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Judicial Profile

by Gregory S. Arnold

Hon. William D. Johnson
Chief Judge, Umatilla Tribal Court Confederated Tribes of the Umatilla Indian Reservation, Pendleton, Oregon

When Judge William D. Johnson took the bench at the Umatilla Tribal Court as an associate judge in 1980, there was no way for anyone to foresee that the recent law school graduate would still be on the bench 35 years later. He had the perfect background to be a judge in the Umatilla Tribal Court. He was an experienced tribal attorney and a citizen of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR). The CTUIR is composed of three tribes: Umatilla, Walla Walla, and Cayuse. Judge Johnson has Indian blood of two of those tribes—the Walla Walla and the Cayuse—plus he has Nez Perce blood. He is related to the Chief Joseph, who was Nez Perce and died with the honor of being one of the most famous of Indian chiefs. Judge Johnson graduated from Pendleton High School, just outside the exterior boundary of the reservation. Except for time away for college and a short-term work assignment in Washington, D.C., he has lived in the Waiiletpu (Cayuse) country and has been a stabilizing influence on the reservation.

Some people are fortunate to have one or two mentors in their career. Judge Johnson fondly remembers a number of people who were his mentors and are responsible for where he is today. These include Charles Luce, who drafted the 1949 constitution and bylaws of the CTUIR and established a scholarship that funded Judge Johnson's undergraduate college education at Oregon State University; Judge Douglas R. Nash, a tribal attorney for whom Judge Johnson clerked while in law school and who later inspired Judge Johnson to help continue the development of the Umatilla Tribal Court; Les Minthorn, who recruited him to return to the reservation when he was working in Washington, D.C.; Raymond T. "Popcorn" Burke, who was the first chief judge of the Umatilla Tribal Court; Sam Kash Kash, who encouraged him to run for Tribal Council; Judge Dave Gallaher, a contemporary, peer and Judge Pro Tem for the Umatilla Tribal Court; and his good friend Joe Myers of the National Indian Justice Center, who has provided Judge Johnson personal advice and counsel for many years.

Early Career

Judge Johnson's first law job was as a prosecutor for Lane County, Oregon. In 1975–76, he accepted a brief assign-

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ment with the Congressional American Indian Policy Review Commission in Washington, D.C.

Blazing New Trails

Judge Johnson has been a trailblazer with many firsts to his credit. As a graduate of the University of Oregon School of Law, he was the first CTUIR member to graduate from law school and the first to pass the Oregon State Bar. He was accepted by the American Indian Lawyer Training Program, which allowed him to attend law school first for a required term at the University of New Mexico School of Law and then at the University of Oregon School of Law. “I had a choice between the University of California at Los Angeles or the University of Oregon. I don’t really like big cities, so I chose Oregon,” he explains. At age 27, he was the first (and only) tribal member to serve as both a chairman of the CTUIR Board of Trustees and chairman of the CTUIR General Council—at the same time.

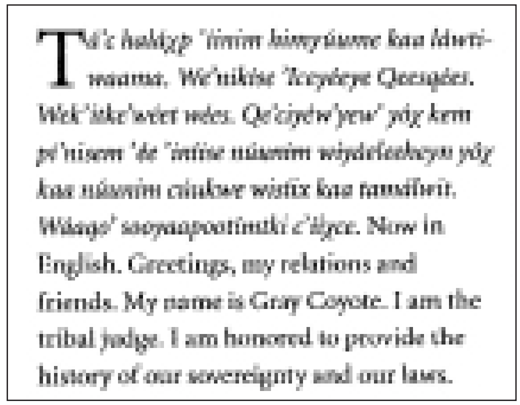
Based upon the depth and breadth of his legal background, Judge Johnson was the perfect candidate to be elevated in 1988 to the position of chief judge of the Umatilla Tribal Court.

The CTUIR is one of nine federally recognized Indian tribes in Oregon. It has been my privilege to practice both criminal and civil law in Judge Johnson’s tribal court. After observing his court sessions and practicing before him for the past two years, it became clear to me that other attorneys would be interested in opportunities to practice in his court and would, therefore, benefit from knowing something about him.

