of government. So equitably speaking, latches is what caused the Tumulth descendants to find themselves back on their rolls, not however, the question of whether or not their ancestors were who they said they were and who they are.

At Nooksack, the only reason we've prevailed for as long as we have and kept keeping the Nooksack 306 safe is the panel of appellate court justices saw that what was happening was wrong and they meted out stays pending appeal, which became injunctions pending litigation, which became a stay under the CFR before the IBA, which in turn became more stays and injunction by the tribal court, but they will never touch the fundamental question of who is a Nooksack and whether Andy George, the matriarch of the family, belonged. But they will recognize in the injustice, do something equitably speaking to not allow it to carry out. And unfortunately what has since happened is the entire court, because of their brave decision making in equity, has been incinerated.

The fundamental point I would make that we have learned in this to the lawyers in the room is you have to play in the equities. Santa Clara is so strong that judges will not ask and answer the fundamental question, but they will hold leadership accountable as that question is pending before the membership or leadership. You have to reframe the narrative. When I heard Donald Trump talk about bad ombres, that's exactly what tribal politicians say about the disenrolled. They paint them as criminals, they paint them as people who never belonged there. Indeed as Uncle George said, they paint them as immigrants, people who were from Canada rather than here. But you have to reframe the narrative. And I'll talk more about how you do that.

But the disenrollees, the families, will be maligned, in fact defamed and slandered by tribal politicians. And it's sometimes very hard to overcome those lies and mistruths, as we all know in Indian communities, or in any community, but you have to very actively reframe the narrative. And we with the Nooksack, we with the Tumulth, we with Elem, we have done so in the court of public opinion. Especially when the courts, the legal courts aren't seeing the matter your way or might be quick to grab sovereignty immunity or Santa Clara and send you packing; the greatest power we have found has been in

the court of public opinion, where we have reshaped the narrative around what it means to belong.

We've written law articles about what it means to belong, we've Tweeted about what it means to belong, we've liked and shared what it means to belong, we've written letters to Secretary Washburn, to the Congress, to governors, to other tribes about what it means to belong, and in that way we have reshaped public opinion about this over the course of the last four years. Very consciously and very deliberately, especially when, again, initially before tribal courts things were not going our way, sovereign immunity was prevailing and we were not finding ourselves with either a right of action or jurisdiction.

Facebook is a very, very powerful tool, so is Twitter and other forms of social media. And so we actively talk with our clients about not just the legalities and the politics of the community but how to spread their message as far and wide as they possibly can to gain some traction in the court of public opinion because what happens is ultimately the traction gained there blows back on the tribal politicians and they overreact and they act more vindictively, and they get scared, and they overreact, and they act more vindictively, and then they get scared, and they sue the Court of Appeals and invalidate all of the Court of

Appeals' decisions, and then they form their own Supreme Court and appoint themselves the justices or the chief justice, and then they violate any notions of stay or injunction or due process and just do what they were going to do anyway. Why? Because they felt the brunt of public opinion, of their own community and of Indian country, and of minded hearts like yours.

So there's great, great power even in suffering defeat in a court of law to be had in the court of public opinion, and our clients, with respect, have played very well there. The media also plays a very big hand, and lawyers have to be careful, ethically speaking, about playing your case out in the media, but there are parameters within which you can do so. And we have very consciously advocated our case in the media. The local media, the media in big cities with daily newspapers, tribal outlets like Indian Country Today, Indians.com, Native news network, Associated Press. And as stories are written even locally or tribally, they end up in feeds to the Associated Press or to Reuters; and the next thing you know, you are making national news or the next thing you know, you are making news in the New York Times on Sunday, making international news.

The media. Generally sceptical of government, has become particularly sceptical of tribal government,

and ultimately that scepticism again falls on the shoulders and on the hearts of the people that are doing the disenrollment, and they get scared, and they overreact.

But most importantly to disenrollees, I tell them you will fundamentally win or lose this battle on the doorsteps or at the kitchen tables of other tribal homes. They have the power of tribal council, they have the power of the tribal newsletter, they have the power of the tribal Facebook page, they have the power of the tribal general council, or to not have a general council meeting or to shut down all forms of communication. It is important that you visit your relatives at their home, on their doorstep, at the kitchen table, at the grocery store, at the gas station, and you tell them your side of the story. And above all, you do so positively.

And I need to be somewhat critical of the disenrollment community on this topic. And not that I don't empathize, because I can't imagine the pain and I've endured it secondhand through our clients, but I still cannot imagine the pain that Mark and Carla were feeling yesterday, or the pain that my clients suffer even being here today witnessing this conversation. I do know it's deep and I empathize with it.

What will not move the needle is negatively.

And the same form of hate and offensive rhetoric or conversation that you are being subjected to. The only way we will ultimately cure this epidemic or beat back this cancer is through positivity and all of the things that make us tribal. And that is a sense of humor, and that is notions of unity, and that is notions of positivity and messaging like who belongs. But what it can't be are capped Facebook posts, or exclamation point, exclamation point, exclamation point on the Twitter, or candidly, blogs.

There is a blog that I won't name that is just hateful. And I know that's pain and anguish that's being projected, but when that blog gets sent out to Congress in e-mails that Professor Washburn has received or through Twitter feeds, that isn't going to persuade Professor Washburn to want to do what's right because there's so much anger and hostility and hate in those blogs that it turns people the other way. It makes people shudder, it makes people uncomfortable.

You have to make people feel comfortable about this and it's one of the most uncomfortable conversations you could possibly have or topics you would possibly raise. So above all, it's through conversations like this that are civil and respectful and understanding and empathetic and unifying rather than again messaging in

social media or at those doorsteps or at those dinner tables that is negative.

And with that I implore you all, as has been said, to please take what you've heard here today home, take it to other tribes that you are related to and have conversation about this. Because the reason this has become an epidemic fundamentally, I must confess, is our refusal to talk about it. Professor Washburn is correct, yeah, the federal government has done a great job causing this problem, but we're the ones who have really exacerbated it. And the primary reason it is exacerbated to the point of 15 percent of Indian country is because of our collective inability or refusal or fear of talking about it.

And that falls chiefly to tribal leaders. And it falls to NCAI and to USET and to ATNI and to regional and national gaming associations because gaming money is fueling this epidemic. But those leaders will eventually listen and eventually they will speak. I've been told by someone in Washington, D.C. it's not like the Violence Against Women Act. At one point that too was taboo. And now that is an issue that Indian country has uniformly rallied around to protect our women and our children.

So I have some hope that, as we continue to talk and we shed the light on what has been kept in the dark

for so long, that we will cure this cancer and beat back this epidemic, but that really falls on each and every one of our shoulders as we go back home and have these conversations that we must have within ourselves, with our families, with our tribal leaders, and eventually amongst and between tribal leaders. Thank you very much.

MR. HERSHEY: Again, thank you very much. I'm going to add just a couple of ideas here. Yesterday I spoke to you about imagery in American Indian policy, and I try to make that the actual first thing that I teach my clinical students. Because you can't get cowboys and Indians out of your mind, you can't get the idea that Native American people were savages. They became great environmentalists and every time they rode their ponies along the earth, no blades of grass were disturbed or sand came up. And now you are all rich casino operators.

So we have all of these descriptions and all of these stereotypes focused upon you, and what you don't want to also have is the fact that you can't run a tribal government or tribal court system and you can't go ahead and create all of this negative publicity that will be used in federal Indian law cases to go ahead and disavow your sovereign rights, because that's what happened.

And if you read in federal Indian law the cases and you read some of the opinions of the United States

Supreme Court justices, they talk about how Indian systems are unintelligible, they cannot be understood. Different languages, different customs. So we used to have this bright line in Indian law that tribes were actually sovereign and so the rights of the states could not infringe upon those sovereign rights. Then it became a balancing act, well, the states may go ahead and may be able to go ahead and exert their influence in certain circumstances.

Then it became that tribes do not have jurisdiction over non-Indians on privately owned land on the reservations or regulate their conduct. And what we just heard about this doctrine of sovereign immunity that Matthew talked about and how it can be taken away, and has almost been taken away by the United States Supreme Court. So imagery is very, very important.

So disenrollment disempowers tribes as far as imagery goes. There are other collateral consequences. If a person is no longer a member of the tribe, then they become a non-Indian, and that implicates all kinds of jurisdictional issues, criminal jurisdiction over that particular person, civil jurisdiction issues, not just in PL 280 states, Public Law 280 states. And one of the other things that as a defense attorney or as an attorney if I was arguing, trying to create -- how many people are

here from a reservation that's been allotted? So you have a lot of private land holding in there. So let's say that you want to fight back, what would you do? What would be a good example of what you want to do? You are no longer a member or you are threatened to be no longer a member, what do you think you would do with your private land? Anybody? Yes.

SPEAKER: We are disenrolled. So we still live on the reservation.

MR. HERSHEY: What would you do to fight back to prevent something like that? You own the land, you are within the exterior boundaries of an Indian reservation and what would you -- what use would you make of the land to kind of try and tell the government of that land you shouldn't do this to us? I got some ideas.

SPEAKER: Well, I would like to hear them.

MR. HERSHEY: I would take out an incinerator permit. I would take out an asphalt licensing permit. I have world -- I can negotiate with the federal government to do low level nuclear waste.

SPEAKER: Stockyards and pig farms.

MR. HERSHEY: Stockyards, pig farms. If it's an open reservation, federal law supports you because the tribe doesn't have jurisdiction to regulate the zoning of that. Now, the state may want to come in, but what

authority does the state have on the reservation to control what you want to do? Do a nuclear waste dump, an incinerator and a stock farm. And get your neighbors.

SPEAKER: Air ship landing.

MR. HERSHEY: Air ship landing. Whatever you want. Anything that is obnoxious. I don't know why this comes first to mind.

SPEAKER: Sriracha factory.

MR. HERSHEY: That's cool. Yes.

SPEAKER: We put big signs of our dad and my grandmother and great-grandmother who all lived there and sold the land to the tribe for a casino for everybody, and he is just right across the street, so we put up these big signs and some of the tribal members would drive by and throw bottles and try to destroy the signs, we would just put a new sign up. And it just was in their memory.

MR. HERSHEY: Absolutely. And face those signs straight up facing outer space so that -- you know the Blue Marvel? Back in the '60s we were all hippies and we thought we were all going to be holistic and zoned out and the Blue Marvel and everything. Well, you've got to get people from outer space taking photographs of that and like wrongful tribe, this tribe does bad things. You know, and you get the news media, you have to go to public relations war. But do it, as Gabe said, positively. Do

with a smile. We tell our students here, Breeze is one of my great students and she knows my doctrine, slavery with a smile. Because we offer more food per credit hour than any other program in the country.

Last thing basically I'm going to say to you is that start thinking about ways of fighting back that are not involving either the federal judiciary. Yes, sir.

SPEAKER: Mark. That same piece of property she's talking about, they want to realign --

MR. HERSHEY: Can everybody hear Mark?

THE AUDIENCE: No.

SPEAKER: Same piece of property, tribal casino, they want to realign the road to make the traffic flow better and they claimed that it was behind the fence, and so I had to build a shed right on the corner and I told them okay, now exercise your jurisdiction and you don't have any because you disenrolled me. So we are not members of your tribe anymore, so you don't have any jurisdiction.

MR. HERSHEY: Right. These are the kinds of things that I'm thinking in terms of practical terms because you have legal remedies, you have political remedies, and you have practical remedies, and if nothing else, it certainly makes you feel pretty darn good, except for the fact that you have to live with whatever you

created, or you have to -- anyway, here is what we're going to do, we're going to take lunch right now. We'll come back at exactly 1:30 because we have some special Native Hawaiian issues to discuss, and then we have our tribal leaders for them.

I want to just do one more thing before we go. I would like to recognize the chairman of the Tohono O'odham Nation who has joined us, Edward Manuel. The chairman of the Robinson Rancheria, EJ Crandell. Henry Boggs is a councilman from Robinson Rancheria. How many other council people do we have here? Could you stand up, please. I don't know your names, but could you please recognize the council. Oh, Carol Evans, chairman of the Spokane Tribe of Indians. Sway Banche, Robert Gladstone.

These and other tribal leaders will be here for the tribal leaders forum and we'll seek the participation of those that are not sitting up here, but this is an open discussion. Certainly after the tribal leaders forum we'll have time, like we did yesterday, to have another open discussion. So we'll see you back here at 12:30, which means you'll be here at 1:30.

(Recess took place from 12:19 p.m. to 1:40 p.m.)

MR. HERSHEY: Welcome back, everybody. Thank you so much. Welcome back. Most of you came back. I wish we could have kept this going for several more days.

Not really, but. . . Because we could have included a lot -- a number of other indigenous groups and Alaska Natives. Is there anybody from Alaska here that's an Alaska Native. Oh, yes. Well, I didn't know you were here right now.

But we're delighted that we have some magnificent folks from and people we've known and had a great relationship with over the years from Hawaii. And we also have another one of my mentors, Lila Palui Frank (phonetic) who is in the audience too. Lorinda Riley is one of our doctoral students, she's a professor at the University of Hawaii now. And we're absolutely delighted. The nature of her dissertation work was unique and it was really a comprehensive review of many, many tribal nations and it was original work that really -- I'm sure that she would be happy to direct you to that if you asked for that.

The chief advocate for the Office of Hawaiian Affairs, Kawika Riley, worked extensively on these issues of Native Hawaiian sovereignty. Now, what is Native Hawaiian sovereignty, that is going to be the topic of this discussion. And who belongs, who is a Native Hawaiian in this very polarized state of affairs that we have here and who belongs to that community. So welcome, and I think you should probably just start and say hello

and then I can go ahead and ask questions.

MR. KAWIKA RILEY: (Speaking native language.) Hi, everybody. My name is Kawika Riley. As Bob mentioned, I'm the chief advocate for the Office of Hawaiian Affairs, but I was -- the sands of my birth are Kohala on the island of Hawaii. For those who have more of a tourist relationship with Hawaii, it's the one with a lot of land and an active volcano, known as Big Island. I think I can -- I have, as Bob said, a lot of my experience with these very difficult, complicated and very important issues of Native Hawaiian self-determination, lately it's been in a professional capacity, but certainly for my entire life it's always been in a personal capacity, myself being Native Hawaiian.

So I guess I would like to start and talk a little bit about how I came into the beginning of my understanding of these issues. And it wasn't as somebody with a job title, business cards, an office or staff, it was as a 17-year-old Native Hawaiian boy whose father had left the islands for better work and whose mother, who is a loving wonderful person, was in a relationship with a man who was struggling with drug addiction, and frankly didn't want me in the house. And in a time like that as a young man, I was looking for strength, I was looking for stability, I didn't have it in the home, I didn't have it

with my family, so I searched for it largely through seeking wisdom through (native language), things Hawaiian.

