U.S. Department of Justice

950 Pennsylvania Ave, N.W.
Washington, D.C. 20530

March 28, 2025

Hon. Jesse Furman
Chair, Advisory Committee on the Rules of Evidence
Administrative Office of the United States Courts
One Columbus Circle, N.E.
Washington, D.C. 20544

Re: Federal Rule of Evidence 902

Dear Judge Furman:

We write to support an amendment to Federal Rule of Evidence 902(1) that would add federally recognized tribes to the list of governmental entities that can provide sealed and signed documents for self-authentication. As we explain below, there is no reason to exclude documents of federally recognized tribes from the types of domestic public documents that are currently self-authenticating.

Background:

(1) Tribal Documents

Federally recognized Tribes, like other sovereigns, regularly issue a variety of documents in carrying out their governmental functions, and the federal government regularly relies on such documents. Documents related to tribal membership are of particular importance in federal prosecutions because federal criminal jurisdiction in Indian country is both created and limited by federal law. Federal criminal jurisdiction dependent on the Indian status of a defendant and victim can be found in the General Crimes Act, 18 U.S.C. § 1152, and the Major Crimes Act, 18 U.S.C. § 1153. Pursuant to both Acts, Indian status is an essential element, "which the government must allege in the indictment and prove beyond a reasonable doubt."[1] In proving this essential element, the government must prove, first, that the defendant has "some quantum of Indian blood, whether or not that blood derives from a member of a federally recognized Tribe," and second, the government must establish that the defendant has "membership in, or affiliation with, a federally recognized tribe."[2] A Certificate of Indian Blood or Tribal Certificate ("tribal certificate") often

[1] *See United States v. Rainbow*, 813 F.3d 1097, 1103 (8th Cir. 2016); *United States v. Prentiss*, 273 F.3d 1277, 1280-1281 (10th Cir. 2001).
[2] *See United States v. Rogers*, 45 U.S. 567 (1846).

satisfies proof of Indian status because the tribal certificate contains proof of Indian blood as well as membership in a federally recognized tribe. At present, the government must use extrinsic evidence to authenticate a tribal certificate before it can be introduced.

(2) Federal Rule of Evidence 902(1)

Federal Rule of Evidence ("FRE") 902(1) provides that the sealed and signed documents of an expansive list of governmental entities are self-authenticating, such that no other extrinsic evidence is required to establish their authenticity. The covered governmental entities include "any state, district, commonwealth, territory, or insular possession of the United States; a political subdivision of any of these entities; or a department, agency, or officer of any [such] entity." Fed. R. Evid. 902(1)(A).

By contrast, and even though the United States "recognizes the sovereignty of" and "maintains a government-to-government relationship with" all federally recognized tribes,[3] Rule 902(1) does not recognize sealed and signed documents of federally recognized tribes as self-authenticating. Both the Ninth and the Tenth Circuits – which include the majority of federally recognized tribes – have confirmed that, under the "plain language of Rule 902(1)," tribal documents are not self-authenticating.[4] In these cases, courts have reversed convictions after finding that they rested on tribal documents that were not properly authenticated.

In 2013, the Advisory Committee on Evidence Rules (Evidence Committee) considered amending 902(1)(A) to include federally recognized tribes but decided not to do so at that time. The concern was that amending FRE 902(1) in isolation would impact other rules that exclude tribes. The Committee therefore determined that the "treatment of Indian tribal documents raised a question that spanned all the national rules, and therefore it would await the direction of the Standing Committee."[5] When this was reported at the Standing Committee meeting later that year, Judge Sutton (then-Chair of the Standing Committee) indicated that the "practical concerns" raised by Rule 902(1)'s omission of Indian tribes "placed [it] in a different category" from other rules, and so "some action by the Evidence Rules Advisory Committee might be warranted" as to this Rule.[6]

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[3] Federally Recognized Indian Tribe List Act of 1994, P.L. 103-454 (Nov. 2, 1994).

[4] *United States v. Alvirez*, 831 F.3d 1115 (9th Cir. 2016); *see also United States v. Harper*, 118 F.4th 1288 (10th Cir. 2024); *United States v. Wood*, 109 F.4th 1253 (10th Cir. 2024); *United States v. PMB*, 660 Fed.Appx. 521 (9th Cir. 2016).

