



Indian Health Care Delivery 101

The American Indian Health Commission

www.aihc-wa.com



About Us

American Indian Health Commission

Pulling Together for Wellness

Established in 1994, we are a Tribally-driven, non-profit organization providing a forum for the twenty-nine tribal governments and two urban Indian health programs in Washington State to work together to improve health outcomes for American Indians and Alaska Natives.



Land Acknowledgement

I would like to begin by acknowledging that as we gather today, we are all on the ancestral homelands of indigenous people. Today we are meeting across the lands of hundreds of Tribes.

Indigenous people, despite being removed from the lands where they lived, hunted, gathered, practice ceremonies and cared for their community members. Indigenous people and Tribes, whether “official” recognized by the United States Government or not, continue to care for these lands and their community members. As health professionals, it is important that we also acknowledge the impacts of the removal from traditional lands, of children stolen to boarding schools, of the oppression of cultural and traditional ways of life on the health of indigenous people throughout the country and in Washington State.

As we work to improve health in Washington State, it is imperative that we address the inequities of the past by understanding their impact of the present. I invite each of you to learn about and understand the true history of the indigenous lands where you reside on.

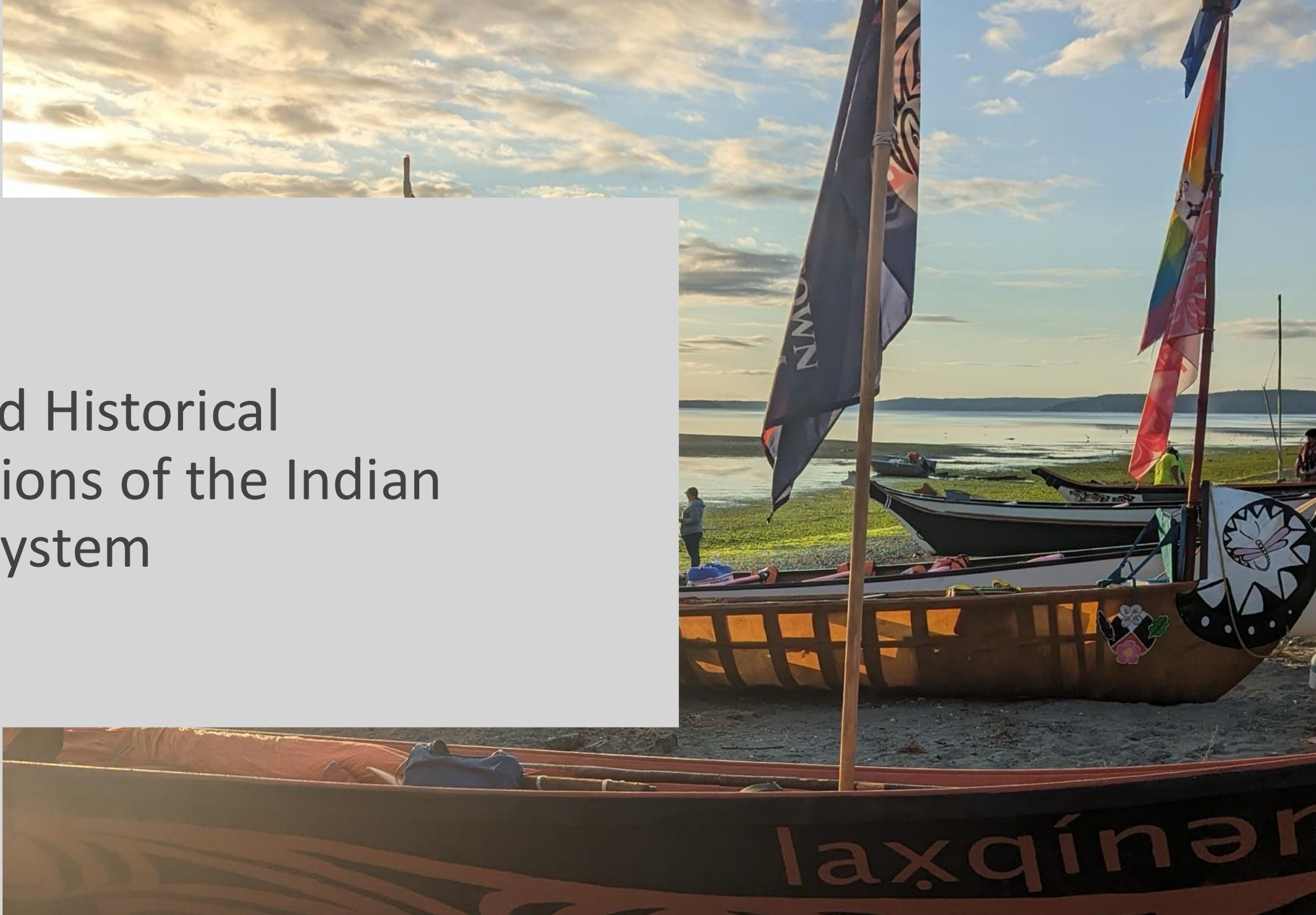


Understanding and
respecting Indian law and
policy can bring about
great improvements for the
Tribal nations and
American Indian and Alaska
Native people

AND

benefit the citizens of the
state of Washington.

