

**NATIVE AMERICAN ETHNICITY AND THE LAW:
DETERMINING ELIGIBILITY FOR TRIBAL MEMBERSHIP**

THESIS

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Today I reaffirm our commitment to self-determination for tribal governments.... I vow to honor and respect tribal sovereignty based upon our unique historic relationship.”

Bill Clinton, 1994

ABSTRACT
NATIVE AMERICAN ETHNICITY AND THE LAW:
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There are many federal statutes that outline procedures for the treatment of Native Americans based on their status as members in a federally recognized tribe. These laws span a variety of topics, from the distribution of educational, housing, medical and dental benefits, to the treatment of Native Americans in federal courts for criminal offenses. Most of these federal statutes have at their core the definition of Indian based on a pre-determined level of blood quantum. As a general matter, legislation based on racial classifications is constitutionally suspect under the Equal Protection Clause of the 14th Amendment and should be reviewed under strict scrutiny. This paper examines the many statutory definitions of *Indian* and compares the government's perception of who is Indian for comparison against the actual the criteria that federally recognized tribes use in determining eligibility for membership.

CHAPTER 1

INTRODUCTION

Before embarking upon this research, I had little awareness of tribal governments, laws, or the concept of sovereignty. This is surprising when you consider that I spent ten years in Oklahoma, where the culture is rich in Native American heritage and folklore. It is also the place where I gave birth to a son, Seneca, a Cherokee child.

Like most, I had become conditioned to the use of images of Native Americans as mascots and caricatures. I was immune to the use of Indian references in advertising and in sports, for example, the Atlanta Braves, the Washington Redskins, the Jeep Grand Cherokee, never giving thought to these references as ethnic slurs. My awakening came abruptly, through tears of anger and disbelief, as I listened to a Judge refer to me as a *renegade* for trying to invoke the provisions of the Indian Child Welfare Act.

If you were to survey all the judges in the United States, most would stare back blankly when asked *what is the Indian Child Welfare Act?* More fundamental to this inquiry is the question *what is an Indian?* The general consensus would be that the definition is somehow tied to how much Indian blood someone has. This concept is simply illustrated by setting forth a general inquiry to a room full of people "who here is part Indian?". Predictably, many would raise their hands or acknowledge Indian ancestry. Now ask, "who is Indian?". Most, if not all of the hands now descend. So it was that I set out on my personal quest, to find out what it takes to be *recognized* as an Indian.

Background

In framing this study, three things seemed essential. First, the study should focus on federally recognized tribal entities. In this respect, the focus population became all the tribes recognized by the Department of Interior as eligible to receive services and programs administered by the Bureau of Indian Affairs. Second, the study should be stratified and comparative. While studies of 200 tribes would be statistically useful, its findings would not be generally applicable to all tribes because of regional and cultural nuances. In addition, there is the problem of how to classify those people indigenous to Alaska and to the Hawaiian Islands. The latter group would be excluded for purpose of this study because, from an anthropological viewpoint, the people of Hawaii are classified as South Pacific Sea Islanders not as American Indians. With respect to the two largest groups found in Alaska, the Eskimo and the Aleuts, they would be included for consideration in this study, but they would be treated separately as a collective unit of analysis, Alaskan Natives.

Third, the study should be exploratory in nature. Exploratory studies are a beginning where none has previously existed. This type of study is appropriate when foundations of knowledge are being identified and mapped, when we do not know what variables are important and how they will impact upon each other. It involves gathering statistics where none have been computed, identified or studied. Since there is no central repository for the data being sought, each individual tribe and chairman must be contacted for a determination and, if possible, supporting social artifacts would be gathered and catalogued.

I chose a mass mailing of a personal letter requesting information about enrollment to all of the 555 tribal chairmen listed with the Department of the Interior as of January 1, 1995. Responses were to be tallied and noted according to the regional classifications of the tribes presently used by the Bureau of Indian Affairs. For storage of this data, *Microsoft Access* was chosen as the appropriate database because of its ability to cross-reference, its ease of selection (pull-down menus) and its ability to add fields once the study had begun.

Tribes are not static, standing still to be watched. They are dynamic entities that are constantly changing. The process of federal recognition also involves termination, which may occur when a tribe disbands or becomes extinct through the death of its surviving members. Each year new tribes formally apply for recognition in order to qualify for federal assistance or to protect business (land or gaming rights) interests while others are terminated from federal supervision and benefits. Even tribal leaders themselves are subject to change, not all being appointed for life, most leaders are elected officials. Nonetheless, all tribal leaders retain the ultimate decision making authority over who will fall under the umbrella of their jurisdiction. Therefore, the original research plan would have to be flexible enough to incorporate new tribes, new trends in tribal registration and enrollment, and changes in tribal leadership.

Purpose of the Study

This study will review the existing literature discussing the political and legal ramifications of *discovery*, *sovereignty*, and *self-determination* in the evolution of racial

purity laws for Native American Indians. A particular focus of this study will be an exploration of how tribes engage in self-determination through the establishment of membership criteria for eligible individuals.

Federal statutes that define who is an Indian will also be examined to reveal their origins and continuing impact on the changing legal perception of Native Americans. Finally, the data collected on the varying methods of determining eligibility will be analyzed after content analysis of the different criteria variables, in order that the reader might have an expanded understanding of the trends in determination of tribal membership.

Importance of the Study

Defining who is an Indian will have global implications on state, federal and tribal court systems. In civil, as distinguished from criminal matters, clarification of who is eligible for membership in a tribe will have a net widening effect on the number of referrals to tribal jurisdiction in matters relating to the best interest of a child. Current federal mandates require that every judge inquire whether a child before the court is of Indian heritage in all matters where a child may be removed from the home. The only exception is in custody suits between the biological parents of the child in question.

Like criminal procedures involving allegations of child abuse, in civil proceedings involving Indian children, the standard of proof for removal of the child(ren) is *beyond a reasonable doubt*. These cases also require a higher standard in testing the knowledge of any expert witness consulted, as they must possess direct knowledge of cultural practices and norms relating to Indian lifestyles which cannot be evaluated by Anglo standards.

With regards to alternative placement of Indian children, the Indian Child Welfare Act (ICWA) details what preferences must be considered by the court. First, the child should be placed with a family from the child's tribe (with tribal approval). Next, if no foster family is available from the child's tribe, then preference is given to Indian custodians of other tribal affiliations. If none can be found, the courts can then look to members of the child's family who are non-Indian. Finally, if all of the above preferences are unavailable, the child may, with tribal approval, be placed with a non-Indian family with the condition that foster care placement may be revoked by the parents at any time.

Adoptions of Indian children are required by law to remain open with full disclosure of the biological parents' names, birth dates and tribal affiliation, if known, stated in the Final Decree of Adoption. The purpose is to allow these children to register or enroll at a later date, in which case this information is vital. Previously sealed records may be opened in cases where an adoptee suspects that he or she is Indian and wishes to register with a tribe and must identify direct lineal descent.

Identification of Indians also has broad implications for the regional Courts of Indian Affairs and for tribal court systems who could possibly be inundated with a tidal wave of jurisdictional transfers. Well established tribes usually have their own court systems, however, there is considerable federal grant money available for the creation of new tribal courts to handle Indian Child Welfare cases. Creation and establishment of tribal court systems ensures the continuation and strengthening of the sovereignty objective, the right to self-govern.

With respect to criminal procedure, Indians who commit crimes are remanded and tried in federal court because of the duality of citizenship. Fundamental to this transfer of jurisdiction from state to federal court is, once again, the determination of whether the defendant is an Indian.

In the area of regulation of controlled substances, the Texas Department of Public Safety issues permits to all *road men* who travel through the state in their journey to acquire peyote for religious practices as part of the Native American Church. Previous guidelines established by the Department require that any person applying for such a permit possess at least $\frac{1}{4}$ blood quantum degree of Indian blood. The results of this survey could prove this amount to be arbitrary, as in the case of the Cherokees, who do not consider blood quantum in their determinations for tribal membership. A better method could prove to be one of three forms of identification, either a tribal membership card (issued by the tribe), a Certificate Degree of Indian Blood (CDIB) card (issued by the Bureau of Indian Affairs) and calculated from blood quantum levels from an enrolled tribal ancestor) or a BIA identification card (issued by the BIA to those persons eligible for membership who choose not to swear allegiance to a particular tribe). This has broad implications for First Amendment protections of freedom of religion.

CHAPTER 2

REVIEW OF THE LITERATURE

"Us" and "Them"

During the period of European discovery and conquest, the indigenous people of North America, whom Columbus mistakenly identified as *Indians*, were easily discernible from non-Indians. They were distinct, both socio-culturally through their customs and traditions and genotypically, by their appearance (Peroff, 1997). Culturally speaking, "American Indians appear to be the most traditional, the most invariant, the most unconstructed of American ethnic groups" (Nagel, 1996, p.32). Even in modern day depictions in the media, particularly the cinema and television, *real Indians* continued to be stereotypically portrayed as living legends from the old American frontier days.

Toward Tribal Sovereignty

The federal government's interpretation of Native American tribal sovereignty and its limitations have played an important role in tribal authority (Polashuk, 1996). A brief historical discussion of sovereignty is essential to the understanding of how governmental policy regarding tribal sovereignty affects the legitimacy and extent of jurisdictional authority that the tribes are allowed to exercise.

Native Americans and their tribal governments, have long claimed that they have the supreme and independent political authority known as *sovereignty* (Fairbanks, 1996, 141). Many Supreme Court cases identify the inherent sovereign rights of Indian nations, *U.S. v Wheeler*, *Talton v. Mayes*, *Ex parte Crow Dog*, and *Worcester v Georgia*. Any claim of sovereignty implies the ability and willingness to exercise this power. This also assumes that there exists a sufficient population, adequate land base, and the institutional capacity to exercise jurisdiction over its population.

Since Indian nations satisfy the requirements for nationhood, in an international law context, they are sovereign nations. According to Janis, to be considered a sovereign nation under international law a nation must have four characteristics: 1) a population; 2) a territory; 3) a structure of governance; and 4) the capacity to conduct relations with other nations (Janis, 1988, *see also* Oppenheim). Tribes do have identifiable populations that may be evidenced by their official membership rolls . Their territories are defined by federal lands held in trust as reservations, pueblos, rancherias, villages, or state lands designated as Indian country. Tribal governments exist by virtue of their constitutions through tribal councils usually headed by a tribal administrator traditionally known as a chief, governor, leader, etc. Lastly, tribes do conduct relations with other nations, primary the federal government of the United States. This last function, the negotiations or treaty power with other sovereigns, is referred to as external sovereignty which is distinguished from internal sovereignty, the exercise of self-government.

These indicia of sovereign power are obscured when one considers that tribal governments exercise very limited sovereign power over native and non-native people

residing within or traveling through reservation boundaries. In *U.S. v. Maloney*, the Court upheld the jurisdiction of federal courts over certain offenses committed by one Indian against another Indian within Indian country. Federal law, the Major Crimes Act of 1885, prohibits tribal governments from prosecuting crimes committed on a reservation by an outsider or felonies committed by a member. Contemporary tribal governments exercise that extent of power that is granted by Congress. They govern at the pleasure and whim of the federal government which may amend or eliminate those powers at will.