When asked if he was willing to have his judicial profile included in *The Federal Lawyer*, Judge Johnson agreed to be interviewed, but he never mentioned any sources for information on his career, such as his own chapter, “The Beginning of Modern Tribal Governance and Enacting Sovereignty, Part II: Sovereignty and the CTUIR,” in the book *as days go by: Our History, Our Land, and Our People, The Cayuse, Umatilla, and Walla Walla.*[1] From my personal observations of Judge Johnson in his courtroom and in the community, this is consistent with his understated nature. He goes about life without pretension but carries himself as would be expected of a man of his position. The chapter he authored is well-written and evidence of the scholarly life of a law-trained tribal court judge.

Ralph Waldo Emerson wrote, “Do not go where the path may lead; go instead where there is no path and leave a trail.” Judge Johnson must have been influenced by the spirit of this quote, because the sophistication and advances in the Umatilla Tribal Court since the early 1980s can be largely attributed to him. Together with other talented CTUIR attorneys, Judge Johnson made a positive impact on CTUIR tribal law and, on a broader basis, federal Indian law. This includes the development of a sophisticated tribal court that serves as a model for Indian country. The Umatilla Tribal Court helps to define and champion the capabilities of tribal courts to exercise criminal jurisdiction to the exclusion of state or federal involvement. Other examples of Judge Johnson’s impact upon Indian Country legal advances are discussed below.

Judge Johnson has a respected national reputation. He has appeared before Congress on Indian law issues, has presented at Indian law continuing-education seminars, and he is the president of the board of directors of the National Indian Justice Center (NIJC). The mission of NIJC is to educate and strengthen tribal court staff on a national level. The efforts of Judge Johnson and the NIJC, plus hundreds of other people and many other organizations, further the spirit and intent of the Indian Reorganization Act of 1934 (IRA) with a goal to the return to local self-governance on a tribal basis.


[illegible] Now in English. Greetings, my relations and friends. My name is Gray Coyote. I am the tribal judge. I am honored to provide the history of our sovereignty and our laws.

Excerpt from *as days go by* with Umatilla language.

Closer to home, one of his major accomplishments for the CTUIR has been the creation of an independent judiciary with separation of powers. The CTUIR Board of Trustees voted in 2011 to amend the CTUIR Constitution and make the tribal court a separate judicial branch of government. He explains that this is a matter of pride and security among tribal members. Criminal defendants and civil litigants know they will receive a fair decision based upon the law from the tribal court as an independent branch of tribal government.

The business of the Umatilla Tribal Court keeps Judge Johnson very busy. He presides over every type of case filed in the Umatilla Tribal Court. The majority of cases are of the criminal variety, but there is also a regular caseload of civil, traffic, family, juvenile, and other cases. Civil cases include landlord-tenant, enrollment, and contract disputes. As chief judge, he presides over most sessions of the tribal court. He has also presided over other tribal courts, including several in Oregon, plus the Nez Perce Tribal Court in Idaho, where his father was a citizen of the tribe.

Disarming Demeanor

Locals know him as Bill, but, as an attorney practicing in his court, I know him strictly as Judge or Your Honor. If you are fortunate to catch one of his seminar presentations, or if you read his opening paragraph in “Sovereignty and the CTUIR,” you will be introduced to Judge Johnson’s tribal name, which is Gray Coyote.[2] This is fitting, given his relaxed demeanor and penchant for humor, because in Indian lore, a coyote is known to be playful and humorous.[3] For him, it is less lore and more reality.

You will not find signs in the courtroom commanding that attorneys or their clients stand when speaking or that the judge be called Judge or Your Honor. Some attorneys and their clients do so as a matter of respect, especially those who are accustomed to standing while addressing judges in other courts. Clients who respond to the judge’s questions with such informal utterances as “yeh” or “uh huh” are not chided, adding to the friendly and relaxed proceedings. But there is certainly formality and decorum in the courtroom. Parties cannot wear hats or chew gum while sitting at the counsel table, and strict order is maintained by a bailiff, court clerk, and judicial

assistant. If clients come late to court—and especially if they are late to court after having failed to appear at a prior hearing—then the clients, and their attorneys on their behalfs, do have cause to be nervous. Profanity or making serious physical threats to anyone in the courtroom have been met with orders for contempt. The frequent clients, and the smarter ones, know that an ounce of respect for Judge Johnson is met with two ounces of respect in return.