[5] *Minutes of Advisory Committee on Evidence Rules*, JUDICIAL CONFERENCE (May 3, 2013), at 10-12, https://www.uscourts.gov/sites/default/files/fr_import/2013-05-Evidence-Minutes.pdf.

[6] *Minutes of Committee on Rules of Practice and Procedure*, JUDICIARY CONFERENCE (June 3-4, 2014), at 10-12, https://www.uscourts.gov/sites/default/files/fr_import/ST06-2013-min.pdf.

These "practical concerns" are underscored by the Tenth Circuit's recent reversals of convictions due to their reliance on tribal records that were not proper authenticated. In these cases, as in the earlier Ninth Circuit cases, there does not seem to be any question of the *actual* authenticity of the tribal records but only of the adequacy of the authentication. [7]

Reasons for Adding Federally Recognized Tribes to FRE 902(1)

(1) *Logic.* Clearly, "it is anomalous that self-authentication is granted to cities and, for example, the Trust Territory of the Pacific Islands, but not to Indian tribes."[8] And there is precedent for adding federally recognized tribes to the list of governmental entities initially included in a specific federal rule. Federal Rule of Criminal Procedure 6(e)(3) – addressing the circumstances under which the government may disclose matters occurring before the grand jury – authorizes disclosure of grand jury materials to federally recognized tribes to the same extent disclosure may be authorized to state, state subdivision, or foreign governments.[9] The Rule was amended in 2002 to include federally recognized tribes, and the Advisory Notes explain that this was done to recognize both "the sovereignty of Indian tribes" and the potential need "to disclose grand jury information to appropriate tribal officials" to support enforcement of federal or tribal laws.[10] There is no logical reason why federally recognized tribes should be excluded from the category of governmental records that is self-authenticating, when they were added long ago to the governmental officials entitled to access grand jury information.

(2) *Reliability.* At the last meeting of this committee, and in 2013, some members suggested that adding federal recognized tribes to FRE 902(1) would be inappropriate because "Indian tribes might vary in their degree of rigor in maintaining public documents."[11] But it is not

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[7] *See, e.g., Alvirez*, 831 F.3d at 1120, 22-23 (reversing conviction for assault with serious injury because sealed Certificate of Indian Blood issued by Colorado River Indian Tribes was not self-authenticating and could not be authenticated by officer of Hualapai Nation); *Harper*, 118 F.4th at 1296-1300 (reversing conviction for kidnapping, aggravated sexual abuse and assault certified because letter from Choctaw Nation of Oklahoma verifying defendant's tribal membership and tribe's possession of defendant's Certificate of Degree of Indian Blood not self-authenticating and not properly authenticated); *Wood*, 109 F.4th at 1257-58 (reversing conviction for assault resulting in serious bodily injury and assault with a dangerous weapon with intent to do bodily harm because tribal Certificate of Indian Blood was neither self-authenticating nor properly authenticated); *PMB*, 660 Fed.Appx. at 523 (reversing conviction for aggravated sexual abuse sealed certificate of tribal enrollment issued by Navajo Nation was not self-authenticating and could not be authenticated by FBI agent).

[8] *May 2013 Evidence Committee Minutes*, at 10.

[9] Fed. R. Crim. P. 6(e)(3)(A)(ii); Fed. R. Crim. P. 6(e)(3)(E)(iv).

[10] Fed. R. Crim. P. 6(e)(3)(A)(ii), Committee Notes on Rules – 2002 Amendment.

[11] *May 2013 Evidence Committee Minutes*, at 11.

clear why this would be more of a concern for federally recognized Indian tribes than for the multiple governmental entities listed in Rule 902(1)(A), when the reliability of these entities' record-keeping practices undoubtedly vary. The current rule, for example, permits self-authentication for political subdivisions of remote territories overseas without any evidence that those political units keep reliable records. Indeed, it appears that there was no analysis of disparate record-keeping practices when the Rules of Evidence were first adopted in 1972. Indeed, the list of covered entities in FRE 902(1) has not been revised since the initial adoption of the Rules, and at that time, the list was drafted in purposely broad terms without regard to the specific recordkeeping practices of the listed entities.[12] Federally recognized tribes, moreover, have at least as strong an incentive to keep reliable records as any other governmental unit, particularly as to their membership and governmental structure. Tribes set criteria for enrollment and maintain related records, which are critical to their government-to-government relationships with the United States and for determining the benefits to which tribes and their members may be entitled.[13]