Attacks on Sovereignty: Discovery, Conquest, Merger & Annexation

Under international law, a nation may lose its status through discovery, conquest, merger, or annexation by another country. Once a discovering nation exercises dominion over an "uninhabited" land it cannot then be considered sovereign (Howland, 1987). However, there must be actual settlement on the land in order to confer title. International law scholars argued that since the indigenous Indians were 'wanderers' and not 'stable' inhabitants, that the law of discovery controlled (Jennings, 1975). Distinguished from the vast civilizations of the Mayans and the Aztecs who were considered 'stable', the Indians of North America had an established society and economy and their sovereignty was not terminated or extinguished when the early Europeans explorers or the American colonists 'discovered' their existence. Contrary to belief, many tribes were agrarian and were not nomadic hunters.

Early judicial interpretation of the legal status of American Indians and of their sovereignty rested in defining the nature of the relationship between Indian nations and the United States government. The first Chief Justice of the Supreme Court, John Marshall,

questioned the rationale behind the discovery doctrine in determining the legal status of American Indians, *Johnson v. McIntosh*, 21 U.S. 543 (1823). He also was hesitant to conclude that, by virtue of discovery or conquest, that these nations had been annexed or merged into the United States. To clarify the status of these Indian nations, Marshall introduced the domestic *dependent nation* concept, which occurs when "[A] weak state, in order to provide for its safety, may place itself under the protection of one more powerful, without stripping itself of the right of government, and ceasing to be a state." *Worcester*, 31 U.S. at 559. This dependent-nation status is analogous to the relationship that the Pacific Island Territories have with the United States.

Native Americans acceded the title of North America to the United States as successors in conquest, behind Great Britain, Spain, France and others. In applying the doctrine of discovery and conquest, the Supreme Court stated that the United States was vested in absolute title to all Native American land, subject only to the "Indian right of occupancy." The Court further held that "...discovery gave an exclusive right to extinguish Indian title of occupancy, either by purchase or by conquest...."(Lope, 1994).

It is understandable that, under the doctrines of discovery and conquest, the United States exercised jurisdiction over the Indians and their land within the thirteen colonies. It is not understandable, however, how that jurisdiction was extended beyond the boundaries of what was then the United States, to all Indian Nations (Mika, 1995).

The Two Eras of Integration

The Era of Assimilation & Termination

The extent to which the federal government recognized tribal sovereignty has wavered throughout history. Opponents of the Indian sovereignty concept argue that Indian nations can not be sovereign because of their merger or annexation with the United States. As evidence of their belief they cite the fact that American Indians are U.S. citizens, having been unilaterally granted citizenship in 1924, by the *Native American Citizenship Act* (8 U.S. C. § 1401 (a)(2)). However, American Indians enjoyed a duality of citizenship in both their respective nations and as United States citizens. Since governments cannot grant citizenship without the individual expressly requesting it, the unilateral bestowing of citizenship upon American Indians did not strip them of tribal sovereignty. In fact, the intent of the American Indian Citizen Act was to preserve Native Americans' right to citizenship in their own tribes by explicitly allowing concurrent citizenship. While this concept is confusing to most ordinary citizens, the American Indian Movement takes the official position that Indian people are citizens of both their respective tribal nation and the United States (Morris, 1986).

The U.S. Constitution, Article I, restricts the federal government's treaty making power to only those nations with sovereign power.

Section 8. (3) To regulate Commerce with foreign Nations, and
among the several States, and with the Indian Tribes; ...

By entering into 371 treaties with various tribes, the United States implicitly recognized the sovereignty of Indian nations. In 1978, a congressional study, the ‘Abourezk Commission Report’, concluded that, ‘[t]he relationship of the American Indian tribes to the United States is founded on principles of international law.’ (Deloria, 1984)

Rationalization for the gradual destruction of Indian tribal sovereignty may be found in early judicial interpretations. One such case is *Worcester v. Georgia*, where the Supreme Court declined to hold that Indian nations were foreign nations within the meaning of Article III of the Constitution (31 U.S. 515).

Article III

Section 2. (1) The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the laws of the United States, and Treaties made, or which shall be made, under their Authority; –to all Cases affecting Ambassadors, other public Minister and Consuls; – to all Cases of admiralty and maritime Jurisdiction; _to Controversies to which the United States shall be a party: __ to Controversies between two or more States; __ between a State and Citizens of another State; –between Citizens of different States; – between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

The Supreme Court began the erosion in the early 1800's. Relying on *Worcester* as binding precedent, the Supreme Court would further erode the concept of Indian sovereignty. In *United States v. Rogers* (1846), the court held that Indian tribes had never constituted nations. Later in the *Cherokee Tobacco Case*, 78 U.S. 616, the Court decided that Indian territories were in fact part of the United States.

Congress soon followed suit by legislating further restrictions on tribal sovereignty. The first major legislation in that direction occurred in 1871, when Congress ceased all "negotiations" with the tribes and began to make "agreements". The *Indian Department Appropriations Act of 1871*, declared that

"No Indian nation or tribe within the United States shall be acknowledge or recognized as an independent nation, tribe or power with whom the United States may contract by treaty..."

By terminating treaty making mechanisms, the Act reinforced the domestic trust relationship set forth by the Court in *Cherokee Nation* (Landman, 1987). The Court upheld Congress' ability to abrogate Indian treaty rights in *U.S. v. Dion*. In an 1883 decision, *Ex parte Crow Dog*, 109 U.S. 556, the Court dealt a further blow by holding that an Indian nation was sovereign over only the acts of Indian citizens against other Indians while in Indian territory.

The *General Allotment Act* of 1887 broke up most tribal holdings into individual 40 or 160 acre tracts of land (Howland, 1987). America's policy of assimilation and allotment had the effect of reducing tribal lands which opened up the land for settlement

and helped assure the end of tribalism by divesting the chiefs of their power. By the end of this era in 1928, tribal land holdings had been reduced by 2/3 (Getches, 1986).

The year 1928, marked the period of Indian reorganization. In 1934, Congress passed the *Indian Reorganization ACT* ("IRA"). The Act stopped further disbursement of tribal land holdings and allowed a return to communal land holding by the tribe. It also granted permission to tribal governments to administer housing, education, health and community development programs of the BIA and Public Health Services, an National Indian Health Care Plan, within federal guidelines (Fairbanks, 1996).

The IRA allowed the formation of "reservation business committees", also known as "reservation tribal councils" which acted as tribal liaisons with federal, state and local governments. While on the surface appearing altruistic, the Act allowed the federal government to divest itself of criminal jurisdiction over the tribes by relinquishing its authority to the States. Policing and prosecuting tribal communities was expensive and the federal government was looking for ways to cut back on frivolous expenditures.

The Trust Doctrine

The trust doctrine emerged from the erosion of tribal sovereignty and was predicated on a foundation of case law and federal legislative acts (Peroff, 1996). The trust concept created a *parens patriae* relationship model wherein the federal government of the United States had a duty to Indian tribes much like a parent to a child. It has historically mirrored a child's dependence on its parents for survival (Kickingbird, 1977). Theoretically, with the proper care and nurturing, the ward will grow in both strength and independence. In this context, political maturity would earn economic independence. The

tribes were regarded as wards of the state and their property was held in trust for their own good. *U.S. v. Kagama*, 118 U.S. 375 (1886). Ideally, this trust relationship mandated that the trustee nation work towards the eventual self-determination of the nations under trust, as is the case in the trusteeship system of the United Nations (Coulter, 1982).

Congress has always exercised control over Native Americans through its plenary powers (Christofferson, 1991). Interpreting the extent of this plenary power, the Supreme Court upheld the unilateral repeal of treaties with Indian nations in *Lone Wolf v. Hitchcock*, 187 U.S. 553 (1903). In *Santa Clara Pueblo v. Martinez*, the Supreme Court was presented with an opportunity to examine tribal membership rules. The Court sidestepped the issue based on the assumption that a judicial overview of tribal membership rules would undercut tribal sovereignty.

The Termination Policy

The latter part of the 1940's ushered in the federal government's policy of termination (Polashuk, 1996). This period was marked by the federal government's policy of termination, the large scale disbanding of Indian tribes, not to be confused with an earlier policy of genocide known as removal. Complete integration, total absorption into the mainstream population, became paramount to all federal Indian policy. Howland (1987) referred to this era as, "racial discrimination and unfettered U.S. power disguised as moral duty." The status of Indian tribes as nations was integrally linked to their having a defined land base or territory. Congress gave itself the authority to extinguish titles and

abrogate treaties without compensation. During this era, 109 tribes were terminated (Getches, 1986).

Individuals who are terminated from a Federally recognized tribe suffer both financially and psychologically. They no longer receive federal Indian benefits, such as annuities from the tribe, access to subsidized education and health programs, and housing. Unless fortunate enough to be adopted into another tribe, they are stripped of their ethnic identity.

The Modern Era of Federal Indian Law

Self-Determination

In the 1960's, America was in a midst of a civil rights awakening. During this era, the government policy towards Native Americans shifted to one of self-determination. Essentially, this empowered each tribe with the right to make decisions concerning government, business, economics, and other varying internal administrative decisions (Polashuk, 1996).

The Return to Sovereignty

In 1968, Congress passed the Indian Civil Rights Act (ICRA), 25 U.S.C. § 1301-41, marking the entrance into the modern era of federal Indian law. Recognizing that Native American tribes were distinct sovereigns, Congress designed a special Indian Bill of Rights to protect individual from tribal abuses, however, it placed limits on how the tribes could exercise their sovereignty. Central to the purpose of the ICRA is to "protect

individuals from arbitrary and unjust actions of tribal governments," (S. Rep. No 841, 90th Congress, 1st Sess. 6, 1967). The idea of limited sovereignty is the concept that Indian sovereignty exists alongside the plenary right of Congress to regulate and modify the status of tribes.

By 1974, federal courts interpreted Equal Protection issues involving Native Americans as based on political, rather than racial classifications, and that a lower level of scrutiny was required under the 5th and 14th Amendment.

Measures of Ethnic Identity

Ethnic identity is expressed as a quantified measure of heritage. Most tribal membership applications require the documentation of some degree or measure of Indian heritage (Cohen, 1982; Hagen 1985). The minimum tribal blood quantum required for federal recognition and acknowledgment as an Indian is 1/4.

In the case of children born to an Indian and non-Indian, the National Center for Health Statistics assigns the mother's race to the child. Children of mixed or multiple-race unions are coded by the race indicated first ("Interracial children...", 1993).

"Indian" Legally Defined

Today the terms *Native American*, *American Indian*, and *Indian* are used interchangeably. The term *Amerindian*, is usually reserved for those indigenous people outside of the continental United States, for example, in Canada, Central or South America. The legal definition of an "Indian" varies. In a general sense, an Indian is an

member of a federally recognized tribe. Enrolled members of terminated tribes are not included in this definition.

The court in *St. Cloud v. United States*, 702 F.Supp. 1456, demonstrated the incongruence in way "Indian" is defined by statute. The Indian Reorganization Act at 25 U.S.C. § 479 defines *Indian* as "all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include all other persons of one-half or more Indian blood." The Indian Financing Act defines *Indian* as "a member of any Indian tribe...which is recognized by the Federal Government as eligible for services from the BIA." For purposes of jurisdiction of Courts of Indian Offenses, 25 C.F.R. §11.2(c) defines Indian as "any person of Indian descent who is a member of any recognized Indian tribe now under federal jurisdiction." Section §2008(f) of the same title extends the definition to those having at least 1/4 Indian blood descendant from a tribal member. For allotment purposes, 25 U.S.C. §345 treats any person "in whole or in part of Indian blood or descent" as an Indian. To be eligible for Indian Health Services, 42 C.F.R. §36.12 defines as Indian anyone so recognized in the community in which he or she lived.