The Gray Coyote Can Be Calming

Anyone sitting in Judge Johnson's courtroom, whether at a counsel table, the jury box, or the gallery seating area, can expect to break out in a smile or two during most hearings or trials. Dog-bite cases, while serious matters, tend to be a little more relaxed than other cases. On one occasion a defendant was explaining that her dog, Wicket, was no longer a problem because the dog was eventually securely attached to a "spicket" in the yard. He cleverly sought confirmation of that by casually asking, "You mean Wicket is on the spicket?" In another case a defendant spelled the name of her dog while responding to inquiries from Judge Johnson, and then he playfully followed up by wanting to know if the dog also knew how to spell its name. Criminal defendants inquiring about the options for community service are informed they can be "G-men," meaning they can work at the reservation transfer station, handling garbage. This clever humor from the bench tends to disarm those who are on edge in a formal and understandably intimidating setting, and it allows the important business of the tribal court to be conducted in a more relaxed and productive atmosphere.

Above all, Judge Johnson is a fatherly figure in his courtroom. Although not a requirement for the position of chief judge, he lives within the reservation. He personally knows, or knows of, most of the Indians he sees in the courtroom. The exceptions are those Indians on the criminal docket who are citizens of other tribes and typically from the relatively close (within a four-hour commute) Nez Perce, Yakama, or Warm Springs reservations. When a defendant appears before him in a criminal matter, he inquires about his or her health and well-being and asks questions demonstrating sincere concern for his or her family members. Even though the public defenders honor their legal obligations to advise defendants of the rights they waive in accepting a plea, Judge Johnson is careful in each case to repeat those waivers and ensure that the defendants fully understand them and make their pleas voluntarily and knowingly. Defendants at arraignments who appear without counsel are encouraged to have an open dialogue with Judge Johnson so that they understand the charges and have an opportunity to discuss the charges before deciding whether to request counsel. This engenders a firm foundation of trust—Indian to Indian, defendant to judge. There have been only a handful of jury trials in his courtroom, which can be attributed to the genuine, warm concern and typical respect Judge Johnson shows for those who appear before him.

Leading Indian Country in Expanded Criminal Sentencing Jurisdiction

Despite Judge Johnson's seemingly relaxed nature, his court is one of only a few tribal courts in all of Indian country that have exercised expanded sentencing jurisdiction in criminal cases. The sentencing authority of tribal governments can be traced from the Indian Civil Rights Act of 1968 (ICRA) to its most recent amendments in 2010 pursuant to the Tribal Law and Order Act (TLOA). Sentencing limits under the original Act were six months and/or $500 per offense charged, although this was later increased to one year in jail and/or a $5,000 fine. For the few tribes meeting the requirements of the TLOA, these limits are expanded to up to three years and/or $15,000 per offense for enumerated major crimes, with stacking possibilities of up to nine years for multiple charges. Judge Johnson's tribal court is one of only a few tribal courts that have reported sentencing defendants to more than one year per offense.[4]

Judge Johnson's tribal court is also one of only a few tribal courts that have been given the opportunity to participate in a pilot program to prosecute non-Indians for domestic violence against Indians on a reservation, pursuant to the reauthorized Violence Against Women Act (VAWA). This is a departure from the U.S. Supreme Court's decision in *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978). *Oliphant* held that Indian tribal courts do not have inherent criminal jurisdiction to try and to punish non-Indians and therefore may not assume such jurisdiction unless specifically authorized to do so by Congress. The VAWA makes some progress in softening the effects of this landmark case that, perhaps more than any other modern-day federal Indian law case, has been a source of frustration for American Indians. Specifically, VAWA provides qualifying tribes "special domestic violence criminal jurisdiction" over certain defendants, regardless of their Indian or non-Indian status, who commit acts of domestic violence or dating violence or violate certain protection orders in Indian country.[5] The Umatilla Tribal Court successfully tried a non-Indian charged with domestic violence against an Indian under VAWA in what may be the first sentence under the Act not to be overturned.[6]

