Native Americans and their tribal governments are an important part of our nation’s history. Long before the Europeans came and settled here and long before our nation was founded, the land we occupy was governed by Native Americans and their tribes. Treaties were established from the beginning of our nation’s history with many tribes. The Supreme Court decided that the tribes are not states, but are “domestic dependent nations”. (Cherokee Nation v. Georgia, 30 U.S. (5 Peters) 1 (1831). Because of this status, the tribal governments have retained many of their sovereign powers. Many tribes have their own laws and their own constitutions.

Many states have large populations of Native Americans. The field of Indian law includes federal, state and tribal law. Federal law governs the legal relationship between the tribes and the United States. This field of law includes issues regarding real property, international law, administrative law, constitutional law, water law, federal jurisdiction, procedure, contracts, criminal law and much more. This research guide will explore the key sources that are included in the field of federal Indian law and tribal law. These sources will include the U.S. Constitution, federal statutes, federal regulations, treaties, executive orders and judicial decisions. Lastly, when looking up information on Indian...
Law, it will be important to use the search terms “Indians” and “Native Americans” depending upon the source.

**LIBRARY OF CONGRESS SUBJECT HEADINGS**

- Indians of North America – Adoption
- Indians of North America – Civil Rights
- Indians of North America - History
- Indians of North America - Claims
- Indians of North America – Domestic Relations
- Indians of North America – Gambling
- Indians of North America – Government Relations
- Indians of North America – Housing – Law and Legislation
- Indians of North America – Land Tenure
- Indians of North America – Land Transfers
- Indians of North America – Law and Legislation
- Indians of North America – Legal Status, Laws, etc.
- Indians of North America – Mixed Descent – Legal Status, Laws, etc. - History
- Indians of North America – Politics and Government
- Indians of North America - Removal
- Indians of North America – Reservations - Directories
- Indians of North America – Reservations – United States
- Indians of North America - Suffrage
- Indians of North America – Taxation
LEGAL ENCYCLOPEDIAS

Legal encyclopedias are a great place to begin for those unfamiliar with Indian Law. In each of the texts below you should look in the index under “Indians”.

*American Jurisprudence: A Modern Comprehensive Text Statement of American Law, State and Federal,* (1962-present) 2d ed. St. Paul, MN: Thomson/West. KF154 .A42. In volume 41, there is an article which discusses the status of Native Americans and their rights and liabilities as tribes and as individuals. The powers of the federal and state governments over Indians are discussed. It includes a discussion on the Indian Civil Rights Act, the Indian Child Welfare Act, the Indian Gaming Regulatory Act, the Indian Self-Determination and Education Assistance Act, and the Indian Allotment Act. There is also a discussion of the validity, construction and effect of treaties entered into by the federal government. Suggested search terms include “Indians” and “Federal Taxation.” Volume 41 has a chapter exclusively on Indians.

Look in the index under “Indians” or go straight to volume 42 where there is an entire chapter on Indian law.

*New York Jurisprudence 2d* (Vol. 66). (1979-present). Rochester, NY: West Group. Ref. KFN5065 .N48. Although *NY Jur. 2d* is a New York legal encyclopedia, it contains an overview of the federal law. States have powers over Indian affairs only if specifically granted by Congress, so the researcher should check both federal and state law. This article discusses the status, rights and liabilities of Indians as nations, tribes and individuals, including the status of Indian lands and property and the jurisdiction of federal, state, and Indian courts over Indians. Look in the index under “Indians” or go straight to volume 66.

**HANDBOOKS, TREATISES AND CASEBOOKS**

Canby, W. C., Jr. (2004). *American Indian Law in a Nutshell* (Third ed.). Nutshell Series. St. Paul: West Group. KF8205 .Z9 C36. This book gives a comprehensive overview of federal Indian law in an easy-to-read format. It has a table of cases in the beginning and an index in the end. It includes chapters on tribal governments, sovereignty, Indian treaties, jurisdiction, taxation, gaming, water and fishing rights and much more. There is a table of cases at the beginning of the book and an index at the end. This is a great place to begin your research.