So it was as a 17-year-old boy that I began talking more to my (native language), my elders, reading different works about philosophy and governance by Native Hawaiian scholars. And at 17 years old I must have been the only person, the only teenage boy in the low income housing project that I was at who had a copy of a Supreme Court decision. It was called Rice V. Cayetano. And we have one gentleman, an Indian law scholar, who has been published talking about that Supreme Court case. We could spend the whole time talking about that, but suffice to say it was a decision where non-Hawaiians decided not just what a Hawaiian is, but whether or not we have the right to our own resources and the right to use Native Hawaiian resources to serve Native Hawaiians. It was a decision that stripped away from the Office of Hawaiian Affairs, a Hawaii state agency, which is also a public trust, the ability to have its trustees, its fiduciaries, elected by the Native Hawaiian people. And as Bob said, ironically now one life later I work at the Office of Hawaiian Affairs as the chief advocate and we still seek to advocate on behalf of the Native Hawaiian people, of our beneficiaries, but our trustees, our policy makers, are elected by the entire Hawaii population.

So the approximately half of our community that doesn't live in Hawaii because they've been pushed out by economic forces, same kind of forces that sent my father elsewhere, they don't get a say at all. And the other half of the Native Hawaiian community that still is able to live in Hawaii, for every one of them who can vote in these elections you have four non-Hawaiians who are deciding who gets to control the purse strings of the Native Hawaiian Trust.

So it was through that lens that I came to learn about these issues of identity and acknowledgment and to realize the importance of the fact that while Native Hawaiians are clearly indigenous, in fact the reality that it wasn't as clear under law was a very, very powerful thing and it was a thing used to alienate us from each other, alienate us from what resources we were able to preserve, and that there were people that were seeking to use that lack of clarity to take away what little we had left. So it's been my greatest passion professionally to have the privilege of working on these very difficult issues, especially in the past four and a half years, for the Office of Hawaiian Affairs.

MS. LORINDA RILEY: Aloha. So my experience with Native Hawaiian recognition started from a pretty different place. I am an enrolled member of the Cherokee

nation of Oklahoma, as well as Native Hawaiian, but most of the work -- the way I came into recognition was by studying Part 83, which of course are the regulations that govern Native American tribes' federal recognition, so I did a lot of work on that in school, that was what my dissertation was on, and then also when I started practicing I practiced for a boutique Indian law firm in Washington, D.C., I worked on petitions for multiple tribes who were seeking federal recognition.

And essentially when you are drafting these petitions what you are doing is you're strategizing, trying to find ways to fit Indian identity, Indian concepts into something that the federal government finds acceptable under the regulations. And so that's how I came into this.

From there, when the Department of Interior years later came to Hawaii and started the process of rule making to create a process for Native Hawaiians to seek a government-to-government relationship, I was asked to participate in that. I was a federal employee at the time and I was asked to participate on behalf of the White House initiative on Asian-American and Pacific Islanders, or AAPI. And AAPI is a federal entity that exists primarily to ensure that Asian-American and Pacific Islanders, including Native Hawaiian, voices are heard in

the federal policy making process.

So we went around with the Department of Interior as lead to all of the different islands trying to seek input from the Native Hawaiian community. And really my role there as part of AAPI was to make sure that native Hawaiian protocols were followed, that no one was offending Native Hawaiians, to ensure that there was a broad base of community participation in the rule making, both orally and then also later on in the written comments, and then also to help educate the Native Hawaiian community on the comment process. For Native Hawaiians, we don't have a lot of federal rules that regulate our lives like Native Americans do, so it was a very new process for us. And unfortunately, I didn't really have a hand in some of the policy decisions that were made by Interior and we'll probably talk about a little bit of that a little bit more later. But now more recently, I joined the University of Hawaii at West Oahu as a faculty member in public administration, and so my focus has shifted more to educating that next generation of civil servants, state civil servants, federal, county, indigenous servants so, hopefully when we do have a governing entity, Native Hawaiians are going to need to understand all of these concepts of indigenous governance that have come out of the Native Nations Institute and the

The Harvard Project of Economic Development, so that's really where I came upon this.

MR. HERSHEY: I would like to ask you a question about I know that you are involved with perhaps the identification of a constitutional form of government with Native Hawaiians, how the federal government recognizes Native Hawaiians, how you recognize yourself. I know I'm lumping these all together. But it seems to me that there are so many different factions, if you will, of people claiming to represent. How do you determine who speaks on behalf of Native Hawaiians and who does not have that authority and again who belongs to the people that are pushing for these kinds of reformations or changes in identify? I know that's a lot.

MR. KAWIKA RILEY: Thanks for the question. I'm sorry, I'll start. There was a lot of questions packed into one there and, you know, maybe it would be more useful to kind of compartmentalize them. So first just to make sure that folks are on the same page, I want to talk about -- divide things between the internal affairs of Native Hawaiians as an indigenous people and then the external affairs of Native Hawaiians as an indigenous people. Now regarding our external affairs, that's where I would categorize Native Hawaiian recognition, what our brothers and sisters in the 48 think of as the Part 83

process, what got us is now described ever so memorably as the Part 50 process.

For the Native Hawaiian community, what I would have told you up to a year ago is that of the three major indigenous groups in the 50 states, American Indians, Alaska natives and Native Hawaiians, Native Hawaiians were the only indigenous group that not only did not have a government to government relationship, but lacked even a process by which that government to government relationship could occur. So, you know, I think after more than 100 years of that we shouldn't be surprised when a diverse large, passionate mindful community finds itself in a place where there are factions and multiple voices. We were denied the ability to have anything except for that, and denied that after a long period of time of living in a kingdom of our own making that we transformed into a constitutional monarchy, which had treaties and diplomatic exchange with the United States, which I know sounds very similar to, I think, so many of our stories.

Anyway, while -- so we're in this -- I talked about the gray area that Native Hawaiians found themselves in. So while we lacked that government to government relationship and until less than a year ago lacked even a process by which we could pursue that, what you have on the other side is that Native Hawaiians as a people have

been recognized in terms of our indigenous status and the trust relationship, not everybody knows this, but the trust relationship between the Native Hawaiian people and the United States government is codified into the United States code. So Congress has passed, the president has signed numerous acts that affirm that there is a special, legal and political relationship between the Native Hawaiian people and the United States government, and that that is based not on race, but on our inherent unrelinquished sovereignty and our indigenous status.

And yet, until less than a year ago, until the conclusion of the Obama administration's two and a half year long rule making process that Lorinda mentioned, there was no way for us to get to the next step to clarify things. So, you know, we do have that process now, it's new, it's the result of a complicated, and in some cases, messy dialogue between ourselves and from us and many of our voices to the United States government, but now we finally do have a path if that's what we choose to pursue.

So that's the external affairs issue and progress has been made there. I can talk about the internal side of things, but first I wanted to pause and see if you wanted to add anything to that.

MS. LORINDA RILEY: I did have a few comments based on the Part 50 rule that came out of that long two

and a half year process. There were some concerns in that rule related to identity that I wanted to touch on. I think, first and foremost, the Part 50 process creates two classes of Native Hawaiians, it creates one class that are eligible under the Hawaiian Homes Commission Act and then another class, a general class of Native Hawaiians that would be determined by the governing entity.

So the Hawaiians Homes Commission Act, it's a federal statute and it provides benefits to those Hawaiians who are 50 percent or more in blood quantum, or their descendents who are 25 percent or more. So it creates this division within our society that is not traditional, but what this means essentially is that the rule kind of strips Native Hawaiians from the very get go of their ability to self-define. And it's not clear whether later once there is a government -- Native Hawaiian government -- whether they could make changes to that, but at least initially there are really strict standards there. I can say, though, that honestly there probably is no governing entity that would exclude those who are of higher blood quantum, but nonetheless it's still a philosophical problem.

The other thing that the rule does is that it excludes, explicitly excludes non-Hawaiians from the rolls. And you may know that under Part 83, the Office of

Federal Acknowledgment, it requires descent, but it also understands that proving descent is sometimes challenging. So based on precedence, the Office of Federal Acknowledgment usually accepts about 20 percent of the members on the roll not to be able to prove their ancestry; however, under Part 50, everyone needs to be able to prove their ancestry. That becomes a problem because there are parts of our community who want to return to the Hawaiian kingdom. Hawaiian kingdoms at certain points in our history included non-Hawaiians. So there are non-Hawaiians, the descendents are non-Hawaiians, who have a tie to our traditional government. So that has created a lot of conflict within our community.

And I think the last difference that I just really wanted to quickly touch upon is that Part 50 creates a lot more oversight in the election process. They've done this by requiring pretty high voter turnout rates in order for a Native Hawaiian election to be considered legitimate or valid. So for these two classes, for the HHCA, the Hawaiian Homes Commission Act, native Hawaiians you have to have about 25 percent of the population turning out to vote for the general population; Native Hawaiian population, it's about 20. That's problematic, especially in Hawaii, our voter turnout rate

as a state is about 33, 34 percent; and then Native Hawaiians, there is indications that we vote at a lower turnout rate, and also that, you know, we have a younger population and younger people tend not to vote as much. So it creates a pretty high standard for us to meet under that rule.

MR. HERSHEY: You know, it sounds like we're recreating something like the Dawes Act and we're creating rolls and we're imposing blood quantum again, and this is something that we're talking about from the late 1800s to the early 1900s. Is that a process that gets accepted through some sort of a constitutional development?

MR. KAWIKA RILEY: So if we're talking about the rule, the external affairs, the rule making that the federal government has established essentially you have the drafting of a constitution, a ratification of that constitution and, as Lorinda mentioned, there are voter thresholds that the federal government has found necessary in order for it to determine whether or not they believe it's a legitimate application from a Native Hawaiian government. So those are the steps for the process.

MR. HERSHEY: And do you constitutionalize this blood quantum, has that become part of it? I'm fascinated. It seems like we're recreating something here. So tell me the internal. So let's say you create

this external document, then is it followed by Native Hawaiians?

MR. KAWIKA RILEY: I think -- so I can talk about perhaps the most recent constitutional convention or internal nation building process that's occurred in the Native Hawaiian community, but I think it's important to point out that the rule was not set up for this constitutional process, or any other constitutional process, for that matter.

I think actually one year and one month ago there was a Native Hawaiian constitutional convention with representatives -- with Native Hawaiian individuals from across the Archipelago, as well as the U.S. continent, and we had at least one individual who was actually from abroad, they all came to the island of Oahu and for one month they convened at what was popularly referred to as a constitutional aha, and an aha being a gathering of people. And within one month's time, and there were people with a variety of different views, there were individuals who, like Lorinda said, wanted to return to the establishment of the -- the re-establishment of the kingdom of Hawaii, there were individuals who, while Native Hawaiian, had worked for sovereign indigenous governments on the U.S. continent and really felt like that was the way forward.

At the end of the process, there was a vote, 88 in favor, 30 opposed, and one abstaining to approve the (native language), or the constitution that was put forward by the delegates. And what that constitution said was that Native Hawaiian is Native Hawaiian. There was no accounting of blood quantum or exclusion of individuals because they didn't have enough ancestry. The delegates chose to use a very broad standard, but they did decide that this would be a government by, of and for the indigenous people of Hawaii.

MR. HERSHEY: So you mentioned something about some people wanting to go back to the kingdom of Hawaii, which, in my reading of the history, where the -- would you talk about the Ahupua'a, that system of land to the sea. Were there people advocating going back to that kind of who belongs where you had the fisherman, the taro farmers, the people in the mountains, is that part of this discussion as to what kind of a community is created?

MR. KAWIKA RILEY: So the Ahuapua'a is an economic model where you have essentially a self-sustained area. Tradition ally it would be from the peak of a mountain down to the shoreline, and then a certain amount of the wai, of the water and the near shore resources. And it's one of the more common things known about our community is that our economic way of life before we

transitioned into a constitutional monarchy, and then later to be under the jurisdiction of the United States was in these self-sustained different zones. And of course, people could travel from one zone to the other, people could move, people could trade across Ahupua'a, but largely economic activity was self-sustained and self-sufficient within these smaller communities.

While those principles, and while I think the importance of being self-sufficient remains critical to, I would say, all Hawaiians, it's probably one of the most universal concepts in our community, that's balanced in terms of, you know, where we want to go in terms of our legal structure, our kumu kanawai. Kanawai means law and kumu means it's a teacher, somebody with wisdom that has something to tell you.

So we for a great period of time, as I mentioned, lived in a constitutional monarchy of our own making. And in 1846, prior to 1846 there was no process for naturalization, the native -- the Kingdom of Hawaii and the Native Hawaiian people were one and the same. But in 1846, there was a decision that was made to allow non-Hawaiians to have a process by which they could naturalize, they could become citizens or denizens.

So after that process you have not a complete separation, but it's important to distinguish between on

one hand what became the multi-ethnic Kingdom of Hawaii founded by Native Hawaiians, led by a Native Hawaiian head of state, representing Native Hawaiians who participated in the process, but you have that on one hand and then you continue to have the indigenous people of Hawaii, the (native language), the Native Hawaii people.

Interestingly, and I'm sorry if this is a little bit of a tangent, but one of my colleagues, a friend of mine, and some of you know, Derek Kalanou (phonetic) has done some really fascinating research on the kingdom case law, Supreme Court decisions during the time of the rule of the kingdom of Hawaii, which show that while we didn't use the exact same terms, it was acknowledged that even during -- after this era where the kingdom was a multi-ethnic nation state, there was still acknowledged to be a special and unique relationship between the kingdom and the indigenous people of Hawaii. So again, they didn't use the term, at least not to my knowledge, of trust relationship, but the concept was the same, that there was a political and legal recognition during kingdom times even during our time of being multi-ethnic where there was a distinct status and obligation to the people of indigenous Hawaii who had created that kingdom.

MS. LORINDA RILEY: So one thing I wanted to mention about the constitution and what it said in

relation to land is that when it talked about our legislative representatives it divided it up into different --

MR. HERSHEY: Legislative representatives to what?

MS. LORINDA RILEY: To the Hawaiian government. So when it talked about that, it divided it up into mokus, or divisions, and they did it in two ways. One was based on population and the other was based on land. So, for example, if you are from Oahu you had I think it was six representatives based on the size of your population compared to Hawaii island, which had two, because there's not as many people there, and then also you had apportionment of representatives based on your land mass, so Hawaii island is very large, they had more representatives than Oahu.

What I find really interesting about that is they did include mainland Hawaiians, so it's called (native language), basically everywhere other than Hawaii. They had about I think it was six representatives. Six representatives for population because so many of our Native Hawaiians live on the mainland, but zero representatives based on land because it's not Hawaii.