The Roger's Two Prong Test of "Indianness"

St. Cloud sets forth the *Roger's* Requirement, a two prong judicial test used in determining whether an individual is an Indian for jurisdictional purposes. The first inquiry derived from *Roger's* is whether the individual has sufficient Indian blood while no threshold is set to satisfy the first prong. In *Goforth*, 644 P.2d at 116, the requirement of

of Indian blood was satisfied by testimony that the person was slightly less than one quarter Cherokee Indian. In *Sully v. United States*, 195 F. 113 (1912), 1/8 Indian blood was held sufficient to be an Indian. However, Indian blood alone is not enough to define an individual as Indian because the jurisdiction of the federal government over Indians does not derive from a racial classification but from the special status of a formerly sovereign people, *United States v. Antelope*, 430 U.S. 461(1977).

The second prong of the Roger's test has been phrased by courts as an inquiry as to whether the person is recognized as an Indian by the tribe or federal government, *Broncheau*, 597 F.2d 1260. No court has undertaken the analysis of what non-racial factors constitute sufficient recognition as an Indian. However, the court in *St. Cloud* was able to identify several factors that, while not establishing a precise formula for determination, provide a guide for the analysis of whether a person is recognized as an Indian. These are listed in declining order of importance: 1) enrollment in a tribe; 2) government recognition formally and informally through providing the person assistance reserved only to Indians; 3) enjoying benefits of tribal affiliation; and 4) social recognition as an Indian through living on a reservation and participating in Indian social life. The court declined to include whether the individual was enrolled in a terminated tribe in its calculus.

Although the courts have found tribal enrollment sufficient proof that a person is Indian, the *Broncheau* court held that the individual may still be an Indian though not enrolled with a recognized tribe.

Federal Recognition and Acknowledgment of Tribes

Prior to 1978, tribes were designated or defined in specific contexts, usually in reference to a statutory definitions. Both the Indian Depredations Act of 1891, and the Indian Claims Commission Act of 1946, make general references to "tribe" and "band" (Quinn, 1992). Indian tribes could be recognized as tribes for some purpose but not for others (Quinn, 1990). Determinations of tribal status were made by the Federal courts when interpretation of applicability of statutes were needed or when there was need for a question of eligibility for services.

25 U.S.C. §1903(8) refers to an "Indian tribe" as "any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians..." Today, when tribes are acknowledged, they are recognized for all purposes and are eligible for all benefits and services available to tribes. It is the access to these benefits and services that motivates Indian groups to petition the United States, through the Department of Interior for acknowledgment.

Generally, there are three ways in which a tribe may be acknowledged: 1) administratively, by petitioning the Department of the Interior through the Bureau of Indian Affairs; 2) judicially by a determination of a federal court; and 3) legislatively, by an Act of Congress. In keeping with the doctrine of primary jurisdiction, an administrative determination is the preferred method. The Federal courts use a patchwork test created in *Montoya v. United States* (Quinn, 1992). Congress, through its exercise of plenary

powers, acknowledges and terminates tribes through specific legislation. The procedures for acknowledging tribes is found in 25 C.F.R. §83.1.

Title 25 - Indians

§ 83.2 Purpose

The purpose of this part is to establish a departmental procedure and policy for the acknowledging that certain American Indian groups exist as tribes. Acknowledgment of tribal existence by the Department is a prerequisite to the protection, services, and benefits of the Federal government available to Indian tribes by virtue of their status as tribes. Acknowledgment shall also mean that the tribe is entitled to the immunities and privileges available to other federally acknowledged Indian tribes by virtue of their government to government relationship with the United States as well as the responsibilities, powers, limitations and obligations of such tribes. Acknowledgment shall subject the Indian tribe to the same authority of Congress and the United States to which other federally acknowledged tribes are subjected.

§83.3 Scope

(a) This part applies only to those American Indian groups indigenous to the continental United States which are not currently acknowledge as Indian tribes by the Department. It is intended to apply to groups that can establish a substantially continuous tribal existence and which have functioned as autonomous entities.

§83.4 Filing a Letter of Intent

(a) Any Indian group in the continental United States that believes it should be acknowledged as an Indian tribe and that it can satisfy the criteria in §83.7 may submit a letter of intent.

(b) Letters of intent requesting acknowledgment that an Indian group exists as an Indian tribe shall be filed with the Assistant Secretary -- Indian Affairs, Department of the Interior, 1849 C Street, NW., Washington, DC 20240. Attention: Branch of Acknowledgment and Research, Mail Stop 2611-MIB. A letter of intent may be filed in advance of, or at the same time as, a group's documented petition.

(c) A letter of intent must be produced, dated and signed by the governing body of an Indian group and submitted to the Assistant Secretary.

§83.7 Mandatory Criteria for Federal Acknowledgment

The mandatory criteria are:

(a) The petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900. Evidence that a group's character as an Indian entity has from time to time been denied shall not be considered to be conclusive evidence that this criterion has not been met. Evidence to be relied upon in determining a group's Indian identity may include one or a combination of the following, as well as other evidence of identification by other than the petitioner itself or its members.

(1) Identification as an Indian entity by Federal authorities.

(2) Relationships with State governments based on identification of the group as Indian.

(3) Dealings with a county, parish, or other local government in a relationship based on the group's Indian identity.

(4) Identification as an Indian entity by anthropologists, historians, and/or other scholars.

(5) Identification as an Indian entity in newspapers and books.

(6) Identification as an Indian entity in relationships with Indian tribes or with national, regional, or state Indian organizations.

(b) A predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until present.

(g) Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship.

§83.8 Previous Federal Acknowledgment

(a) Unambiguous previous Federal acknowledgment is acceptable evidence of the tribal character of a petitioner to the date of the last such previous acknowledgment. If a petitioner provides substantial evidence of unambiguous Federal acknowledgment, the petitioner will then only be required to demonstrate that it meets the requirements of §83.7 to the extent required by this section.

(b) A determination of the adequacy of the evidence of previous Federal action acknowledging tribal status shall be made during the technical assistance review of the documented petition conducted pursuant to §83.10(b). If a petition is awaiting active consideration at the time of adoption of these regulations, this review will be conducted

while the petition is under active consideration unless the petitioner requests in writing that this review be made in advance.

(c) Evidence to demonstrate previous Federal acknowledgment includes, but is not limited to:

(1) Evidence that the group has had treaty relations with the United States.

(2) Evidence that the group has been denominated a tribe by act of Congress or Executive order.

(3) Evidence that the group has been treated by the Federal Government as having collective rights in tribal lands or funds.

(d) To be acknowledged, a petitioner that can demonstrate previous Federal acknowledgment must show that:

(1) The group meets the requirements of the criterion in § 83.7(a), except that such identification shall be demonstrated since the point of last Federal acknowledgment. The group must further have been identified by such sources as the same tribal entity that was previously acknowledged or as a portion that has evolved from that entity.

(2) The group meets the requirements of the criterion in § 83.7(b) to demonstrate that it comprises a distinct community at present. However, it need not provide evidence to demonstrate existence as community historically.

(3) The group meets the requirements of the criterion in § 83.7(c) to demonstrate that political influence or authority is exercised within the group at present. Sufficient evidence to meet the criterion in § 83.7(c) from the point of last Federal

acknowledgment to the present may be provided by demonstration of substantially continuous historical identification, by authoritative, knowledgeable external sources, of leaders and/or a governing body who exercise political influence or authority, together with demonstration of one form of evidence listed in §83.7(c).

(4) The group meets the requirements of the criteria in paragraphs 83.7(d) through (g).

(5) If a petitioner which has demonstrated previous Federal acknowledgment cannot meet the requirements in paragraphs (d)(1) and(3), the petitioner may demonstrate alternatively that it meets the requirements of the criteria in §83.7(a) through (c) from last Federal acknowledgment until the present.

§83.12 Implementation of Decisions

(a) Upon final determination that the petitioner exists as an Indian tribe, it shall be considered eligible for the services and benefits from the Federal government that are available to other federally recognized tribes. The newly acknowledged tribe shall be considered a historic tribe and shall be entitled to the privileges and immunities available to other federally recognized historic tribes by virtue of their government-to-government relationship with the United States. It shall also have the responsibilities and obligations of such tribes. Newly acknowledged Indian tribes shall likewise be subject to the same authority of Congress and the United States as are other federally acknowledged tribes.

(b) Upon acknowledgment as an Indian tribe, the list of members submitted as part of the petitioners documented petition shall be the tribe's complete base roll for

purposes of Federal funding and other administrative purposes. For Bureau purposes, any additions made to the roll, other than individuals who are descendants of those on the roll and who meet the tribe's membership criteria, shall be limited to those meeting the requirements of §83.7(e) and maintaining significant social and political ties with the tribe (i.e., maintaining the same relationship with the tribe as those on the list submitted with the group's documented petition).

The catalyst for the development of administrative procedures for the acknowledgment of tribes came because of an action brought against the Department of the Interior in *Stillaguamish Tribe v. Kleppe* (Quinn, 1992). The Stillaguamish tribe had been caught up in an unofficial moratorium on acknowledgment of tribes instituted by the Secretary because a deluge of new acknowledgment requests by nearly forty tribes. The tribe sought equitable relief and the court found the delay to be "arbitrary and capricious", and order the Department of the Interior to decide on the tribes petition within thirty days. Ten months later the Department published its proposed regulations for the acknowledgment of tribes in the Federal Register.

Reasons for Limiting Membership

Rand and Light (1997) give three reasons for limiting tribal membership: cohesiveness, culture, and perpetuation of the political unit. "[D]iffering membership criteria are indicative of their attempts to maintain internal cohesiveness." Shared cultural identity is a critical factor in self-conception and establishing tribal membership criteria. The indicators of cultural identification among tribes are language, residence in the

community, familiarity with custom and traditions as well as lineage. Lastly, tribes seek to perpetuate themselves as separate political units so that they may compete for federal resources. Ironically, it is this diversity that prevents unity among the collective Indian nations. The limiting of membership is often self-defeating in a democratic system where numbers are power.

Benefits of Tribal Membership

Many people residing in the United States have some degree of Indian blood. However, unless a person has at least one parent who is entitled to membership in a Federally-recognized Indian tribe, it is unlikely that he or she will share in assets owned by a tribe (distribution) or qualify for federal services available to Indians, such as health services, educational grants, housing, etc.

Descendants from many Eastern tribes disbanded before the present government of the United States made its official presence in 1789. For these descendants, there is no existing groups with which they can affiliate. On the other hand, many descendants from Western tribes, cannot substantiate their membership claims to modern tribes due to the lack of or poor family records.

It is a popular myth that among the American public that some people receive payments from the government simply because of their Indian heritage. Annuities or distributions to a person of Indian blood may in fact be proceeds from his or her own property, through land allotments, collected for him by an agent of the U.S. Other distributions and disbursement of monies may represent monetary compensation for lands taken in connection with governmental projects, comparable to the fair-market monetary

compensation afforded to non-Indians under the doctrine of eminent domain and provisions of the 5th Amendment as follows:

Amendment V [1791]

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

Per capita distributions may also originate from a percentage of tribal income received from the utilization of tribal timber and other reservation resources. Still other annuities are parts of monetary damages arising from litigation over illegal acquisition of tribal lands or in fulfilment of U.S. government treaty obligations. Regardless of its source, money payable to either the tribe as a whole or to the individual tribal members is held in trust by the United States government who in turn issue the checks.