Legal and Historical Foundations of the Indian Health System



NATIVE AMERICAN NATIONS

TRADITIONAL NAMES & LOCATIONS





Treaty Making

Prior to the establishment of the United State government, Tribal nation were negotiating treaties with Spain and England.

At first, the United States government used treaty making to encourage stable relationships and trade with the Tribes.

Treaty making was a method used to take Indian Land.

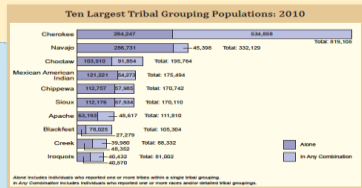
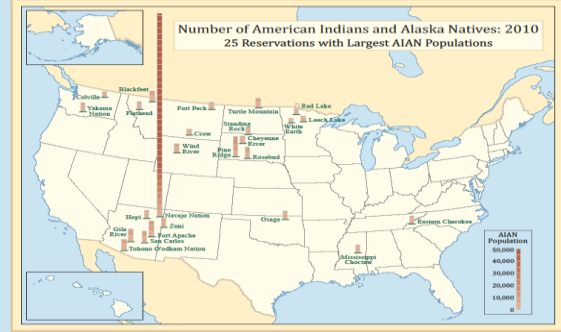
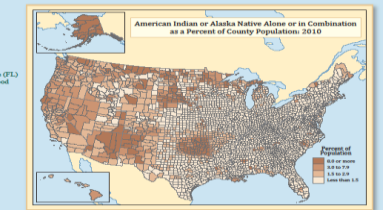
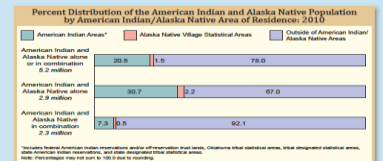
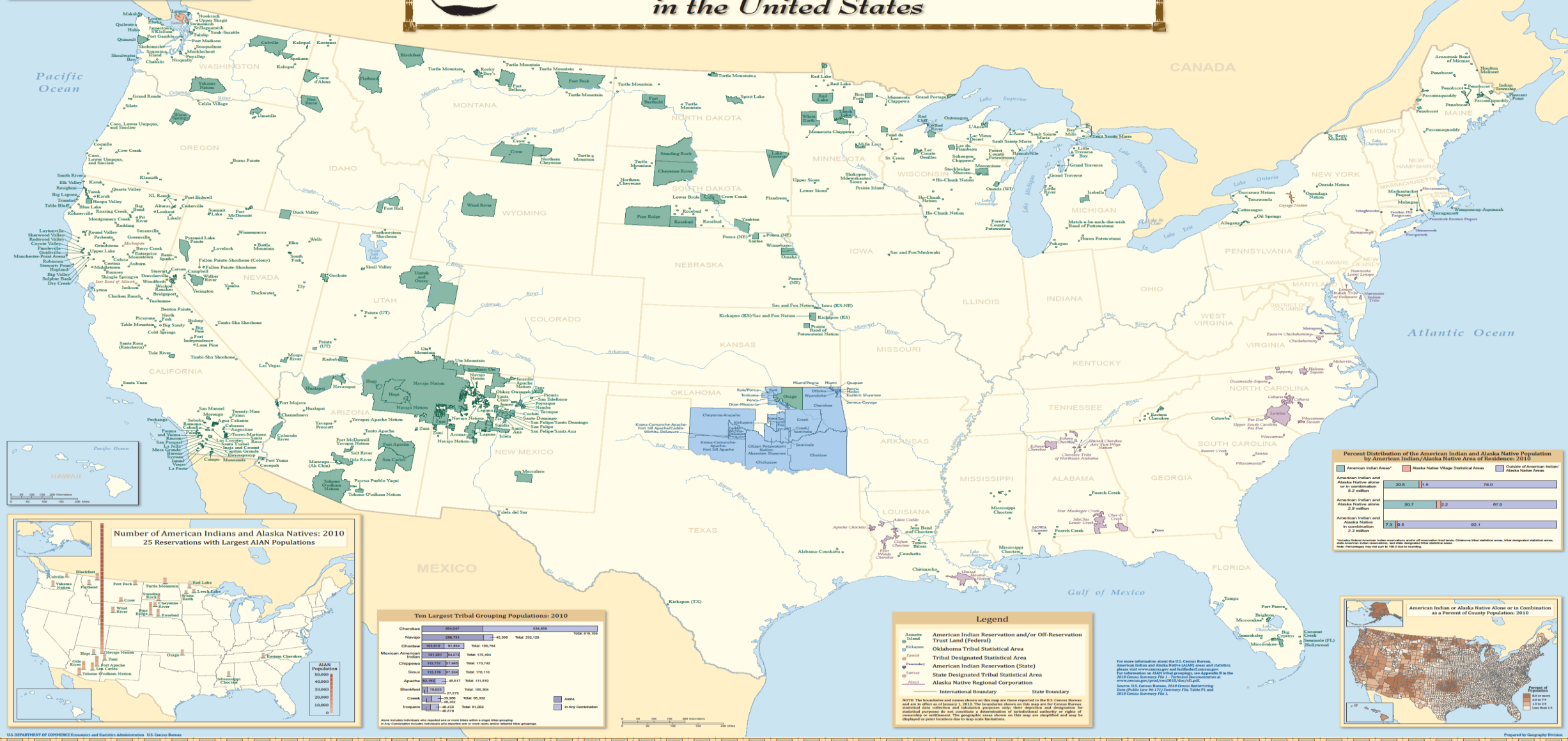
370 Indian Treaties were made with the U.S. Government and Indian Tribes from 1789 to 1871.

