Native American Law

Self-determination, sovereignty, and self-governance are central to the continued growth, prosperity, and advancement of tribal communities and are increasingly under attack. Jenner & Block's nationally recognized Native American Law Practice, led by and primarily composed of enrolled members and descendants of federally recognized tribes, is dedicated to empowering tribal governments and preserving, promoting, and protecting their sovereignty. From Tribal Courts to the US Supreme Court, our team is consistently at the forefront of the most significant issues facing Indian Country and draws on its deep legal and government experience to provide unparalleled service to Native American tribes navigating the complex government-to-government relationship that Indian Country holds with the United States.

In federal courts and beyond, we represent Native American tribes and individual Indians in matters where the ramifications are sweeping and the decisions deeply affect the future. We help ensure their progress and adopt strategic approaches to advance tribal rights.

Due to the multifaceted nature of tribal issues—which are often government- and business-facing—our team works at the intersection of litigation, government relations, administrative law, and economic development. In addition to providing tribes with general counsel services to tackle these issues, we also help companies conduct business with federally recognized Indian tribes. For Jenner, a critical differentiator is that our representation *always* adheres to a deep and abiding respect for tribal sovereignty. This translates into representation where tribes are in the driver's seat. Our job is to provide the insight tribes need to make empowered and well-informed decisions and the tools to implement them.

Led by and Composed of Tribal Members

Dedicated to partnering with and empowering tribal governments, our Native American Law practice team is led by and primarily composed of enrolled members and descendants of federally recognized tribes. They include the Cherokee Nation, Mississippi Band of Choctaw Indians, Hopland Band of Pomo Indians, the Jamestown S'Klallam Tribe, Laguna Pueblo Tribe, and the Navajo Nation. Our team also includes former tribal in-house counsel, and former government officials and counsel including the first Native American US Ambassador, the Associate Attorney General of the United States (a position responsible for Indian Affairs), acting Solicitor General of the United States, acting Assistant Attorney General of the US DOJ Environment and Natural Resources Division, President Obama's White House Tribal Liaison, and multiple Clerks of the US Supreme Court. Frequently, tribal challenges require unique and multipronged strategies, and our team consistently

leverages our government experience to help tribes assert and expand their inherent sovereignty without litigation.

Deep Understanding of the Issues Tribes Face

We build deep, lasting relationships with our tribal clients, while seeking innovative solutions for the complex legal challenges facing Indian Country today. Whether it is litigation, investigations, or government relations matters, we provide deep experience across a wide range of Indian law issues, in federal courts and in proceedings before numerous administrative agencies including the Department of the Interior, the Bureau of Indian Affairs, Indian Health Service, and the National Indian Gaming Commission.

Future-Forward Perspectives

Jenner builds teams around each unique tribal client problem. Enforcement of treaty rights, the Indian Gaming Regulatory Act, land-into-trust, oil and gas leasing, renewable energy development, cannabis compacting, land use conflicts including trespass suits for right of ways and expired leases, and defending the Indian Child Welfare Act. These issues require lawyers with both deep substantive legal knowledge and intimate experience in tribal matters and Federal Indian Law. Whether addressing challenges to authority or enforcement of rights, Jenner is helping tribes shape partnerships and grow their opportunities.

Landmark Victories from Tribal Courts to the Supreme Court

We handle any challenge from tribal court to appellate courts and the US Supreme Court. From winning and defending the *McGirt* case, to representing tribes in the latest attempt to overturn the Indian Child Welfare Act (*Brackeen v. Haaland*), and successfully defending the Yakama Nation's 1855 treaty, all in front of the US Supreme Court, to handling several of the largest sports betting transactions in the United States and advising political leaders at the state and federal levels, we bring the relationships, subject matter expertise, and institutional knowledge to navigate the complex issues constantly confronting tribal governments.

Experience

- Secured a landmark victory before the US Supreme Court in *McGirt v. Oklahoma*, proving the state has no jurisdiction to prosecute major crimes involving Native Americans in much of eastern Oklahoma. Further solidified the *McGirt* win by successfully opposing over 40 petitions filed by Oklahoma asking the Supreme Court to overrule *McGirt*.
- Represented a class of 500,000 individual Indians which established that the Department of Interior had breached numerous trust duties, ultimately settling the case for $3.4 billion.

- In *Connecticut v. Zinke*, we took over representation of the Mashantucket Pequot in an APA case challenging the failure of the Secretary of the Interior to approve a gaming compact revision. After successfully amending the complaint to include a count that would permit discovery, the US Department of the Interior capitulated and agreed to approve the gaming compact amendment.

- Represented the Cayuga Nation to vindicate its sovereign right to game under the Indian Gaming Regulatory Act (IGRA) when a New York federal judge ruled that the IGRA blocked the Village of Union Springs from enforcing an anti-gaming ordinance against the tribe. The order recognized the Cayuga Nation's status as a "federally recognized Indian tribe" and resolved over 17 years of litigation between the parties involving complex issues of state, local, federal, and tribal jurisdiction over gaming.

- Represented the Northern Arapaho Tribe in a successful arbitration against an oil company that set the groundwork for the Tribe to self-manage their oil and gas production.

- Represented the Morongo Band of Mission Indians (Morongo Band) in a landmark FERC decision that paves the way for clean energy tribal-private partnerships. The historic agreement allows Southern California Edison (SCE) to upgrade its vital transmission link across reservation lands, with Morongo Transmission, majority-owned by the Morongo Band, having the option to participate in the financing of the project with no increase in cost to SCE's ratepayers.

- Represented the Southern Ute Indian Tribe before the FCC to help secure funding for broadband deployment on the Reservation. We also encouraged the FCC to conduct necessary Tribal Consultation as required by Executive Orders.

- Prevailed on behalf of a tribe in the Pacific Northwest in an arbitration against the State of Washington regarding a cannabis compact dispute.

- Represented numerous tribes in a successful lawsuit in federal court to obtain the release of nearly $4 billion in CARES Act Coronavirus Relief Fund.

- Led sensitive internal investigations on behalf of tribal governments, tribal casinos, and related tribal entities—including those leading to the federal indictment of a sitting tribal chairperson, removal and prosecution of senior tribal financial officials, removal of elected tribal officials, and eradication of a massive drug production operation set up on tribal lands.

- Advised the Washington Football Team on issues arising from the team's renaming.

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Related Capabilities

Appellate and Supreme Court

Cannabis

Communications, Internet, and Technology

Culture Risk and Sensitive Investigations

ESG: Environmental, Social, and Governance

Education

Election Law and Redistricting

Energy

Environmental and Workplace Health and Safety

Government Controversies and Public Policy Litigation

Human Rights and Global Strategy

Post-*Chevron* Task Force

Real Estate and Hospitality

Sports and Gaming

Tax

Transitions in Energy and Climate Solutions