So in order to be eligible to receive payments or distributions, it is not enough to possess Indian blood, the individual must also be a recognized member of an Indian tribe whose money is subject to distribution. The responsibility for establishing this

membership lies with the tribe and the individual, with the burden of proof resting solely on the shoulders of the person seeking to be recognized.

Official Rolls of Federally Recognized Tribes

At the time of federal recognition, all the names of each members of a particular tribe, band, nation, pueblo, rancheria, etc. are listed on an official roster or list referred to as a roll. This roll serves a dual purpose: 1) it is a census of all the individuals recognized as belonging to a particular tribe; and 2) it is a standard for determining blood quantum or degrees of descent. All enrolled members at the time of census are given 4/4 blood quantum levels, or full blood status in their tribe only.

Some early records and censuses of Indian tribes can be found on file at the National Archives and Records Services at 8th and Pennsylvania Avenue, Washington, D.C. These records are primarily dated from 1830 - 1940 and are identified by tribal name. But don't expect to research an ancestor unless you can provide the archivist with the given name, preferably both the English and the Native name, the date of birth, and the name of the tribe. Names of parents, grandparents or collateral ancestors will facilitate the search.

In the case where tribal ancestry or origin is unclear, private research sources are available. This resource is especially valuable when providence is known, that is where an individual lived during the time of the federal census, in order to identify what possible rolls the person's ancestors may have been listed on. The credibility of these private researchers varies and should be established before any type of payment for services is tendered.

The Bureau of Indian Affairs, which operates under the authority of the United States Department of the Interior, maintains tribal enrollment lists but they are not comprehensive. Copies of these membership rolls and censuses are kept in the Bureau's corresponding field offices throughout the country. From time to time, tribal governments and councils update their enrollments and these additions are often not reflected in the BIA's records.

The bureau also issues identification cards to individuals who can document Indian blood but, for whatever reason, are not a registered member of a particular tribe. These cards are referred to as *Certificate Degree of Indian Blood* cards (CDIB) and do not entitle a person to receive per capita tribal disbursements but do allow the individual to participate in federal programs such as health services and to be classified as an Indian for educational benefits. For example, both Claremore Indian Hospital in Claremore, Oklahoma and Hastings Hospital in Tahlequah, Oklahoma accept CDIB cards and do not require actual tribal membership cards in order to receive free services. Undocumented Indians pay a non-Indian walk-in rate. To be eligible for per capita funding in schools receiving grants under the Indian Education Act, a student need only be identified as a Native American, tribal membership is not required, however encouraged since the purpose of the Act is to preserve and promote cultural heritage.

An individual seeking a CDIB card must provide acceptable legal documents which demonstrate a connection between the individual and an ancestor who is listed with a roll number and a blood degree. For example, a person is seeking to verify Cherokee ancestry from a relative who was removed to Oklahoma during the Trail of Tears. The

ancestor's name would be located on the *Final Rolls of Citizens and Freedmen of the Five Civilized Tribes*, commonly known as the *Dawes Commission Rolls* that were compiled between the years of 1899-1906. The blood quantum would be computed from the nearest paternal and/or maternal direct ancestor(s) listed on the Rolls.

Many descendants can neither be certified with a CDIB card nor meet the lineal descent criteria for tribal membership because their ancestors were not enrolled during the final enrollment period. This is probably due to the fact that the ancestors meet the requirements for the enrollment process themselves. Referring back to our earlier scenario, the requirements during the Dawes Commission Rolls were: (1) applying between 1899-1906; (2) appearing on a previous tribal roll from 1880 or 1986; and (3) having permanent residence within the fourteen northeastern counties of Oklahoma which comprise the Cherokee Nation. Ancestors who had separated from the tribe outside of permanent boundaries lost their identity as members because of the residency requirement. Only enrolled members and their descendants are eligible for CDIB cards and/or consideration for tribal membership. In cases of adoption, the quantum blood level is calculated from the biological parents. For this reason, adoptions of Native American children should disclose tribal affiliation of the parents and roll or membership number, if available, blood quantum, and names and date of birth for each Indian parent in order that the child may be eligible for tribal enrollment. Illegitimacy dilutes blood quantum. Unless judicially acknowledged by the father through establishment of paternity, children born out of wedlock, regardless of the father's quantum, are $\frac{1}{2}$ the mother's quantum.

The Application Process

Applying for membership is not as simple as filling out a form. Each Federally recognized tribe controls their own membership through registration guidelines set forth in their tribal constitutions. Registration pre-requisites might include such criteria as birthright, blood quantum, family lineage and ancestry, adopted membership, etc. Similarities among the different tribes, such as the ¼ blood quantum requirement found in many tribal constitutions, occur because many of these documents were written as a result of the 1934 Indian Reorganization Act. (Greendeer-Lee, 1995).

Excerpt of a tribal constitution regarding registration:

§1300g-7. Tribal membership

(a) In general

The membership of the tribe shall consist of -

- (1) the individuals listed on the Tribal Membership Roll approved by the tribe's Resolution No. TC-5-84 approved December 18, 1984, and approved by the Texas Indian Commission's Resolution No. TIC-85-005 adopted on January 16, 1985; and
- (2) a descendant of an individual listed on that Roll if the descendant-
 - (i) has 1/8 degree or more of Tigua-Ysleta del Sur Pueblo Indian blood, and
 - (ii) is enrolled by the tribe.

(b) Removal from tribal roll

Notwithstanding subsection (a) of this section-

- (1) the tribe may remove an individual from tribal membership if it determines that the individual's enrollment was improper, and
- (2) the Secretary, in consultation with the tribe, may review the Tribal Membership Roll. (25 USC §1300g-7).

Research Question

Indeed the very process of collectively studying Native American tribes seems like an impossible task. You cannot isolate individual criteria for membership, since many tribes may use a combination of several factors. It is not feasible to set up experimental designs with control groups, since this research is qualitative, not quantitative.

Out of a variety of disciplines has evolved a new scientific paradigm that may guide future research in the area of Indian studies. A new path leads away from defining who is Indian through racial purity and towards recognition of who is Indian by means that can be analyzed in degrees of both political and historical alignment and attenuation.

CHAPTER 3

METHODOLOGY

Operationalization of Research

The concepts to be tabulated are defined as follows:

<i>Membership criteria:</i>	factors considered in eligibility determinations for consideration of recognition by the tribe as a member.
<i>Enrollment criteria:</i>	prerequisites for governmental recognition of blood quantum levels.
<i>Blood quantum:</i>	degree or percentage of racial purity in a tribe calculated from an enrolled or recognized ancestral member
<i>Head rights:</i>	tribal or tribal council voting rights
<i>Allotment:</i>	entitlement to obtain a trust patent on a separate piece of land within or outside of an Indian reservation or right to inherit tribal lands vested in individuals; often a prerequisite for Head Rights.
<i>Assignment</i>	tribal lands that are assigned to an individual to live on and use, but may not transfer title to
<i>Linear descent:</i>	direct descent from an enrolled member of a federally recognized tribe.
<i>Community contribution:</i>	efforts recognized by the tribal community for the benefit of promoting tribal sovereignty.
<i>Residency:</i>	domicile within a geographical area, usually lands held in trust by the Federal government, ie. reservation, pueblos, rancherias, villages or otherwise Indian controlled and/or dependent communities.
<i>Skipped generation:</i>	non-sequential recognition of generations of lineal descent.

To put these terms in context, let's first explore why tribes seek federal recognition. Article I, Section 8[3] of the U.S. Constitution gives Congress the power to "regulate commerce with foreign nations.... and with Indian tribes". Prior to the 1900s, there was no clear picture of how many Indians were still present in the U.S. and what tribal affiliations divided these people. In response to these inquiries, the Census bureau appointed special commissions to undertake an assessment of indigenous populations by state. The Bureau of Indian Affairs, under the auspices of the Department of the Interior, became the records custodian for this information.

Since the purpose of this special census was to document Indian tribal size and existence, an official *roll* was created for each tribe. All members present at their pre-assigned destination were said to be *enrolled* on their respective tribal roll. For purposes of enrollment, all individuals present were given 100% *blood quantum* of their tribe at the time of the census, regardless of their true heritage. The enrollment period remained open until the census was completed. After the enrollment period was closed, new members *registered* with the tribe. *Lineal descent* was traced from an ancestor's name who appear on the official roll of the tribe at the time of recognition. Likewise, blood quantum was calculated using the same roll. Maternal bloodlines were often used because of the requirement that fathers acknowledge their children in order to be considered. These official rolls were maintained by the tribe and also the BIA.

As an inducement to tribal enrollment, many individuals were enticed with grants of land referred to as *allotments*. Since many tribes have prohibitions against individual ownership of land, these individuals were treated as pariahs within the Indian community.

For tribes which were not located on federal land trusts or reservations, these allotments became the basis of vested voting rights. Since votes were taken by head count, soon *headrights* became synonymous with voting rights. For those lacking allotments, residency requirements became a membership criteria.

Population and Sample to be Studied

The units of analysis and observation are specialized organized groups, more specifically, Federally recognized tribes designated by the United States Department of the Interior. The sample was drawn from responses sent to all 555 federally recognized North American Indian tribes as defined in 1995 by the United States Code as eligible to receive services from the Department of Interior.

Sampling Method

The official roster of all federally recognized tribes was obtained from the United States Department of the Interior in Washington, D.C. Subjects (tribal entities) were stratified according to their classification in the appropriate regional Bureau of Indian Affairs offices. Tallies were kept of the general and stratified response rate for follow-up targeting. 138 subjects were considered for the final analysis of this descriptive study, out of the 214 responses received. 76 responses were so ambiguous that they could not be coded.

Data Collection

Since membership information is usually considered confidential, a mass mailing survey had been ruled out in favor of a personal appeal through direct letter request. The

researcher generated a form letter requesting: 1) the enrollment criteria for that particular tribe; 2) any supporting social artifacts which would reduce these criteria to writing (ie. state or federal statutes, tribal constitutions or degrees); and finally, 3) the identity of the person or persons who have the final decision in membership determination.

After one month, a second letter was sent to all tribes who had not yet responded, reminding them of the original request and resubmitting the request in full form. After two months, a postcard was issued with simple check box (☐) format and an additional line for "other" in regards to tribal membership criteria and designee.

Data collected was entered into two formats: an Excel spreadsheet and an Microsoft Access database and statistically tabulated. The Excel worksheet listed the federal tribal name and indicated what factors or criteria were considered their membership determinations. The Access database tracked the same membership criteria in addition to BIA regional classifications and type of social artifact relied upon for legal authority relied upon for membership decisions. The database had been preprogramed to receive information in designated fields. Such variables as criteria had a drop down menu consisting of predesignated choices and an option for additional criteria not listed. Once an answer appears twice when not predesignated, an option allowed the researcher to add the new item to the drop down menu.

CHAPTER 4

FINDINGS AND RESULTS

Data Analysis Method

Content analysis was used to depict the dimensions of variables used in the membership determination process. An unobtrusive measure for gathering data was selected because it was nonreactive and did not alert the subject tribal entities that they were being collectively studied. Since social artifacts were received as part of the response, these archival data were later used in the analysis of available data which included not only the examination and analysis of the official constitutions, statutes and letters, but also the content and secondary analysis of the classification of the individual fields of information provided in the membership determinations. To control the shortcomings of this data-gathering method, such as nonresponse and subject hostility, the researcher disclosed to each tribal administrator that she was the mother of an Indian child, giving her standing to make this inquiry.