Changes in administrations and westward expansion changed what was negotiated in treaties.

Under Andrew Jackson, federal policy for treaty making with Tribes changed from alliance to open Indian land for settlement by non-Indians.



American Indians and Alaska Natives in the United States





U.S. Recognition of Tribal Sovereignty

- The U.S. Constitution mentions Indian Tribes:
- Article 1, section 8 , clause 3, Congress is the branch of government authorized to regulate commerce with *“foreign nations, among the several states, and with Indian Tribes.”*
- Article 2, Section 2, Clause 2 of the U.S. Constitution empowered the President to make treaties, including Indian Treaties.
- Article 4, states that all treaties entered by the United States “shall be the supreme Law of the Land.”





1854-56: Treaties with Tribes in Washington Territory

Eight treaties were “negotiated” during these two years

Treaty of Medicine Creek (1854)

Nisqually, Puyallup, Squaxin Island, Steilacoom, S'Homamish, Stehchass, others
Reservation, fishing, hunting, pasturing (stallions for breeding only), **health care**

Treaty of Point Elliott (1855)

Lummi, Suquamish, Tulalip (Snohomish, Skykomish, others), Swinomish, Snoqualmie, Skagit, Duwamish, others
Reservations, fishing, hunting, **health care**

Treaty of Point No Point (1855)

Jamestown S'Klallam, Port Gamble S'Klallam, Lower Elwha Klallam, Skokomish, others
Reservation, fishing, hunting, **health care**

Treaty of Neah Bay (1855)

Makah
Reservation, fishing, whaling, sealing, hunting, **health care**

Treaty with the Yakama (1855)

Yakama, Palouse, Piquouse, Wenatshapam, Klikatat, Klinquit, Kow-was-say-ee, others
Reservation with schools and fishery, fishing, hunting, pasturing, **health care**

Treaty of Walla Walla (1855)

Umatilla, Walla Walla, Cayuses
Reservation, fishing, hunting, pasturing, **health care**

Treaty with the Nez Perce (1856)

Nez Perce
Reservation with schools, fishing, hunting, pasturing, **health care**

Quinault Treaty (1856)

Quinault, Quileute
Reservation, fishing, hunting, pasturing horses (stallions for breeding), **health care**



Congress ended Treaties making with Tribes in 1871

- Today, the subject of Indian treaties is a closed account in the constitutional law ledger. By a rider inserted in the Indian Appropriation Act of March 3, 1871, it was provided:

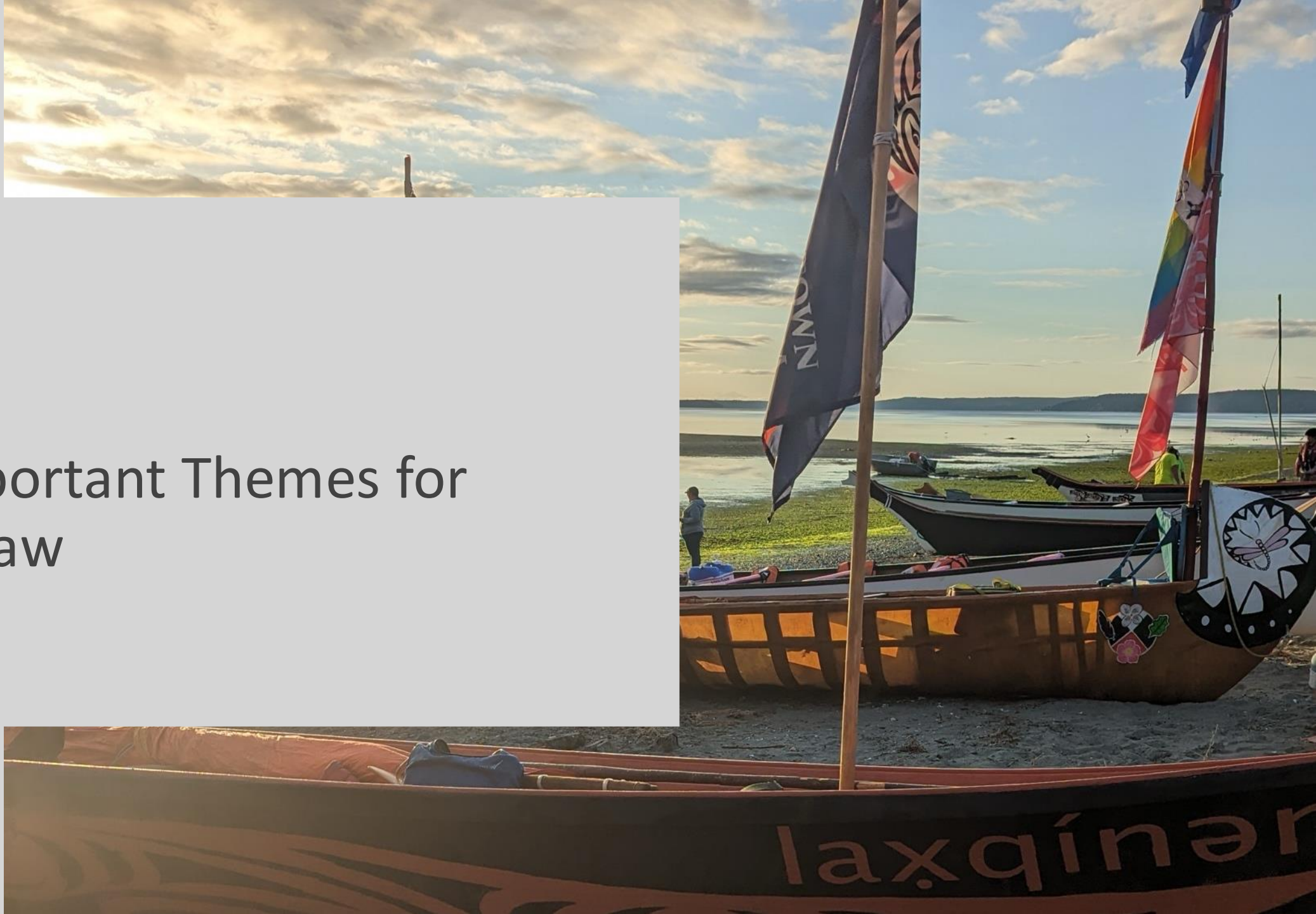
- “That hereafter no Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty: Provided, further, that nothing herein contained shall be construed to invalidate or impair the obligation of any treaty heretofore lawfully made and ratified with any such Indian nation or tribe.” 25 U.S.C. § 71