The federal government also recognizes the reliability of tribal recordkeeping by accepting tribal documents for multiple purposes. The Transportation Security Administration, for example, "accepts IDs from Federally recognized Tribes" for airport security screening, and "Native American tribal documents" from federally recognized tribes can be used for employment verification purposes. TSA does not distinguish among tribes based on the purported reliability of their record systems. *See, e.g.,* https://www.tsa.gov/travel/tsa-cares/tribal-and-indigenous#:~:text=TSA%20accepts%20IDs%20from%20Federally,referenced%20with%20the%20Federal%20Register; US Citizenship & Immigration Services, Handbook for Employers M-274, at 7.2, https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274/70-evidence-of-employment-authorization-for-certain-categories/72-native-americans. And multiple states – including Arizona, New Mexico, Oregon, Washington, and Wisconsin – have amended their evidentiary rules, or enacted statutes, to provide for self-authentication of sealed and signed tribal documents.[14] These states do not distinguish among federally recognized tribes in providing for the self-authentication of their documents.

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[12] Fed. R. Evid. 902(1), Advisory Committee Notes to 1972 Proposed Rules (recognizing broad acceptance of documents bearing a public seal and the "practical underlying considerations … that forgery is a crime and detection is fairly easy and certain").

[13] *See generally* https://www.doi.gov/tribes/enrollment (tribally established membership criteria are "set forth in tribal constitutions, articles of incorporation or ordinances"); *see also* https://www.bia.gov/bia/ois/tgs (Department of the Interior assists tribes "with the resources they need to foster strong and stable Tribal governments," including through self-determination contracts to perform government services that might otherwise be handled by federal agency).

[14] Ariz. R. Evid. 902(1)(A); N.M.R. Evid. 11-902(1)(A); Or. Rev. Stat. Ann. § 40.510(k)(A); Wis. Stat. Ann. § 806.245(2); Wash. Rev. Code Ann.§§ 5.44.010, 5.44.050, 5.44.050.

(3) *Burden and Cost.* The current need to have a tribal official travel to the courthouse to authenticate routine governmental documents creates unnecessary burdens and costs. Indian country is vast, and witnesses often travel from hundreds of miles away to testify for five minutes. The cost of mileage/airfare, lodging, and incidentals can be upwards of $800 per trip. Multiplied by the number of times tribal documents need to be introduced and authenticated in criminal cases, these unnecessary journeys result in an enormous waste of time and taxpayer dollars. As one citizen of the Choctaw Nation of Oklahoma wrote,

> One of the primary methods of verifying tribal documents … is testimony at trial by a tribal membership officer, who can attest to the accuracy of the documents. This takes valuable time away from these tribal officials, complicates the jobs of prosecutors, and forces courts to dedicate resources to these disputes, even when those resources could be better allocated elsewhere. [15]

The burden, moreover, not only affects prosecutors, but impacts defendants as well. Because tribes have exclusive jurisdiction over some crimes where both defendant and victim are Indian for purposes of criminal law, defendants charged in federal court may seek to establish their own or a victim's Indian status in order to challenge federal jurisdiction.[16] *See also* Henry Oostrom-Shah, *"Authentic" from Time Immemorial: Reforming Rule of Evidence 902 to Reflect Tribal Sovereignty*, 58 ARIZONA ATTORNEY 40 (2022) (attached) ("When a criminal defendant cannot prove his tribal citizenship, a judge may transfer his case from a tribal legal system to the Anglo-American courts, where he may face harsher penalties in front of a non-Native judge and jury.")

And the burden extends beyond criminal cases. The need to authenticate sealed and signed tribal records is also an issue in civil cases. There, both the parties and the court are forced to expend resources obtaining, introducing, and reviewing the adequacy of extrinsic evidence to establish a particular record's authenticity. *See, e.g., Manzano v. Southern Indian Health Council, Inc.*, 2021 WL 2826072, at *4-5 (S.D. Cal. 2021) (engaging in lengthy analysis of adequacy of extrinsic evidence to support authenticity of tribal compact). These problems may be exacerbated where the federally recognized tribe that issued the records is not a party to the litigation, or where it is not possible for parties to secure witnesses who are able to authenticate such documents.

