

# ANNUAL REPORT 2019



CALIFORNIA  
INDIAN  
LEGAL SERVICES

# OUR MISSION:

to protect Indian rights,  
foster Indian self-determination,  
and facilitate tribal nation building.

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## DECADES OF HELPING OUR TRIBE

“The tribe has worked with attorney Jay Peterson since 1984 to help us try to gain federal recognition. He has been instrumental with every step of the process. There was an issue the tribe had with the state regarding a right of way access that interfered with the tribe’s access to their graveyard. Jay had the Bureau of Reclamation come out and assess the situation. He handled this case very well and if he was unable to do anything, he gave ideas on how to solve the problem. His devotion to tribal matters include traveling to tribal council meetings on a regular basis to give information to the council. He went over and beyond our expectations and brought in people he thought could help and those people included pro bono attorneys, professors and anyone else he could think of. He handles every issue with complete patience and professionalism. The CAPDAA that Jay help put together has helped us tremendously because it benefits us tribal members who have allotted land we have to keep in our family.”

*Former Councilmember Florence Dick  
Dunlap Band of Mono Indians*

Thank you, Tiffany Adams, for the exquisite commissioned portrait on the cover of our annual report. Tiffany, a Chemehuevi tribal member, is an artist, painter, sculptor, jeweler, and culture bearer. Her work includes feminine experience portraiture, that connects images and performance with current political and social issues, Adams re-writes/re-rights common narratives through her process. We love the powerful feminine resilience captured in this painting and proudly display it in our Escondido office.

# BRACKEEN v. BERNHARDT



In 2017 the states of Texas, Louisiana, and Indiana along with seven individuals: Chad and Jennifer Brackeen; Nick and Heather Libretti; Altagracia Socorro Hernandez (mother supporting the adoption of her child by the Librettis); and Jason and Danielle Clifford filed a lawsuit in a federal district court in Texas challenging the constitutionality of the Indian Child Welfare Act (ICWA). By 2018, while the lawsuit was pending, the Brackeens and the Librettis (all non-Indian), finalized their adoption of a Native American child. The Cliffords were unsuccessful in their adoption of a White Earth Band child.

The U.S. Constitution demands that all citizens be treated equally under the law and without regard to the person's "race, religion, sex, caste or place of birth." The plaintiffs' primary attack on the ICWA and implementing BIA regulations is that the law and regulations discriminate against Native American children based on race and deny them equal protection of the law. Said another way, but for the child's race, they would be treated like any other child placed for adoption. There would be no involvement of a tribe, no heightened standards for terminating parental rights, and no preference requirements for placement with a Native American family, or other protections under the ICWA.

The plaintiffs have also raised a host of other legal arguments such as (1) Congress cannot pass a law that dictates how state courts process and handle family law matters (violation of the 10th Amendment); and (2) Congress cannot pass a law with a specific hierarchy for the placement of Native American children who are placed outside their home and then allow a tribe to change that hierarchy without congressional approval. On

October 4, 2018, the Texas federal district court (lower court) agreed with the plaintiffs' and issued an order finding the ICWA was unconstitutional.

The defendants in the case include the Secretary of the Interior Ryan Zinke (who has been replaced by David Bernhardt); the Assistant Secretary of the BIA, the Secretary of Health and Human Services and six intervening tribes: Cherokee Nation, Morongo Band of Mission Indians, Oneida Nation, and Quinault Indian Nation and later the Navajo Nation. The defendants immediately filed an appeal with the 5th Circuit Court of Appeals and were granted a "stay" of the lower court's decision meaning it could not go into effect until after the appeal was decided.

At this point in the litigation, a massive outpour from tribes and tribal organizations was undertaken to file with the Court of Appeals "amicus" (friend of the court) briefs urging the Court to overturn the lower court's decision.

The National Congress of American Indians (NCAI), the Association on American Indian Affairs (AAIA), the National Indian Child Welfare Association (NICWA) and the Native American Rights Fund (NARF) prepared one brief that was signed on to by hundreds of tribes and tribal organizations. CILS was instrumental in gathering California

tribal support for the amicus brief, and working with other tribal organizations, helped secure the signatures of 72 California tribes and 11 Indian organizations.

On August 9, 2019, the three-judge panel of the Court of Appeals issued a decision reversing the lower court and found that the ICWA was, in fact, constitutional. Critical to the Court's holding was that a person's status as an "Indian" was not a racial classification that offends the equal protection clause of the 5th Amendment but rather a "political" classification. This distinction is critical not only in protecting the ICWA but all federal legislation that is directed or specific to "Indians" or tribes.

The victory was short-lived. The plaintiffs filed for an en banc hearing before the 5th Circuit Court of Appeals, which is a request that all 17 of the 5th Circuit Court judges rehear the case. The plaintiffs' request was granted, and oral argument was held on January 29, 2020. As of this writing, there has been no decision issued, and there may not be for several months. Regardless of who wins the case at the 5th Circuit, the losing party will undoubtedly ask the U.S. Supreme Court to ultimately decide the fate of the ICWA and perhaps all federal laws that are designed to protect Native Americans and promote tribal sovereignty.

CILS will continue to keep you updated on the outcome of the case as it proceeds through the federal court system.

### **Public Interest/Public Sector Law Day**

This year CILS re-established our longstanding relationship with the School of Law at UC Berkeley (formerly Boalt Hall).

Our participation in the annual Public Interest/Public Sector Law Day sponsored at UC Hastings led to the creation of the Native American Legal Assistance (NALA) project at Berkeley's Law School. The NALA project is a student-driven program focused on legal issues that confront the needs of Native indigent or disadvantaged groups that are approved under the Student-Initi-

ated Legal Services Projects requirements of the Law School.

