

Chief's Address To The Nation

minimum one-year prison sentence for those conducting illegal gaming). Second, it could bring a state law-based in rem action to seize the illegal gaming machines. See, e.g., 21 O.S. § 973 (authorizing seizure of illegal gaming machines). Third, it could seek to enjoin the tribe from continuing the illegal gaming-the tribe, however, will almost certainly claim that it is immune from suit. Fourth, it could bring an Ex Parte Young action seeking to enjoin the individual tribal officials responsible for the illegal gaming-although this too usually results in a claim of sovereign immunity.

(2) As counterintuitive as it may seem, it is this latter option - the least drastic of the lot-that the Bay Mills Indian Community seeks to abolish. As a matter of policy, this is a terrible idea. First, it invites tribes to open illegal casinos and then claim Sovereign Immunity and lack of jurisdiction when a State asks a federal court to step in and enjoin the illegal gaming - Something Oklahoma knows all too well as a party to a pending case where exactly that is happening. Second, it forces States like Michigan and Oklahoma to in the future jump directly to the more aggressive options available to them - most likely the filing of criminal charges against tribal officials and seizing of gaming equipment. These concerns are troubling to States because they effectively bear sole responsibility for policing illegal tribal gaming within their borders. The National Indian Gaming Commission (NIGC) in fact self-reports a role that is largely deferential to the tribes it purports to regulate: "tribal gaming commissions are the primary

regulators of gaming operations. The role of the Commission is to monitor and validate the work of tribal gaming regulators." NIGC, "Frequently Asked Questions," [http:// www.nigc.gov/Portals/OINIGC%20Uploads/aboutus/FAQ_06032013vs2.pdf](http://www.nigc.gov/Portals/OINIGC%20Uploads/aboutus/FAQ_06032013vs2.pdf)(last visited on August 30, 2013).

So while the United States may have intimated in its invitation brief that review was unnecessary because the United States itself "has criminal and civil enforcement Authority," U.S. Cert. Br. 19, Oklahoma, like Michigan, knows from experience that when tribes illegally game, it is the States who must act to stop them - even when the NIGC has properly declared tribal gambling illegal it has declined to initiate enforcement. Waiting on the federal government to act has not proved a viable option.

Thus, because it involves the availability of a valuable remedy used by States to prevent illegal gaming, the importance of this case and the need for reversal cannot be overstated. Indian gaming is an ever expanding, multi-billion dollar business and it exists because of IGRA. When an Indian tribe purports to rely on IGRA to conduct gaming, but is actually flaunting IGRA's requirement that the gaming occur on the tribe's Indian land, surely federal

Three recent examples bear this out. First, a dispute with the Kialegee Tribal Town that has prompted litigation currently pending before the Tenth Circuit. See *Oklahoma v. Robia*, 12-CV-054-GKF-TLW, 2012 WL 2995044 (N.D. Okla. July 20, 2012). There, the National Indian Gaming Commission

(NIGC) determined that the land on which the Kialegee tribe was building a Class III gaming facility was not the tribe's "Indian land" because the tribe did not have legal jurisdiction over the land, but the NIGC merely threatened enforcement action if gaming occurred - something the State had been successful in enjoining before the NIGC issued its opinion. The second involves a dispute with the United Keetoowah Band where the tribe was operating a Class III facility that the NIGC determined was not on "Indian lands," yet the NIGC disavowed jurisdiction over the casino site - allowing the casino to continue to operate with impunity from federal enforcement action. The third involves a dispute with the Alabama-Quassarte Tribe, where the NIGC told the tribe that it had no lands upon which it could lawfully game under IGRA, yet stood idly by when the tribe nonetheless opened a Class III facility. Courts have jurisdiction to enjoin that illegal gaming. The Sixth Circuit's decision should be reversed.

SUMMARY OF THE ARGUMENT

1. Federal courts have general federal question jurisdiction to resolve disputes over whether a tribe's Class III facility is authorized by IGRA.

2. IGRA separately provides federal courts with jurisdiction to resolve disputes over whether a tribe's Class III facility is authorized by IGRA. The Sixth Circuit's decision to the contrary defied congressional intent to provide states with a federal court forum to resolve such disputes, and puts the incentives in all the wrong places, by giving tribes a reason to move Class III gaming activities off of their Indian lands.

3. Tribal sovereign immunity from suits brought by states is inappropriate in the modern age of commercial tribal activity, and it provides tribes with greater immunity from suit than that enjoyed by the states, the United States, and foreign nations. The Court should revisit its holding in *Kiowa Tribe of Oklahoma v. Manufacturing Technologies, Inc.*, 523 U.S. 751, 762 (1998), and abolish tribal sovereign immunity in the context of suits brought by states to enjoin unlawful commercial activity occurring outside of a tribe's Indian land.