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[15] Crispin South, *Unjustifiable Expense: Tribal Nations Should be Included in FRE 902(1)*, ARIZONA STATE LAW JOURNAL (Nov. 2, 2024), Unjustifiable Expense: Tribal Nations Should be Included in FRE 902(1) – Arizona State Law Journal.

[16] *Id.*

Proposed Draft

Of the two drafts proposed in the prior committee memorandum on this topic, we recommend the first and most straight-forward version, set forth below. This version treats federally-recognized tribes as equivalent to the other government entities listed in the rule. The alternative version, for no demonstrated reason, distinguishes tribes from the other listed entities by eliminating self-authentication for "political subdivisions." In the committee note, we suggest a reference to the list of federally recognized tribes published in the Federal Register, and one stylistic edit.

(1) Domestic Public Documents That Are Sealed and Signed.
A document that bears:

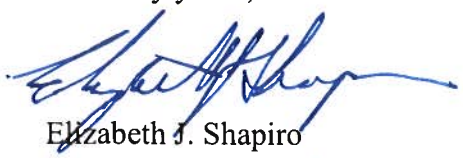
(A) a seal purporting to be that of the United States; any state, district, commonwealth, territory, or insular possession of the United States; **a federally-recognized Indian tribe;** the former Panama Canal Zone; the Trust Territory of the Pacific Islands; a political subdivision of any of these entities; or a department, agency, or officer of any entity named above; and

Draft Committee Note:

The rule has been amended to recognize the sovereignty of Indian tribes and ~~the fact that a~~ **provide that a** sealed document from a federally-recognized Indian tribe is entitled to the same presumption of authenticity as a comparable document from the government entities currently listed in Rule 902. *See* Fed. R. Crim. P. 6(e)(3)(A)(ii) and (iii), and 2002 Committee Note (amendments recognize "the sovereignty of Indian tribes and the possibility that it would be necessary to disclose grand-jury information to appropriate tribal officials in order to enforce federal law."). Under the Federally Recognized Indian Tribe List Act of 1994 (P.L. 103-454), the Secretary of the Interior publishes a list of all federally recognized Indian tribes in the Federal Register.

We look forward to discussing these issues further in our upcoming meeting.

Sincerely yours,



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July/August, 2022

Feature

Special Feature

Indian Law

Special Focus on Indian Law
Henry Oostrom-Shah[a1]

"AUTHENTIC" FROM TIME IMMEMORIAL

Reforming Rule of Evidence 902 to Reflect Tribal Sovereignty

"If I get arrested when I'm in Arizona, how will the court know I'm Navajo? I don't want to end up back in state jail--I want to be with other tribal folks."

I was speaking to my client in front of the tribal jail after he served time for yet another misdemeanor charge. He was excited to be released and leave Montana for a road trip to visit relatives in Tséhootsooí (Fort Defiance) on the Arizona side of Navajo Nation. But he also worried about running into law enforcement when he got there.

I had nothing to soothe his anxieties. I had only the dreaded, if frequently invoked, answer of the legally trained: "It depends."

That Navajo client is sometimes required to produce evidence to prove his tribal citizenship when he arrives in court. Depending on whether the court's evidence rules allow for self-authentication of tribal government documents, that often-homeless client must find a way to get a witness qualified to authenticate his tribal ID, his Certificate of Indian Blood (CDIB), or other papers showing he's an enrolled Navajo member.

Tribal citizens face a checkerboard of conflicting rules. If my client appears in Navajo tribal court, the judge's discretion governs authentication.[1] If he appears in Arizona state court,

Arizona's self-authentication rule does not explicitly allow self-authentication of tribal government documents.[2] Nor would the evidence rules of federal courts in Arizona clearly allow self-authentication. Even some tribal courts in Arizona do not expressly permit for self-authentication, including the Fort McDowell Yavapai Nation through whose jurisdiction my client planned to drive on his way to Phoenix.[3]

Recognition of tribal citizenship means the world to Native people and to courts. When a mother cannot prove her daughter's tribal affiliation, courts might sever the bonds of parenthood under the Indian Child Welfare Act. When a criminal defendant cannot prove his tribal citizenship, a judge may transfer his case from a tribal legal system to the Anglo-American courts, where he may face harsher penalties in front of a non-Native judge and jury. When a landowner cannot prove her tribal status, she might lose a claim to the land her ancestors roved freely for millennia. When indigenous religious practitioners fail to substantiate their claims to a holy site (as at Oak Flat), the federal government might take the site, transfer it to a foreign mining conglomerate, and turn the dwelling place of the Creator's messengers into a gaping crater.