Demographic Data

Demographic data was assessed by cataloguing the federal tribes by regional BIA jurisdiction. Each tribe fell under the purview of a regional office of the Bureau of Indian Affairs. Each tribal entity that responded was assigned a unique code that indicated in what region the tribe was located.

Membership Criteria

Two variables for membership criteria were originally identified: blood quantum and descent. As the responses were coded, the blood quantum variable was expanded to different degrees of $\frac{1}{2}$, $\frac{1}{4}$, $\frac{1}{8}$, $\frac{1}{16}$. The descent variable was expanded to include lineal and direct descent. Additional variables were added for the criteria of land allotment/ asset disbursement; headrights; residency; community contribution; adoption and council approval. A few respondents distinguished between matrilineal and patrilineal descent, however this variable as a criteria was not tracked.

Table 4.1 Demographics

Regional Offices of the Bureau of Indian Affairs 1994-1995		
Area Offices	# of Tribes Served	Sample Size
Alberdeen (A-1)	16	5
Albuquerque (A-2)	25	4
Anardarko (A-3)	24	24
Billings (B4)	8	3
Eastern (E5)	24	7
Juneau (J6)	222	43
Minneapolis (M7)	31	15
Muskogee (M8)	18	13
Navajo (N9)	1	1
Phoenix (P10)	50	10
Portland (P11)	42	1
Sacramento (S12)	94	12

Table 4.2 Content Analysis of Tribal Membership Criteria

	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Federally Recognized Tribe												
Cheyenne River Sioux Tribal Council												A-1
Crow Creek Sioux Tribal Council												A-1
Devils Lake Sioux Tribal Council		x			x							A-1
Flandreau Santee Sioux Executive Committee												A-1
Lower Brule Sioux Tribal Council												A-1
Oglala Sioux Tribal Council												A-1
Omaha Tribal Council												A-1
Ponca Tribe of Nebraska					x							A-1
Rosebud Sioux Tribal Council		x			x							A-1
Santee Sioux Tribal Council												A-1
Sisseton-Wahpeton Sioux Tribal Council												A-1
Standing Rock Sioux Tribal Council												A-1
Three Affiliated Tribes Business Council				x	x							A-1
Turtle Mountain Tribal Council												A-1
Winnebago Tribal Council		x										A-1
Yankton Sioux Tribal Business & Claims Committee												A-1
Jicarilla Apache Tribe (3/8)		x										A-2

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Mescalero Apache Tribe												A-2
Pueblo of Acoma												A-2
Pueblo of Cochiti												A-2
Pueblo of Isleta												A-2
Pueblo of Jemez												A-2
Pueblo of Laguna												A-2
Pueblo of Nambe												A-2
Pueblo of Picuris												A-2
Pueblo of Pojoaque												A-2
Pueblo of San Felipe												A-2
Pueblo of San Ildefonso												A-2
Pueblo of San Juan												A-2
Pueblo of Sandia												A-2
Pueblo of Santa Ana												A-2
Pueblo of Santa Clara												A-2
Pueblo of Santa Domingo												A-2
Pueblo of Taos												A-2
Pueblo of Tesuque												A-2

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Pueblo of Zia	x				x							A-2
Pueblo of Zuni		x			x							A-2
Ramah Navajo Chapter		x			x							A-2
Southern Ute Tribe												A-2
Ute Mountain Ute Tribe												A-2
Ysleta del Sur Pueblo												A-2
Absenttee-Shawnee Executive Committee		x*			x					x	x	A-3
Alabama-Coushatta Tribal Council (full blood only)					x			x		x		A-3
Apache Business Committee		x				x						A-3
Caddo Tribal Council			x		x	x				x		A-3
Cheyenne-Arapaho Business Committee		x			x							A-3
Citizen Band Potawatomi Business Committee			x		x							A-3
Comanche Business Committee		x			x	x						A-3
Delaware Executive Committee			x									A-3
Fort Sill Apache Business Committee				x								A-3
Iowa of Kansas Executive Committee					x							A-3
Iowas of Oklahoma Business Committee			x		x							A-3
Kaw Executive Council					x							A-3

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Kickapoo of Kansas Tribal Council		x			x							A-3
Kickapoo of Oklahoma Business Committee		x			x							A-3
Kickapoo Traditional Council		x			x			x				A-3
Kiowa Business Committee		x			x	x						A-3
Otoe-Missouria Tribal Council		x			x							A-3
Pawnee Business Council					x	x				x		A-3
Ponca Business Committee		x			x							A-3
Prairie Band Potawatomi Tribal Council		x			x							A-3
Sac & Fox of Oklahoma Business Committee						x						A-3
Sac & Fox of Kansas & Nebraska Tribal Council			x		x							A-3
Tonkawa Tribal Committee					x				x			A-3
Wichita Executive Committee			x		x	x						A-3
Arapahoe Business Council												B4
Blackfeet Tribal Business Council		x						x				B4
Chippewa Cree Business Committee												B4
Crow Tribal Council		x			x							B4
Fort Belknap Community Council												B4
Fort Peck Tribal Executive Board												B4

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Northern Cheyenne Tribal Council					x							B4
Shoshone Business Council												B4
Aroostook Band of Micmac Indians												E5
Cawtawba Indian Nation					x							E5
Cayuga Indian Nations												E5
Chitimache Tribe												E5
Mississippi Band of Choctaw Indians												E5
Coushatta Tribe												E5
Eastern Band of Cherokee Indians												E5
Houlton Band of Maliseet Indians					x							E5
Indian Township Reservation												E5
Mashantucket Pequot Tribe												E5
Miccosukee Tribe												E5
Narragansett Indian Tribe			x									E5
Oneida Indian Nation of New York												E5
Onondaga Nation												E5
Passamaquoddy Tribe of Maine*		x			x							E5
Penobscot Nation												E5

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Pleasant Point Reservation		x			x							E5
Poarch Band of Creek Indians												E5
Seminole Tribe of Florida												E5
Seneca Nation of Indians												E5
St. Regis Mohawk Council Chiefs					x					x		E5
Tonawanda Band of Senecas												E5
Tunica-Biloxi Indian Tribe of Louisiana												E5
Tuscarora Nation												E5
Wampanoag Tribal Council of Gay Head (Aquinnah)					x							E5
(see village listings for St. George & St Paul (IRA)*												J6
Agdaagux Tribe of King Cove								x		x		J6
Akiak Native Community (IRA)												J6
Aklachak Native Community (IRA)												J6
Alatna Village					x						x	J6
Aleut Community of St. Paul Island & St. George IRA												J6
Allakaket Village					x						x	J6
Anagoon Community Association(IRA)												J6
Anivak Village					x						x	J6

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Asa' Carsarmuit Tribe of Mt. Village												J6
Atqasuk Village												J6
Aukquan Traditional Council												J6
Beaver Village					x						x	J6
Birch Creek Village (Denduu Gwich'in)					x						x	J6
Central Council Tlingit & Haida Indian Tribes of Alaska					x							J6
Chalkyitsik Village		x			x						x	J6
Chevak Native Village												J6
Chickaloon Native Village												J6
Chignik Lake Village												J6
Chilkat Native Village (Klukwan)(IRA)												J6
Chilkoot Indian Association (Haines)(IRA)												J6
Chinik Eskimo Community (aka Golvin)												J6
Chitina Traditional Village					x							J6
Chuloonawick Native Village												J6
Circle Native Community		x			x			x			x	J6
Copper Center (see kluti-Kaah)*												J6
Craig Community Association (IRA)												J6

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Douglas Indian Association (IRA)												J6
Village of Eagle					x						x	J6
Native Village of Eek												J6
Egegik Village Eklutna Native Village					x							J6
Ekwok Village												J6
Emmonak Village												J6
English Bay (see Nanwalek Village Council)*												J6
Evansville Village					x						x	J6
Fortuna Ledge (see Marshall)*												J6
Galena Village (ADA Loudon)												J6
Gulkana Village												J6
Healy Lake Village					x						x	J6
Holikachuk (see Grayling)*												J6
Holy Cross Village					x						x	J6
Hoonah Indian Association												J6
Hughes Village					x						x	J6
Huslia Village					x						x	J6
Hydaburg Cooperative Association (IRA)												J6

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Igiugig Village												J6
Inalik (see Diomedes)*												J6
Inupiat Community of Arctic Slope (IRA)												J6
Iqurmuit Tribe (Russian Mission)												J6
Ivanoff Bay Village												J6
Kaguyak (see Akhiok)*												J6
Kaktovik Village												J6
Kenaitze Indian Tribe (IRA)					x							J6
Ketchikan Indian Corporation (IRA)												J6
King Island Native Community (IRA)												J6
Klawock Cooperative Association (IRA)												J6
Knik Tribe												J6
Kodiak (see Shoonaq Tribe of Kodiak)*												J6
Kokhanok village												J6
Koliganek Village												J6
Koyukuk Native Village					x						x	J6
Levelock Village												J6
Lime Village												J6

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Manley Hot springs Village					x						x	J6
Manokotak Village												J6
McGrath Native Village					x						x	J6
Mentasta Lake Village												J6
Naknek Native Village												J6
Native Village of False Pass												J6
Native Village Nunapitchuk (IRA)												J6
Native Village of Akhiok												J6
Native Village of Akutan												J6
Native Village of Aleknagik												J6
Native Village of Algaaciq (aka St. Mary's)												J6
Native Village of Ambler												J6
Native Village of Atka(IRA)												J6
Native Village of Belkofski												J6
Native Village of Bill Moor's Slough												J6
Native Village of Borrow												J6
Native Village of Brevig Misson					x			x				J6
Native Village of Buckland												J6

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Native Village of Cantwell												J6
Native Village of Chenega(IRA)												J6
Native Village of Chignik												J6
Native Village of Chignik Lagoon												J6
Native Village of Chistochina		x									x	J6
Native Village of Chuthabluk												J6
Native Village of Council												J6
Native Village of Crooked Creek					x							J6
Native Village of Deering (IRA)												J6
Native Village of Dillingham												J6
Native Village of Diomed (IRA)												J6
Native Village of Eek												J6
Native Village of Ekuk												J6
Native Village of Elim (IRA)												J6
Native Village of Eyak												J6
Native Village of Fort Yukon					x						x	J6
Native Village of Gakona												J6
Native Village of Gambell												J6

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Native Village of Georgetown												J6
Native Village of Goodnews Bay												J6
Native Village of Hamilton												J6
Native Village of Hooper Bay					x					x		J6
Native Village of Karluk (IRA)												J6
Native Village of Kasilgluk												J6
Native Village of Kiana												J6
Native Village of Kikolski (IRA)												J6
Native Village of Kipnuk												J6
Native Village of Kivalina (IRA)												J6
Native Village of Kobuk												J6
Native Village of Kongiganak												J6
Native Village of Kotzebue (IRA)												J6
Native Village of Koyuk (IRA)												J6
Native Village of Kwigillingok (IRA)												J6
Native Village of Kwinhagak (IRA)(ada Quinhagak)												J6
Native Village of Larsen Bay												J6
Native Village of Marshall (aka Fortuna Ledge)												J6