I wish to take this time to congratulate some of our new tribal royalty for 2014-15: Miss Sac & Fox Santana Spang; Junior Miss Sac & Fox-Patience Longhorn; Little Miss Sac & Fox - Ciara Johnson and Veterans Honor Guard Princess - Reagan Hill. And on behalf of our Sac & Fox people, to thank the outgoing royalty for your representation of our Nation during the past 2013-14 year: Miss Sac & Fox - Meagan Lucero; Junior Miss Sac & Fox - Kaylon Wood; Little Miss Sac & Fox - Caitlyn Nanaeto and Veterans Honor Guard Princess - Reagan Hill.

Remember to be proud that you are Sauk, not only while we are hosts to many visitors during our annual Celebration, but every day of your lives. When asked what tribe you are a member of, answer Sac and Fox Nation with pride! As one of our former Chiefs once commented to me, being a member is not an inherited right but a privilege. Aho.

Sincerely,
George Thurman, Principal Chief

Sac and Fox Nation Reserve Police Academy *by Instructor Brandi Carnell, &c and Fox Nation Police* From Page 1

offenses, must be able to pass an MMPI test, and must pass a physical evaluation and have a physician's release.

Some of the blocks of instruction that cadets face are firearms, defensive tactics, legal matters, criminal investigations, and human relations. Cadets must perform at a level of 70 percent or higher academically, have a passing firearms target scoring of 72 percent or higher, be able to successfully perform various firearms drills, and must pass very strenuous physical testing during the defensive tactics block of instruction. This newest group of cadets finished their journey on June 24, 2014. Achieving a reserve Police Officer

certification is a long and laborious undertaking and the Sac and Fox Nation Police Department is pleased and proud to welcome Oklahoma's newly certified

Police Officers. The Sac and Fox Nation Police Department would also like to extend our gratitude to the agencies that have entrusted their officer's training and

safety with us.
Academy Coordinator/ Instructor
Officer Brandi Crisp
Sac and Fox Nation Police Department



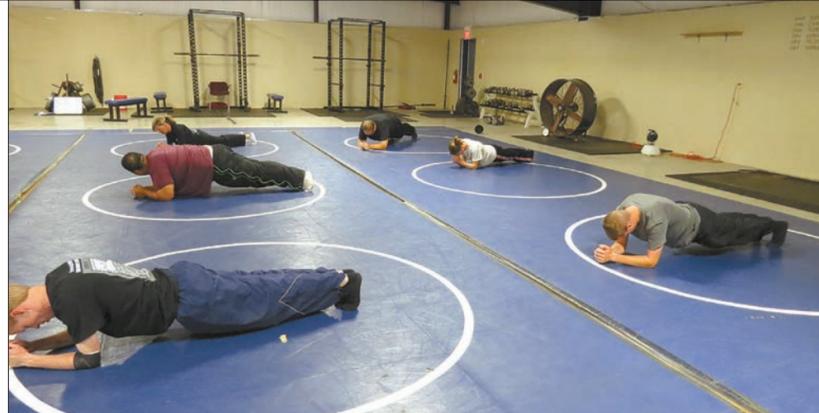
A POLICE OFFICER'S PLEDGE

I PLEDGE MY COURAGE-
COURAGE TO RACE AND CONQUER MY OWN FEAR...
COURAGE TO TAKE ME WHERE OTHERS WILL NOT GO...

I PLEDGE MY STRENGTH-
STRENGTH OF BODY TO PROTECT OTHERS...
STRENGTH OF SPIRIT TO LEAD OTHERS...

I PLEDGE MY DEDICATION-
DEDICATION TO MY JOB, TO DO IT WELL...
DEDICATION TO MY COMMUNITY, TO KEEP IT SAFE...

I PLEDGE MY CONCERN-
CONCERN FOR THOSE WHO TRUST ME...
AND MY COMPASSION FOR THOSE WHO NEED ME...



ATTENTION TRIBAL MEMBERS

**A MEMBER OF THE TAX COMMISSION STAFF
WILL NOW BE AT
1st INDIAN BAPTIST CHURCH
CUSHING OKLAHOMA
1034 EAST WALNUT
ONCE A MONTH.**

**THE TAX COMMISSION WILL BE THERE
2nd THURSDAY OF EACH MONTH
WE WILL BE ABLE TO BETTER SERVE TRIBAL
MEMBERS LIVING IN THE CUSHING AREA WITH
MOTOR VEHICLE REGISTRATION AND ANY
OTHER SERVICE THAT WE CAN ASSIST YOU WITH.**