There are economic and administrative trade-offs in exercising this expanded criminal sentencing authority. The ability to exercise expanded criminal sentencing jurisdiction over Indians (TLOA) and to exercise special domestic violence criminal jurisdiction over non-Indians (VAWA) comes with increased requirements for tribal courts in terms of such matters as credentials of judges and attorneys. Both judges and attorneys must be licensed. Other requirements include the easy public access to the tribe's laws prior to a defendant being charged, best accomplished by Internet access to the laws, plus a requirement that court proceedings be recorded in a manner allowing for preparation of a transcript on appeal. The Umatilla Tribal Court has met these requirements for many years..

In addition to the burdens imposed by these economic and administrative trade-offs, some tribes view these federally imposed requirements to be a matter of intrusion into tribal sovereignty. Indian tribes have historically been faced with the dilemma of maintaining identity against outside influences. As

one tribal judge wrote, "Tribal courts are constantly struggling not only to maintain external credibility through the application of Anglo-American legal concepts and procedures, but also to retain internal credibility by not straying too far from Indian cultural influences."[7] Judge Johnson does not have serious concerns that any federal requirements for exercising expanded criminal jurisdiction under TLOA or VAWA will result in the loss of tribal cultural identity, and he has no fears regarding supposed federal intrusion. Rather, he has had a positive outlook focusing on moving forward with the tribal court as a branch of government to ensure that the tribe itself has the jurisdiction to handle all criminal and civil matters. This can-do attitude, or insistence upon doing it ourselves, has carried the tribe from the 1970s—a time of having no tribal court and no tribal police—to now having a trained police force and modern courtroom; sophisticated, published written laws; and a deserved high reputation among all tribal courts.

Perhaps Judge Johnson's 2006 chapter on sovereignty of the CTUIR in *As Days Go By*, was one of his earliest publicly available records of his passion for self-determination reflected in a strong tribal court. The chapter details the history of the Umatilla, Walla Walla, and Cayuse tribes, starting with the 1850 hangings of the Cayuse Five for involvement in the massacre of Dr. Marcus Whitman; his wife, Narcissa; and others, because the doctor's medicine did not cure their measles. The chapter then documents that it was "tribal custom or traditional practice to kill ineffective medicine men whose patients died." The chapter then discusses the Treaty of 1855 among the Umatilla, Walla Walla, Cayuse, and the United States, and the Allotment Act of 1885, which was a federal policy for distribution of Indian lands. The chapter then comments upon the 1949 constitution and bylaws of the CTUIR, 1950–53 Termination Policy (a federal policy to terminate federal support of Indian tribes), and Relocation Policy (a federal policy to relocate Indians to cities so they could assimilate into mainstream American society). The chapter rounds out modern American Indian history with a discussion of Public Law 280 (legislation whereby the federal government gave legal jurisdiction over specific parts of Indian country to select states), the Indian Civil Rights Act of 1968 (federal legislation impacting criminal and civil rights of American Indians), and the Retrocession (ceding back) of Exclusive Criminal Jurisdiction under Public Law 280 to the CTUIR in 1981. Judge Johnson wrote, "Our drive toward exclusive criminal jurisdiction actually began in the early 1970s with our planning department and our lawyers. … The most important thing we wanted was self-government, self-determination, and the ability and authority to do it ourselves."

This theme of independence and Native pride was later documented in a 2012 article in the *Oregon State Bar Bulletin*.[8] When interviewed for the *Bulletin*, Judge Johnson stated, "We have our own laws and ways of doing things. Some people would call it custom and culture, but you could say it's common law. … I would prefer to see expanded resources for tribal courts and let us do it."