Fund at [http://thorpe.ou.edu/cohen.html](http://thorpe.ou.edu/cohen.html) and can also be searched on Lexis under the File-Name: Cohen.


STATUTES AND REGULATIONS

The *United States Constitution* gives Congress the power “to regulate commerce with foreign nations, and among the several states, and with Indian tribes.” (*U.S. Constitution*, Article 1, Section 8, Clause 3). Most of the laws regarding Indians appear in Title 25 of the *United States Code*. However, other titles of the code do involve Indians. Title 8 contains provisions regarding the citizenship of Indians; Title 18 has sections regarding crimes and criminal procedure of Indians; Title 28 contains provisions about the jurisdiction of courts; and Title 42 contains sections on Indian hospitals and health facilities. When looking for a specific section of the code, you should look under the term “INDIANS” in the index.

**Statutes on Westlaw:**

**Database:** Federal Native American Law- United States Code Annotated (FNAM-USCA). This database contains all sections of the United States Code that relate to Native Americans and includes court rules, federal sentencing guidelines, sections of the Code of Federal Regulations and the popular name tables.

**Database:** Title 25 - Indians from the U.S. Code Annotated (U.S.C.A). You can view the table of contents of Title 25 which pertains to Indians and search the entire code.

**Statutes on Lexis:**

**Database:** USCS – United States Code Service: Code, Constitution, Rules, Conventions and Public Laws. (USCS). Here you will find all titles to the United States
Code, the constitution, executive orders, court rules and more. Unlike Westlaw, there is not a separate database for code sections that deal only with Native Americans.

**Internet Sources of United States Code that pertains to Native Americans:**

American Indian Law. *Cornell University Law School LII/Legal Information Institute.*


This web site is a great place to begin research. It contains links to the United States Constitution, federal statutes, and federal regulations as they pertain to Native Americans. There are also links to U.S. Supreme Court decisions and recent Court of Appeals decisions. There are recent Indian law decisions from the New York Court of Appeals as well as appellate decisions from other states.


This web page contains links to a number of texts, commentaries, agencies and organizations. There are direct links to web pages that contain treaties, Supreme Court decisions, the United States Code and the Code of Federal Regulations.

This web page is a free resource for all statutes relating to Native Americans and is organized in chronological order. Click on any statute and it is displayed. You can also search the statutes with a search box powered by ultraseek server.

**Code of Federal Regulations:**

Title 25 of the Code of Federal Regulations is exclusively about Indians. There are 7 chapters which include: Chapter I – Bureau of Indian Affairs; Chapter II – Indian Arts and Crafts Board, Department of Interior; Chapter III – National Indian Gaming Commission; Chapter IV- The office of the Navajo and Hopi Reservation; Chapter V- Bureau of Indian Affairs, Department of Interior and Indian Health Service, Department of Health and Human Services; Chapter VI – Office of Assistant Secretary-Indian Affairs, Department of Interior; chapter VII – Office of the Special trustee for American Indians, Department of the Interior. There are several other titles that include provisions regarding Indians. You can view the code at [http://www.gpoaccess.gov/fr/index.html](http://www.gpoaccess.gov/fr/index.html).

The CFR is searchable in both Westlaw and Lexis.

**CFR on Westlaw:**

**Database:** Federal Native American Law – Federal Register (FNAM-FR). This includes all documents from the Federal Register that relate to Native Americans and begins in 1981. It includes rules, regulations, proposed rules, executive orders and presidential proclamations.

**CFR on Lexis:**

**LAW REVIEWS**

*Current Law Index.* (2007). Detroit: Gale Cengage Learning. K33.C87. This index covers over 874 law journals from the United States and Canada. In this index, the researcher should look under the term “Native American”; “Native American Gaming”; “Tribal Courts”; and “Tribal Government.”


**Law Reviews On Westlaw:**

Database: Native American Law – Law Reviews Tests and Bar Journals (NAP-TM). This database includes law reviews, texts, CLE materials, bar journals and legal practice articles and is specific to those that relate to Native Americans. It includes American Jurisprudence 2nd.