These practical consequences sharpen the need for evidence rules that create consistent--and consistently affirming--standards of proof for tribal nations and their citizens. But by complicating this recognition, conflicting authentication rules flout tribal sovereignty.

For starters, the Diné people and Navajo Nation's sovereignty existed long before they signed treaties with the federal government, and long before Arizona became a state. Tribal sovereignty is inherent from time immemorial. According to the law of the Navajo Nation, "The fundamental laws ... remain unchanged," and Navajo citizens "remain Diné forever."[4] This Navajo legal provision reflects the consistent legal understanding that tribal sovereignty does not derive from the federal government or any state. Accordingly, legal recognition of Diné belonging should not depend on the unpredictability of federal or state evidentiary standards.

The State of Arizona should change Rule of Evidence 902 to affirm the meaning of tribal citizenship. Rule 902 should unambiguously provide for the self-authentication of all documents issued by tribal governments, just like the documents of tribes' federal, state and local counterparts.

Arizona's Advisory Committee need look only as far as neighboring New Mexico when drafting amendments to Rule 902. New Mexico classifies all documents of "Recognized American Indian Tribe[s] or Nation[s]" as "Domestic Public Documents." New Mexico Rule 902 thus allows self-authentication of documents that either: (1) bear a seal and signature of the tribal government and its employee(s); or (2) bear no seal but are signed by a tribal government employee and have been certified as genuine by another tribal government employee with the authority to establish ***42** the tribal seal. New Mexico's model has several advantages:

¶ New Mexico's Rule 902 is unambiguous about the inclusion of tribal government documents.

¶ New Mexico's rule places federally, tribally and state-issued documents on equal footing as parties seek to admit government documents without authentication. This structure most accurately reflects the status of tribes as both "domestic" and also "nations" with government-to-government relationships with both federal and state entities.

¶ New Mexico's rule is more expansive than options in other states. New Mexico's Rule 902 does not restrict self-authentication to documents issued only by federally recognized tribes. Other states with tribal-friendly Rule 902 analogues, like Oregon, bar self-authentication for documents issued by state-recognized tribes. Some of these tribes gain federal recognition after a long struggle. When these tribes gain recognition, their members should be able to freely use their tribal government documents in legal proceedings, even if those documents were issued prior to federal recognition. After all, federal recognition just overlays the inherent sovereignty that has existed since time immemorial.

Arizona, unlike other states, has a rules amendment process that aids citizen participation. Rule 28 of the Arizona Rules of the Supreme Court allows "any person" to petition to amend any court rule. The Arizona Advisory Committee on Rules of Evidence meets regularly year-round to review all amendment proposals and recommend revisions to the Arizona Supreme Court. Native nations within Arizona's boundaries might consider convening to discuss amendments to Rule 902 and other state evidentiary standards that burden tribal governments and citizens.

Arizona's particularities sharpen the need for changes to Rule 902. Arizona has more Native Americans than all but two other states. Twenty-two tribal nations operate legal systems within Arizona's borders. And some of those individual tribal nations in Arizona, like the Apache and Navajo, have relatives across state borders. The Navajo Nation's boundaries span three states, and each has different authentication rules. A Navajo document can be self-authenticated in state court in New Mexico, but that exact same document cannot be self-authenticated in Arizona.

So too should federal judges in Arizona allow self-authentication of tribal government documents under Rule 902. They need not adhere to the Ninth Circuit's decision in *United States v. Alvirez*.[5] In that case, the government successfully introduced the defendant's CDIB to prove

essential facts that brought the case under federal Indian Country jurisdiction. On appeal, the Ninth Circuit rejected admission of the defendant's Certificate, holding that the "plain language" of Federal Rule of Evidence 902(1) "specifically lists the entities that may issue self-authenticating documents."[6] The court reasoned that, because tribal governments do not figure on the list, tribal governments cannot produce self-authenticating documents. The *Alvirez* court fundamentally misunderstood the nature of the documents at issue. CDIBs are federal documents, not tribal government documents.[7] Following even a narrow reading of Federal Rule of Evidence 902(1), the *Alvirez* court should have come out the other way and allowed admission of the defendant's CDIB.