When asked in December 2014 about his current feelings regarding what some might consider to be too much intrusion by the federal government into the sovereignty of Indian tribes, he responded that he does "not see it as an issue for tribal court independence, so long as there is an Indian presiding as the chief judge of the tribal court." Such a sound and tempered perspective assures that Judge Johnson will continue to be a strong, stabilizing influence in the relationships among the tribes and the federal government.

Historical and Interesting Custom and Practice Rooted in Current Tribal Law

As can be expected from a chief judge who is an enrolled citizen of the CTUIR, customs and traditions play an important role in how Judge Johnson perceives self-government, self-determination, and tribal justice. In the concluding remarks in his chapter on sovereignty of the CTUIR, Judge Johnson comments that "[t]he flame of sovereignty continues to burn through oral traditions given to us throughout time. This is our true law—our language, tradition, and custom."[9]

During my interview of Judge Johnson, I was rewarded with some additional and significant insight into his views of how custom and tradition find their way into modern tribal law. As explained by Judge Johnson, some of the tribe's codes have been largely inspired by, and are reflections of, ancient tribal oral customs and practices. A prominent example is the Fish and Wildlife Code[10]. Also, the Tribal Enrollment Code[11] is a modern codification of oral custom and tradition that goes back centuries, with some recent modifications. Judge Johnson explains that, historically, if a person was someone "known by my people" and acceptable to the tribe, citizenship was granted. This did not involve "enrollment." Chief Joseph was not an "enrolled member of his tribe." According to Judge Johnson, "Today's assignment of tribal enrollment numbers and required blood quantum references are a formalization of ancient ways, but even a non-Indian can theoretically be accepted as an unofficial "member," despite not having rights to vote, receive dividends, allotments, etc." The Juvenile Code's[12] provisions for discipline and preference for families is rooted in the tribe's oral customs and traditions; they existed before, and are not changed in any significant way, by the federal Indian Child Welfare Act (ICWA).

Oral Custom and Tradition as Manifested in Modern Tribal Court Practice

The chief judge's book chapter, "Sovereignty and the CTUIR," contains a passage on the Indian Civil Rights Act of 1968 (ICRA) that gives some insight into his own perceptions on balancing tribal oral custom and tradition with the requirements of federal Indian law. Under federal Indian law, the right of a federal court review of a criminal defendant's incarceration or other serious deprivation of liberty, is the only federal right of review of a tribal court's treatment of a criminal defendant. Judge Johnson comments that, "[i]n considering tribal custom and tradition, tribal governments can enforce the ICRA in their own way. They can allow habeas corpus in tribal forums."[13] Therefore, as long as a tribal court honors the rights given the defendant under ICRA, the tribal court can impose a sentence and punishment consistent with the oral custom and tradition of the tribe.

As another example of oral tribal custom and tradition from Judge Johnson's perspective, the CTUIR Criminal Code[14]

does not contain either a statute of limitations or a reference to what constitutes a speedy-trial violation. While acknowledging that the tribe probably should amend its written tribal laws to include something on each point, and predicting such changes will eventually be made, Judge Johnson says that the members of the tribe know the oral custom and tradition and accept that there are no written rules on those issues. In regard to the speedy-trial issue, he provided members of his tribal court bar with copies of one of his prior decisions, *CTUIR v. Orval Kipp, TR-065-85* (1986). In his decision Judge Johnson stated "[t]here is no tribal statute, case law, or federal statute which defines, with precision, speedy trial requirements for the Umatilla Tribes." Although the Umatilla Tribal Court does not adopt the seminal federal case on the speedy-trial issue, *Barker v. Wingo*, 407 U.S. 514 (1972), as binding law upon the tribe, it nevertheless recognized *Barker* as guiding law to supplement, but not supplant, oral custom and tradition on the issue. Future cases with similar issues are likely to be decided the same way—that is, with an open mind to the laws of other sovereigns and with the oral customs, traditions, and historical practices of the tribe as central, controlling consideration. "Tribal practices and traditions have always been oral, and it is very rare that any tribe intends to supplant these with a formal writing," wrote Carrie E. Garrow and Sarah Deer.[15]