MR. HERSHEY: So just to wrap up this part before I ask the audience, you've been here for -- and

first of all, you are both Indian law scholars as well as Native Hawaiian scholars and the history of Hawaii is so fascinating and it's so replete with invasions and takeovers and Christian missionaries and it became Dole pineapple and Dole bananas. How do you see what you are working through in Who Belongs, how does that help inform the discussion here among the nations and tribes here? I know that's a lot to ask.

MR. KAWIKA RILEY: No, that's a great question. And I don't mean to flip it in responding, but I think first and foremost, I felt very fortunate to get to be part of this conversation and to get to listen and to learn. You know, often we joke that we acknowledge that as Native Hawaiians are pursuing recognition and greater self-governance, what we're really doing is we're trading one set of problems for another set of problems, right, because we know that not everything is just, regardless of which side of the fence you are on, being acknowledged or not acknowledged as indigenous people. But it's always important to us, especially those of us like myself, who believe that the path of progress includes having our sovereignty acknowledged by the external entity that is the United States; it's very important for us to learn from those of you who are having the experience on the other side. So I feel very blessed to have gotten to be a

part of the conversation here.

In terms of belonging, what's the big picture, what's the bottom line for me? Maybe it's that we have as Native Hawaiians experienced -- we've tried the absence of recognition, the absence of a government to government relationship for well over a century. And Congress has passed over 240 statutes that specifically mention or address Native Hawaiians. And they've defined -- they've been the ones defining who a Hawaiian is and what a Hawaiian gets and that certainly hasn't gone perfectly for the Native Hawaiian community.

And so it's ironic, but it's the truth, that with what we have with the way that the rule making has been set up with the two classes of Native Hawaiians by blood quantum, that we have to get through that gauntlet if we want to get to a point where we can take back and where under -- with the force of law there is a rule out there that says that the United States will respect it, that if we want to be able to take that back that right to define ourselves, we have to go through the gauntlet of the world as it is if we want to get -- to start to get part of what we deserve in making the world into what we want it to be. So that's I think one of the practical realities that we're faced with.

MS. LORINDA RILEY: So I think Kawika is the

more optimistic of the two of us, but for me I think being part of this conversation has really reinforced the view that we're all indigenous people, we all come from the same place, we have the same types of concepts, you know, we all, for me, identity is really based on place, having a place that you call home, and I think even when other things become fuzzy, indigenous people always are able to go back to where they are from, and this conversation that we've had today I think has reinforced that for me.

MR. HERSHEY: Thank you. Any -- Gavin, did you want to ask --

SPEAKER: Basically the -- first, thanks for the shout out about my article. It was actually -- it was one of the first law article reviews I published. I mean, everybody knows me as a tribal finance and economic development guy. So Gabe, I forgive you for ignoring that I've written about Native Hawaiians. But the story about it is University of Hawaii hosted the moot court and also moot court back in I think 1999 and this was right around the time Rice V. Cayetano was coming out and so I --

MR. HERSHEY: Slow. Slow.

THE WITNESS: Sorry. And I wrote my brief about the case and it was absolutely fascinating, and I also have to point out that anybody who is interested, the single greatest source of knowledge on Planet Earth

regarding this is a woman named Melody MacKenzie. She's written The Native Hawaiian Rights Handbook and everything I ever learned about Native Hawaiians I learned from her first. They had a copy in the Harvard law school library and it was not available online, it was an actual paper book. You know, I actually had to flip page by page which was very old school. But the story that I found, I was very familiar with, obviously, with federal Indian law and looking at federal Indian law history, and we all know about the oscillating process, the Indians are good, then the Indians are bad, then the Indians are good, and it's just all of this oscillating back and forth. And if you look at every single time the Native Hawaiians were on the radar screen, it was the worst possible time to be on the radar screen.

So during the illegal overthrow of the kingdom, during the territorial organization, and even the Hawaiian Homes Commission Act all happened during the allotment process when the federal government was, you know, trying to get rid of Indians, trying to get rid of tribes, and so the notion of trying to get a Native Hawaiian government in place was just -- that just wasn't going to happen.

And so then during the Indian Organization Act when, all the sudden, sovereignty was good and we're trying to support tribes, there was no conversation about

the Native Hawaiians, there was nothing in the IRA discussing Native Hawaiians because the Hawaii Homes Commission Act they already dealt with it more than a decade before.

And so then we go through the process and we get to termination. Termination, tribes are bad, we don't want to have these government to government relationships and guess what else happens during termination, Hawaiian statehood. And so at that time, there was no notion of creating a Native Hawaiian -- oh, no, we'll just turn over the Hawaiians to the state of Hawaii and so that's how things went. And even though we reversed termination in the late '60s and early '70s, and President Nixon had the statement about all of the sudden we really want to fundamentally change the way that the federal government views tribes and we want to support sovereignty and want to support self-determination, that conversation didn't happen to include Native Hawaiians.

And so Hawaii went through this constitutional process, incorporated Native Hawaiians constitutionally as a racial construct in the constitution, created the Office of Hawaiian Affairs, limited voting to the Office of Hawaiian Affairs to those who were racially defined as Native Hawaiians, which, you know, we have no problem if our tribal governments identify tribal members by blood

quantum or lineal descendancy or anything else like that, we accept that. You know, that's a sovereign right to do that. Unfortunately, that construct doesn't work for state governments. And OHA at the time, and at least at present is an instrumentality of the state of Hawaii.

And so the article was why the good guys lost, but why they didn't have to lose. And the notion was if they had taken that opportunity in the '70s to construct a native -- if OHA instead of being a state agency had been a recognized autonomous, indigenous government, then Rice V. Cayetano would have come out the exact opposite way because it would have been perfectly fine.

So the tragedy was that every time the native -- it's like they were surfing on the opposite oscillation cycle. Every time the waves were up, it was a bad time. And it's interesting, I also did a thought experiment with that particular article because I originally wrote it in the Harvard Journal of Law Public Policy, which is the right wing federalist society publication, and I had a conversation with the editors at the Michigan Journal of Race and Law, which is one of the preeminent critical race theory journals, and I had turned them down, I published an article somewhere else, and they asked me do you have anything else? I said I have this note that I wrote for JLPP, would you be interested if I updated it and

published it with Michigan Journal of Race and Law. So I actually have --

MR. HERSHEY: Slow, slow, slow.

SPEAKER: -- the identical article published in two different places as a thought experiment because Indian law and indigenous rights don't uniquely fall on this right/left spectrum.

And so it turns out that now, 15 years later, the number of citations to the Harvard version and the Michigan Journal of Race and Law version it's an almost even number, it's plus or minus two citations. Which goes around to prove the point that Indian law and indigenous rights and Native Hawaiian sovereigty isn't something that falls neatly on a political spectrum because, as we all know, the other two worst justices in the last 20 years for Indian rights were Justice Scalia and Justice Ginsburg. And a lot of my friends don't want to admit that Justice Ginsburg is absolutely horrendous and awful when it comes to Indian rights.

MR. HERSHEY: Thank you. Yes, Lorina, and then we're going to move on.

SPEAKER: Thank you for your talk. So I'm from Puerto Rico and --

MR. HERSHEY: Just a second.

SPEAKER: Thank you for your talk. So I'm from

Puerto Rico here doing my MLS studies and I'm interested more in just the colonial discourse in Puerto Rico, and it's always great hearing about Native Hawaiian constitutional discourse and all of that. I'm really just curious to know what -- you know, if Puerto Rico discourse has come up in your studies and in your writing.

You know, we're not even past the territorial discourse of Puerto Rico, we can't even start talking about the colonial discourse because of issues of citizenship, right. We can't really get rid of citizenship and we've created a colonial citizenship of our own, right. We are a colonized people colonializing our own. So it's always great looking at Hawaii, even though in the history books you kind of see it as oh, it was an incorporated territory, different from Puerto Rico's unincorporated, so we'll never be a state in case anybody is thinking about that. But yeah, I'm really curious about if Puerto Rico shows up in your radar. Your opinion, I mean, your thoughts, your advice to somebody who is writing about the colonial theory with Puerto Rico and what legal scholarship to look at or not to look at. Thanks again for your talk.

MR. HERSHEY: Let me just refer you to what's known as the Insular Cases. The Insular Cases at the turn of the 20th Century and they basically created a doctrine

of discovery for Puerto Rico.

MR. KAWIKA RILEY: You know, I think what I would say, first of all, is I would love to learn more from you and maybe if you have time later during one of the breaks I would be really -- I think we would be really interested in talking more with you about the particulars of your people's experience.

I'm very reluctant to try to superimpose my knowledge of my own people on to somebody else. I think that having been on the receiving end of that as a Native Hawaiian, I'm not too keen on it. But I would love to learn more and I know that there is overlap. I know there's overlap, given the shared territorial history and the similarities of the colonial experience. And a lot of the timing too, right. So I would love to talk with you more about that later. Thank you.

MS. LORINDA RILEY: I'll echo that, it would be a really interesting conversation to have. The one thing I did want to mention is that, you know, within our community there are multiple views as to how we should deal with governance or how to become a government. And so there is one group of people who really support this idea of federal acknowledgment, similar to what native American tribes have, there's another group that want to return back to Hawaiian kingdom, basically deoccupy the

state, and then there is another group that are trying to get on that colonization list, you know, basically making the argument that Hawaii is colonialized and so they get on the UN colonization list and then work that process to become an independent nation, so a lot of similarities there.

MR. HERSHEY: Thank you very, very much.

MR. KAWIKA RILEY: Mahalo.

MR. HERSHEY: And Lorina, we won you fair and square in the spoils of the Spanish-American War. We got Cuba, I think we got the Philippines.

SPEAKER: Yeah, just a gift.

MR. HERSHEY: I don't think we have the Philippines anymore. Thank you.

Can I invite the president of Fort McDowell and the chairwoman of the Spokane Tribe of Indians. You can choose the most comfortable chairs you would like. I'll get you water. May I invite the chairman of the Tohono O'odham Nation, please. The chairman of the Pascua Yaqui Tribe, please. The current chairman. The chairman of the Robinson Rancheria, please.

I would like to introduce Carol Evans, who is the chairwoman of the Spokane Tribe of Indians from Spokane, and thank you so much for being here. Bernadine Burnette, the president of the Fort McDowell Yavapai

Apache Nation. Edward Manuel, the chairman of the Tohono O'odham Nation. Robert Valencia, the chairman of the Pascua Yaqui Tribe, and EJ, Eddie, Crandell, the chairman of the Robinson Rancheria.

There are other chairpeople in the audience. Can you identify yourself again, please. Well, you were here before. Let me introduce Joan Timeche. She's the executive director of the Native Nations Institute. And Miriam Jorgensen, who is the research director for the Native Nations Institute. And I would like to ask them to please moderate this session. This is something that Native Nations Institute has been working with tribal leaders and native people for so many, many years.

I would like to acknowledge Veronica Hersh here, who has been tremendous in helping organize this. Jason Aragon from Native Nations Institute also who is doing the videotaping here. I really appreciate all of you too. I'll have some words, we're going to go for a while here, we're going to continue, we'll take one more afternoon break, then we're going to come back and once again we're going to have group reflections.

Joan.

MS. TIMECHE: Well, good afternoon, everyone. We're really glad that you joined us here today to talk about this important issue and we're especially thankful

that all of our tribal leaders have joined us here today. We know you have very busy schedules, so to take the time out to meet with us, to learn some more about what else is happening out there, we're really grateful for that. We also want to remind everybody that we are actually sitting on the aboriginal lands of the Tohono O'odham Nation. So again, thank you for allowing us to be on your land here, Chairman.

We thought we would set some ground rules for having this little forum discussion with our tribal leaders, so one of them we're going to have two core questions that we want each of you to answer, and we'll do question one, and then we'll go through question two. But we want to focus on your stories. When you answer these questions, talk about what's happening in within your own communities, and your own experiences that you've had.

And then we want you to also be relatively brief. We want to remind you to we're not in campaign speeches here, so we're going to ask you to be succinct and to the point and just really be respect ful of each other because we know each one of you have a lot to share with us throughout today and so we want to make sure we have enough time to get everyone's voices heard.

And what we'll also do is I know we don't have other chairs, it doesn't look like we have any more chairs

in the room, but I know that we have other council members who are here within the room, so what we're going to do is allow questions to be directed to them too as well. So those of you, I know Yankton is in the room, and do we still have Leach Lake in the room, and I know I saw some other hands being raised today earlier, so please, you know, don't think that you are off the hook here. We're going to include you in the discussion.

And then at the end, we are going to open it up for everyone else to do the Q and A end of it. But we want to allow some time for all of our elected leaders, whether they are the chairman or the governor or the president of their nation, but the council members too as well.

So I'm going to start off this first question. And I'm going to go ahead and sit down here so we can get a little bit more comfortable. But the first question basically is: Can you share a story about an instance when this question of who belongs arose in your own tribe and what your leadership response was to that issue when it came up.

So you want to start, Chairwoman Burnette from the Fort McDowell Yavapai Nation?

MS. BURNETTE: Can't be shy. (Native language) in my language. Good afternoon. How are you? I'm a

former 20-year Bureau of Indian Affairs employee, and I'm now going on 24 years as a tribal leader at Fort McDowell. When I got elected first in 1990, I had to take a two year leave of absence. And we had a debate that came before the leadership, oh, about nine months after I got into leadership about the four clans of our tribe. And of course I'll make the story real quick of how we were split up and, you know, there is history behind how we were split up and where we all migrated in Arizona. And we had a group that migrated, western part of Arizona past Buckeye, if some of you are familiar with the area. And I was always taught by my elders if someone explains to you in the native language, which back then we spoke a lot of our language in our council meetings, and I miss that today because I'm probably the only one that can speak fluent, but we had one elder on the leadership when we had a person or a family come and say they had an interest and that they were told and they were brought up to say they were of Yavapai decent. That's all they said. There was no questions asked. Minimal questions on paperwork and we discussed it amongst ourselves, you know, if any of us could remember who their families were, and sure enough, all five of us knew and those families did belong to our community. So having said that, it's been history that they were and have been a part of our community. And that

was just not too long ago. So I just wanted to share that story.

CHAIRWOMAN EVANS: (Speaking native language.) Good afternoon. My name is Carol Evans and I am the chairwoman of the Spokane people, the Spokane Indians from the northwest near Spokane, Washington. And we too have had experience with division within our tribe and discussion of disenrolling people, taking people of our rolls, and this has happened within the last 10 years.

It would start out with small groups of people coming together in meetings throughout the reservation and they always put people -- divide the tribe and they always point fingers and they always want to disenroll people, and it's like what was stated throughout all of these last two days here, it's always about something other than where you came from, or what did your ancestors do, how did they live, how did they sustain, what was the language, who was part of the tribe. It was never about that at these meetings.