**Law Reviews On Lexis:**
Database: U.S. Law Reviews and Journals, combined (ALLUS) will search all law reviews and journals available on Lexis and the researcher must include “Indians” and/or “Native Americans” in the search box.

Database: American Indian Law Review from 1997 to present (AMILR) which is a special law review published twice a year devoted exclusively to Indian Law.

TREATIES

The United States Constitution recognizes Indian Tribes and authorizes the United States to enter into treaties with them. (U.S. Constitution, Article II, Section 2, clause 2).

Treaties with Indian tribes are the law unless they have been superseded or abrogated. Treaties with Indian tribes go back to the beginning of our country. Most treaties between the United States and Indian tribes can be located in volume 7 of the United States Statutes at Large (1846 Washington D.C: United States Government Printing Office). The treaties appear in chronological order and are indexed by tribal name.

Treaties before 1846 between the United States and the Indian tribes appear in volume 7. Treaties after 1846 appear in volumes 8-16. After volume 8 the texts of treaties were published in a separate section at the end of each volume. You should look in the index within each volume by tribal name, or under “Indian Affairs”, “Indian Treaties” or “Indian Department.” In addition, it is important to note that there are few if any treaties after 1871, because Congress passed an act that no tribe was to be recognized as an independent nation with which the U.S. could make treaties. (25 U.S.C. § 71).

Other sources to locate a treaty include:
De Puy, H. F. (2001). *A Bibliography of the English Colonial Treaties with the American Indians: Including a Synopsis of Each Treaty*. Union, NJ: The Lawbook Exchange. KF 8021 .A1 D4. The objective of this work was to locate and describe treaties. There is a brief description of each treaty and the location of copies of the original treaties.


This web site allows you to view numerous documents from the Continental Congress and the Constitutional Convention. When you click on an item a digital picture of the image appears. There are writings of presidents, letters, memorandums, copies of treaties and documents from the War Department.


This web site contains the Jay Treaty of 1794 between Canada and the United States in dealing with Indians that lived in Canada and the United States. It also contains associated documents such as writings of George Washington, John Adams, and Thomas Jefferson, notes, and Senate Resolutions.

Kappler, Charles J. (1904-1941) *Indian Affairs: Laws and Treaties*, vols. 1-5, Washington D.C.: Government Printing Office. KF 8203 .U6. This work was originally 5 volumes. Two additional volumes were published in 1979. All together the 7 volume work includes treaties, laws and executive orders passed
relating to Native Americans compiled from 1902 (Volume 1) through January 13, 1971 (Volume 7). Each volume has a table of contents and a separate index.

Volume II is devoted exclusively to treaties and executive orders from 1778-1883. The Oklahoma State University Library has digitized all of Kappler’s work and it is available on-line at http://digital.library.okstate.edu/kappler/index.htm. You can also look at Volume II and search the treaties by tribe name at:


Click on “The Complete List of Treaties” where the treaties are organized by date. You will be directed to a page with treaties starting with the Treaty of Delaware in 1778 to the Fort Laramie Treaty in 1868. Click on any treaty and the provisions of the treaty appear. Click on a tribe and a list of treaties will be retrieved for that tribe. There is a Presidential Message from George Washington to Congress; Journals of the Continental Congress and the Constitution of the Iroquois Nations.

volume work that contains primary source documents. There are laws, treaties, proposals, deeds, commissioner’s reports, proclamations, conferences and correspondence. This 18 volume work is organized by state. (Volumes include 2, 4, 5, 7, 8, 9, and 10 which include the treaties from Pennsylvania, Virginia, New York and New Jersey).

**Treaties on Westlaw:**

**Database:** Federal Native American Law – Executive Documents (FNAM-EXEC). This database includes ratified and unratified treaties from 1787-1883; presidential proclamations from 1879; executive orders from 1871; presidential memoranda from 1984; and solicitor general opinions from 1917-1974.