"The flame of sovereignty continues to burn through oral traditions given to us throughout time. This is our true law—our language, tradition, and custom."
—Hon. William D. Johnson

Unlike the tribe's constitution, bylaws, and codes, the case law of the tribe is not easily available, but the judge and his staff know where the previous case decisions can be found when needed for guidance of the Umatilla Tribal Court practitioners. Like many other tribal judges, Judge Johnson will consider the law of other Indian tribes, federal law, and state law, in that order. Umatilla Tribal Court decisions, while not necessarily contrary to the laws of other sovereigns, will of course favor the customs and traditions of the CTUIR, and clearly state a preference for reliance upon tribal law rather than some other law.

Tribal courts sometimes operate under a dual system of justice, one based upon an Indian philosophy focused upon restoration and the other focused upon the Anglo-American philosophy of retribution.[16] From my practice experience in the Umatilla Tribal Court, I see a balance of these arguably conflicting goals manifested in decisions of the court. In the criminal case context, the tribal prosecutors have the key role in interviewing the victims of crime and determining what they desire for justice and healing. The prosecutors are the modern-day voice of the victims of crime on the reservation, and, as such, the prosecutors enjoy significant respect and deference from the judge when it comes to suggested sentencing. In the tribe's history, the prosecutors have been young, at an early stage in their legal careers, and less knowledgeable than Judge Johnson about oral custom and tradition of the CTUIR. Therefore, although he gives due consideration to prosecutors' suggested sentences, his decisions occasionally depart from the prosecutors' recommendations and take into consideration his own perceptions, experience, and, of course, oral tribal custom and tradition.

For example, if a defendant is charged with using a firearm on a buffalo hunt when not permitted to use such a firearm because of a felon status or lack of a permit, the judge will take into account what was done with the meat from the hunt. It is traditional to give some or all of the meat to the tribe's elders. If this was done, that fact can have some bearing on sentencing. The defendant will be counseled to "give the poor buffalo a fighting chance in the future," by using a traditional bow and arrow or a lance. Any perceived leniency in the form of conditional sentencing, suspended sentencing, or dismissal of cases based upon compliance with sensible conditions finds roots in these oral tribal customs and traditions. In addition, these customs and traditions, plus the trust and respect earned by the judge, lead to an overall perception of fairness in the judicial process, which pays dividends when the tribal court must take a harder stance on more serious crimes and/or recidivism.

Custom and tradition can also be honored by including Indians as tribal court administrative staff.[17] One of the current prosecutors is a tribal employee and a citizen of the CTUIR. He is employed by the public safety department, not the tribal court. Lynn W. Hampton served as the tribe's prosecutor from 1997 to 2006 and is now a circuit court judge in Pendleton, Oregon. Ron Pahl also served as a tribal attorney and is now the presiding judge of the circuit court in Pendleton, Oregon. Like the private attorneys now representing plaintiffs and defendants in the tribal court, judges Hampton and Pahl are non-Indian—or what the Cayuse and Umatilla refer to as suyàpo (white). Judge Johnson encourages both Indian and non-Indian attorneys to participate in the tribal court bar.

Private Life

When not on the bench, Judge Johnson likes to spend time with his loving family. He makes the point that his "family is my first priority—good father and husband, and then judge." When time permits, he likes to play a doubles match of racquetball, attend local youth sporting events, go hunting and fishing, and engage in traditional Indian dancing. He is also a frequent presenter at national and local seminars on the topic of Indian law and tradition.

When asked, Judge Johnson said that he hopes to be remembered as a champion of the flame of tribal sovereignty—sovereignty that he has helped to protect through a constitutional amendment creating the tribal court as an independent court system and a separate branch of government. He stresses that "[w]e, as Indian people, can get the job done by and for ourselves. That's sovereignty, and that's self-determination."