The law students cooperate and regularly communicate with the Law School's Pro Bono Coordinator and additional relevant faculty and staff. The students participate in legal ethics instruction designed with a poverty law orientation and a basic federal Indian law introductory overview. CILS assigns tasks and directly supervises the students in projects that extend beyond any single academic year and one project. Over the academic year, eleven student volunteers have participated in ten discrete projects that range from legal analyses about how to procedurally enforce under substantive case law the terms of AB 1248 (Education Code amendments to Sec. 35183.1 -- wearing of cultural adornments at graduation ceremonies) to an ongoing project identifying voting and voting registration requirements of special importance to our client community. Voting is among the concerns of our client community in our annual CILS Needs Assessment. The voting project also aims to identify voting population numbers and Native voting percentages in select California counties.

Students who complete a minimum number of hours in NALA qualify for Law School supported public interest law grants for summer work. One NALA student has committed to working at CILS in Fall 2020 for supervised academic credit. We believe NALA and projects like it elevate CILS' profile in the academic and law student community and increase the likelihood of highly qualified summer student support for our work.

These kinds of projects similarly increase the possibilities for post-graduate recruitment of NALA participants and future collaborative working relationships with them and their law firms. We believe our co-counsel work with the Religious Liberty Clinic at the Stanford University Law School in our *Buck v. Ndoh, et al.*, federal litigation achieves these same ends. (The Buck litigation featured three teams of two Stanford students under Religious Liberty Clinic supervision working as co-counsel with CILS. Both the Berkeley and Stanford student groups include Native participants.)

# DEAR FRIENDS OF CILS:

**Welcome to the 2019 CILS Annual Report. CILS had a robust fundraising year, which resulted in additional funding allowing us to provide exceptional legal services to more low-income Native Americans, tribes, and tribal organizations.** I want to thank all the generous donors to CILS throughout 2019 personally and hope your giving extends into 2020.

This report provides the most recent developments in the ongoing Brackeen v. Bernhardt litigation, which seeks to invalidate the Indian Child Welfare Act (ICWA). CILS has remained diligent in its coverage and tribal updates on this significant case that is still pending at the 5th Circuit Court of Appeals. Despite the Brackeen case, our advocates continue to vigorously defend the ICWA in state dependency and guardianship cases involving native children and families. Many of these cases are featured in the report.

Our work throughout 2019 involved a full spectrum of Indian law issues, including taxation, protection of cultural resources, and litigation against tribal employees. The report also highlights the numerous community and educational events that CILS sponsored or participated in during 2019. We continue to be here for California Native Americans, tribes, and tribal communities. With your support and generous donations we move into 2020 optimistic and confident that we will meet our mission.

Our work throughout 2019 involved a full spectrum of Indian law issues, including taxation, protection of cultural resources, and litigation against tribal employees. The report also highlights the numerous community and educational events that CILS sponsored or participated in during 2019.

Thanks again.



Sincerely yours,

A handwritten signature in blue ink that reads "Dorothy Alther". The signature is written in a cursive, flowing style.

**Dorothy Alther**

**Executive Director**

# DEAR FRIENDS AND SUPPORTERS OF CILS:

Another year has passed, and it is time to look back at 2019. We are happy to report that CILS buys Indian whenever possible, from building renovations to artwork for our offices. This year we commissioned a portrait from Tiffany Adams (Chemehuevi) for our annual report cover. With missing and murdered women being a big topic in 2019, we wanted to share a visual of Indian women as powerful forces in our communities. It is a beautiful piece.

This year CILS mobilized the California Tribes in support of an amicus brief for the *Brackeen v. Bernhardt* litigation. We created the California Public Domain Allottee Association, and continued to work on the Native American Record Clearing Project.

CILS reunited Brittany with her aunt Desiree, restored parental rights for Native American parents, and continued to fight for domestic violence survivors. We also provided community training for tribes on topics as diverse as Federal Indian Law, Will Clinics, Indian Child Welfare Act, and Record Clearing.

We visited thirteen tribal councils as part of our ongoing statewide tribal legal needs assessments, bringing the total to thirty-four tribal visits. These assessments help us gain insight into tribal needs and problems. We hope to visit all the tribes in California.

CILS held a Board and Staff Retreat in December to help update our strategic plan. The Sycuan Band generously supported us by funding our meeting space and meals. All tribal donations are deeply appreciated and further our mission of protecting Indian rights.

CILS has represented nearly every California Indian tribe on a wide range of legal and governmental issues. After decades of service, there are still many legal problems in our communities. CILS continues to work diligently to address these legal issues faced by tribes and Native American individuals.

Thank you for reading our 2019 annual report, and I hope our work inspires you. I invite you to get involved with CILS as a volunteer, a client, a board member, or a donor. As a community, we need legal aid to provide for those who cannot afford justice alone.



**Eyaay Ahun,**

**Mark Romero**

**Chairman**

# 2019—BY THE NUMBERS

Protecting and Serving California Tribes and Their Communities



**41,956**  
PERSONS RECEIVED  
CILS SERVICES



**24** staff members  
at **4** offices  
serving all of California

including

**27,602**  
read Legal Education  
materials online

**3,987**  
downloaded  
Pro Se materials

**8,533**  
attended  
Legal Education

**1,162**  
referrals to other  
resource providers

**672**  
direct service cases

**135**  
were cases involving  
Indian Child Welfare Act





*Dancers of all ages make their way around the procession during the grand entry at Cuyamaca College's annual powwow. Photo: San Diego Union-Tribune file photo*

# IMPACT WORK

## CILS Creates California Public Domain Allottee Association and Native American Record Clearing Project Continues

### **California Public Domain Allottee Association (CAPDAA)**

CAPDAA is the capstone achievement of our 2017-2018 Indian Land Tenure Foundation Grant (ILTF). We filed CAPDAA's corporate articles with the California Secretary of State in November 2018 and obtained federal tax-exempt status this past January. CAPDAA is organized to promote public awareness of public domain allotments in California and to advance the rights of California public domain allottees. CAPDAA is managed by a five-member Board of Directors and is chaired by Mary Meeden (Mono Lake Paiute).