**Treaties on Lexis:**

**Database:** Native American People Treaties, Ratified and Unratified (NAPTRY). This database contains the full text of ratified and unratified treaties from 1787-1883 as published by the Department of Interior.

**CASES**
ALR Digest of Decisions and Annotations with Research References (2004). Rochester, New York: KF 132.1 .A44. In the ALR Digest, “Indians” is the term to search. The topic covers the status, rights, and liabilities of Indians, whether as nations, tribes, or individuals; including Indian Lands and property. Other search terms include “Courts”, “Intoxicating Liquors”, and “civil rights.”

West’s Federal Practice Digest, 4th ed. (Vols.61B). (2000). St. Paul, MN: West Group. KF127 .F42. This digest contains cases from 1989- present the Supreme Court Reporter; Federal Reporter, Third Series; Federal Rules Decisions; Bankruptcy Reporter; Federal Claims Reporter; Military Justice Reporter; and Veterans Appeals Reporter. Look in the descriptive word index under “Indians” and you will be directed to volume 61 B. Other search terms include “Marriage” and “Public Lands.”

Holt, H. B., & Forrester, G. (1990). Digest of American Indian Law. Littleton, Co: Fred B. Rothman & Co. KF 8204.5.H65. This book begins with a brief chronological history of federal Indian policy from 1492-1989. Each chapter begins with a brief essay and then summarizes the evolving case law. There are case summaries that appear in chronological order in each chapter. There is a table of cases and a topical table of cases at the end of the book along with a general index. This is a great place to review important cases on Indian law.

United States Supreme Court and is presented by the National Indian Law Library and the Native American Rights Fund. There is an alphabetical index of cases as well as a subject index of cases. This book is the place to go if looking for major case law on a specific topic relating to Indian Law. It would be good for the student or researcher to look at the subject index, review the case and the either KeyCite or Shepardize the case.

Cases on Westlaw:

To find Federal Cases in Westlaw, you can search the database Federal Native American Law – Cases all courts (FNAM-CS). This database begins with coverage from 1789 and includes cases from the U.S. Supreme Court, Courts of Appeals, District Courts, Bankruptcy Courts, Court of Federal Claims, U.S. Tax Courts, Military Courts, and related federal and territorial courts that relate to native people of the United States. You can also limit your search to United States Supreme Court Cases (FNAM-SCT) or United States Court of Appeals cases (FNAM-CTA) or District Court Cases (FNAM-DCT). Each of these databases on Westlaw is limited to cases on Native Americans.

Cases on Lexis:

Database: Federal Court Cases, Combined (Courts) is the general database which lists all federal court cases. Here in order to limit the search to Federal Indian Law, the researcher must add additional key words to the search box such as “Indian,” “tribe,” or “Native American.”

ADMINISTRATIVE LAW
The best way to find administrative case law is on Westlaw or Lexis. Both have databases for decisions or orders from administrative law judges for the Department of Interior’s Board of Indian Appeals. On Westlaw the database is Federal Native American Law – Interior Board of Appeals Decisions (FNAM-IBIA). This database begins with coverage in 1970 and includes all documents released by the Interior Board of Indian Appeals (IBIA) from the Office of hearings and Appeals of the Department of the Interior. It includes appeals of decisions made by the Bureau of Indian Affairs and appeals from administrative law judges in Native American probate matters. On Lexis the database is IBIA and covers decisions from September 1969 through the present.

Decisions from the Interior Board of Indian Appeals (IBIA) can also be found online for free at an unofficial website. Decisions from 1970 through 2008 can be found at http://www.ibiadecisions.com/index.html. This web page, although unofficial, is not associated with the Department of Interior. It was originally set up by Judge Anita Vogt, who found it unconscionable that the legal community did not have ready access to the IBIA decisions after a court order did not allow The Department of Interior to post them on their website. The files are all in PDF format and are obtained from the Department of Interior through the Freedom of Information Act. There is an alphabetical, volume and chronological index.