29 Federally Recognized Tribes in Washington State



Two Important Themes for Indian Law





Theme 1 → Sovereignty

TRIBES = Independent entities with
inherent power of self-government

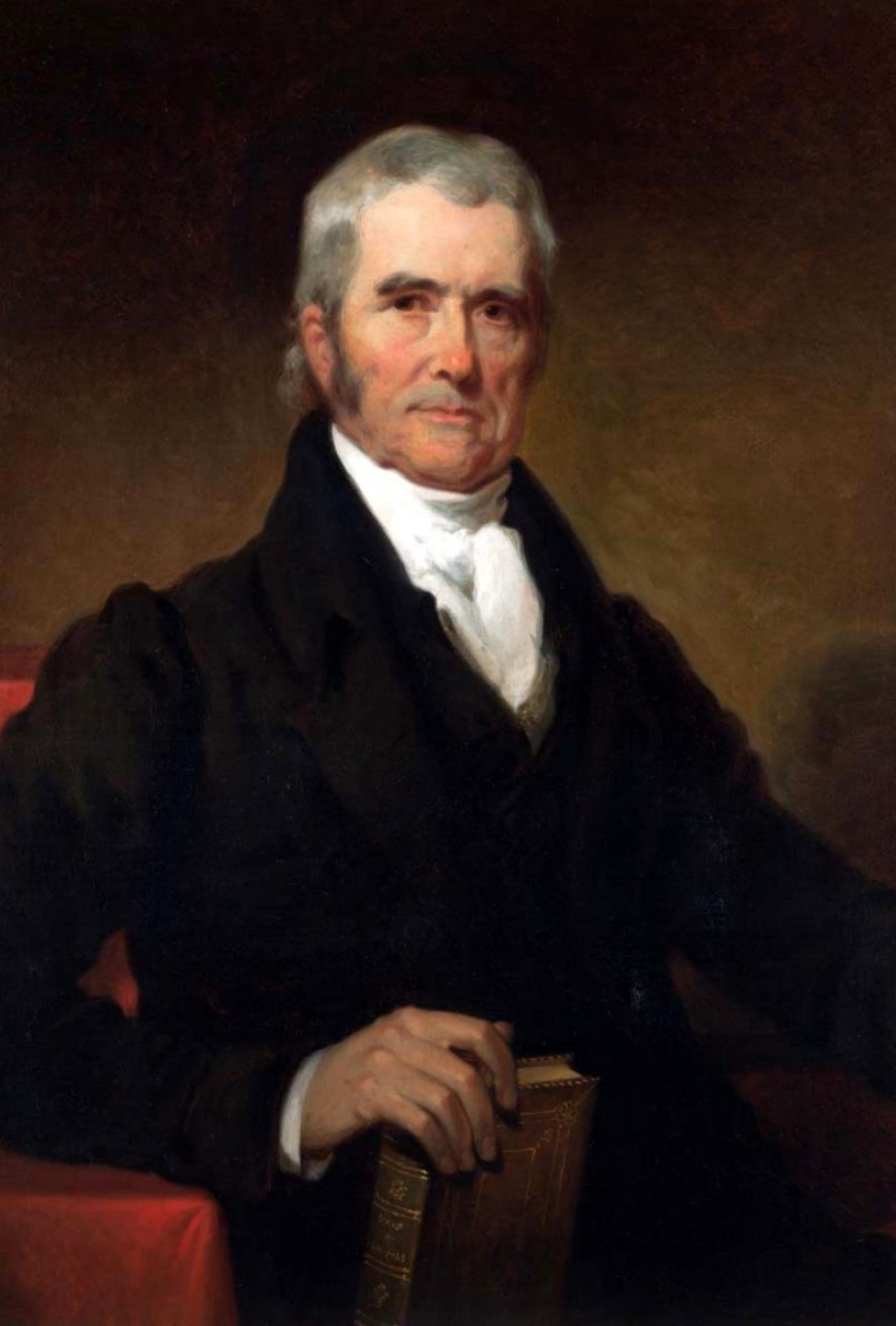


Tribal Sovereignty

- Tribal Sovereignty predates the formation of the United States government.
- Prior to contact, Tribal governments already had complete sovereignty.
- They had highly developed ways of life, well-established governments, and engaged in unique Tribal health practices.