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Native Village of Mary's Igloo												J6
Native Village of Mekoryuk (IRA)												J6
Native Village of Minto (IRA)					x						x	J6
Native Village of Nanwalek												J6
Native Village of Napakiak (IRA)												J6
Native Village of Napaskiak												J6
Native Village of Napimute												J6
Native Village of Nelson Lagoon												J6
Native Village of Nightmute												J6
Native Village of Noatak (IRA)												J6
Native Village of Nuiqsut												J6
Native Village of Ouzinkie												J6
Native Village of Perryville (IRA)												J6
Native Village of Piamuit												J6
Native Village of Pilot Point												J6
Native Village of Pitka's Point												J6
Native Village of Point Hope (IRA)												J6
Native Village of Point Lay (IRA)Port Graham Village												J6

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Native Village of Poret Heiden												J6
Native Village of Port Lions												J6
Native Village of Ruby												J6
Native Village of Savoonga (IRA)												J6
Native Village of Scammon Bay												J6
Native Village of Selawik (IRA)												J6
Native Village of Shaktoolik (IRA)												J6
Native Village of Sheldon's Point												J6
Native Village of Shishmaref (IRA)												J6
Native Village of Soloman												J6
Native Village of St. Michael (IRA)												J6
Native Village of Stevens (IRA)												J6
Native Village of Tanana (IRA)					x						x	J6
Native Village of Tatitlek (IRA)												J6
Native Village of Tazlina												J6
Native Village of Teller												J6
Native Village of Tetlin (IRA)					x						x	J6
Native Village of Toksook Bay												J6

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Native Village of Tuntutuliak												J6
Native Village of Tununak (IRA)												J6
Native Village of Unalakleet (IRA)												J6
Native Village of Unga												J6
Native Village of Venetie (IRA)					x						x	J6
Native Village of Wales (IRA)												J6
Native Village of White Mountain												J6
Native Village of Yakutat												J6
Native Village Ohogamiut												J6
Native Village Shungnak												J6
Native Village Tyonek (IRA)												J6
Native Villageo fKluti-kaah (aka Copper Center)												J6
Nenana Native Association												J6
New Stuyahok Village												J6
Newhalen Village												J6
Newtok Village												J6
Nikolai Village					x						x	J6
Ninilchik Village Traditional Council												J6

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Nome Eskimo Community (IRA)												J6
Nondalton Villlage												J6
Noorvik Native community (IRA)												J6
Northway Village					x						x	J6
Nulato Village					x						x	J6
Organized Village of Kake (IRA)												J6
Organized Village of Kasaan (IRA)												J6
Organized Village of Kwethluk (IRA)												J6
Organized Village of Saxman (IRA)												J6
Organized Village of Grayling (IRA)					x						x	J6
Orutsararmuit Native Council (ara Bethel)												J6
Oscarville Traditional Council												J6
Pedro Bay Village												J6
Petersbug Indian Association (IRA)												J6
Pilot Station Traditional Council												J6
Platinum Traditional Village												J6
Portage Creek Village												J6
Pribilof Aleut Comm of St. George & St Paul Islands*												J6

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Qagun Tayagungin Tribe of Sand Point												J6
Qawalangin Tribe of Unalaska												J6
Rampart Village					x						x	J6
Seldovia Village Tribe (IRA)												J6
Shageluk Native Village (IRA)					x						x	J6
Shoonaq'Tribe of Kodiak												J6
Sitka Tribe of Alaska (IRA)												J6
Skaguay Traditional Council												J6
South Naknek Village												J6
St. George Island												J6
St. Mary's Village (see Algaciq Native Village)												J6
Stebbins Community Association (IRA)					x						x	J6
Takotna Village Native Village of Tanacross (IRA)					x						x	J6
Telida Village					x						x	J6
Traditional Village of Togiak												J6
Tuluksaak Native Community (IRA)												J6
Twin Hills Village												J6
Ugashik Village												J6

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Umkumiut Native Village												J6
Village of Alakanuk												J6
Village of Anaktuvuk Pass												J6
Village of Aniak												J6
Village of Artic Village (Venetie Tribal Council)					x				x		x	J6
Village of Atmoutluak												J6
Village of Cheforak												J6
Village of Clark's Point												J6
Village of Dot Lake					x						x	J6
Village of Eagle (IRA)												J6
Village of Iliamna												J6
Village of Kalskag												J6
Village of Kaltag					x						x	J6
Village of Kanatak (IRA)												J6
Village of Kotlik												J6
Village of Lower Kalskag												J6
Village of Old Harbor												J6
Village of Red Devil												J6

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Village of Salamatorf												J6
Village of Sleetmute												J6
Village of Stoney River												J6
Village of Wainwright												J6
Wrangell Cooperative Association (IRA)												J6
Yupit of Andresfki												J6
*Fond du Lac Reservation Business Committee		x			x							M7
*Grand Portage Reservation Business Committee		x			x							M7
*Leech Lake Reservation Business Committee		x			x							M7
*Mille Lacs Reservation Business Committee		x			x							M7
*Nett Lake Reservation Business Comm (Bois Forte)		x			x							M7
*White Earth Reservation Business Committee		x			x							M7
Bad River Tribal Council		x			x							M7
Bay Mills Executive Council		x*			x							M7
Forest County Potawatomi Executive Council		x			x							M7
Grand Traverse Tribal Council												M7
Hannahville Indian Community Council												M7
Keweenaw Bay Tribal Council												M7

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Lac Courte Oreilles Governing Board		x*										M7
Lac du Lambeau Tribal Council												M7
Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan												M7
Lower Sioux Indian Community Council								x				M7
Menominee Indian Tribe of Wisconsin												M7
Minnesota Chippewa Tribal Executive Committee*												M7
Oneida Tribal Council		x			x							M7
Prairie Island Comm Council (Minn Mdewakanton Sioux)					x							M7
Red Cliff Tribal Council												M7
Red Lake Band of Chippewa Indians of Minnesota												M7
Sac & Fox Tribal Council			x		x							M7
Saginaw Chippewa Tribal Council												M7
Sault Ste. Marie Chippewa Tribal Council					x				x	x		M7
Shakopee Sioux Community Council												M7
Sokagon Chippewa Tribal Council												M7
St. Croix Council	x			x								M7
Stokbridge-Munsee Tribal Council												M7
Upper Sioux Board of Trustees												M7

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Wisconsin Winnegago Business Committee												M7
Alabama-Quassarte Tribal Town (matrilineal)					x							M8
Cherokee Nation of Oklahoma					x							M8
Chickasaw Nation of Oklahoma					x							M8
Choctaw Nation of Oklahoma					x							M8
Creek (Musogee) Nation of Oklahoma					x							M8
Eastern Shawnee Tribal of Oklahoma					x							M8
Kialegee Tribal Town (matrilineal)	x				x							M8
Miami Tribe of Oklahoma					x							M8
Modoc Tribe of Oklahoma					x							M8
Osage Tribe of Indians												M8
Ottawa Tribe of Oklahoma												M8
Peoria Indian Tribe of Oklahoma												M8
Quapaw Tribal Business Committee					x							M8
Seminole Nation of Oklahoma												M8
Seneca-Cayuga Tribe of Oklahoma					x							M8
Thlopthlocco Tribal Town (matrilineal)					x							M8
United Keetoowah Band of Cherokee Indians												M8

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Wyandotte Tribe of Oklahoma					x							M8
Navajo Nation		x			x							N9
***Carson Colony Community Council												P10
***Dresslerville Community Council												P10
***Stewart Community Council												P10
***Woodfords Community Council												P10
**Battle Mountain Band Council												P10
**Elko Band of Council												P10
**South Fork Band Council												P10
**Wells Indian Colony Band Council												P10
Ak Chin Indian Community Council												P10
Chemehuevil Tribal Council												P10
Cocopah Tribal Council												P10
Colorado River Tribal Council												P10
Duckwater Shoshone Tribal Council		x			x							P10
Ely Colony Council		x			x							P10
Fallon Business Council		x			x	x						P10
Fort McDermitt Tribal Council												P10

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Fort Mojave Tribal Council												P10
Gila River Indian Community Council												P10
Goshute Business Council												P10
Havasupai Tribal Council												P10
Hopi Tribal Council		x			x					x		P10
Hualapai Tribal Council												P10
Kaibab Paiute Tribal Council												P10
Las Vega Tribal Council												P10
Lovelock Tribal Council												P10
Moapa Business Council												P10
Mohave-Apache Community Council												P10
Pascua Yaqui Tribal Council												P10
Pyramid Lake Paiute Tribal Council												P10
Quechan Tribal Council												P10
Reno-Sparks Tribal Council												P10
Salt River Pima-Maricopa Indian Community Council												P10
San Carlos Tribal Council												P10
San Juan Southern Paiute Council												P10

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Shoshone Paiute Business Council												P10
Skull Valley General Council												P10
Summit Lake Paiute Council												P10
Tohono O'odlham Council	x				x		x					P10
Tonto Apache Tribal Council												P10
Tribal Council of Paiute Indian Tribe of Utah												P10
Tribal Council of the Te-Moak Western Tribe**												P10
Untiah & Ouray Tribal Business Committee												P10
Walker River Paiute Tribal Council	x					x				x		P10
Washoe Tribal Council (of Nevada)***		x										P10
White Mountain Apache Tribal Council		x										P10
Winnemucca Indian Colony												P10
Yarrington Paiute Tribal Council												P10
Yavapai-Apache Community Council		x										P10
Yavapai-Prescott Board of Directors												P10
Yomba Tribal Council	x											P10
Burns-Paiute General Council												P11
Chehalis Business Council												P11

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Coeur D'Alene Tribal Council												P11
Colville Business Council												P11
Confederated Salish & Kootenai Tribal Council												P11
Confederated Tribe of the Grand Ronde Tribal Council												P11
Confed Tribes of Coos Lower Umpqua & Suislaw Indians												P11
Confederated Tribes of the Warm Springs Reservation												P11
Coquille Indian Tribe												P11
Cow Creek Band of Umpqua Indians												P11
Fort Hall Business Council												P11
Hoh Tribal Business Council												P11
Jamestown S'Klallam Tribal Council												P11
Kalispel Business Committee												P11
Klamath General Council												P11
Kootenai Tribal Council												P11
Lower Elwha Community Council												P11
Lummi Business Council												P11
Makah Tribal Council												P11
Metlakatla Indian Community Council												P11

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Muckleshoot Tribal Council												P11
Nez Perce Tribal Executive Committee												P11
Nisqually Indian Community Council												P11
Nooksack Tribal Council												P11
Northwestern Band of Shoshoni Nation												P11
Port Gamble S'Klallam Tribe												P11
Puyallup Tribal Council												P11
Quileute Tribal Council												P11
Quinault Business Committee												P11
Sauk-Suiattle Tribal Council												P11
Shoalwater Bay Tribal Council												P11
Siletz Tribal Council												P11
Skokomish Tribal Council												P11
Spokane Business Council												P11
Squaxin Island Tribal Council			x		x							P11
Stillaquamish Board of Directors												P11
Suquamish Tribal Council												P11
Swinomish Indian Tribal Community												P11

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Tutillip Board of Directors												P11
Umatilla Board of Trustees												P11
Upper Skagit Tribal Council												P11
Yakama Tribal Council												P11
Agua Caliente Tribal Council			x		x							S12
Alturas Rancheria												S12
Barona General Business Council												S12
Bear River Band of Rohnerville Rancheria												S12
Benton Paiute Reservation		x			x					x		S12
Berry Creek Rancheria (Tyme Maidu Tribe)					x							S12
Big Lagoon Rancheria												S12
Big Pine Reservation												S12
Big Sandy Rancheria												S12
Big Valley Rancheria					x							S12
Bishop Indian Tribal Council					x	x						S12
Blue Lake Rancheria												S12
Bridgeport Indian Colony												S12
Buena Vista Rancheria												S12