In December, the Board met with members of the John Muir Institute of the University of California at Davis and other faculty, staff and graduate students from UC Davis' Environmental Science and Policy and Planning Departments. They explored the collaborative submission of grants that will enable CAPDAA to update and expand the data and analyses published about

public domain allotments in Nakamura, G. and Harris, Richard R., *Natural Resource Inventories of Indian Public Domain Trust Allotments in California*, *American Indian Culture and Research Journal* (1997) Vol. 21, No.3, pp. 49-61. Grant interest focused on fire ecology studies, water resource inventories, and native plant assessments.

CAPDAA is also in consultation with faculty associated with Davis' Native Studies Department to establish a collaboration and funding related to the development and use of allotment data obtained under the ILTF grant. A partnership could extend to grant applications for funding to combine existing allotment data with archival data showing allotments with lapsed trust status, the basis of the lapsed status, and linking existing allotments with pending Sec. 2415 claims.

A follow-up meeting is tentatively scheduled for 2020.

**Native American Record Clearing Project (NARC) and Economic Empowerment: Criminal Background Checks and Job Searches**

The NARC Project, funded through the California State Bar, enters its third year, having completed conviction dismissal trainings and workshops throughout our target counties: Butte, Lassen, Sacramento, and Tehama. An informal collaboration with local California Tribal TANF offices has helped us identify clients with job-related expungement needs in all these counties. This expungement work will involve court appearances in all four counties relating to specific employment requirements and occupational licensing needs. The court work supports the overarching goal of the NARC Project: Native economic empowerment and job stability.

Communities of color experience disproportionate contact with the law. (Read: racial profiling.) This excessive law enforcement contact results in a similarly disproportionate number of criminal records in the form of arrests, custodial detentions, and convictions. Employers use these records to deny people of color jobs. This means criminal records are used to deny a disproportionate number of Native people jobs. Any Native person can attest to this collective experience in the job market. Today, however, criminal records should not deter anybody from applying for a job in California.

Social science research makes it abundantly clear that criminal records present a considerable barrier to gainful employment. More often than not, disclosure of a criminal record prompts the prospective employer to automatically disqualify a job applicant and discard an employment application altogether.

As a screening mechanism, criminal records artificially limit individual job prospects and earnings potential, and are often justified on the assumption these records predict future job performance. Criminal records are not reliable predictors of future job performance. An extensive study of United States military hiring practices shows that there are no measurable differences in attrition rates based upon poor work performance between military enlistees with and without criminal records. (1)

Race only compounds this bias. The "race effect" in the job market may be even more powerful than the impact of criminal records in suppressing employment in communities of color. In one study, for example, white job applicants with criminal records were more likely to receive job offers than black applicants without criminal records. (2)

Taken together, race and criminal records create a nearly insurmountable barrier against finding work. Fortunately, California law provides some ways to clear this hurdle. Conviction dismissal (expungement) and arrest sealing are both legal options in California that generally insulate conviction records from consideration in work-related decisions---hiring, firing, and promotion. The Fair Chance Act of 2018 provides additional legal protections to job seekers with criminal records. (3) This California law includes some key features:

- Eliminates the use of criminal records as a screening mechanism
- Applies to employers with more than five employees
- Prohibits employers from asking about job applicant criminal records before making a job offer, and employers need your consent to check your records
- Prohibits job applications from containing questions about criminal records
- Prevents employers from considering arrests that did not result in convictions, diversion program participation, and convictions that have been sealed or expunged
- Allows challenges to adverse decisions based on your record within one year

CILS believes that Native job seekers with criminal records should review a copy of their criminal conviction abstract (RAP sheet) before they begin the job interviewing process. (4)

We also believe that credit reports should be reviewed before the job interview process begins. These reports can contain criminal record histories in addition to credit histories and can be obtained once per year without affecting credit ratings. (5)

*(Continued on page 19)*



*Pictured: Brittany and Desiree on the flight home.*

# ICWA UPDATES & DOMESTIC VIOLENCE TEAM

## CILS Reunites Child with Her Aunt, Restores Parental Rights, and Provides Domestic Violence Survivors Services

### **Child Happy and Thriving in New Home with Aunt**

On May 14th after more than a year of litigation, the Escondido office had a victory on behalf of the Tohono O'odham Nation in an Indian Child Welfare Act (ICWA) case. After Brittany, a three-year-old tribal member, was removed from her mother's care, the county failed to make active efforts to locate potential relatives for adoption. This resulted in a yearlong postponement of the Tribe's involvement in the case. It was discovered soon after that Brittany had an aunt, Desiree, in Utah that was willing to take custody of the child. However, the permanency hearing was fast approaching, and the child had already been in foster care for over two years with a family seeking to adopt her. The interstate compact on the placement of children (ICPC) was approved by Utah, but the child's attorney argued that she had bonded with the foster parents, and it was in her best interest to remain with them and be adopted. Ultimately, CILS prevailed in its position that ICWA presumes it is in the child's best interest to stay con-

nected. The child is now happy and thriving with her aunt Desiree in her new home in Utah, connected to her people.

### **Restored Parental Rights**

In a San Bernardino County ICWA case, a Tribe did not receive proper notice, resulting in termination of parental rights. Since the termination of parental rights did not comport with the Tribe's values, the Escondido office filed a petition to invalidate the termination due to lack of notice to the Tribe. The state court reversed its prior decision and restored parental rights, resulting in a guardianship, the Tribe's preferred plan.

### **Tribal Customary Adoption in State Courts**

In a Riverside County ICWA case, the Escondido office represented a local tribe in finalizing a tribal customary adoption in state courts. The Tribe did not support the termination of pa-

rental rights for cultural reasons and utilized a tribal customary adoption to provide permanency for one of their Indian children. Through tribal customary adoption, the Indian child can maintain their connection to the Tribe and extended biological family.

### **CILS Domestic Violence Team Update**

The CILS Domestic Violence Legal Team ("DV Team") is based out of the Escondido office and has been handling cases since April 2015. The DV Legal Team consists of one attorney and one legal advocate. They provide trauma-informed, culturally sensitive assistance to victims of domestic violence, sexual assault, stalking, and sex trafficking. They work primarily in San Diego, Riverside, and San Bernardino Counties. They have no income requirements, and all legal services are free. Their services are confidential and protected by attorney-client privilege.