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The Marshall Trilogy

- Johnson v. M'Intosh (1823) ruling used the Discovery Doctrine to establish the nature of Indian title. Upon “discovery” the Indians had lost “their rights to complete sovereignty, as independent nations,” only retaining a “right of occupancy” in their lands.
- Cherokee Nation v. Georgia (1831) held that the tribe was not a foreign nation, rather a "domestic dependent nation" subject to the sovereignty of the United States federal government.
- Worcester v. Georgia (1832) ruled that tribal sovereign powers were not relinquished when Indian tribes exchanged land for peace and protection.

“The Indian nations had always been considered as distinct, independent, political communities, retaining their original natural rights, as the undisputed possessors of the soil, from time immemorial...” Worcester v. Georgia, 31 U.S. 515, 559 (1832)





Sovereignty is an inherent power

In contrast to a city, who derives certain powers to enact regulations from the State, a tribe's power is inherent, and the tribe needs no authority from the federal government.

Iron Crow v. Oglala Sioux Tribe, 231 F.2d 89 (8th Cir. 1956); Merrion v. Jicarilla Apache Tribe, 455 U.S. 130, 149 (1982).



Tribal sovereignty in practice

AUTHORITY TO GOVERN

Sovereignty ensures control over the future of the tribes and encourages preservation of tribal culture, religions, and traditional practices.

Tribes have the authority to, among other things, govern their people and their land; define their own tribal membership criteria; create tribal legislation, law enforcement and court systems; and to impose taxes in certain situations.

Building Bridges for the New Millennium: Government to Government
Implementation Guidelines, May 18, 2000





Theme 2 → Trust Responsibility

Trust responsibility is a legally enforceable obligation of the United States to protect tribal self-determination, tribal lands, assets, resources, and treaty rights, as well as carry out the directions of federal statutes and court cases.



Five Important Federal Indian Health Care Statutes

- Snyder Act of 1921
- Indian Self-Determination and Education Act of 1975
- Indian Health Care Improvement Act of 1976
- Patient Protection and Affordable Care Act of 2010
- Indian Health Care Improvement Act Reauthorization and Extension Act



Federal Trust TREATY Responsibility to Provide Health Care to AI/AN

“And the United States finally agree to employ a physician to reside at the said central agency, who shall furnish medicine and advice to their sick, and shall vaccinate them; the expenses of ...medical attendance to be defrayed by the United States, and not deducted from the annuities.”