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Cabazon Indians of California												S12
Cahuilla Band of Mission Indians					x							S12
Campo Band of Mission Indias		x			x					x		S12
Cedarville Rancheria												S12
Chicken Ranch Rancheria												S12
Chico Rancheria					x	x				x		S12
Cloverdale Rancheria												S12
Coast Indian Community of the Resighini Rancheria												S12
Codi Springs Rancheria												S12
Colusa Rancheria												S12
Cortina Rancheria												S12
Coyote Valley Reservation												S12
Cuyapaipe Band of Mission Indians												S12
Dry Creek Rancheria												S12
Elem Indian Colony of Pomo Indians Sulphur Band Rancheria												S12
Elk Valley Rancheria			x		x							S12
Fort Bidwell Resrvation												S12
Fort Independence Reservation												S12

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Greenville Rancheria												S12
Grindstone Rancheria												S12
Guidiville Rancheria					x					x		S12
Hoop Valley Indian Reservation												S12
Hopland Reservation					x	x		x	x			S12
Inaja & Cosmit Band of Mission Indians												S12
Jackson Rancheria												S12
Jamul Band of Mission Indians												S12
Karuk Tribe of California			x		x							S12
La Jolla Band of Mission Indians												S12
La Posta Band of Mission Indians												S12
Laytonville Rancheria												S12
Lone Pine Reservation												S12
Los Coyotes Band of Mission Indians												S12
Lytton Rancheria												S12
Manchester/ Point Arena Rancheria												S12
Manzanita General Council												S12
Mesa Grande Band of Mission Indians												S12

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Middletown Rancheria												S12
Mooretown Rancheria												S12
Morongo Band of Mission Indians												S12
North Fork Rancheria												S12
Pala Band of Mission Indians												S12
Pauma Band of Mission Indians												S12
Pechanga Band of Mission Indians												S12
Picayune Rancheria												S12
Pinoleville Rancheria												S12
Pit River Tribal Council												S12
Potter Valley Rancheria												S12
Quartz Valley Indian Reservation												S12
Ramona Band of Cahuilla Indians												S12
Redding Rancheria												S12
Redwood Valley Rancheria												S12
Rincon Band of Mission Indians												S12
Robinson Rancheria												S12
Round Valley Reservation												S12

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Rumsey Rancheria												S12
San Manuel Band of Mission Indians												S12
San Pasqual General Council												S12
Sant Rosa Reservation												S12
Santa Rosa Rancheria												S12
Santa Ynez Band of Mission Indians												S12
Santa Ysabel Band of Mission Indians												S12
Scotts Valley Band of Poma Indians												S12
Sherwood Valley Rancheria												S12
Shingle Springs Rancheria												S12
Smith River Rancheria												S12
Soboba Band of Mission Indians												S12
Stewarts Point Rancheria												S12
Susanville Rancheria												S12
Sycuan Business Committee												S12
Table Bluff Rancheria												S12
Table Mountain Rancheria												S12
Timbisha Shoshone Tribe												S12

Federally Recognized Tribe	1/2 blood quantum	1/4 blood quantum	1/8 blood quantum	1/16 blood quantum	descent	land allotment	headrights (voting rights)	residency	community contribution	tribal adoption	Council approval	BIA code
Torres-Martinez Band of Mission Indians												S12
Trinidad Rancheria												S12
Tule River Reservation												S12
Tuolumne Me-wuk Rancheria												S12
Twenty Nine Palms Band of Mission Indians												S12
Upper Lake Rancheria												S12
Viejas Tribal Council												S12
Yurok Tribe												S12

**TANANA CHIEFS CONFERENCE, INC.
TRIBAL ENROLLMENT
PROGRAM PROCESS**

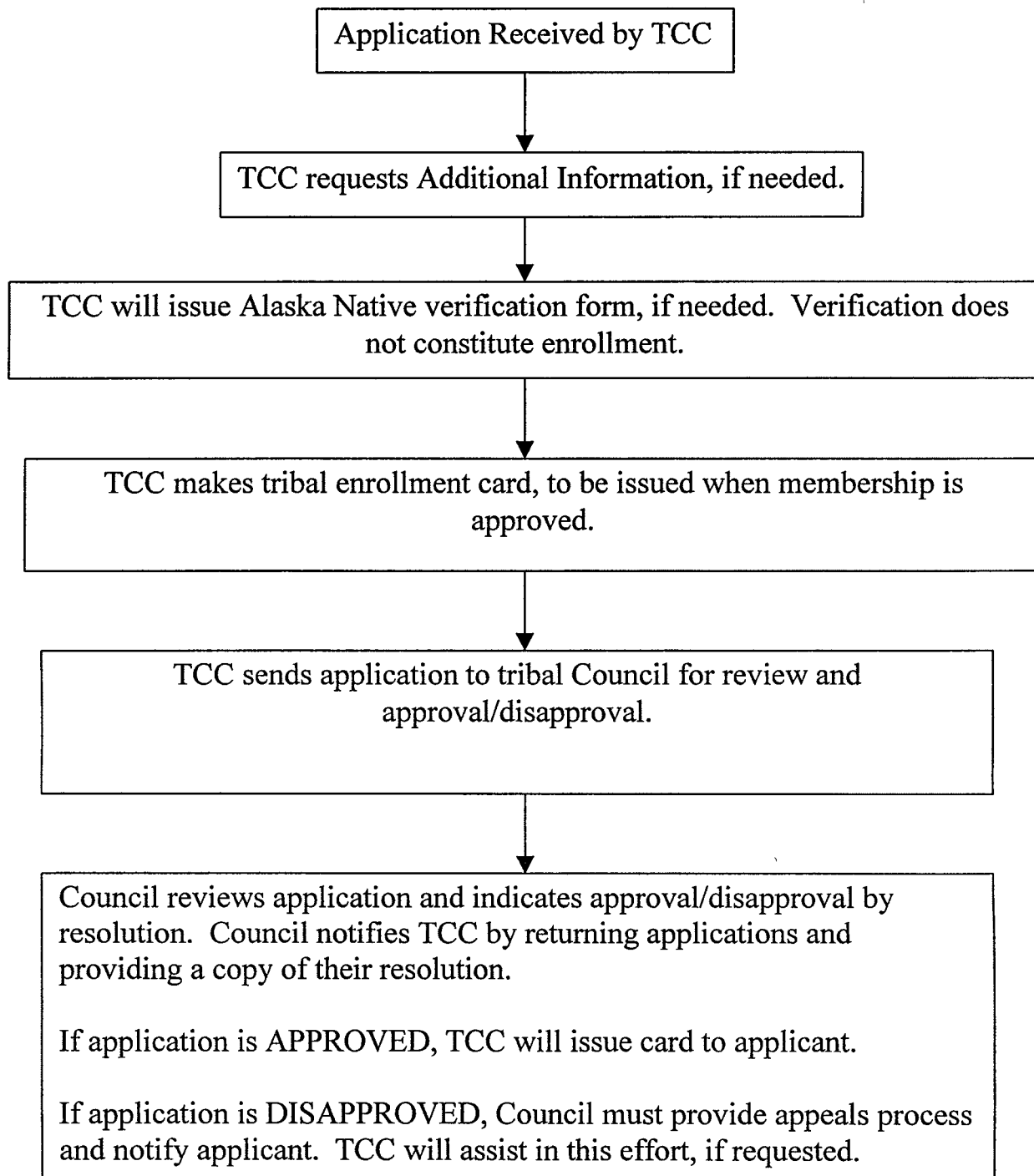


Table 4.4 What is a CIB?

1. The authority for solicitation of the information on this form is 25 U.S.C. 2; 25 U.S.C.9; and 25 U.S.C. 13.
2. Disclosure of the requested information by the applicant is voluntary, but is a requirement in order to receive a Certificate of Indian blood.
3. The purpose of this information collection is to determine the applicant's eligibility for services available to persons of Indian blood.
4. The information the applicant provides on this form will be used by personnel of the Department of the Interior to determine the applicant's degree of Indian blood from existing genealogical records on file as a result of the Alaska Native Claims Settlement Act of 1971. The information will be considered confidential and will be a part of the records of the office where filed; as such, the contents may be routinely disclosed to authorized personnel, Congress, the Department of Justice and to other appropriate agencies.
5. Not providing the information requested will result in the applicant not being able to receive a Certificate of Indian Blood and, therefore, not eligible to participate in the services and benefits available to American Indians, Aleuts and Eskimos because of their status as Indians.

What is a CIB?

A Certificate of Indian Blood (CIB) verifies that you are Alaska Native and states your blood quantum. In Alaska, the certificate is issued by the Bureau of Indian Affairs (BIA) based on information obtained from the Alaska Native Claims Settlement Act (ANCSA) Roll. You should keep your original CIB and use it to make copies.

Why do I need a CIB? What are they for?

There are numerous federal programs that require a participant be Alaska Native in order to be eligible for their services. A CIB provides documentation that you are Native and states your blood quantum.

I am an Indian from the lower 48. How do I obtain a CIB?

Contact the tribe that you are enrolled to or the BIA Area or Agency office nearest to your tribe. Contact any of the BIA offices for addresses or telephone numbers.

The application for Certificate of Degree of Indian Blood (CDIB) must be completed showing you direct lineage to an original enrollee of the tribe. (Please use both married and maiden names for the ladies.)