I went to a few of them, and this was before I was on tribal council, and they were just really destructive, terrible things said. And a lot of the people talking were people that when we first brought our constitution, adopted our constitution in 1951, their family members were people that our kindhearted people

accepted in the tribe. They didn't have the blood to be enrolled under blood quantum requirements or maybe they weren't even Spokane, but they were put on the census and so some of their descendents are some of the ones that were sitting in these rooms pointing fingers. Some of my family members. It just hurt my heart.

So when I was elected to tribal council the tribal council at that time was very proactive and knew that this was occurring and that people wanted to disenroll people. And so what they did is they brought a number of referendums to the ballot to assist with the process. And I think as tribal leaders it's important that we not be part of the problem. When we are elected we are not elected and we become someone way up here where we can tell a judge what to do, or we could tell the executive director what to do, we are servants of the people, and that's what my grandmother taught me, that's what my elders taught me. You are not a tribal leader and everyone bows to you. You bow to the people and you listen to them.

And so I was fortunate the ones that were on the leadership at the time when I was elected, because I'm the first -- second woman to be elected to our tribal council and the first chairwoman, so I was fortunate that there were several -- four other men that really seen this as a

problem, something that could just destroy our tribe. And so we put several things on the ballot. One of them was to create a base roll that if it was approved there is no law or anything that could disenroll members, and that particular issue passed by a big majority of the people.

MS. TIMECHE: And when was this?

CHAIRWOMAN EVANS: This was in 2011. It was an amendment. And then we also -- we're blood quantum, and we're an IRA tribe, you know the standard constitution. When the original census come in, we decided who was going to be the members, but then we really restricted it. We made it so that a parent had to be a quarter Spokane and their children had to be a quarter Indian. Well, in '63 we changed it so that the child only had to be a quarter Indian and a parent, so it's kind of going towards that, you know, as long as you are enrolled your children can be enrolled. But through time we did make these changes and for the time being it's calmed our people and it's helped them.

We did do another change to the constitution that if the members vote on an issue, it can't -- nothing, no law or anything can change that, and we have the base roll, no law or any policy cannot disenroll those people. And I think that's helped bring our people back together and helped us to refocus on the people, not on money and

things like that, material things.

MS. TIMECHE: So I want to going to get clarification here. So this amendment that you made went to one quarter degree blood quantum and a separate amendment or a separate provision?

CHAIRWOMAN EVANS: Yeah, we have the 1951 constitution, we have 21 amendments to that constitution since 1951. Five of those amendments deal with protecting the membership or redefining who can be a member or how people transfer into the tribe. And so some of these amendments are to protect the tribe or protect the people so they cannot be disenrolled. Two of them are directly at that.

MS. TIMECHE: So there was a separate provision specifically that said that there could not -- individual members could not be disenrolled?

CHAIRWOMAN EVANS: Yes. If they are on that 2010 base roll, they cannot be disenrolled.

MS. TIMECHE: So the form of government that you have, did you do this through a referendum process?

CHAIRWOMAN EVANS: We did. The elected leaders put it on the ballot and the members voted and they passed in favor of these amendments.

MS. TIMECHE: And tell us a little bit about the education that needed to be done in the community or was

there already overwhelming support for this that you didn't need to do a lot of education?

CHAIRWOMAN EVANS: Well, we had these division meetings where people were trying to disenroll, so that brought about a lot of discussion in those meetings. We had membership meetings to explain the referendums that we were putting on the ballet and it was well attended, and we have a newspaper that we would put articles in informing the public, and just word of mouth, I guess, families talking about it.

MS. TIMECHE: Okay. Did you have a question, Miriam, that you wanted to ask? No. Okay.

I wanted to come back just a little bit, back to Chairwoman Burnette. And you talked about how in the past people came to the council, people connected them to the families and the clans, and they were accepted, but talk about what's happening now.

MS. BURNETTE: Well, yeah, since we're an IRA tribe, we've only done one total revision of our constitution, which passed in 1999. Since then our three requirements for the constitution were there, but I believe there was room for all kinds of interpretation.

And I remember back in the Indian land claims era in the '60s and the '70s, I guess I'm giving my age away, there was no requirement to say we were such a

degree of Fort McDowell, Mohave Apache, we're formally known as Mohave Apache. If our leaderships knew we were the children or grandchildren or great-grandchildren or great-great-grandchildren, we were a member. Of course there was only about 175 of us back then, and we're 904 today.

So having said that, I think if I can recollect, the federal government is the one that required all of these written documents. And this is just my opinion, I know I have my lawyer in the room, that has caused a lot of chaos, a lot of confusion, and now that I'm back in leadership, you know, this past 14 months I've seen a lot of documentation about disenrollment. We never heard that in our tribe ever, ever. If we did, it was probably real quietly, you know, mentioned.

So because of the intermarriaging and me for one, my children are half Navajo and they are half me, and my daughter had a son, his father was Pima from the neighboring tribe, so my grandson is, you know, five or six tribes. Since that has happened, you know, in the last I would say 30, 25 years, we have changed, you know, our constitution moving forward. Now there is a proposal again as we sit here, my executive assistant is in the audience, she is the chair of the enrollment committee, so I can't tell her what to say, but there is a proposal to

change the blood degree again because, and I have to emphasize, the intermarriaging, we can't marry our first cousins, second cousins, and hope there is no prosecutors here, third cousins, you know, we will get in trouble now.

Historically, you know, my grandmother could probably have married her brother-in-law, whatever, whatever in-law. Those rules have changed, you know, in the last 40, 50 years, anyway since I've been around, so, you know, so there is some talk as we sit here today of back again, and I was just sharing with her ours is on descendancy of your family being on our 1934 roll.

There was some language in there of any Indian blood, and that's kind of raised some eyebrows, but you've had to had some descendancy on our roll too. So it's kind of still challenging for us because we still have some individuals that are fourth cousins, third cousins. You would be surprised of the blood degrees of some of our children coming before membership that are now a quarter or between a quarter and a half, so I know the larger tribes you probably don't have the challenge, you know, we do, but we have a sense to keep descendancy in there, so that's another requirement.

I don't know if that answers your question, but there is a proposal out there and there's been for five, seven years, and it's on my radar screen, get it moving,

get it moving, so we will see. But it's very challenging when you have family factions out there to keep us all together in focus and I think my community can say I do good at that, to keep us all, you know, focused because we have a tendency to want to go backwards all of the time. And I know it's good for historical purposes, but somewhere we need to move from today moving forward.

MS. TIMECHE: All right. Thank you very much. Gentlemen. Chairman Manuel.

MR. MANUEL: (Native language.) Good afternoon. I'm honored to be here among you to share some of my thoughts here regarding what is being discussed here yesterday and today. I missed yesterday's meeting, but I'll get -- my staff were here yesterday, so they called me last night and said, "You are on the panel." And I said, "What panel?" And they said, "Who Belongs." And I said, "I belong there." That's my land. That's my traditional land.

But in our constitution we go by as far as enrollment by lineal and also by residency, mostly it's residency that we go by. About 15 years ago, the council talked about going to blood quantum, blood degree at that time. So I started looking at, you know, the advantages, disadvantages on those two, what we have then and what's being proposed. So I'm a runner, I like to run, I used to

run here in town when they had runs, and one time they had a run here at the University of Arizona, so I decided to run here too, so I ran the 10K.

And at the end this one girl came up to me, she was blond, blue eyes, and she said, "You are Indian; right?" And I said, "Yeah." And she said, "What kind of Indian?" I said, "Tohono O'odham right next door." And she said, you know, "My mother is part Navajo and my father is Anglo, so I never got to know my mother because they separated and then she died, so I never got to know her and I grew up in a suburban area of town here in Tucson, I was raised by my father, his side of the family, so I never got to meet my mother or her side of the family."

And she said, "One time I heard that there was going to be a pow wow here at the university, there was a notice that went out, so I decided to go. So I went there to the pow wow and I stood there and this group came in from Navajo and they sat down and started drumming, and they started singing." She said, "Something happened, I just felt moved, I felt excited, I really got into it, and I started dancing with the group." And then afterward she said, "Then I realized that I'm Indian, I'm Indian."

In that case, there is a message: Why look at blood degree, it's you, the individual, that knows who you

are, what you are, nobody can tell you if you are Indian or not, it's up to you. That girl realized that she is Indian. She started searching for her Indian family. So that changed my mind as far as looking at blood degrees because I know who I am, why should I tell other people who they are. Thank you.

MS. TIMECHE: Chairman, before I let you off the hook here, I have a question for you. So are you saying then that there were -- you were planning on just keeping your blood quantum criteria basically the same or had you been challenged already within the community. You have what, 33,000 citizens of your nation, and surely you are experiencing a lot of what we've heard already from the audience, so are there no challenges regarding your membership criteria?

MR. MANUEL: There are 34,000 members. There is always that question that comes up from different communities about changing the blood degree because our members are, I guess, intermarried to other tribes, to other ethnic groups.

MS. TIMECHE: What we've heard already.

MR. MANUEL: Right.

MS. TIMECHE: And then you and Chairman Valencia also have also have a different kind of a situation because you both have citizens in the Mexico side. Can

you talk a little bit about how you handle that, and then Chairman Valencia, you might want to add that to your comments as well.

MR. MANUEL: Yes. When they put in international boundaries, and that's why we don't want the wall, just to let you know. When they put in the international boundaries, they cut our traditional lands in half, and so majority -- or some of our people are caught on the other side of the international boundaries. So we still enroll those members, we still recognize those communities on the other side in Mexico as O'odham communities, so we still enroll those members that come forward.

MS. TIMECHE: So the U.S. border is nothing to you then, so yeah, because it's your people, your territory, whether it's in the United States or in Mexico?

MR. MANUEL: That's right.

MS. TIMECHE: Thank you.

CHAIRMAN VALENCIA: (Native language.) My name is Robert Valencia. I am the chairman of the Pascua Yaqui tribe, and I still would like to quote that Verlon has said about the wall, you know, over my dead body. It's gone a long ways. I fully support that.

What I would like to talk a little bit about is we've been recognized -- we were recognized in 1978, but

before that we as Yaqui people, we call ourselves Yoeme, the Spanish called us Yaqui, and we had a form of identity crisis, you know, those people who are slightly older than me, they would say white. And we got recognized in those forms that they send out to the schools for kids, we always had to check other because we didn't fit in any other categories, so it was kind of a form of an identity crisis.

As I said, we attempted to get recognized in '75, didn't happen until '78. I happened to be on the what was called the Pascua Yaqui Association, a precursor to the tribe, a member at the ripe old age of about 19, and I saw the development and, you know, the whole recognition process and, you know, it was -- some people felt, our people felt that we didn't need the government to tell us who we are. My sister is an example, did not enroll for about 20 years because she said I don't need anybody to tell me who I am, I know who I am, so she refused to enroll. But we knew we had to do it and when it got done it was a major development.

In the legislation that gave us the recognition, federal recognition, though it did outline, you know, our membership, we had three years to get as many members as we could and they have to be U.S. citizens, quarter blood, and all this kind of stuff, so that was pretty defined.

Most recently we have had a constitutional change, we changed three things. One being we took the bureau out of the approval process, which was important for us, and this happened a couple of years back. And we also allowed for collateral enrollment, meaning if your sibling for whatever reason didn't enroll and your mother and your father were not on the base roll, this allows them to come in as what we call collateral lateral enrollment. So we had I think about 1,000 people, or we anticipated adding about 1,000 people that way. And it's really important to us.

Our tribe, for example, when I got in office, I've been here since 2000, we had about almost 13,000 members, now it's 20,000. So our tribe is growing. As far as our people in Sonora, what is now Mexico, we have about 40,000 people that are Yaqui. We don't have lands that extend to Mexico, to their lands there, it's about 375 miles away. And part of what happened during the recognition process is that we're no longer Yaqui, Yoeme, or whatever we call ourselves, we were now Pascua Yaqui, and that was the government 's effort to differentiate between the U.S. Yaquis and the Yaquis that lived in Mexico. So, you know, we still call ourselves the same people. And that was one of the things that we didn't really ask for, but they wouldn't concede that. And we've

been asked by very important, very visible, high profile senators if we would consider not enrolling anybody that was born in Mexico. And at the time I was the chair and I said, well, you know, we can't do that.

So there is many other limitations that have been external to try to limit our people or even our growth of base enrollment. We actually have two base enrollments now. And we just feel compelled to be able to help out our people. Most recently, for example, we do have about quite a few people that are not -- that have parents that are tribally enrolled, or one of the parents is tribally enrolled, but they don't meet that one quarter blood quantum. As a result, they can't get the Yaqui preference in hiring.

So last year we just changed that so that children of parents who are on the base roll, were on the rolls, could get that preferences in employment because it's critical. Some of those kids are very active in the ceremonies, they are learning the language, they are -- you know we need them, so we need to support that they are willing to do that. The blood quantum thing is, you know, we didn't set that up, it's something that we're looking at for the future, or for the new future, but, you know, based on our current growth, you know, it's going to be a discussion for, like I said, sometime in the future,

probably beyond the term of what we have. We just got elected in June, it's four years.

But, you know, that's how -- that's what was dealt to us, and, you know, it's really important to also know that during the recognition process, it's like not every tribe was happy that we were trying to get recognized, and that was a pretty tough battle. And since then I recall speaking to a tribe back East who, with a fairly large successful gaming tribe that exists right now, they talked about the fact they were going to go in together and whoever got recognized was going to help the other, and so one tribe got recognized, they have the largest casino there is, and they so oops, sorry, we forgot about that conversation. So we realize that those things do happen. We're fortunate to have received the support that we did. But that is all for now. Thank you.

MS. TIMECHE: Okay. So it sounds like you already encountered these issues and you were able to resolve it with the last amendments that were made two years ago; right? Is that correct?

CHAIRMAN VALENCIA: Uh-huh.

MS. TIMECHE: Very good. Thank you, Chairman.

So the question we asked is an instance where this "Who Belongs" question came up in your community and how you responded to it.

CHAIRMAN CRANDELL: Well, in my community, Robinson Rancheria in Northern California -- first of all, hello. I'm here with the Councilman Boggs. And Bob Gary's name was mentioned earlier and I would like to recognize him as well because he's a sister tribe.

And when who belongs came up in 2008, our chairwoman at the time who inflicted disenrollment on to our people had worked previously at his tribe who was going through the same problem as we're going through. So in our county, it's really -- you know, that demon is powerful. So I just -- I want you to recognize that and know we're sister tribes. We deal with it in a smaller faction, we don't have as big of roles as the Chairmen and Chairwoman here, however they figured it out by the time they got to California, so they broke us up and divided us.