Treaty of Point Elliot, 1855, Article 14

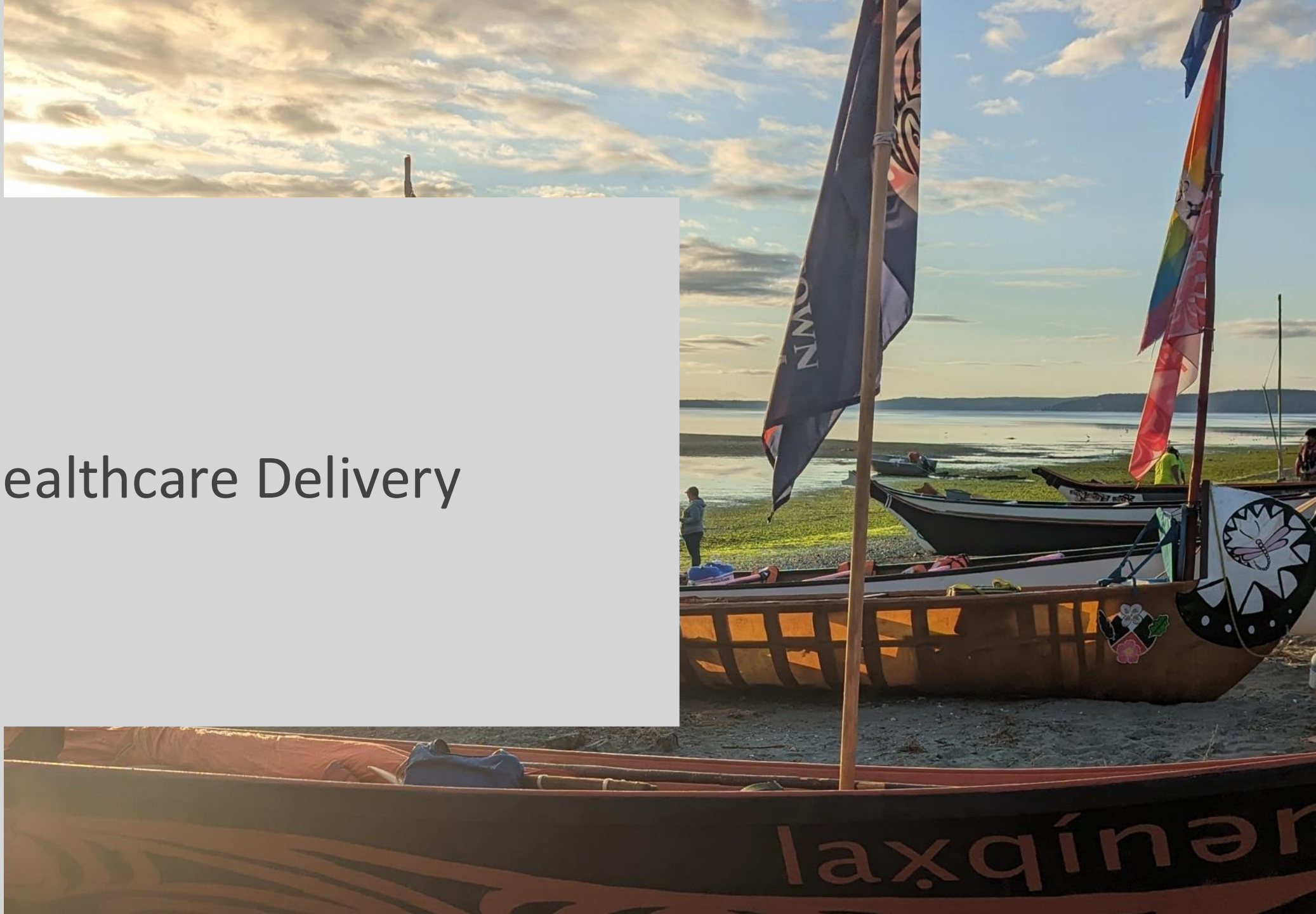


Federal Trust Statutory Responsibility to Provide Health Care to AI/AN

Under the Indian Health Care Improvement Act (IHCA),
“[f]ederal health services to maintain and improve the health of the Indians are ... required by the Federal Government’s historical and unique relationship with, and resulting responsibility to, the American Indian people.”

25 U.S.C. § 1601(a)

Indian Healthcare Delivery System





Indian Health Care Providers (IHCPs)

IHS Facility (Direct Site)

25 USC § 1661

Tribal Compact/Contract
Tribes

25 USC § 450 et. seq.

Urban Indian Health Care
Providers

25 USC 1603 § (29)



Indian Health Care Provider Defined → WAC 284-170(16)

(16) "Indian health care provider" means:

(a) The **Indian Health Service**, an agency operated by the U.S. Department of Health and Human Services established by the Indian Health Care Improvement Act, Section 601, 25 U.S.C. Sec. 1661;

(b) **An Indian tribe**, as defined in the Indian Health Care Improvement Act, Section 4(14), 25 U.S.C. Sec. 1603(14), that operates a health program under a **contract or compact** to carry out programs of the Indian Health Service pursuant to the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. Sec. 450 et seq.;

(c) **A tribal organization**, as defined in the Indian Health Care Improvement Act, Section 4(26), 25 U.S.C. Sec. 1603(26), that operates a health program under a contract or compact to carry out programs of the Indian Health Service pursuant to the ISDEAA, 25 U.S.C. Sec. 450 et seq.;

(d) An Indian tribe, as defined in the Indian Health Care Improvement Act, Section 4(14), 25 U.S.C. Sec. 1603(14), or tribal organization, as defined in the Indian Health Care Improvement Act, Section 4(26), 25 U.S.C. Sec. 1603(26), that operates a health program with funding provided in whole or part pursuant to 25 U.S.C. Sec. 47 (commonly known as the Buy Indian Act); or

(e) **An urban Indian organization** that operates a health program with funds in whole or part provided by Indian Health Service under a grant or contract awarded pursuant to Title V of the Indian Health Care Improvement Act, Section 4(29), 25 U.S.C. Sec. 1603(29).



Indian Health Services (IHS)

- An agency in the Department of Health and Human Services.
- Provides health care for approximately 2.56 million eligible AI/AN through a system of programs and facilities located on or near Indian reservations, and through contractors in certain urban areas.
- IHS defines eligible individuals as persons who are of Indian descent and are members of their community. 42 C.F.R. § 136.12 (a)(1)





IHS Facility - Direct Services Tribes

IHS services are administered through a system of 12 Area offices and 170 IHS and tribally managed service units:

Direct Service Tribes (DST) receive primary health care services from the Indian Health Service.

These services include direct patient care such as internal medicine, pediatrics, women's health, and dental and optometry services.

Service Units on the Colville, Spokane, and Yakama reservations





Tribal Compact and Contract Tribes

Titles I and V of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, as amended), provide Tribes the option of exercising their right to self-determination by assuming control and management of programs previously administered by the federal government.

Since 1992, the Indian Health Services has entered into agreements with tribes and tribal organizations to plan, conduct, and administer programs authorized under Section 102 of the Act.

Today, over half of the Indian Health Services appropriation is administered by Tribes, primarily through self-determination contracts or self-governance compacts.

28 Tribes administer Indian Health Services funds to provide health care services in Washington State. These tribes provides both direct care and contracted care.





Urban Indian Health Programs



Title VI of the Indian Health Care Improvement Act authorizes the Indian Health Services to fund urban Indian organizations to provide health care and referral services to the urban Indian populations. 25 U.S.C. 1651-1660d.