Executive Orders on Westlaw:
Database: Federal Native American Law – Executive Documents (FNAM-EXEC). This database includes ratified and unratified treaties from 1787-1883; presidential proclamations from 1879; executive orders from 1871; presidential memoranda from 1984; solicitor general opinions from 1917-1974.

Executive Orders on Lexis:

Database: Executive Order Pertaining to Native American People (NAPEO). This database includes executive orders as they relate to Native Americans as issued by the president of the United States from 1854 through the present.

Database: Presidential Proclamations Pertaining to Native American People (NAPPP). This database contains the full text of presidential proclamations as they relate to Native Americans since 1879.

TRIBAL LAW

Tribal law is the internal law that each tribe applies to its own affairs and to its members within its own territory. (Canby, American Indian Law in a Nutshell, p 6.). Tribes may have their own constitution, charter, code or ordinances.

Treatises and Handbooks:


Austin: University of Texas Press. KF8211.A44. This book contains a collection of articles regarding the remaking of tribal constitutions. It includes a bibliography and an index.


Pevar, S. L. (2004). *The Rights of Indians and Tribes: The Basic ACLU Guide to Indian and Tribal Rights* (3rd ed.). ACLU Handbook Series. New York: New York University Press. KF8210.C5P48. This handbook is published in cooperation with the American Civil Liberties Union and sets forth the rights of Indians and how their rights can be protected. The book has 18 chapters which are formatted with questions and answers. At the end of each chapter there are endnotes. There are appendixes which include “The Indian Civil Rights Act”; “Public Law
83-20” ; “The Indian Country Crimes Act”; “The Major Crimes Act”; “Indian Country”; and “Indian Tribes in the States.” There is a general index. This book is intended for the Native American individual and the tribe to help them understand their rights.


**TRIBAL CODES AND CONSTITUTIONS:**

KF8228.C5 A3. This is an annotated code with cross references and research references. It is kept up to date with annual pocket parts.


KF 8228.A45. This code is annotated and has key numbers, historical and statutory notes, cross references, library references and notes of decisions. It includes and index and is updated with annual pocket parts.


KF 8228.N3 A5. This 4 volume work includes the text of the code, history, notes, cross references and annotations. The last volume includes a digest, tables, treaties, and index. It is kept up to date with annual pocket parts and supplements. It contains the general and permanent provisions of the resolutions of the Navajo Tribal Council and its Advisory Committee.

**TRIBAL COURT DIRECTORIES:**

*National Tribal Justice Resource Center.* Retrieved April 20, 2008, from [http://www.tribalresourcecenter.org](http://www.tribalresourcecenter.org). This is a free electronic directory for tribal courts. Point your mouse to “Tribal Courts” and a pull down menu appears. Click on “Tribal Courts Online” and you can search tribal courts by state or tribe name. You can also search here to see if a tribe has been federally recognized.

**CASE LAW FROM TRIBES:**

VersusLaw is a subscription service which has a database of case law from Native American Tribal Courts. For a complete list of the tribes available on VersusLaw visit [http://www.versuslaw.com/help/library/LibCatProfessional.aspx#tribal](http://www.versuslaw.com/help/library/LibCatProfessional.aspx#tribal). VersusLaw entered into an agreement with the National American Indian Court Judges Association (NAICJA) to develop a database of tribal case law and contains case law from 20 different tribal courts. The National American Indian Court Judges Association (NAICJA) is a national voluntary association of tribal court judges. Its membership is primarily judges, justices and peacemakers serving in tribal justice systems. The mission of the Association, as a national representative membership organization, is to strengthen and enhance tribal justice systems. The web page for the association is: [http://www.naicja.org](http://www.naicja.org).

This web site provides support and technical assistance to Native American and Alaska Native tribes for the development of their tribal justice systems. There is a directory of links to all federally recognized tribes and tribal court decisions can be searched. Tribal constitutions, bylaws, codes, charters can also be searched here.