But who belongs came up in the '70s, and when we were -- I know that everyone has like a program that has my name and talks about it and I don't want to go into detail about it because you can just read that. But during the '70s we won a case, the Mabel Duncan versus the United States case. Our Chairwoman at the time, Bernadine Tripp, had brought our tribe back to prosperity and wanted to put us into land in our local area. What they did was they found the 1977 Revocation Act, after termination in

'65 and all of that good stuff, they brought everyone that they could find back to Robinson, that's who belonged.

Well, lo and behold, they couldn't get enough people to move back from the Bay area down to -- or up to our tribal lands, so we had to get people to move up there. And so they are like do you know what, there are other people who belong here as well, because during those times it wasn't about who belonged it's we all are surviving together because we all have been terminated and we have all went through these hardships together. So it wasn't about you're a quarter or you are this, or you were born up in wherever, we all knew we were one people.

So they said well, what do we do about that. And what I'm fortunate to boast about is on my council right now I have two cultural men, you know, Jaime Boggs is cultural, Nathan Solorio is cultural. Colleen Pete is our secretary treasurer who helped construct our constitution and enrollment during that time, and she had reminded me that back in those days the secretary of interior had said, you know, you could actually use the 1940 census as an adoption clause and maybe some time in the near future you can go ahead and implement that in your constitution. Great idea, let's do it.

What happens when you get a group together and you form a government, a microcosm of the United States

government at that, you get a power struggle for the next 20 years until 2008 when they decided well, do you know what, I don't like what they're saying because in 2008 I won an election, and after that election they cancelled the election, invalidated it, and we had to all come together in a general meeting and tried to implement what we wanted as people. And they noticed that a majority of the group did not belong there in their eyes because they were adopted, and that was the ugly word, adopted.

So what they did was they invoked the enrollment ordinance, took out Section 8 of that ordinance, and took out the adoption clause and then disenrolled those members. They didn't follow any type of jurisprudence, anything, they just did it, you know, and there was no way to stop them and one of the things that --

MS. TIMECHE: "They," being the council?

CHAIRMAN CRANDELL: The council, yes. And the council at the time was formed of a specific family that felt that they knew, you know, the tribe belonged to them, and they ruled with power, with just absolute, you know, might, and so when they did that there was no stopping them.

You are really not supposed to -- in our constitution it specifies in Article 11, Section 5(i), that you cannot impose or pass any bill of attainder or ex

post facto law, and it's like huh? What? Every time we mentioned it, it never was -- so that's the way we brought our people back by using that clause. We made a resolution, we re-implemented Section 8, we brought back the people from the '40 census, or invited them back, because you can't tell someone to come back that doesn't want to anymore.

So on March 2nd, we brought back a first wave of disenrolled members from 2008 of 35, before that we brought back seven. Those disenrolled members weren't because of that clause, they were just kind of, hey, do you know what, I think they lost their ID and their birth certificate, so they are disenrolled, you know, things like to, so there were a couple of people that were targeted that way. So a total of 46 have been brought back. Our goal is 70. But that's where "Who Belongs," that's where that question came from, but our council, we decided they belong here, we know they belong here. One of the elders we brought back is one of the last people that know the language in our tribe, and so that's something that we're proud of. I hope that answers the question.

MS. TIMECHE: Yes, it does. Thank you.

MS. JORGENSEN: So I too want to just thank all of the tribal leaders here on the panel and others in the

room. As the Chairman has pointed out, there are others in the room who are in leadership positions. We're going to shift gears a little bit from your story to asking how this convening and how you each other can be of use. So I'm a research director, so I'm interested in information, and in particular we've learned at the Native Nations Institute how powerful it is for these kinds of stories to be shared.

So this is a question that goes out for pure learning, leader to leader, it goes out to the group broadly, we've got lawyers and advocates, we've got academics, we've got tribal citizens in the room, so I'm really curious as to what can people like those gathered in the room do to help your nation address issues about Who Belongs? Is there information that can be generated? Are there other stories that can be shared? Are there advocacy positions that can be taken? What is it that you need to address these issues in your community and how can all of us here find a way to participate in helping move these issues forward, whether or not they are blood quantum issues, whether or not they are not disenrollment issues, whether or not they are constitutional issues. What are some of the things that you would find helpful to address these issues around "Who Belongs."

CHAIRMAN CRANDELL: I can answer.

MS. JORGENSEN: That's great, if you would kick us off.

CHAIRMAN CRANDELL: Yes. I was just talking about this at lunch with someone that 10 years ago I served as a member at large, fresh out of the Army, really green, myself and Jaime, Jaime served with me as well, and we went to D.C., and we were on some conference. And another council member was with us, and we were engaging with everyone like how we are now. However, he was at the side with some southern tribe, southern California tribe who had probably already implemented disenrollment, and they were just engaged talking. And after he said, "You know, I learned so much today, it's going to help our tribe." And I was like, "Oh, share it with us." "Oh, no, I can't share it with you."

There is many of those groups that had taught some of our people in every area how to do those things, how to disenroll, how to -- you know, but I'm glad on our end here we're able to share how we can combat that. Because what we're dealing with is bullies, and these bullies are also victims. Because once you get them in a position where you are dominating them, they start turning into the victim, and then they start trying to tell everyone how they are being abused, forgetting how they abused everyone else.

SPEAKER: That's true.

CHAIRMAN CRANDELL: Yeah. So the thing too is just research and see the stories that we have. Bob has a website, ClearLakePomo.org, that tells the story, and it's really gritty, it shows our disenrollment stories up in California, and you can get those stories right there and relate and be like, wow, that happened to us too. So that's part of it is we just need to share and stand up to those bullies and then know that you are dealing with someone who is hurt and has never got over it and know that they are sick. We are abused people, afflicted abused people, we are. We know that. And I think the deal is we have to recognize that when people come at us, even the people that have been abused in my tribe, disenrolled and upset, they even turned on me and got upset with me because it wasn't happening fast enough, but I had to recognize that I knew they were sick and they would see one day -- or they were hurt and one day they would see, and it came to fruition. People had seen people pay for what they did wrong to their own, and they also had seen that what -- the hope that they seen, the light at the end of the tunnel came true. So that's kind of what it is, give hope, stand up to bullies. What our elders taught us.

MS. JORGENSEN: And I'm hearing sort of two

really clear things out that. One is telling these really positive stories about return and about how that restores not just individuals but tribes. And then also the really sort of policy technical thing of this is how we did it, we used this clause of our constitution and that worked. So the technical side of things and that story of hope.

CHAIRMAN CRANDELL: Well, there is a lot more to it, I'm just getting to that.

MS. JORGENSEN: Right. And see him outside because there's lots more information he can share, right.

PRESIDENT BURNETTE: I just want to echo too what he said. Who else is going to tell a story besides us that live in the communities day in and day out, not the state. No offense to the colleges, but not the universities. You know, not the federal government. Because I think some of us were probably told by our elders you can't trust them, you can't believe them. And anywhere where we can share a copy and just, you know, white out or black out or whatever the new computer word is or strike through, whatever you want to call it, let's share those documents. Because, you know, we're the only ones that know who belong, you know, in our community.

And it's unfortunate, I'm saddened to hear the word disenrollment going around in Indian country, and as long as I'm a leader here it's not allowed in my

constitution or my ordinance, you know, in our tribe. You know, so it's unfortunate whoever started that, you know, our ancestors are probably rolling over in their graves, you know, because that was never heard of, and I would be the first to stand up against that. But if we could share, you know, some of those ordinances or even elder stories, you know, those are important, to me anyways. And I always say there is -- we get afraid, and I see the camera and the typing here, because some of that can be misleading, it can be misinterpreted. So lawyers help me to do the whatever amendment, you know, after leaving here because, you know, it's going to be out there for the other leaders, our future leaders that are going to take our places, you know, some day. I know us too that have probably been around the longest, you know, 25 years plus, 50 years, that's a long time in leadership.

So if we can share amongst tribal governments, I think that's probably the greatest technique, you know, that we could use. And we have some smaller tribes that can't afford, you know, to write all of these ordinance or laws or rolls, and I know we have some traditional tribes that don't have anything written, they say you are a member, you are a member and you've got to follow that. So, you know, that is just kind of my little two cents.

MS. JORGENSEN: Thank you, President Burnette.

CHAIRMAN MANUEL: I just want to thank Robert Hershey for asking us to participate in this forum. I think we need more of these forums where we can interact with each other, the scholars, the politicians, the lay people, the people that does all of the work in the background, the enrollment people, and some of the members of the tribes because right now we're going to get challenged as far as who belongs in the next four years, we're going to get challenged. So we need to come together to share because some of you understand the laws, some of us understand the political part of it, some of us understand the processes, and some understand what you have to go through to get enrolled. So if we bring everything together and have these discussions and interactions that we're doing here today, I think it's going to go a long ways as far as helping all of us as to indigenous people. So thank you.

MS. JORGENSEN: Chairwoman Evans or Chairman Valencia.

CHAIRWOMAN EVANS: I think that what you've already done, this is great. I've been really fortunate to be part of such a distinguished group. I have not -- I'm not really coming from being a tribal leader for a long time, I'm an accountant, I'm a finance officer and that's what I did for my tribe for 28 years, and so I'm

not -- I don't feel like I'm a good leader, but I do know one thing, I have to listen to what my elders told me, what my grandma taught me, and all of those elders that she introduced me to and through all of my -- from three years old learning to shake hands, first thing she said you go into a room and you look at people in their faces and you shake their hands and you listen to your elders and you participate.

So I think what is important is, and what you can do for us, is continue. Continue with this journey of allowing us tribes to share. Because I just appreciate so much this last two days of what I've learned. Every speaker had a story and every speaker for me spoke from the heart, and I just take that inside and just hope that I can bring it home and help my people, and I can share with other people that are now my friends, you know, just having the connections has helped me tremendously.

Robert, who isn't here, you know, sorry, but I think I'm colonialized and I'm colonializing my people. And Patricia with your socioeconomic, how you went and polled your people, and the First Nations people. You know, it's just Gabe, what you've done for the people in our area. Just all of the sharing, I think it has to continue.

I guess what I would like to see from you is, if

you come up with the notes or the presentations, I would like a copy of them. Because it will definitely help me with our tribe because what we've done is not the everlasting solution; we're all on a journey and we'll continue on this journey and hopefully we'll learn to remember where we came from. You know, my people were salmon people, we were river people, we lost the salmon when Coulee Dam was built, we were removed from our homes. But I tell you, I can go all the way back to my great-great-great-grandfather Baptiste Peone who lived on Peone Prairie next to Mount Spokane on our historical homelands, and to me that's what's important, and that's what's important in who belongs.

So if we can continue to share our stories from what we know about our people and who our people were and what made us today and how we can take that into the future and honor our people. You know, we can't dig our relatives up and take some kind of test to disenroll people. My grandmother would say to me if I did that, shame on you, shame on you. That's not what we're about. You are (native language), and that's our name for who you are. And when I was a little girl my grandma would say who are you? Are you (native language)? Are you Suapi (phonetic). Suapi is the people that came in and contacted us and colonialized us.

And so I would also say (native language), and I always thought that was just Indian, but as I grew up I found out it's what's here, it's not the color of your skin, it's what here and what you were taught. And so the more we can share these. Because if we have people that have been removed from their lands, they can always get it back, you just bring them together and they'll get it. And that's what my elders told me.

So I think continuing to bring us together on this will help because I really would like to solve the problem of how can my tribe help the other tribes and help keep those people accountable so they don't disenroll. (Native language). Got a little bit longer there.

MS. JORGENSEN: Chairman Valencia.

CHAIRMAN VALENCIA: Thank you. I was remiss in not recognizing our tribal council people. Herminia Frias, former chair. And Antonia Campoy in the back, and our enrollment department is somewhere around here and our AG.

I was just thinking in terms of beyond today, the question was related to what do we do with this, and you know, often we come to these things and go back and that's it. So I would like to really see -- and thank you, Robert Hershey, I would like to see that this kind of a forum be continued. It's very interesting, you know, we

have a lot that we can learn from each other, of course, and we have to -- I remember being at a tribal leaders 9/11 when the senator addressed the tribal leaders and he said you have to -- what you have to do from here forward is you have to more or less get along with each other, you have to make sure you stay out of the media, and for God sake don't take any of these cases to the Supreme Court because it's something you're arguing within the tribe, you know, it will be bad for Indian country.

So, you know, that was a long time ago, but I think that's still true. We have to prepare for unintended consequences, or be aware or cognizant of the unintended consequences of our actions, that we have to learn from these actions. We're in a state of nation building, how does this help that process. So the other is -- can I go a little bit from the theme here? But I was thinking in terms of exploitation. We have to also protect our own identities as tribal people and tribal nations because there are people that, for example, with our tribe, I know there is several academics who used our people to further their careers and they were not members of our tribe, and what happens then they are not asked for tribal IDs or anything like that. I'm Yaqui. Okay, you are. So I've seen that here too at the university. But this is kind of a stretch of the topic. Thank you.

MS. JORGENSEN: Thank you. I wanted to open the floor a little bit first and then we'll open it more broadly. As the Chairman has pointed out, there are elected officials and tribal leaders, traditional leaders and officers of tribal nations here. And if anybody wants to have a brief comment, also coming as an elected leaders or tribal leader. Great. We've got a runner.

MS. TIMECHE: I did want to say that I know we have a couple of former chairs and governors as well. We have Rudy Clark, we have Governor Luarkie, and then we have the Wampanoag chairman as well. I don't know if I missed other former chairs that are in the room, but please join us -- oh, and then we have, of course, Herminia Frias, Pascu Yaqui. Any other former chairs in the room? So yes, please join us if you have any comments, issues. I mean, instances where this came up.

SPEAKER: My question is for Carol Evans. You mentioned about going back to the elders and the people and that as a tribal leader, because I am an elected council member for the Mohawks of Kahnawake, that you know, your spokesperson basically, so when the people are the ones who have been empowered to create the legislation for belonging and membership and based on the messages that I've heard in this forum about how belonging and being tied to the land, and there should be a lot more

considered aside from blood. If you were here yesterday in the morning, I had presented a little bit about how strict our rules are. Four out of eight great-grandparents have to be of indigenous descent for you to be a member.