2019 was particularly active for the DV Legal Team, which worked on several very complicated cases. They have assisted many clients who have multiple legal issues that have arisen from the abuse. The scope of time that they help clients can vary greatly. Sometimes a client might just have a few questions to ask, and at times the client may need assistance for a significant amount of time.

One of the DV Legal Team's cases from 2019 illustrates some of the legal issues and challenges that arise when a victim decides to leave the perpetrator. Last summer, the DV Legal Team started working with a DV victim from another California area to protect herself and her two young children. (To protect her confidentiality, she will be called Victim A.) Victim A spent a great deal of time planning her move. She secured a new place to live. She set a timeline for her move and assessed what she would take with her and how long it would take for her to pack it all up as it needed to be accomplished while he was at work. When she was ready to leave, she asked her mother to visit her and assist her with moving out of the residence.

Soon after arriving in San Diego County with the children, Victim

A filed a Temporary Restraining Order in the San Diego Superior Court. In the meantime, the perpetrator filed a paternity and custody case in the area she had fled. He also accused her of stealing money from him (which she denied). Both family courts took on the cases. Victim A had to deal with cases in two court locations as well as the perpetrator's accusations that she had stolen money from him. She also had to start working to support the children. Unfortunately, some legal issues arose out of her employment because she had to take a lot of time off from work to deal with her court appearances both locally and out of the area.

The DV Legal Team helped Victim A with several of her issues, including her court cases and her employment matters. They went through and evaluated hundreds of pages of evidence and assisted with drafting documents for court. They prepared her for her mediation regarding custody/visitation and her court hearings. Our legal advocate accompanied Victim A to her court hearings in San Diego to provide support. As the paternity/custody case was heard far beyond the DV Legal Team's coverage area, they connected Victim A with a community partner who was able to pay for an attorney to appear in court with her in the other county. The DV Legal Team advised Victim A of her legal rights concerning her employment issues.

The criminal accusation against Victim A was resolved in her favor. After many court hearings, she was given primary custody of her children. She and her children are thriving. She has expressed her gratitude on several occasions for the time and effort the DV Legal Team put into her cases.

A lot of Victim A's success was due in part to her safety planning before and after she left the perpetrator. The DV Legal Team wants to stress the fact that legal assistance can occur before a victim leaves the perpetrator. The victim will be given legal analysis and presented with options so they can make informed decisions. The DV Legal Team is here to help victims and their children stay safe.



*Pictured: San Manuel Chairwoman Lynn Valbuena, San Manuel Business Committee Member Audrey Martinez, CILS Chairman of the Board Mark Romero, CILS Executive Director Dorothy Alther, and San Manuel Business Committee Member Jamie Barron*

# YEAR IN REVIEW

## CILS Receives Giant Check, Provides Estate Planning and Indian Wills, Holds Board and Staff Retreat, and Defends Prisoner Rights

### CILS Receives \$55,000 Donation from San Manuel Band

On July 16th and July 17th, over 600 golfers teed off at the Pelican Hill Resort Club in Newport Beach for the San Manuel Band of Mission Indians' 21st Annual Golf Tournament. This year the tournament raised over \$275,000.00 and was distributed to five nonprofits serving and advancing Native American causes. California Indian Legal Services was selected for a charitable award, along with the: Chief Seattle Club from Washington, Haskell Foundation from Kansas, California Consortium for Urban Indian Health, and Thunder Valley Community Development Corporation on the Pine Ridge Indian Reservation in South Dakota. Each nonprofit received \$55,000.

CILS' Executive Director Dorothy Alther, Chairman of the Board Mark Romero, and Director of Marketing and Development Nicole Scott, attended the tournament, reception, and awards ceremony.

"CILS is extremely grateful and appreciative to receive a generous contribution from the San Manuel Band of Mission Indians," said Dorothy Alther, Executive Director of CILS. "The donated funds will be used to provide direct legal services to low-income Native Americans and tribes. CILS will focus the funds on expungement of criminal records enabling clients to access the job market or find housing, protecting tribal families and tribal member children under the ICWA, and assisting tribes with building the infrastructure needed to meet their members' needs."

### American Indian Probate Reform Act (AIPRA) and Indian Wills

For years CILS has prioritized the preservation and enhancement of the Indian land base in California. Part of this work correlates with assisting individuals that have an Indian allotment or an interest in an allotment to better understand their rights

and responsibilities to future generations. CILS has conducted numerous presentations over the years regarding Native land-owners' rights under the American Indian Probate Reform Act (AIPRA) and the importance of careful estate planning for Indian trust assets. The AIPRA, enacted in 2004, provides for a national uniform inheritance scheme in situations where there is no valid Indian Will. The inheritance scheme is one that not every Indian trust holder may wish to have applied when determining who will inherit their trust assets. Unless an individual leaves a valid Indian Will, AIPRA's scheme may control their trust property's future. CILS presentations and Indian Will drafting help individuals make informed decisions. Typically, individuals have specific questions and concerns that they may not wish to voice to family members or friends but that CILS staff can address. All CILS offices provide Indian Will drafting for those holding Indian trust assets.

CILS Indian Will services are no-cost to those who qualify for our free legal services. For those who are over-income, CILS provides Indian Will drafting at an hourly rate – typically only enough to cover our costs. Our Indian Wills practice is an exception given that CILS generally does not take on work for over-income individuals. Most California private estate planning attorneys do not draft Indian Wills; their focus is upon those assets coming strictly under California state inheritance laws. Many of these private attorneys shy away from drafting Indian Wills, in part because of the perceived complexities involving Indian trust assets including Federal regulations, tribal codes, the AIPRA and the myriad of administrative agencies within the Department of the Interior. For CILS, however, this services is part of our common practice – and is much-needed throughout Indian Country.