OTHER RESOURCES:
American Indian and Alaska Native Populations. U.S. Census Bureau. Retrieved March 12, 2008, from http://www.census.gov/population/www/socdemo/race/indian.html. This web site provides links to the 2000 Census and the 1990 Census. There are direct links to the Top 25 American Indian tribes; social and economic characteristics; American Indian languages spoken at home; and housing characteristics. There are also direct links to facts on the American Indian and Alaskan Native population. While this site does not provide legal information, there is a wealth of statistics on Native Americans.


Under law topic legal guide, you can select “Native People’s Law” for short guides to Native American topics.

This is a public law library that is devoted exclusively to Indian and tribal law. There are over 500 tribal constitutions and 280 tribal codes that have been digitized as well as treaties. You can find this as well as tribal cases, drafting tips, and tribal legal histories. You should click on the “Tribal Law Gateway.” The mission of the library is to develop and make accessible a unique collection of resources to help advocates of Native Americans. There is a place where you can search the catalog by subject and see case updates, research help, laws (federal state and tribal) and much more. Indian Law bulletins are also accessible which provide information about new developments in Indian Law and the library will e-mail you with updates when they are published.


This project was coordinated by the University of Oklahoma Law Library and The National Indian Law Library (NILL). Tribal documents (codes and constitutions) were placed on the web site either with the permission of the tribe or because they were official government documents. This site has links to codes, constitutions, and texts. For example both Cohen’s Handbook of Federal Indian Law is digitized on the web page and so is Kappler’s 7 volume work entitled Indian Affairs: Laws and Treaties. (Cohen’s Handbook of Federal Indian Law, supra) (Kappler, supra). There are also links to treaties
that are not included in Kappler’s work. You can also view opinions of the
Solicitor and Supreme Court Cases.

This web site provides links to web pages that have been either set up by a
particular nation or is a site about the nation. It is a great resource if you are
looking for information about a particular tribe.

Native American Rights Fund (NARF). Retrieved May 4, 2008, from
http://www.narf.org/.
Native American Rights Fund (NARF) is a non-profit organization and
provides legal representation and assistance to Indian tribes, organizations and
individuals. The web site is a great source of information and can be accessed
at http:www.narf.org. There is a link to news/case updates, the National
Indian Law Library, and the Tribal Supreme Court Project. Point your mouse
to “About NARF.” There is a drop down menu and click on “Cases and
Projects.” Current cases are listed here and organized by topic. You can enter
the National Indian Law Library and search the catalog. You can pay a
nominal fee and request documents be sent to you.
GOVERNMENT OFFICES & ORGANIZATIONS RELATING TO NATIVE AMERICANS:


The Bureau of Indian Affairs is part of the Department of Interior and is responsible for administering and maintaining 55.7 million acres of land held in trust by the United States for the American Indians, Indian tribes and Alaska natives. The Bureau is responsible for developing forestlands, leasing assets on these lands, directing agricultural programs, and protecting water and land rights. In addition, the Bureau provides education services to Indian students. The BIA website is not fully operational due to litigation, but it does contain some links to useful information.


The Office of Tribal Justice advises the Department of Justice on legal matters relating to Native Americans. It serves as the primary point of contact for Indian Tribes within the Department. There are links to grants and funding opportunities and you can download numerous publications as well as links to press releases. There are also links to government agencies of importance to Native Americans from the Department of Interior, Department of Agriculture, Department of Energy, Department of Health and Human Services, Department of Transportation, Department of Commerce, Department of Labor, Department of Housing and Urban Development, Environmental Protection Agency, Department of Education, U.S. Congress and much more.
The non-government link contains National Native American Organizations including The National Congress of American Indians (NCAI); National Native American Bar Association (NNABA); National Indian Child Welfare Association (NICWA), and much more. The NCAI has over 250 tribes as members and is the major national tribal organization. It works to inform the public and Congress about issues affecting American Indians and Alaska Natives. There web page is [http://www.ncai.org](http://www.ncai.org). The NNABA is a national association for Native American attorneys, judges, law professors and students. Visit them at [http://www.nativeamericanbar.org](http://www.nativeamericanbar.org).