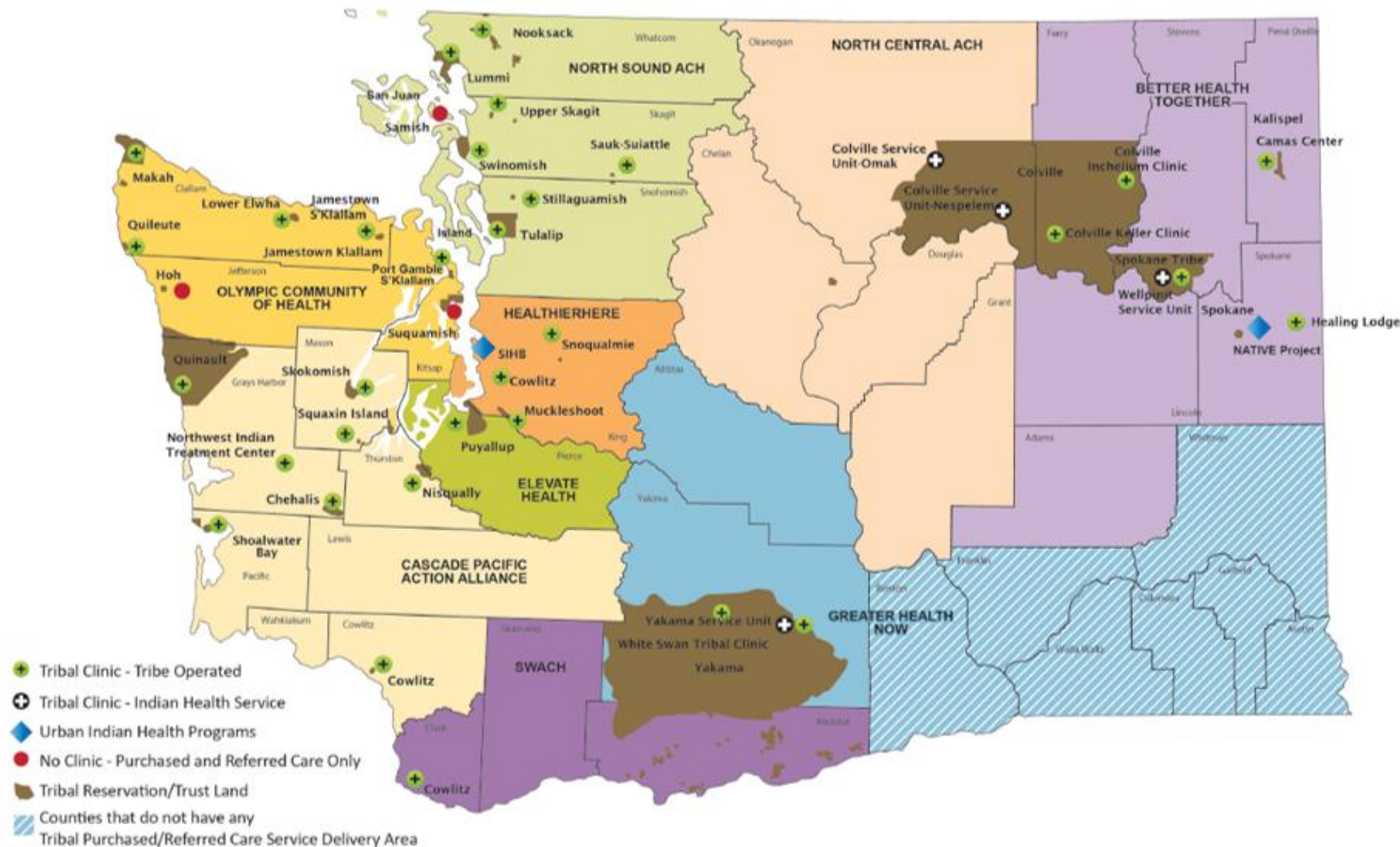
As of 2014, Indian Health Services provides contracts and grants to 33 urban-centered, nonprofit urban Indian organizations providing health care services at 57 locations throughout the U.S.

2 Urban Indian Health Programs: Seattle Indian Health Board and NATIVE Project of Spokane



- 29 Tribal Nations
- 2 Urban Indian Health Organizations
- 3 (Federal) IHS Service Units