CILS is available for Indian Wills/Indian estate planning presentations and Indian Will clinics. Tribes can contact their local CILS office to arrange this service. Individuals holding Indian trust assets, such as allotment or heirship interests or Individual Indian Money (IIM) accounts, can also contact their local CILS office and

speak with a representative about their eligibility for Indian Will drafting services.

#### **CILS Board and Staff Retreat**

CILS held our Board and Staff Retreat at Sycuan Casino Resort on December 6th and 7th. It was a fantastic weekend of strategic planning with the Board and Staff. We looked at what the next five years of Federal Indian Law will bring and reflected on all the excellent work that has been done. Sycuan Casino Resort generously hosted it in their beautiful new facility. Tribal support is essential to CILS and contributes to our success.

#### **Elvin Ray Buck v. R. Ndoh**

Mr. Buck successfully paroled in December 2019. He participated in a GED program while in prison and now has a job.

As a part of his motion for a preliminary injunction seeking an order requiring smudging ceremonies, we advanced a settlement offer to the CDCR defendants. The settlement offer would have required that Native believers and practitioners at Avenal State Prison have access to the sweat lodge grounds for formal ceremonies at least three times per month in addition to other individualized services for prisoners facing special needs like a death in the family, a personal crisis or other significant life event. The offer lapsed with Mr. Buck's parole and he stipulated to the dismissal of his claims.

Recognizing that mootness threatened Mr. Buck's claims, Leon Big Leggins filed his own independent administrative claims through the CDCR's review process. Mr. Big Leggins' claims are ripe for court review. We believe the sweat lodge ceremony restrictions at Avenal, a minimum security prison, are the most restrictive within the CDCR. Mr. Big Leggins is prepared to file his own lawsuit to vindicate the claims Mr. Buck raised in his original pro per complaint. Meanwhile, CDCR COVID-19 policies have suspended all group ceremonies.

# THE STORY OF UNSEALING BIRTH RECORDS

## You Can Change a Person's Life with Their History

**We assisted Linda Dean with unsealing her birth records. The Edelman Court in Los Angeles approved her petition, and she received her original birth certificate. She is now in the process of enrolling with her tribe. Linda wrote CILS a letter about her journey to share in our annual report.**

### My Journey

Over fifty years ago, my life's journey began. I had been adopted as a baby, and the origins of my identity had been sealed by this nation's courts. I navigated through the paths of many dead-ends, as my attempts to connect with missing parts of my identity could only be revealed with my original birth certificate; the key to exploring mysteries and revealing answers to many questions of my lost history. Hope fueled my persistence to find my place in a community that had unknowingly lost its' bird – me – however; the course would not have changed without the directional force of knowledge and collaboration that has guided me to the path where my ancestors awaited my homecoming.

In the course of researching the internet for a person or an organization that could help me, I accessed a web page supported by the California Indian Legal Services (calindian.org). The Escondido office is closest to my location, so I called and left a message requesting information. I can't begin to count the number of voicemail messages that had never been answered in the past, however the extensive sources of information and support services that CILS provides Native Americans led me to believe that I may have found more than just a guide, perhaps a nation that would hand me the key to my destination.

Shortly after my call, Summer Morales, my new respected leader, teacher, and advocate guided me through the most complicated phase needed for my breakthrough. She was patient and diligent throughout the months invested in this process. She was also responsive to all my calls, needs, questions, and committed

to ensuring that my goal was reached. Summer thoroughly articulated the steps for obtaining a copy of my legal birth certificate and successfully coordinated with CILS attorney Mica Llerandi to ensure that all forms needed were correctly complete as they were required in the petition for my birth certificate from the protectors of my past – a community of legal guardians and laws. For the first time, all my hurdles diminished and hope conspired with my persistence and harmony to welcome the unity of my past and present as my devoted native brothers and sisters at CILS had paved the new road that was to connect mysteries of the past to the present, and onto the future.

The day had arrived when I finally held my new reality in an envelope that enclosed a certified copy of my original birth certificate.

My heart raced and my emotions responded with a flare of uncertainty as the unknown truth was frightening, however hesitant, it was liberating – I am no longer missing – I am a member of the Mississippi Band of Choctaw Indians through my biological mother. The most exciting discovery was when I learned that my native family members were within reach.

To date, the mysteries of my past continue to unfold and despite being rejected by my biological mother for the second time, I have gained much more in this healing process and a new history. I have a sister, one I had longed for years! I also have a host of aunts, uncles, and cousins who embrace me for who I am, and are excited and willing to share tribal and family history. My heart relishes the warmth of discoveries and each moment spent with my native family members, but most importantly, I am home and no longer a lost bird.

*Linda Dean*

# CILS ON THE ROAD

CILS offers a variety of trainings and presentations on federal Indian law topics to tribal communities, state and local government agencies, and the public at large. Below is a partial list of the presentations made by CILS staff during 2019.

## January

Native American Land Ownership  
National Business Institute  
Conference  
Palm Desert  
  
Indian Child Welfare Act  
Bear River

## February

PL 280 Tribal Law  
California Western School of Law  
San Diego.  
  
ICWA and Tribal Customary  
Adoption  
Tule River  
  
Patron Tort and Employment  
Discrimination Claims in Tribal  
Court  
Western Indian Gaming Con-  
ference  
Rincon

Domestic Violence Training  
Wiyot

## March

White et al. v University of  
California and KCRC case  
California State University  
San Marcos.  
  