If any readers of this article have not practiced in a tribal court, I would like to encourage them to give it serious consideration. A course in federal Indian law; a review of a tribe's online constitution, bylaws, codes, and other laws; and/or observations of tribal court proceedings should be sufficient to make you comfortable enough to handle some cases. If in that pursuit you just happen to see a playful Gray Coyote wearing a judge's robe and blazing a new trail, the experience will be especially worth your effort. ⊙

Endnotes

[1]As Days Go By (Tamastslikt Cultural Institute, Jennifer Karson, PhD, ed., 2006), p. 151–189. The phrase, "as days go by" in Columbia River Sahaptin is "Wiyaxayxt" and in Nez Perce is "Wiyaakaa'awn." The phrase is also interpreted to mean "day by day" or "daily living."

[2]*Id*. at 151. *See* insert on page 13 for the Umatilla language introduction, followed by an English translation. This was the way Judge Johnson introduced himself in *As Days Go By* and at the Washington Bar Association's Annual Indian Law Seminar in 2014. After the seminar started with a traditional Indian prayer and traditional inspirational beating of an Indian drum, Judge Johnson introduced himself in an equally inspirational manner. He addressed the attendees in both his native tongue and in English.

[3]American Indian Myths and Legends (Pantheon Books, Richard Erdoes & Alfonso Ortiz, eds., 1984). In the Pacific Northwest, "the emphasis is … on Coyote's cleverness. …" *Id*. at 335. "Coyote also reminds us of another salient element in Indian philosophy: there is laughter amid tears, and sadness tucked away in a raucous tale." *Id*. at 336.

[4]For more information on the history of ICRA and the expanded criminal sentencing jurisdiction under the TLOA, *see* Gregory S. Arnold & Todd Albert, *Tribal Law and Order Act and Violence Against Women Act: Enhanced Recognition of Inherent Tribal Sovereignty Creates Greater Need for Criminal Defense Counsel in Indian Country*, The Federal Lawyer, Jan./Feb. 2014, *available at* www.fedbar.org/Federal-Lawyer-Magazine/2014/JanuaryFebruary/Columns/At-Sidebar.aspx?FT=.pdf.

[5]For more information on VAWA, *see Id.*

[6]*Confederated Tribes of the Umatilla Indian Reservation v. VAWA John Doe 1* (2014).

[7]Hon. Korey Wahwassuck, *The New Face of Justice: Joint Tribal-State Jurisdiction*, 47 Washburn L.J., 733, 735 (2008).

8Janine Robbben, *Life In Indian Country: How the Knot of Criminal Jurisdiction is Strangling Community Safety*, Oregon State Bar Bulletin, Jan. 2012, *available at* www.osbar.org/publications/bulletin/12jan/indiancountry.html.

[9]As Days Go By, *supra*, at 188.

[10]*Available at* ctuir.org/system/files/FishWildlifeCode.pdf.

[11]*Available at* ctuir.org/system/files/EnrollmentCode.pdf.

[12]*Available at* ctuir.org/system/files/Juvenile%20Code%20thru%20Res%20No%2014-041%20%287-28-14%29%20LH%20REF%20CUR.pdf.

[13]As Days Go By, *supra*, at 184.

[14]*Available at* ctuir.org/system/files/Criminal%20Code.pdf.

[15]Carrie E. Garrow and Sarah Deer, Tribal Criminal Law and Procedure 65 (Tribal Law and Policy Institute, AltaMira Press, 2004).

[16]*See* Dave Mallon, *Restorative Justice Practices in Tribal Courts* (2013), *available at* www.ptla.org/print/26141. ("The American system is adversarial in nature. One of the primary goals of this system is to impose punishment for violations of the law. This often involves the levying of fines and separation from the community through incarceration. The Indigenous philosophy, with a focus on restoration, seeks to harmonize the underlying conflict and restore balance to the individuals affected and the community at large. Under this system, the judiciary works to restore relationships and heal lives. One of the primary goals of this system is reintegration into the community.")

[17]Federal law allows for Indian preference in Bureau of Indian Affairs hiring. "The preference, as applied, is granted to Indians not as a discrete racial group, but rather, as members of *quasi*-sovereign tribal entities whose lives and activities are governed by the BIA in a unique fashion." [italics original] *Morton v Mancari*, 417 U.S. 535, 544 (1974).