And as I mentioned there was years of consultation from 1981 to the present, we're still in a consultation phase to make amendments, but all I see is it getting more strict. It's not becoming more open, it's not becoming more lenient. And as a matter of fact, we are, to some degree, throwing our people away because if anybody gets into a relationship with a non-indigenous person, that non-indigenous person is not allowed residency on the territory, so in fact the member or the -- if you want to call it Mohawk has to leave the territory for choosing their love, their spouse. And the elders were the ones who created the custom code. Okay, if you are a full blood and then you marry out, you are (native language), they call that half blood. (Native language) has a choice to make, marry back in, if it's another generation marrying out, (native language), you are not Indian anymore. So that's why I'm saying how as a leader do I go back to my community to start the conversation when it was the people and the elders who made these laws.

CHAIRMAN EVANS: That is a real tough situation because in our case it's usually the elders that are coming out and calming us and settling us down, they are not the ones that are out there trying to divide us. So to me that is a real, real hard situation, but I think the answer is probably in your heart, you just need to be open, you need to be honest, you need to talk what you feel that's doing, and maybe -- and the more you talk, maybe the more the elders will realize oh, maybe I have been -- maybe my line of thinking isn't correct because it just destroys.

You know, I have never known our people to try to divide like that until we had more money and, all of the sudden, it's an issue. I think you just have to be open and honest and talk with them, talk one on one and learn who they are and learn maybe why they are thinking the way they are, but don't stop that dialogue, continue visiting, continue trying to understand them and explaining to them what you're feeling and what you feel it's doing to your people. And I think that can only result in a good, you know, outcome. That if people talk and continue to communicate, it can help.

It may not solve the whole problem because none of us have the full answers and definitely what we're doing now isn't the answer, we just continue on our

journey of always trying to remember that we are indigenous people that respect all, and that includes me and you. I respect you and you, and I need to listen to you, and I need to listen to you not only with my ears, but my heart. And when you can do that, I think you truly do can understand what the others are feeling and you become more inclusive rather than exclusive.

SPEAKER: And if I could, one more thing, I think part of the problem is because so many of the elders have passed, so in wanting to honor and respect the wishes of your elders, a lot of people now feel like if we don't uphold what they said we're dishonoring them, but maybe they might have been influenced by the colonial -- their experiences. So, you know, it's going to be a challenge for sure you know to say well, maybe, and I hate to say this, maybe they were wrong, maybe they were feeling all of that pain that everybody is talking about because of the multi-generational trauma, the effects of residential school, that we just turned on ourselves to say now I'm going to do it to my brother to make me feel better. You're right, it's kind of like a form of bullying. So I thank you for your comments.

CHAIRWOMAN EVANS: Thank you. And you'll be in my prayers. I wish you the best.

MS. TIMECHE: So some of the former chairs, did

you want to add anything?

SPEAKER: So you confused me with my cousin Rudy. I'm taller and better looking.

MS. TIMECHE: I got the tribe right.

SPEAKER: I'm a recovering vice chairman of the tribe. I've been off for a few years. You know, I think for myself what I'm hearing it is -- well, the fuzzy line comment from yesterday, humanity is fuzzy, you know, and the government tries to impose these strict lines and definitions on something that can't be done that way.

Just to add to the fuzziness, we had a young child who was adopted by a tribal family, and it wasn't governmental adoption, it was just she is living with us now, and this was done in the 1930s, okay. The tribe never passed an ordinance, it was just understood. Then the parents passed away and that young woman grew up, she had a family of her own, and then finally in the '70s the tribe passed, you know, a resolution that she is a member of our tribe, even though it was already understood. Then 20 years after that, after she passed away, someone came back and said, well, that resolution didn't say anything about her children, so they are not members.

So you see how -- I mean, sometimes it's that straightforward story of now you are a member, now you are not as far as disenrollment or the blood quantum where you

are either in or you are out. In this case, it's all fuzzy, it's all gray. And tribal leaders, you guys know when you go to any consultation there is a lot of gray in terms of law and how it's applied, you know, to individual tribes or situations. I was inspired by Chairman Sarris's video. I thought that was great.

The other thing I found, particularly in California, there are some bully tribes. And a lot of tribes, like my own, we're in the middle of our senior water rights lawsuit, and so if you stand -- and, you know, the instance I gave you of disenrollment, we're actually not guilty of that much at all, and we do lineal descent, but what I see are tribes that are afraid to speak up against tribes who have disenrolled, for fear of retribution, for fear of opposition to getting their legislation passed. And I looked up Graton's, their constitution, it's online, and I found the section where they kind of outlawed disenrollment. It's right there on the internet and anybody here can check it out.

And maybe what I'm thinking now about going back home is pushing for our tribe not to call anybody out, but to pass something similar, even though we're not doing it right now, just as a message, I think, and then maybe lobby other California tribes or, you know, tribes in America to pass similar kinds of whether it's an ordinance

or amendments to their constitutions just as a public statement this is not okay. And I think that might be something that maybe will become my life story or what have you, but I think that's a way of moving things positively without simply just -- and I think I know the California tribe you were talking about who is kind of a bully, you know, and that exists and nobody wants to say it, but that exists. So that's my perspective.

MS. TIMECHE: Thank you very much.

MR. VANDERHOOP: (Native language.) Good day. My name is Tobias Vanderhoop. I'm the former chairman of the Wampanoag Tribe of Gayhead Aquinnah on the Island of Martha's Vineyard in Massachusetts. We don't struggle in the same way that's been discussed here with disenrollment. There isn't a mechanism in our constitution that would allow for that to happen. When we think about it, the traditions and values that have been passed down in our community, it would just be unthinkable that we could remove the status of somebody that belongs in our community.

We do struggle, however, with an aspect of belonging because we're an island people and there are those of our people that have remained at home, it's the reason why we are a tribal nation today, and sometimes it's difficult when we call upon our relatives who had to

leave for various reasons, economics or other reasons, and we ask them to come home. And I struggled with it, I tried very hard to make sure that when people did choose to come home, that they felt welcome because I grew up away from our tribal homelands on the island. I grew up in the city. But I came home, and I found a way to learn our language, I learned our history and our culture, and I lived it. And so I know what it is to feel like I didn't belong because when I was a boy, some of my cousins made fun of me because I didn't grow up at home.

So I understand on a very small scale, and I just want to say thank you to everyone who has shared their stories about being removed from their community and being made felt like they didn't belong because it hurts my heart to hear your story. And I'll keep you in my prayers and I follow this issue, it's the reason why I made it out here because I wanted to learn more about it, and I thank you for allowing me to have a few words, but I will keep you in my prayers and I will be vigilant in my community to make sure that this scourge does not happen to our people.

CHAIRMAN CRANDELL: Thank you for that. I just wanted to expound on something that not only Gabe had said about -- you know, I like how you mentioned vigilance, that's important, to be protective. But not being

overbearing about the upsetness that you have for being disenrolled or abused because that does take a lot away from the message. It really was harder in the time that people were disenrolled, a lot of people were in my family, and it became more like they didn't want to hear it because it hurt so bad, you know, and they were being the same way but just opposite, they were just they did this, they did that, and it just like takes away from what you really want to get done.

The other thing, anyone studying law here, the attorney that we have right now, his name is Timothy Harjo, he graduated from ASU, but he was helping us back in '09 -- he was helping us back in '09 with a disenrollment issue and we had him to write like two or three letters, and I said what can we do? And he says, you know, it's just going to go to IBIA. He goes, "EJ, the best thing you can do is just start figuring out a way to get your tribe back because the only person that's going to be able to do it is you and your people. Because you are going to sit here and pay me for years of writing letters and fighting." And so I just -- I implore you and hope that you will have that sense of integrity and caringness to tell anyone that you are working with to say the same thing or just something along those lines.

MS. TIMECHE: Governor, did you want to say

something?

MR. LUARKIE: Good afternoon, everyone. You know, I think on the young lady's comment here, when she was making her comments I was thinking back to a comment that President Obama made a few years back, and he said we are the ones we've been waiting for. And so, you know, the old folks, we talk about our elders and we respect and hold our elders in high regard, but the reality is that our elders didn't always make the right decisions either. They are just like us too. They've made some not so good decisions. But it in saying that, I would say to not be afraid to do the work that you need to do, and I think that goes for all of us here, that we're the ones we've been waiting for.

(Native language.) Be strong here in the work that needs to be done because, as we say in our council, we're not making decisions for today, we're making the decisions for those that are yet to come. And so I would, you know, encourage that. And as a former governor and as having, you know, walked in the shoes of these tribal leaders, it's hard because the councils make the decisions, but at the end of the day it's the leaders, the chairmans and the presidents that get the hits. You know, so I would say encourage the leadership to support those kind of efforts that need to get done, you know, at that

level. And I'm hearing some good things here that are being done.

And so, you know, I would just encourage you as a young person to do the work that's in your heart and to not be afraid, but, you know, with the elders to also do it in a manner that's respectful, you know, to our elders, engage them and their advice and their wisdom and maybe the things that did hurt them, acknowledge it, but also be mindful of what's going to take us forward, all of us, because it's not work for just one tribe, it's for all of us. Because like somebody said, we need to all help each other, and if we can say well, they did it, well, we can do it too.

And I think, you know, this -- in my mind, you know, I'm grappling with this disenrollment because I don't -- somebody said even in our language, wow, we don't have a word for disenrollment. I don't know how you say that, you know. And I think it's going to be very important that as we move forward, you know, we're sitting here in the School of Law, you know, in our teachings we have what we call (native language). (Native language) is what gets created here, the written law, the man made law. The (native language) is our creator's law. This one says it's very penalty driven, you go over the speed limit, you are going to get a speeding ticket, and you have to pay

however much money.

Our law, the (native language) says (native language), love one another, (native language), respect each other, (native language) don't hurt each other. (Native language), disciplined. (Native language), obedience. (Native language) conduct yourself properly. That's our law. Very simple, but hard.

But, you know, I would say in your work and the work that's being talked about today, this is the law that I think we need to base those decisions on, not this one. Because we've seen the pain that this one creates. We need to be strong enough to build it on this one. So I would just encourage you to do what you need to do, you know, in a respectful way and it will come out. Have faith. Have faith.

Like we say, we start every morning, you know, the gentleman started us with a prayer. And when I was serving as our governor, I would remind our council every now and then, you know, we start every meeting with a prayer. Don't be afraid to make a decision. If we have faith in that prayer, that's what guided us to the decision. Don't be afraid of it. So don't be afraid of what you need to do. Start every morning like that with a prayer and your day like that too. So just to offer those thoughts. Thank you.

MS. TIMECHE: (Native language.) So I just wanted before -- we're quite overdue with the break, but I wanted to see if former Chairwoman Frias wanted to say anything? Do you want to add anything?

SPEAKER: No, I'm okay.

MS. TIMECHE: You're okay? All right. So what we need to do is we're going to take a 10-minute break and we're going to come back and allow for more discussions, so if you would be so kind to follow our 10-minute rule, we'll come back.

MR. HERSHEY: For those of you that have bid on items for the law school's association, we have a list of names here. Will you see Alex and she'll let you know if you won and you can collect your things there.

(Recess took place from 3:41 p.m. to 4:12 p.m.)

MR. HERSHEY: Hello. Welcome back, everybody, and thank you for -- we'll have a -- if the O'odham folks come in here we'll have a drum, and hopefully they'll be here in time to drum for you. And hopefully you'll still be here to hear them drum.

Do you folks want to come down a little bit? Are you comfortable where you are? See, I'm being respectful. If you were my law students, I would say get your -- the word is tuchas. How are you folks doing way back there? All right. Look at these folks, come on

down, folks. All right. You're comfortable? You can stay where you are.

Thank you so much for sharing your personal stories. And not just personal stories, but political stories. And once again, I'm going to remind myself that I am not my political self because what's going on in this country right now is driving me nuts. And I teach a class, until the last year, it's called Globalization and the Transformation of Culture, but what I told my students the class was really called The World According to Me. And so I get to basically say whatever I want to say, and oftentimes I would digress into things I didn't know what I was going to say until I said them, but they kept up with me. But it was really a case for me, I had to examine the world and all of the instances of inhumanity that people do to one another. And then I also, as an anecdote, had to find all of the good things that were going on.

So not only do I implore myself and all of us to keep our senses of humor, but to search out those good things that are happening always. And we all do that in a unique and individual way. So just for the remaining time we have, could we share some of those stories and talk among yourselves on what good things are happening of "Who Belongs." And I'm going to start with you, Mr. Chairman,

because the reason I'm asking this is because you had this ceremony, you've been bringing back people that have been disenfranchised for years. Can you imagine the joy that that brings. No, I got it. No, no, stay there. Sit down. Just relax. Alex has her own personal story and she's going to share it in a minute because I'm going to make her share it, but she comes from a family on Pechanga.

SPEAKER: No, Apaula (phonetic).

MR. HERSHEY: Apaula, excuse me. Apaula. Which just went through an enormously laborious Supreme Court refusal to hear a case. Anyway, no, no, we're talking about happy things now. Sorry.

CHAIRMAN CRANDELL: I got it. So last week after we brought back everyone on the 2nd, which interestingly enough, the date, March 2nd, is my grandmother's birthday who had passed away last year and was our tribal enrollment clerk for years. Conveniently, I want to say in 2015, and I mean conveniently sarcastic, but this is good, it's still going to get good. Our enrollment computer somehow broke, and we don't know how, so we thought we lost everything. However, when we contacted the company they had restored -- we bought another computer, restored it, and they said we don't have no data. Well, my aunt who we reenrolled as well who was

affected by disenrollment, went through my grandmother's stuff and found a thumb drive with all of our information on it. So it's like -- so I think it's a blessing not only that we brought them back on her birthday, which would have been her birthday, and a baby was born that day too, and that was one of our cousins who will eventually be a tribal member.

The next day we had a -- we're going to conduct a five-year plan. We're working on our constitution right now. That's one of the beauty -- one of the beautiful things we're doing right now is bringing back the people so they can vote on bringing the '40 census into the constitution. And even if it doesn't pass, we wrote in the resolutions that you cannot pass a bill of attainder or ex post facto law, so you can't go backwards, and it's stated, and there's no way anyone can say otherwise now.

So they are picking up the torch and doing these things, having these meetings with fixing the constitution, and then there was a dinner and we discussed what we're going to do in the next five years. And in our constitution, there's going to be a lot of change. A lot of things we discussed here, I can go on for days about it, but it's bringing the power back to the people, but a balance. That's the biggest thing is a balance, you've got to have it. Because one of the biggest things that's

happened with new leadership is what are we going to do to get them back. Well, you know, once you -- or not get them back, but like retaliate. And what happens is then you retaliate and then it just becomes a power struggle, so you have to balance and hold back and actually take licks sometimes and it's like, okay, I know they did this, but they have to look for the greater good. And a lot of people are starting to see that.

One of the biggest things I try to do is promote how strong our membership is for voting. Because they voted at a general meeting on January 28th this year to bring them back, it was passed by a vote of 56 to 26, so there is still some folks that support this enrollment. And then there is 10 that are afraid to raise their hand in front of others. So the evil is still there, you know, but as long as you keep shedding light everywhere, that's the best thing about it for me.