Federal Indian law  
Noli Indian School 's Career Fair  
Soboba

## April

Qualified Expert Witness  
Cahuilla

## May

Indian Child Welfare Act  
Susanville  
  
Indian Law 101  
Nevada State Bar  
Las Vegas

Indian Law 101  
Nevada State Bar  
Reno

Will Clinic  
Cahuilla

Bringing the Tribal Access  
Program into Tribal Court  
UC Davis School of Law's  
Tribal Justice Project  
Webinar

## June

Consume Scams  
Pala

Record Clearing 101  
Susanville

Record Clearing 101  
Redding

ICWA Training  
26th Annual Statewide ICWA  
Conference

## July

Record Clearing 101  
Oroville

Record Clearing 101  
Fresno

Senior Scams  
Bishop

## August

POWER Act of 2018  
U.S. District Court Southern  
District of California  
San Diego

Record Clearing 101  
Mooretown

Education Presentation  
Tule River

Indian Child Welfare Act  
Tehama County Department of  
Education  
Red Bluff

PL 280 Tribal Law  
Bishop Paiute RAVE Program  
Bishop

## September

Public Law 280 Training  
Bishop Paiute RAVE Program  
Bishop

Qualified Expert Witness  
Bishop Paiute RAVE Program  
Bishop

Will Clinic  
Pechanga

Estate Planning  
Santa Ynez

Sex Trafficking and Social  
Media Exploitation  
Cahuilla

## October

CILS and Fee for Service Model  
16th Annual Indigenous Law  
Conference  
Michigan  
  
Issues in California Indian  
Country  
Southern California Tribal  
Chairmen's Association  
Las Vegas

Sherman Indian High School  
Career Day  
Riverside

## November

2019 ICWA Updates  
Juvenile Court attorneys  
San Diego  
  
Overview of Federal Indian and  
Elimination of Bias in Tribal Court  
San Diego City Attorney's  
Office

ICWA Panel  
Native Truth & Healing: Califor-  
nia Genocide Conference 2019  
San Diego State University

Tribal Customary Adoption and  
PL 280 Tribal Law  
Pit River

## December

Senior Scams  
Pechanga

# WHY TRIBES GIVE

“Redding Rancheria is grateful to an organization such as CILS not only for getting the tribe restored under *Tillie Hardwick vs the United States* but for all the trainings they put on that the tribe, its members, and employees gain valuable information to assist them in their day to day lives and being available to assist as a non-biased 3rd party when needed.”

*Chairman Jack Potter Jr  
Redding Rancheria*

“All of our tribes in California have come a long ways since the founding of the California Indian Services in 1967.

All along the way we have been met with challenges to our Sovereign rights to control our own destiny! When these challenges faced us over the years, who could and who did we turn to for help? California Indian Legal Services! Let’s not forget what CILS has and is doing for us today. Let’s say thank you and continue to support their important work.”

*Chairman Bo Mazzetti  
Rincon Band of Luiseño Indians*

“California Legal Indian Services was at the rebirth of our Nation. In fact, continuing this analogy, you might think of them as the co-midwife. With CILS we authored the bill that was eventually passed and signed by President Clinton on December 27, 2000 that recognized the Federated Indians of Graton Rancheria as a federally recognized tribe again. They were with us hand in hand in this long 8-year struggle. Many, many thanks.”

*Chairman Greg Sarris  
Federated Indians of Graton Rancheria*

“California Indian Legal Services provides invaluable services to individual Native Americans in a number of areas that are traditionally underserved in Indian country. CILS has been on the front lines historically representing individuals and tribes for the advancement of Tribal interests.”

*Chairman Dale Miller  
Elk Valley Rancheria Tribal*

# Thank You for Your Generous Support



Augustine Band



Redding Rancheria



Elk Valley Rancheria



Rincon Band



Graton Rancheria



Soboba Band



Morongo Band



San Manuel Band



Pechanga Band



Twenty Nine Palms Band



California Indian Nations flags displayed at the California State Capitol's west stairs on Native American Day.

# HISTORIC SNAPSHOT:

## California Native "Survivance" and CILS' Restoration Efforts on behalf of Terminated Tribes

**California Tribes have always committed to the challenge of preserving their distinct, autonomous, and sovereign status within the dominant political culture.** This longstanding effort exemplifies what literary scholars and critics call "survivance"—an empowering and forceful political combination of active survival, and resistance. The idea of "survivance" truly captures California Native community resilience in terms of their active presence, participation, and resistance in the ongoing fight to preserve their cultures, autonomy, and sovereignty.

A look back at CILS' role in the political restoration of terminated California Tribes from the 1960s through the 1970s shows how Native community-based lawyering can be critical to helping Tribes meet the challenges of "survivance" and to successfully preserve and advance their cultures, autonomy, and sovereignty.

Political assaults against the California Native community began early in California's history. In 1852, the United States failed

to ratify the 18 treaties they negotiated with 139 Tribal leaders in 1850. It is nearly impossible to identify any other single more destructively challenging legal or political event for Natives in California's post-white settlement political history. Nevertheless, Congressional adoption of the California Rancheria Act of 1958 may be a close second.

In one broad sweep, the California Rancheria Act attempted to terminate the political existence of 41 targeted California Tribes and re-distribute their lands to individual Tribal members. As a part of the California Rancheria Act's termination process, the United States agreed to provide water and sewer services for the distributed lands and other benefits that included vocational training and education to Tribal members. In exchange, the Tribes were forced to dissolve politically, and members would relinquish their political status as Tribal members together with all the benefits linked to that status.

By 1967, confronted with the implementation of the California Rancheria Act and the overwhelming threat it posed to their political survival, the California Native community and a core group of attorneys working through the Legal Services Program of the United States Office of Economic Opportunity launched what would eventually become California Indian Legal Services, Inc.— a statewide Native community-controlled poverty law program.

In a collaborative effort, CILS partnered with Native communities and together unleashed a series of lawsuits that challenged the termination process and sought to set aside the termination of Tribal and individual political relationships with the United States, restore Rancheria boundaries and reinstate the trust status of their lands.

As a result of the lawsuits, CILS discovered that highly placed Bureau of Indian Affairs officials had entered into a secret agreement with some members of Congress that helped propel the California Rancheria Act through the legislature. Under this fraudulent accord, the Bureau of Indian Affairs agreed not to request any special appropriations to implement the California Rancheria Act. Instead, implementation would be funded exclusively through general appropriations already earmarked for California Natives. This publicly undisclosed, deceptive, and fraudulent agreement robbed other California Tribes of the funding they desperately needed and forced them at the same time to underwrite the elimination of members of their own Tribal community. This uncovered fraud ultimately helped provide the foundation for CILS' successful political restoration litigation and related legislative efforts.