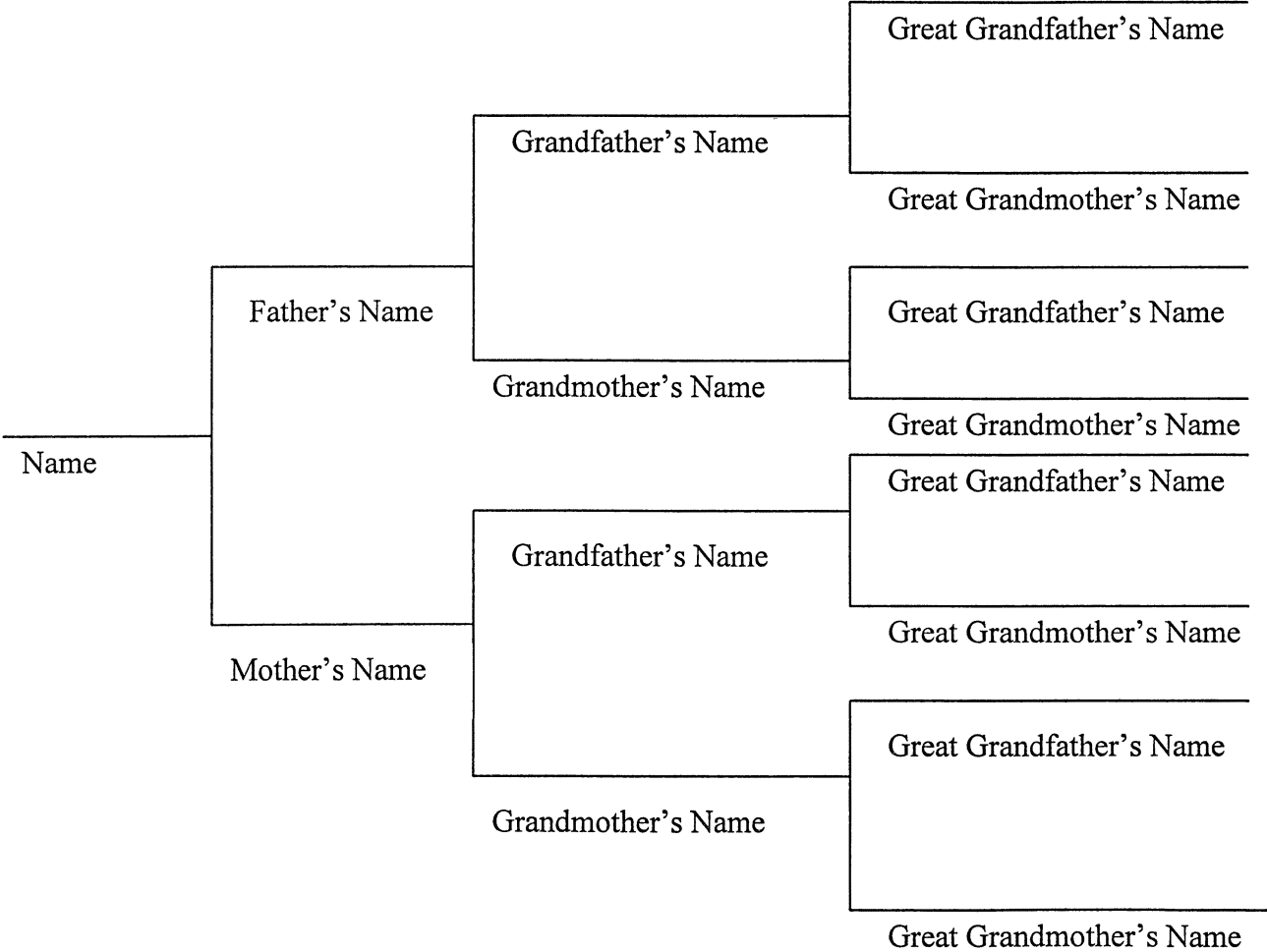
Anyone who died before or after the official roll was compiled, DOES NOT HAVE A ROLL NUMBER.

DOCUMENTS REQUIRED TO PROCESS APPLICATIONS

1. If you are an ORIGINAL ENROLLEE, we will require a copy of some form of CURRENT identification, such as a driver's license or proper I.D.
2. If you parent(s) was enrolled, or if your parent(s) has a CDIB card, we will need a copy of your STATE CERTIFIED FULL COPY BIRTH CERTIFICATE. We may need additional corroborative documents.
3. If you are tracing back more than one generation, we will require a STATE CERTIFIED FULL COPY BIRTH/DEATH CERTIFICATE FOR EACH PERSON BACK TO THE ENROLLEE. Delayed birth and death certificates require additional backup documents. We will provide you with the appropriate forms, if we do not have the information on file.
4. If you are adopted and tracing your tribal blood through your natural (biological) parent(s), we will need a copy of your STATE CERTIFIED FULL COPY BIRTH CERTIFICATE (after adoption). AND A COPY OF THE ADOPTION DECREE. If the ADOPTION DECREE does not show the natural parent(s), you will ALSO need to submit one of the following: (1) Your birth certificate before adoption, showing the natural parent(s) names. (2) PETITION TO ADOPT, that specifically names your natural (biological) parent(s). We may require additional documents that substantiate natural parentage.

ALL APPLICATIONS MUST BE ACCOMPANIED BY THE REQUIRED STATE CERTIFIED BIRTH/DEATH CERTIFICATES. THE STATE ISSUED BIRTH/DEATH CERTIFICATE MUST SHOW FULL PARENTAGE AND MUST BE SIGNED BY THE STATE REGISTRAR. ALL BIRTH CERTIFICATES MUST DISPLAY THE STATE FILE NUMBER. WE DO NOT ACCEPT HOSPITAL, CITY, COUNTY BIRTH CERTIFICATES OR STATE SHORT FORMS.

Table 4.6 Family Tree with Blood Degree



CHAPTER 5

DISCUSSION AND RECOMMENDATIONS

Discussion

Racial discrimination is defined as "any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life" (Williams, 1991). It is a paradox that the same Congress that used racial discrimination to exclude African-American individuals from assimilation also enacted laws to promote assimilation of Indians into the dominant white culture.

African-Americans (Blacks) also were subjected to a racialized caste system where blood quantum provided a litmus test for "Blackness" much the same way as blood quantum determined the "Indianness" of Native Americans. Statutory classifications of "mulatto" (1/2), "quadroon" (1/4), "octoroon" (1/8), and so forth, until the individual reached 1/64 blood quantum, determined what level of assimilation was tolerated. The boundaries of the African-American race were formed by a rule known as the "one drop

rule," which provided that one drop of Black blood makes a person Black. This rule is a form of "hypodescent", meaning that anyone with a Black ancestor is Black. In applying hypodescent, a racially mixed person is assigned the status of the subordinate, in this case Black, group (Hickman, 1997).

In contrast to the discrimination faced by Blacks, discrimination against Native Americans was based on perceptions of cultural deficiencies, rather than genetics and biological deficiencies. Indians are forced to adhere to a rule of "hyperdescent", where non-Indian blood dilutes their identity into obscurity. Blood quantum requirements are racist and undercut the importance of cultural integrity (Rand, 1997). As a matter of self-preservation, tribes have developed alternative criteria to identify their members.

The purpose of this study was to explore the different mechanisms that tribal governments use to determine eligibility for membership and registration with the tribe. The results of this study are for illustrative and descriptive purposes only and are not meant to be used as a litmus test for individuals seeking tribal membership. The tribe remains the final arbiter of its membership.

Findings from the present study were inconsistent with the general assumption that tribal governments still cling to the 1/4 standard of blood quantum as the primary test of eligibility. Only one responding tribe required full-blood, the Alabama-Coushattas, a geographically and culturally isolated tribe in Texas. There seemed to be no geographic pattern to the blood quantum requirement. The only trend noted was that the tribal blood quantum requirements seemed to embrace those individuals that would have descended

from enrolled members. More simply stated, newer tribes have higher blood quantum requirements.

The other observation worthy of note was the phenomenon that occurred within tribes that have asset disbursements. Here membership criteria served to restrict membership and in that way preserve the per capita distribution schedule. During the Depression, the federal government encouraged strategies to limit tribal members thereby linking resource division to tribal identity.

In fact, lineal and direct descent appears to figure more prominently into the consideration for tribal membership. The original category "lineal descent" was enlarged to encompass those tribes specifying "direct descent" after the study was begun. At first glance, these appear to be the same, however, lineal descent, in its truest form, included descent from an enrolled ancestor, including grandparents and great grandparents, whereas, direct descent referred to a parent who was enrolled. The difference is subtle, but some tribes do not allow skipped generations in their descent calculations.

Residency requirements were more common among the rancherias, pueblos, and Alaskan Villages, all of which tend to associate voting privileges or headrights with the ownership of land or with residency within the boundaries of the community. Members who reside outside the community were considered "inactive" and subject to disenrollment.

In the "adoption" category, two types of adoption scenarios were considered. The first type of adoption was the adoption of Native Americans, both children and adults, of other tribal affiliations, including terminated tribes. The second type of

adoption encountered in this research was an "honorary" adoptee. No definition was given except that this was a person who would otherwise not qualify for membership but had received "council approval".

Several tribal constitutions made an ambiguous reference to "traditions and customs of the people" which roughly translated to council approval. One tribe had only one requirement: "community contribution" citing the "harsh weather conditions" of the village.

Approximately forty Alaskan Native Villages had joined together to form the Tanana Chiefs Conference (TCC) which acted as a federated regional tribal government. In their enrollment process, the TCC issued Alaska Native Verification forms, the equivalent to a CDIB form, and made tribal enrollment cards subject to Council approval by resolution with appropriate notification and appeals processes. Tribal affiliation as an Eskimo, Indian, Aleut or Tsimshian was the primary determinant in certifying an individual as an Alaskan Native. The documentation of a specific blood quantum was not a requirement.

The more established tribes in Oklahoma showed a trend towards the abandonment of blood quantum determinations. The Cherokee Nation, for example would consider any applicant, however diluted, as long as there was lineal descent from an original roll member. Parents and grandparents could be enrolled by proxy much like the Mormons extensive genealogy records.

CHAPTER 6

CONCLUSIONS

As evidenced by this study, the classification as an Indian appears to be a political rather than a racial distinction. Both the registered member of the Cherokee tribe who may be only 1/100,000 of Cherokee blood is just as "Indian" in the eyes of the federal government as the full-blooded Alabama-Coushatta tribesmen. Blood quantum after all is a calculation of attenuation, how far an individual is from the original base roll, not a quantitative measure of ethnicity. According to Indian activist Russel Means, "there are 10 times as many Indians today as there were in 1890, but only about 1/5 as many (40,000) who still carry on tribal traditions." (Peroff, 1996).

While the findings in this study are informative and suggest that arbitrary, if not antiquated statutory definitions need to be reassessed to reflect the changing face of Native America, caution must be exercised in making generalizations of a predictive nature. Because of the unique cultural composition of each individual tribe, these results cannot be generalized to future tribes federally recognized tribes. Although significant trends were observed, the sample size of respondents was small and some group differences may have failed to achieve significance because of lack of statistical power.

Many of the measurement techniques used in the present study are of unknown validity, reflecting the fact that instrumentation for the systematic study of membership criteria is still developing. For example "descent" could mean lineal, direct or collateral blood relationship to an enrolled member. Direct descent could be calculated based on either matrilineal or patrilineal lineage, which was not anticipated by this study. Tribal affiliation, a much lower standard than blood quantum, commonly used in Alaskan Native verification, was also a consideration in tribal adoption. Residency too, could be defined as physical presence for a specified length of time or domicile intent.

The present study revealed a specific need for more refined assessment by the federal government of what distinguishes a person as Indian and more specifically what makes someone eligible for membership in a tribe.

The population studied was selected to maximize the distinctiveness of membership criteria. In summary, the present study suggests that definitions of Native Americans be changed to reflect tribal affiliation or descent from an enrolled member of a federally recognized tribe. Because of the disparate impact and disparate treatment that blood quantum produces in the Indian community, the abandonment of this criteria in statutory definitions would better serve the interests of equal protection, if not equal application of the law.

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VITA

Deidre Marie Savoie-James is a transplanted Austinite by way of Burlington, North Carolina, her birthplace, and various cities in and around Oklahoma City, Oklahoma. Having arrived in Austin on July 4, 1985, for a two week vacation, she and her three year old son, Seneca, decided they would “stay a spell.” She is now a Texan, a former waitress, a former paralegal, and a perpetual student, it seems, with a fondness for chocolate, music, cooking (only if it includes eating), interior decorating and outdoor activities. And children. Especially her own. A Bachelor of Science in Criminal Justice (she thinks her degree was in Law Enforcement, but she hasn’t actually checked, it may just be another poster of Brad Pitt), she is now currently pursuing a Masters degree in Criminal Justice. *Pursue* being the operative word since the elusive Masters Degree seems just beyond her reach. She is a full-time mother, student, and graduate assistant which explains why her hair is always on fire. The rest of the time she spends volunteering in the community, going to movies, or hanging out with the kids. She also enjoys napping. And chocolate. (Did I mention that?)

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