MR. HERSHEY: Thank you. One of the saddest things that I've heard today was the story of the attorney that didn't want to increase his billable hours in helping your tribe. That was terrible. That young man back there. And the ASU thing too.

MR. GARY: My name is Robert Gary, and I've been speaking on some subjects since I've been here. You know, I'm Southeastern Pomo, I'm Mohawk, my mother is half

Hawaiian, but I was born and I lived and I speak and I pray at Elem. And that's what makes me from Elem. I honor the other places that I come from, I honor my blood from the Mohawks, I honor my blood from the Hawaii. And I'm just glad, honestly, and I'm one of those affected members that are dealing with the tribal disenrollment, but I'm happy to be able to come to a place where it's not -- no one is afraid or ashamed to talk about this.

I've learned about trauma, I've learned about understanding our history through this place. And this is important, this is an important thing to continue to keep going and keep doing because I go back and I talk to -- I'm going to talk to the hundred residents that are at my tribe because they are asking, they told me to come, this is what we need you to do, so I have to go back and report to them about the stories, Mr. Luarkie talked about how the elder came with his grandson. You know, I don't want to be that elder with my grandchild to say why isn't he?

And so here knowing what we need to do as a nation, Native indigenous people, we're all connected. There's that one strand or one thing that makes us all DNA -- or that one DNA that makes us all Native, and we have to understand that do you know what, we need to help one another to be able to get past this. You know, Mr. Washburn said earlier, you know, if we depend on the

federal government to do it, this isn't going to happen. It has to come from us. We have that ability to do that with us.

Traditionally, you know, when somebody wasn't a good human, what did they do? They sat them with people, cultural people, elders, people who told them, hey, you have to be a good human to be here, you have to know how to conduct -- so they would tell them how to conduct themselves, the way they had to be, the way they had to think. And sometimes in our communities our tribal leaders, they are dealing with the trauma, not understanding their history. And so they don't have the ties to that. So maybe it's not people maybe within my tribe, maybe it's not people within my county, but maybe it's native people that feel the same way that you do that have to sit down with my leadership to tell them what their responsibilities to the people are.

Wenona talked about an intertribal thing that would take place when somebody wasn't being given their rights or something was happening to them that wasn't just, no due process was given to them. Maybe that's what has to happen, that these -- you kind of people have to remind my kind of people, or my people, that what it takes or what it means to be Native. Not to only go by the paper that's given to us called the constitution, but what

we are by the people that we are, and what we were grown up to be and shown how to be. Sometimes we forget about that.

So I look at this thing, I see this thing. You know, my relatives back home, you know, they are in distress because their thing is like the feds aren't listening to us, BIA is not listening to us, what are we going to do. So the first thing is they are not going anywhere. If this means we're going to get -- we have to fight for this place, and they are willing to do that, but I want them to understand that no one has to get hurt over this, that all we have to do is stay together and stand together.

And so I implore all of you, you know, when you see those things and hear about those things, don't be afraid to talk. Continue these talking, Robert, about what's going on and what's happening. Gabe, to make sure this is being brought to light. Because these people or the people that are being affected like me, my children, my grandchildren, all of those ones that, you know, were not protected by the constitution, were not protected by the Indian Civil Rights Act, the only people that I have right now that I can look to for some type of protection or some kind of help are the people in this place today because I, for a long time since this has happened, felt

alone. But to know that people, Native people, we feel the same, we're going through the same.

I've been sitting here for two days understanding that do you know what, the only way that it's going to change is with us. It has to come from us. And once we bind together, sometimes, like I said, I might need somebody from a different place to tell me what it is, to make me understand that it's important to know my history, that, you know, we're all together in this. You know, it's not the government's working with us to make this happen, the only way that it's going to happen is us.

And so, you know, we have to get on a plane to head back, but I applaud, you know, the people that made this happen because, you know, I sit back and I look and I think about, you know, the people that don't know, like my tribal members that don't know that there are people here that feel the way that they feel, they are discussing the things that back home not a lot of people want to discuss. And so these are the things that have to continue. We have to fix this problem, and the only way it will and can is when we decide together that we're going to do this.

Real quick, I just wanted to say that, you know, when all of this was going on and then the new administration brings in the deportation stuff, you know, that they are going to deport people and send them back,

and I sat there and I listened to about how different states said we're going to be sanctuary cities or sanctuary states, and I said where are we as Indian people doing the same? Where are we looking at each other where we're going to help each other as different tribes and different states? Where is my sanctuary state or tribe, where is my help? And so I just wanted to say to everybody that I thank you for all of the good words. I thank everybody for putting this on. That, you know, and with EJ, over in Robinson, with the things that they've did. It gives me hope. And I thank all of you for that, and I'll take this back to my people and share this with them.

MR. HERSHEY: Thank you so much. Ron, one second. Give it to Ron, but let me say -- Dr. Trosper right there. Let me say just that you've really inspired me to discuss -- continue discussing how we can go ahead and keep this going. And if you have -- e-mail me. It's simple, just let me know that you were here. I have registration, I have your name, but I don't have much about you. Just e-mail me. Hershey, like the candy bar, the bad chocolate. It comes from Herskovitz, not from Hershey, Pennsylvania.

Hershey@law.Arizona.edu. And just tell me a little bit about yourself and let me have your contact

information. One thing I do want to tell you too, and Joan and Miriam advised me too, we're creating this recording here to add to the Native Nations Institute governance database, which is chock full of these types of discussions and are available online and the work the Native Nations Institute has done to commemorate these types of gatherings is absolutely remarkable. So kudos to the Native Nations Institute. We're also creating a record here, a verbatim record with a court reporter so we'll get the transcription here, we'll find a way to go ahead and get that out so there will be a link for you to tie into and you can get verbatim accounts of everything that people have said while you are here. Dr. Trosper, Ron.

DR. TROSPER: Thank you very much. I want to tell a story that's about the benefits of inclusion. I'm from the Salish and Kootenai Tribes in Montana, the Flathead Indian Reservation. One of the most famous members of our tribe is D'Arcy McNickel. You may know his books and his novels. Before he was a well-known writer, he was an ex-bureaucrat. And my tribe was slated to be listed first on the termination list in House Concurrent Resolution 108. And when that happened, it occurred that D'Arcy McNickel had gotten on the train from Washington, D.C., and come out and met with the tribal council and

warned them what was coming, that we were first on the list for termination. And he also coordinated and helped in putting together the strategy that led us to avoid termination, and among the things was having NCAI back us during our hearing.

Now D'Arcy grew up on the Flathead Indian reservation but he and his family were not from our territory, they were from the Plains. They had fled a war on the Plains and come to Flathead. And the chiefs when they were making the roll during allotment in 1908 put their names on our roll, so D'Arcy was a member of the tribe and a very valuable member and he helped us a great deal.

And the lesson is inclusion. You include people, you don't know which of them is going to be really helpful and really beneficial, and D'Arcy McNickel absolutely helped my tribe tremendously even though he wasn't from any of the bands. We're the Confederated Salish and Kootenai tribes. There were other people also included in our rolls because they were living on the reservation, but his is a story of great benefit to us.

MR. HERSHEY: Thank you, Ron. Ron is a professor at American Indian Studies and one of the leaders of that program, teaches traditional ecological knowledge and natural resources. He's an economist.

DR. TROSPER: Are you calling me a name?

MR. HERSHEY: We go back and forth on this. It's great. We have this great duel. Yes, gentleman from Nooksack.

MR. ADAMS: (Native language.) My people, my name is George. My traditional name is (native language), from my father. I'm honored to be here with this work that was placed before us. The words that we heard throughout these two days was enormous. I'm going to have a long time processing all of these great stories that I've heard. Some of them, like this one here in front of me, the Chairman, don't know how powerful that meant to us, the 306, when they shunned, put away the notion of disenrollment for their people. You never seen anybody jump for joy as you do the ones standing here. We hear these things. We hear these things. That gave us that little bit of hope and ray of hope that we're not alone in this struggle. This ray of hope that we all brought to this table will help us in our endurance because we're working on five years, five years of struggle. And this here, just like our friend, we felt alone, we felt isolated, we felt rejected. We even felt we did something wrong. We did nothing wrong.

And with the help of our (native language), Gabe and Ryan, to help us gather our thoughts, put together our

words of what we want to say to combat all of these egregious policies that were rendered upon us through what. (Native language). That's all I heard. The common thread here, everyone can point to the greed and point to the money, but now it's even larger, an obsession took place. When somebody says a lie repeatedly over and over and over, it's just like this alternative truth. What is an alternative truth that they've created.

Chuck Todd says it's a lie. I know these people, I have linkage with these people, the Nooksack, (listing Indian names) are all villages. They cut across the Canadian border. I grew up with an arm, I could throw a rock and hit the other side of the Canadian border where I grew up in Northwood. The village Muckson (phonetic) was right across, been absorbed by the Matsqui people or Nooksack. And the layer that they tried to deceive was because Annie George was not on the U.S. side, or they tried to implicate that they are not Natives from Nooksack. That's why I put the 307 on here because I know I could be next. It's an honor that they bestowed on me because I could be next because my grandmother was born in Matsqui, the same principle. Yet my heritage, I could go back. And I want to thank you for the words that gave me more conviction and also confirmation of what we did through prayer. There is (native language) and (native

language) is always there.

When we talk about our ways, our language tells us that we're connected to this earth, our earth is alive. In fact, it says that in our language, it's alive. Everything we see or don't see is alive. So when we take that concept and they try to muster the concept, oh, you guys don't belong. I was told to shut up in our council because I spoke the language, our language. Speak English. Speak English. Debbie stayed with me. Raise your hand, Debbie. The next day she was fired, an educator like myself, certified teachers. I was fired way before that.

But that's what we're dealing with, intimidation, bullying. This is what we've come up with every single day. And when you guys showed up here, it made us feel like we're not alone. And the words that came out, same. Say those prayers. With the help of Robert, Chief Robert, the (Indian name), we took three canoes on a canoe journey and we named them the three sisters. The three sisters of the daughters of the -- of Annie George, the one in question. And we took that message to the canoe journey all of the way to the (Indian name). And each one of those children were descendents spoke in our language of how they are related to Annie George and tied themselves to that great-grandparent.

We showed the ones that say we don't know when we went to those waters of Puget Sound and we showed them the real who we are, we belong. And this is -- this seems simple, but we always knew that we belong. Nobody had to question us before. When these guys were picking bandage, they knew who they were, they were told they were Nooksack. Just like a lot of people had to move for economic reasons and to come back to what the one said over here, a different kind of bullying our own.

So what I'm getting at is these voices here, we'll take it with us. We'll take these words with us and gain strength again to keep fighting. And I like what this leader here, Robert, I like what he said, but the possibilities that was mentioned earlier to put a challenge out there to the ones like Carol Evans did and her people, put it out there proactively to show that there is a crack, a fissure in the rock starting from this tribe here and with the other tribes that are saying no. When I seen that I jumped for joy the whole day, the whole day that made my day. There is a crack. And just like us knowing nature, soon that crack will widen and we'll end this scourge, what I call the new smallpox of our people, the decimation.

And I would like to thank Gabe for giving us a voice. Our hands go up to Gabe. To me, it's just an

uplift just to hear him speaking of calming us down. We need that. Just like I heard here today. We need this, just this focus. See, this is how our ancestors were. The people that sat there with him, those leaders, in the traditional way, we would have shook their hand in a traditional way. I hope that some day we will in our traditional way. Given us this hope and shown the other ones that our bullies, that they are on the wrong side. (Native language.) Thank you.

MR. HERSHEY: Thank you. Alex.

Thank you so much.

SPEAKER: (Native language.) I come to you today as a Chukchansi from Picayne Rancheria of Chukchansi Indians where our tribe has disenrolled over 1,000 people and 800 out of 1800 tribal citizens remain disenrolled to this day. I know many of these people here from different events in California. California is considered ground zero for disenrollment in Indian country. EJ, I believe I saw you at a disenrollment protest in Sacramento in 2008 on the steps of the capitol.

And I was here yesterday, it was a very emotional day for me because I have also been associated with Carla, a former Mazalin (phonetic) for over a decade and her struggle with her people from Redding Rancheria. I can tell you that 10 years ago when my family was

disenrolled from Picyen (phonetic) we went everywhere, we went to NCAI, we went to NARF, we went to various attorneys, none of which would take our case. The only person at that time that I contacted, and there were dozens, that showed an interest and that wanted to talk was David Wilkins. And he's not here right now, he had to leave to catch a plane, but over 10 years ago he knew that this was a destructive force in our people and it was spreading. I look here with hope in events that have occurred most recently. Robinson Rancheria, that was an amazing event that their people voted to bring people home in their community, and that shows me that there is hope for the future of people.

All of the sharing that people did today in terms of -- and yesterday -- in terms of telling their stories about their people, how they deal with different things within their communities, that's a very powerful experience. And I ask you to continue that wherever you go in your travels. I know very many of you are involved in NCIA events, you go to various conventions, various other types of activities and talk to these people, talk to people that you know are having issues within their tribes and help them understand how destructive it is to their communities because only together and standing together and supporting each other are we going to be able

to rise from this destructive force that is consuming Indian country.

It's out in the open now, people are talking about it, that's a good thing. You are not ostracized from, you know, voicing your concerns and your opinions and how it's hurt your people, so this needs to be brought out more. I can tell you on one hand the number of tribal leaders eight years ago that would come and stand and say even off the record that disenrollment was wrong, but it's growing now. Stand up, be there, be a voice for our communities because we need you to survive, we need to you to be there, we need to support each other in this. And I'm very, very excited and so thankful for all of your voices here. And blessings to you all and safe journey home.

MR. HERSHEY: Thank you so much. Yes.

MR. DUCHENEAUX: First of all, I want to thank Professor and Gabe for putting this on. I'm Wayne Ducheneaux, I'm from the Cheyenne River Sioux Tribe. I am the former vice chairman and council representative, and now I play a roll as the executive director of the Native Governance Center. We help tribes now work through these issues on governance. And to your question now about what brings us together and who belongs, I would almost feel remiss if I didn't mention the fight that was going on up

at Standing Rock and the power of the prayer there that started that movement that brought tribes and tribal members from all over the country, from all over the world together to stand.

To have people recognize our right as indigenous people is to be protectors of this land. And so when people like Wenona was talking earlier about having that chance for that organization perhaps to come together where it's all of our tribal nations together that stand up and make sure that we respect due process for our people, you look to Standing Rock and you had it there. So don't think it's that farfetched. Don't think it's so farfetched that we can't come together as a group of people, as a group of nations as those first people of this world and come together and stand and do what's right by all of us.