By 1977, CILS' political restoration efforts began to bear fruit in favorable published decisions and settlements against the United States. CILS clients prevailed in each of our lawsuits that restored Rancheria boundaries, the political status of the terminated Tribes and their members, helped return distributed lands to trust status, and in some instances, recovered money damages. CILS' restoration efforts later extended to the Congressional

legislative restoration of several other terminated Tribes that did not initially file lawsuits.

In partnership with Tribal communities throughout California, CILS' relentless political restoration efforts spanning more than 20 years reveal a compelling story of California Native "survival" and CILS' pivotal role in that story. CILS' efforts remain rooted in the ongoing, steadfast resilience and commitment to political autonomy and sovereignty evident throughout the California Native community. Our early political restoration efforts represent CILS' unique commitment to the California Native community, one that today continues to provide effective and collaborative Native community- based lawyering.

#### **Native American Record Clearing Project (NARC) and Economic Empowerment: Criminal Background Checks and Job Searches**

*(continued from page 9)*

Natives with questions about criminal histories and employment can contact CILS' Native American Record Clearing (NARC) Project through our Sacramento Field Office by calling toll free (800)-829-0284 before they begin their job searches.

1. "Does a Criminal Record Predict Worker Performance? Evidence from One of America's Largest Employers," Lindquist, J. H., Pager, D., Strader, E., *Social Forces* Volume 96, Issue 3, (March 2018): 1039-1068.
2. "The Mark of a Criminal Record", Pager, D., *American Journal of Sociology* Vol. 108 Number 5 (March 2003): 937-975.
3. For more information see "Criminal History in Employment" at <https://www.dfeh.ca.gov>
4. RAP sheets can be obtained from the California Department of Justice at <https://oag.ca.gov/fingerprints/record-review>.
5. [annualcreditreport.com](http://annualcreditreport.com) or 877-322-8228.

### **MOST HELPFUL RESOURCE**

"I have thoroughly enjoyed working with you and your office. You, as well as your staff, have always been most helpful whenever I had a request or needed information. I will be calling your office should I ever need an attorney in California for another ICWA case. Please tell your staff thank you. I appreciate each of you!"

*Family Safety Supervisor  
Eastern Band of Cherokee Indians*

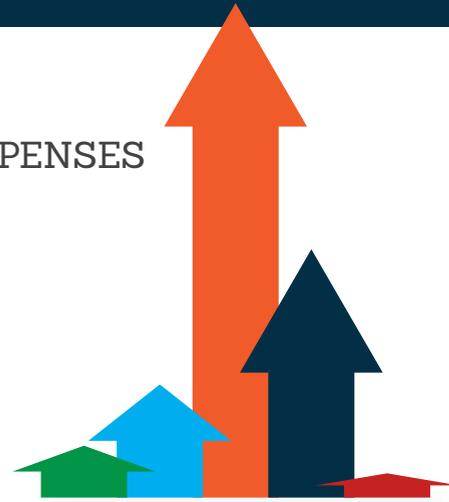
# FINANCIALS

## INCOME



Government Contracts	\$1,263,178
Program Services Revenues	\$925,314
Grants	\$501,932
Contributions	\$174,234
Other Income	\$258,888

## EXPENSES



Grant Funded Services	\$1,579,709
Client Funded Services	\$672,480
Support Services	\$266,351
CILS Funded Services	\$123,643
Senior Services	\$40,800

## PROGRAM CASES AND SERVICES



LSC/CA State Bar	412 Cases
OLS	78,246 Services
Private Funding	21 Cases
Private Pay	175 Cases
IMSLP Sr.	28 Cases
ESLAP	32 Cases
BJA	4 Cases

BJA: Bureau of Justice Sub-Grant  
 ESLAP: Eastern Sierra Legal Assistance Program  
 IMSLP: Inyo Mono Senior Legal Program

LSC/CA State Bar: Legal Services Corporation/CA State Bar  
 OLS: Other Legal Services-eligible person receiving other legal service after case assessment

The selected financial data was derived from California Indian Legal Services, Inc.'s financial statements. The financial statements of California Indian Legal Services, Inc. are audited annually and are available upon request.

# GOOD STORIES

## **Franchise Tax Board Reversal**

Staff Attorney Mica Llerandi worked closely with a Quechan elder who lives and works on the Quechan reservation. The Franchise Tax Board assessed \$2,900.00 against the elder for "taxes owed" from 2012-2016. After writing a letter on her behalf and submitting documents to the Franchise Tax Board, they filed a Lien Release Notice and discharged her of all liabilities for the four years.

## **Tribe Adopts Adult Guardianship/Conservatorship Codes**

Escondido Directing Attorney Mark Vezzola represented an individual member of a local tribe who sought to dissolve a state conservatorship of the estate over their adult child. In 2016, CILS assisted the member in obtaining the conservatorship so that the member could protect their incapacitated adult child's finances. Since then, the client's Tribe instituted policies and protocols to protect the finances of incapacitated adults, removing the necessity of state court protection and supervision. As tribes take steps to protect their vulnerable members, CILS encourages tribes to adopt adult guardianship/conservatorship codes or administrative protocols to protect the financial well-being of incapacitated adults. Additionally, CILS recently developed a model tribal adult guardianship code.

## **County Tax Settlement**

Our Bishop office is preparing the distribution of a \$15,000 settlement with Inyo County for improper assessment of property taxes on an Indian allotment that has nine interest holders. The check was finally received, and we are preparing the allocation checks to our clients.

## **Elder Abuse Restraining Order**

Staff Attorney Susan Dalati obtained an elder abuse restraining order against a woman who was abusing CILS' elderly male client. The former partner/caretaker was also convicted of felony domestic violence and misdemeanor elder abuse. A ten-year

criminal protective order is also in place.