Washington State Tribes and Tribal Health Clinics





Purchased and Referred Care

Paying for Care Referred Outside the Indian Health Care System

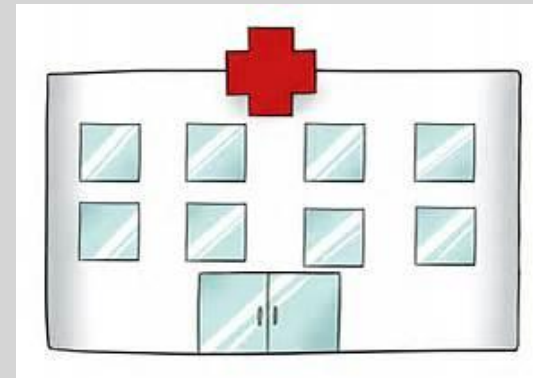
Indian Health Care Provider



- Health Care
- Mental Health
- Substance Use
- Dental

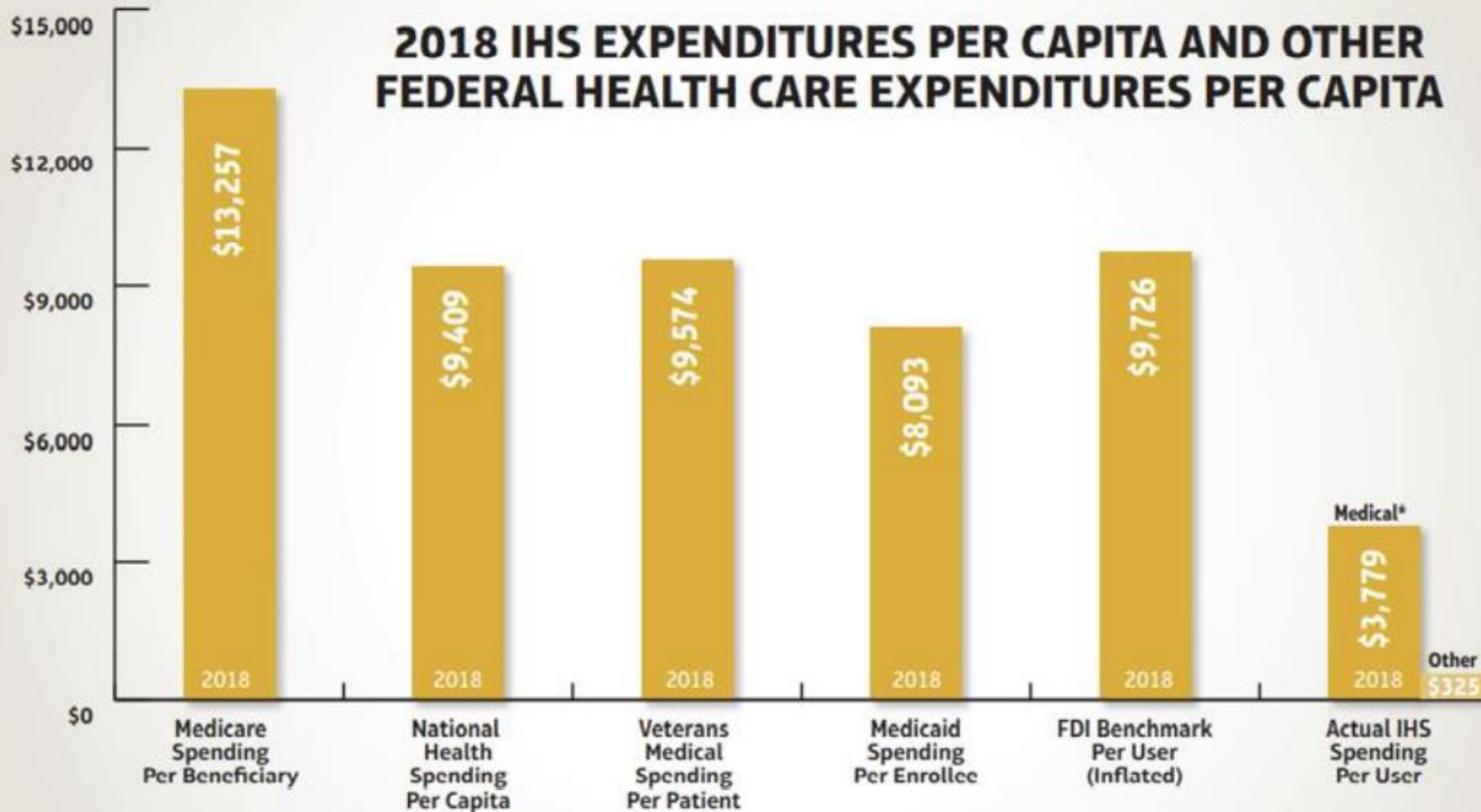
*Referral &
Coordination*

Non-Indian Health Care Provider



- Specialty Care
- Inpatient Care

2018 IHS EXPENDITURES PER CAPITA AND OTHER FEDERAL HEALTH CARE EXPENDITURES PER CAPITA



*Payments by other sources for medical services provided to AIANs outside IHS is unknown.

4/6/2020

Government to Government Relationships with Tribes

Federal and State Level





Government-to-Government

At the Federal Level



Executive Order 13175 - "Consultation and Coordination with Indian Tribal Governments"

Issued by U.S. President Bill Clinton on November 6, 2000.

Requires federal departments and agencies to consult with Indian tribal governments when considering policies that would impact tribal communities

Reiterates the federal government's previously acknowledged commitment to tribal self-government and sovereignty



Government-to-Government

At the State Level

Centennial Accord of 1989:

Agreement between the State of Washington and the Tribes where each party “respects the sovereign status of the parties, enhances and improves communications between them, and facilitates the resolution of issues.”





Government-to-Government

At the State Level

Chapter 43.376 RCW:

In 2012, Washington State codified that state the intent of the Centennial Accord. This includes requiring all state agencies to have a formal consultation policy.

The Governor's Office of Indian Affairs, GOIA, is the office that connects the Tribal Leadership to the Governor.





Definition of Tribal Representation

What is Tribal Representation?

- Tribal Representation means a person selected by the Tribal Government through a formal process.
- Tribes are distinct political communities. Tribal Sovereignty is exercised each time a Tribes governs **their own** people, resources, and lands
- The Centennial Accord of 1989 states:
“Each sovereign tribe has an independent relationship with each other and the state”

What is NOT Tribal Representation?

- A person selected from the community by an entity that is not the Tribal Government.
- A leader/staff/community member from a different Tribal Government



Thank you

American Indian Health Commission for
Washington State

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