I really want to thank, again, University of Arizona Law School for hosting this, the Native Nations Institute where we work with them. I know they have great resources. And Joan was trying to yell it's free. It literally is. Go to their website. They can help you work through this process. And from the bottom of my heart, I just want to thank you all for being here. Thank you to those who shared the story about the disenrollment. And keep fighting the good fight. My prayers and thoughts

are with you. And if there's ever anything I can do, please let me know.

MR. HERSHEY: You may have noticed that there is a drum outside. Being Indian, you probably kind of caught on real quick, but that will continue after we're through in here and will continue to go ahead and close for us. Yes, sir.

MR. McGILL: Hello. My name is Clarence McGill and I'm from the Tohono O'odham Nation. And I'm the chairman of the enrollment committee. This past day and today just sitting here listening to the presentations, and one I would like to go back and review everything that's been said, if it's allowable. If not, we'll continue tomorrow and Sunday after church until we finish up. If it's all right with you, Robert?

MR. HERSHEY: You got it. I'll put it -- tonight you're going to have that ready for him; right?

MR. McGILL: No, just kidding. I just want to touch on disenrollment. You know, I've heard about disenrollment and adoption issues here. You know that disenrollment shouldn't be happening to tribes, especially your own tribe. I know we have some issues of disenrollment, but not the way it's been presented here to some of the tribes. We only do enrollment by the parents if it's an infant, but due to being a member of another

tribe, maybe Pasua Yaqui or Pima, which are our neighbors, surrounding neighbors. But like I said, disenrollment shouldn't be happening.

What you hear and learn here, you go home and open those books, your ordinance, your constitution, and compare it to what's been said here. I feel sorry for some of them, you know, mention about being disenrolled. But like I said, let's go back to the ordinance and review. You can revise your ordinance or amend your ordinance, that can be done. If you have to, you can go to the secretarial elections. But for amendments, you can do it easily, faster. So I just wanted to bring that up. Thank you.

MR. HERSHEY: Yes, please.

MS. ALAKEY: Hello. I'm Georgia Alakey and I'm with the Sac and Fox Nation, I'm the enrollment specialist. And I'm one of 20 full blood Sac and Foxes still alive. And, you know, I've heard these stories and especially that one with the lady she had all of the documentation stating she was eligible, but it was a committee that said no. I'm sure glad we don't have a committee, it's up to my assistant here and I to present it the business committee and say hey, these people got the right, they meet all of the qualifications, so put them on the roll.

And that's what got me, I didn't understand why a lot of these tribes have committees. They have the enrollment people to do the information, then it goes on to the committee, then from the committee I guess it goes on to the business committee or whatever you call your chief and all of them. But what I don't understand is why they keep denying her if she has all of the proper documentation. And as far as being on the enrollment staff, these -- these disenrollments are heartbreaking not only to the family, but to the staff. We had to remove four children -- well, not children, the youngest was 17. And I tell you you had never seen any adults cry, I still cry about it. I hated doing that, but that was part of my job and that's one of the parts I don't like is this disenrollment, and, of course, barring our infants. Those are two things I don't like about my job. But I love putting them on, and I love helping other people. And when we find out somebody doesn't meet our qualifications of the blood quantum, I send them an application to send to the Bureau of Indian Affairs and let them know they have to provide birth certificates and if at all possible tribal enrollment numbers if their parents or grandparents aren't on our roll, but try to get it from the roll they were on. At least they can get a CDIB to prove they are Indian.

And I let them know that it's not just -- they won't say you are Sac and Fox, it will just say you have possessed so much blood of Indian, total Indian blood, and it won't specify if they are on a tribe or anything. And a lot of them are happy with that because they can still use that card at the his, USDA and other places where these programs recognize, as long as you are Indian, Johnson-O'Malley program, their children would be eligible for that. A lot of them appreciate that. Thank you.

MR. HERSHEY: Herminia Frias is the former chairperson of the Pascua Yaqui tribe and now on council.

MS. FRIAS: Good afternoon, everyone. I think this experience, these two days, have really enlightened me. Because for us at Pascua Yaqui we have been continuously enrolling people into the nation, and so for us the issue isn't disenrollment, but the issue is enrollment. And I have been looking at things through an economic lens and thinking about what is that going to mean to the tribe as we enroll people, and this -- and thinking about how are we going to take care of them. Because once we start enrolling people, we think about how are we going to take care of them.

And so having -- being here for the last two days for these two days has really had me think about more than that, and what it means to the people when they are

enrolled. And hearing the stories that people have shared about that it doesn't really have that much of an economic impact on the tribe because some of the people that they are enrolling from different areas, and for the most part, a lot of the people that we've been enrolling have been from California. You know, California. And we ask the question what kind of relationship do they have from the tribe -- with the tribe? What kind of relationship do they want with the tribe? How do we engage them? And these are conversations that we've had as tribal council to think about what was said earlier -- I think it was -- you are leaving right now?

MR. HERSHEY: Pamela, halt.

MS. FRIAS: Yes. What you were talking about the obligations -- don't leave, but I really appreciated your talk. I just wanted to say thank you. About the obligations back to the nation. You know, being that mutual responsibility of the nation and also the citizen, how do we have that mutual obligation to each other.

So these past two days have been really enlightening and it had me think beyond what the economic impact is, beyond thinking about how do we take care of them, how do we take care of their children, but really how do we protect the nation, how do we protect our culture, how do we protect ourselves so that we can

continue to grow.

And so I think from this the positive thing that's coming out of this as tribal leaders to go back and to talk to our enrollment committee or enrollment department. We had about six, maybe seven people from enrollment here today, and to really hear from them what are they hearing from the community when they -- when we tell them no, you can't be enrolled. Because all of those people that we did enroll -- every council meeting there are enrollment people, there are people that we're enrolling. Enrollment comes to every meeting because at every single council meeting that we have, and we have two every month, we're enrolling people into the tribe.

Just this past council meeting we had on Wednesday we denied enrollment for people that didn't either meet the blood quantum, didn't show all of that stuff, but it would be good to have a conversation with our people in enrollment that do this on an everyday basis to understand what are the people saying, what does this mean, how do we move forward and really think in a bigger picture based on what people are saying and also what we're learning here today and how do we protect the nation for the future.

So it had been a very valuable experience for me sitting here and listening to these stories, so thank you

everybody who shared your story, I really appreciate it because you have opened my thought to think more than just people are just wanting to get benefits or somebody else that we need to take care of, but really thinking about the nation and the future, so I appreciate it. Thank you.

MR. HERSHEY: Thank you. Pamela has to leave now too, but thank you so much. Your words were really magnificent. And you followed Rob. And you blew me away. It was amazing. There is more to be said or would you like to go out and share with drum? Yes, sir. That is some nice hair you got on your chin there.

MR. WOLFBLACK: My name is Clifford Wolfblack. I'm with the Tohono O'odham Nation, the name comes from the northern Cheyenne Nation. I believe that as this conference is about who belongs, it starts with the parents, the grandparents to tell your children, your grandchildren who they are, whether they are enrolled or not. I kind of -- you know, I grew up in Los Angeles and the reservation. You know, being part of two tribes, full Indian, you know, then growing up with the Chicanos in Los Angeles, each one of my -- you know, the Chicanos from LA, the Tohono O'odham, and the Northern Cheyennes, the relatives would say just say you are O'odham, or just say you are Cheyenne, or just say you are Chicano, and I'm like I know who I am. You know, my grandparents are

O'odham and Cheyenne. I'm Indian, you know. And I didn't get enrolled until 1974, I believe.

But I was never ashamed of who I was, I knew where I belonged, I know who I belonged to. I heard all of my life, just about, in LA and back on the reservation, I stayed with my great-grandparents, we lived in cells, we had an ocotillo house, a mud house, dirt floor, chop wood every day, clean up, everything, you know, go get our water at the water hole, at the water place. But knowing who you are, you know, even though you are not enrolled, you should tell your children, your grandchildren that they are Native, that they are Pomo, they are Mohawk, they are Cherokee, or they are Navajo. My children, they are three tribes, they are Navajo, Cheyenne and Tohono O'odham, and they are enrolled with the Tohono O'odham, they could go -- they have enough blood to either or.

And I just, again, you know, it is great to be here. I never really knew about the situations of people getting disenrolled, you know, but I just believe that if you continue to tell your children who they are, where they come from, who their relations, they are going to know who they are. As you heard our chairman talk about the Navajo girl, when she heard the beat that she knew she was Native, she knew she was Indian. You know, and again, when you encourage and influence your, you know, your

identity to them. We wouldn't have a problem with identity crisis, who am I, where am I from? You let them know as they grow up. I tell my children who they are.

You know, we lived on the Navajo reservation, we lived on a Cheyenne reservation, we're back at my mother's reservation. And I do my best to tell them who they are. And, you know, and again that as a spirituality, you know, I became a Christian 28 years ago. I'm also a minister for the gospel of Jesus Christ. I've been sober without drugs, alcohol, and I know some of you might say something, but I haven't used tobacco in 28 years. But again I do thank God for his mercies and grace and I believe as we continue to be nations, various nations of natives, that continue to tell your children who they are and where they come from and they will not forget.

Because I know I'm a perfect example of that. Growing up in Los Angeles, again, you know, learning some O'odham, learning some Cheyenne, learning some Spanish, and then to know I have relatives on the Mexican side and they are O'odhams. But, again, I know where I come from and, you know, again, you just keep on telling your children who they are and where they come from and that won't go away. Thank you. And God bless.

SPEAKER: This is how he stands in class when he's making us speak, so he'll stand here for a while if

some of you have stuff to say, so raise your hand, please. He let me walk right past him.

MR. HERSHEY: I also give them the evil eye too. The stink eye.

SPEAKER: (Native language.) My Indian name is Walking Buffalo and I come from the Yankton Sioux tribe in South Dakota and I offer you a heartfelt handshake. Forgive me, my elders, for speaking before you, but by a show of hands is there any non-IRA tribe people here? Okay. So I'm not the only tribal member, I guess, but we run a little bit different. And the only time I see disenrollment was when a vice chairwoman made it in and got rid of the tribal enrollment person and put one of her relatives in and she was doing personal favors or illegal whatever and enrolled some people. But Dustin is boss now. After she got in there, she went back and backtracked and disenrolled them ones that didn't qualify. And there is probably more before that, but that's the ones that I know of.

We do operate a little bit different. You know, our general council -- I'm on our business and claims committee, our councilmen, I guess, but we have general council and they are -- what they say is the law of the land, you know, so we're the elected officials, but we still have to do what they say, you know, whether we like

it or not. Sometimes we do, sometimes we don't. People come with petitions that they want this done or they want that done, but if it's frivolous, you know, we don't honor the petition.

And there are several elders that do talk about disenrolling some membership, and it's not a lot, it's probably not even a handful, but for those that come and they try to sue -- oh, we're going to sue you guys, we have tribal enrollment office, or tribal employment rights office, and what they do is they investigate when somebody gets fired and, you know, and sometimes -- our policy and procedure may be a little bit like Swiss cheese where there's loopholes in it, but we do our best as elected officials, you know, to make ethical decisions.

And, you know, it's hard. And it boils down to picking and choosing, I hate to say it, but, you know, I'm a sun dancer too, and I don't like to put that term in with the political side of it, you know, because I believe in our spirituality. And I'm not knocking anybody else's any kind of way. I grew up Catholic, going to the church. And after a while, I was in the Marine Corps, I got out 17 years ago, and on my dog tags it said Roman Catholic. And I was looking at my skin and I'm like am I Roman? I didn't get it the whole time I was in there, but I went to church. But when I came back, I learned more about our

history and culture and went back to our ways of sun dance and it helped save my life. So I bring that with me to the table, you know.

And like I said, I don't have to put the sun dancer in the same sentence as a councilman because one is spirituality and the other one is political, but I felt ashamed, like I was -- how do I say it? Like disrespecting my elders because, you know, I'm 40 right now and I still feel like I'm kind of young to be on the council, but I made it this far and I'm honored to stand for our people.

And there is so many things. I mean, I feel your pain, I do, I really do about being disenrolled, I could feel it in here. And I sat back like a bump on a log and I probably fell asleep a couple times earlier, but I could feel it, you know, and I'm sorry, you know, my heart and my prayers are with you all too. And, you know, we all belong here.

I was up in Standing Rock, you know, is this America still? Does the Constitution even mean anything anymore? I went up there six times and every time it was harder and it was like PTSD. But even if you are enrolled or not, we're going to fight on the same side against this pipeline. I think about that because a guy told me oh, I would rather fight the government than fight for them.

Well, I didn't take off because I wanted to fight for Uncle Sam, I ran away from home, I went through a breakup and things didn't work out, I just wanted to get off the rez, so I signed up and three weeks later I was marching. I didn't know what the heck I got myself into, but I survived all of that.

And I got two daughters, 21 and 14. One mother is from Standing Rock, the other one is from Winnebago tribe in Nebraska. So they are not my cousins, that's all I know. They are from different tribes. And they are both enrolled in their tribes. But I never really thought deep down into it, you know, about disenrollment. And this is really important because this involves all of our people.

Just to see -- I could feel the pain in your voice and these women. I'm deeply sorry that something like that even happened. And like I said, we're not an IRA, so some of the elders are like, well, what happens? When somebody works 20 years and retires, oh, let's get them $500 and a star quilt. But if somebody is fired wrong, then they come back with the Terro director, yeah, your case is up to 3 million now and yours is up to 5 million. You know, it's like wait now, so somebody can work 20 years and get a $500 check and a star quilt, but for being wrongfully fired you can try to sue the tribe?

Well, it's not suing the tribe. Well, what do you call it then? So then there's, like I said, some elders that were like if anybody sues the tribe, they should be disenrolled and banned. That's some of the thoughts. I just wanted to share about that much. So thank you for listening. (Native language.)

MR. HERSHEY: Thank you. Thank you very much. I want to echo and thank everyone for making this possible. It was my total desire that this would be participatory. I invite you now to please go listen to the drum. Gabe, any -- Gabe Galanda.

MR. GALANDA: No, I'm good.

MR. HERSHEY: Thank you, everybody. Let's go outside and listen to the drums.

(Proceedings concluded at 5:17 p.m.)

C E R T I F I C A T E

I HEREBY CERTIFY that the proceedings taken in the foregoing conference are contained in the shorthand record made by me thereof, and that the foregoing pages constitute a full, true, and correct transcript of said shorthand record; all done to the best of my skill and ability.

DATED at Phoenix, Arizona, this 7th day of April, 2017.

LISA J. ANDERSON, RPR
Certified Court Reporter
Certificate No. 50079