## **Social Security Administration Drops Request for Accounting**

Senior Staff Attorney Jay Petersen was contacted by a tribal member who received money from the Hoopa-Yurok Settlement Act when he turned 21. The Social Security Administration (SSA) had requested an accounting of how that money had been spent down along with logistical information of his receipt of the funds. We provided SSA with information demonstrating that the money was exempt as a "resource," thereby eliminating the need for him to account to them on how he had spent the money. SSA agreed with our legal position and dropped its request for an accounting.

## **Title IV-D Tribal Child Support Agencies**

Eureka Directing Attorney Denise H. Bareilles has started the planning process for a Title IV-D Tribal Child Support Agency with two tribes. Both tribes will be submitting their planning grant applications with the federal government soon.

## **Dependency Case Transferred to Tribal Court**

Sacramento Directing Attorney Jedd Parr was successful in having a highly contested dependency case transferred from Fresno County state court to Tribal Court. The de facto parents raised the same arguments that the ICWA was unconstitutional as those raised in Brackeen. The county was also opposing the transfer. However, to the judge's credit, he treated the Tribe's request for the transfer fairly. The transfer to Tribal Court was sought in order to avoid adoption, which was against the tribe's traditions and values.

## **Will Clinic for Seniors**

The Escondido office held a will clinic for seniors at the Pala Band of Mission Indians Tribal Hall. CILS staff served a number of people interested in wills for trust assets, healthcare directives, and powers of attorneys.

# STAFF

## *Principal Office*

Dorothy Alther, Executive Director  
Robert Glen Bryson, Controller  
Patricia De La Cruz-Lynas, Director of Administration  
Tara Edmiston, Executive Assistant  
Nicole Scott, Director of Marketing and Development  
Davina Whitethorne, Senior Administrative Assistant

## *Bishop Office*

Kylee Andreas, Administrative Assistant\*  
Adora Bissonette, Legal/Administrative Assistant  
Michael Godbe, Staff Attorney

## *Escondido Office*

Rachel Bilodeau, Legal Secretary  
Susan Dalati, DV Staff Attorney  
Alexis Lindquist, Staff Attorney  
Mica Llerandi, Staff Attorney  
Summer Morales, Intake Advocate  
Yvette Morales, DV Legal Advocate  
Mark Vezzola, Directing Attorney

## *Eureka Office*

Debra Avenmarg, Staff Attorney  
Denise Bareilles, Acting Directing Attorney  
Tamara Honrado, Staff Attorney\*  
Laura Svoboda, Advocate

## *Sacramento Office*

Vanessa McMurray, Legal/Administrative Assistant  
Sonia Montero, Advocate\*  
Jedediah Parr, Directing Attorney  
Jay Petersen, Senior Staff Attorney

\* asterisk indicates left CILS in 2019

# BOARD

## *Board Chairperson*

Mark Romero, Mesa Grande Band of Mission Indians

## *Board Vice-Chairperson*

Joe Ayala, State Bar Appointee

André Cramblit, Karuk Tribe of California

Jessica Goodrow, Round Valley Indian Tribes

Victorio Shaw, Hoopa Valley Tribe

Jessica Warne, Walaki, Numsoos & Cahuilla

Mercedes Amavisca, Mesa Grande Band of Mission Indians

## *State Bar Appointees*

John Hueston

Cary Lowe

Sheila Quinlan



*Pictured: CILS Principle Office Staff and Board Members Executive Director Dorothy Alther, Board Member Joe Ayala, Board Member Merri Lopez-Keifer, Board Member Sheila Quinlan, Board Chairman Mark Romero, Board Member Robert Gonzalez, Board Member Gabe Cayton, Board Member Victorio Shaw, Director of Administration Patricia De La Cruz-Lynas, and Director of Marketing and Development Nicole Scott.*

# DONATIONS and Acknowledgements

CILS' primary source of funding is through grants from the Legal Services Corporation and the State Bar of California. CILS also receives funding from the Bureau of Justice Assistance grant targeted to assist tribes with developing tribal justice systems. Smaller grants subsidize overall legal aid services and allow our Bishop Office to serve that area's senior population. Of equal importance is CILS' contract work in the fields of economic development, tribal government services, and child dependency cases, all of which help CILS fulfill its mission.

## CILS CONTRIBUTORS

CILS would like to thank the following contributors whose donations allow the organization to continue moving forward in advocating for the needs of California Native Americans and Indian tribes.

Dorothy Alther & Mark Radoff	Paul Jacobs	Andrew Sangster
Augustine Band	Kennedy Kazemier	San Diego County Supervisors
Debra Avenmarg	Lassen Family Services	San Manuel Band
Joe Ayala	Alexis Lindquist	Nicole Scott
Patsy Baldwin	Mica Llerandi	Victoria Shaw
Rachel Biladeau	Maraya Marlowe	Timothy Smircich
Adora Bissonette	Jennica Martin	Soboba Band
Thomas Bliss	Yvette Morales	Southern California Tribal
Brenna Blythewood	Morongo Band	Chairmans Association
California ChangeLawyers	Stephen Otto	Laura Svoboda
Andrew Cramblit	Jedd Parr	Tarbell Family Foundation
Susan Dalati	Pechanga	Twenty-Nine Palms Band
Greg & Patricia De La Cruz-Lynas	Jay Peterson	Nathan Voegeli
Patricia Dixon	Sheila Quinlan	Davina Whitethorne
Elk Valley Rancheria	Redding Rancheria	Hermine Wyer
Fort Mojave Tribe	Rincon Band	Sharon Wylie & Peter Armstrong
Graton Rancheria	Colin-Alexa Robinson	And many anonymous donors

## Donate Today: Invest in California Indian Legal Services

Contributions to CILS are tax deductible as allowed by law. CILS is a nonprofit 501(c)(3) organization. Thank you for choosing to help further our mission to serve California Indian communities through your generous contributions. Contact our Development Director at [info@calindian.org](mailto:info@calindian.org) for more information.

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