The *Alvirez* decision sparked well-deserved concern from distinguished commentators.

Ninth Circuit Judge Andy Hurwitz, a former member of the federal Advisory Committee on Evidence Rules, wrote to Committee Reporter Professor Daniel Capra. Judge Hurwitz suggested that the *Alvirez* court's interpretation of Rule 902 was "unnecessarily denigrating of tribal sovereignty."[8] Beyond any concerns about the dignity of tribal nations, Judge Hurwitz assessed the court's logic as "silly" because the Navajo Nation's documents could not be self-authenticated, while a small New Jersey town's documents could be.[9]

And not just silly, but inconsistent: Professor Wenona Sengel noted that the Department of Homeland Security accepts any and all "current tribal documents" as adequate forms of ID and citizenship at the border, just so long as the document has a photo attached.[10] Furthermore, the Transportation Security Administration accepts any "Native American Tribal Photo ID" at airport security checkpoints.[11]

Yet when the Advisory Committee on Evidence Rules took the matter up for discussion, they "resolved unanimously that it would be unwise to proceed." The committee delayed action after judging the "problem ... not significant," questioning the "degree of rigor" that tribal governments displayed in maintaining official documents, raising the need for a "process of consultation" with tribes, and suggesting that amendments would push other federal rules committees down the slippery slope of full consideration of tribal sovereignty.

In the end, it seems that the latter concern won out. Because the question "spanned all the national rules" within the federal courts, evidentiary and otherwise, the committee punted for further direction from above.[12] The far-reaching scope of the problem does not limit the need for change--it amplifies the urgent call for full legal recognition of tribal sovereignty.

Pending future committee consideration, federal judges in Arizona should follow more recent Ninth Circuit precedent in *United States v. Mancha*,[13] where, in an appeal from an Indian Country prosecution, the Ninth Circuit took judicial notice of the defendant's Blackfeet Indian Tribe enrollment certificate. Although the court did not spell out its reasoning, basic principles of tribal sovereignty and evidence law support ***43** the panel's conclusion.

The sovereign authority of the Blackfeet and other tribal nations is precisely the sort of fact that yields judicial notice under Federal Rule 201(b). The Blackfeet Tribe's sovereign authority to issue membership documents like the enrollment certificate is both "generally known within the trial court's territorial jurisdiction" as well as "accurately and readily determined from sources whose accuracy cannot reasonably be questioned." The *Mancha* method allows for self-authentication in Arizona's federal courts without contradicting binding, if faulty, precedent.

Difficulties with authentication do not reflect a general reluctance of the crafters of federal or state evidentiary rules to allow self-authentication. Under federal and state Rules 902, my client wouldn't need an authenticating witness if he wanted to admit into evidence a document from his 100-person town in rural Montana, some 1,000 miles from Arizona. He wouldn't even need such a witness if he wanted to admit into evidence a document issued by the administration of Guam, the non-state insular possession of the United States where he was stationed during his military service.

Amending Rule 902 is an easy fix that carries real consequences. And evidence rules should not stand still while recognition of tribal sovereign authority keeps growing. The *McGirt* decision,[14] federal recognition of the Little Shell Tribe in Montana, reaffirmation of the Mashpee Wampanoag Tribe's reservation and other recent events show that federal and state governments cannot ignore the everyday realities of tribal governance. Nor should the crafters of Arizona's and other evidence rules remain idle. They should affirm full recognition of tribal sovereign authority by amending their evidence rules to explicitly provide for self-authentication of tribal documents.

Tribal nations have been authentically sovereign since time immemorial. It's long past time that rules of evidence catch up to that truth.

Footnotes

a1 **HENRY OOSTROM-SHAH** is a 2L at Boston University School of Law. Many people contributed to this inquiry into evidentiary injustice, notably: the citizens of the Confederated Salish & Kootenai Tribes of the Flathead Nation, Prof. Jasmine Gonzales Rose, Prof. Ann Tweedy, Ann Miller, Claire Charlo, Shanley Swanson, Sage Nicolai, Michele Moretti, Dan Kaplan, and Doug Mo.

1 Navajo R. Evid. 30.

2 Ariz. R. Evid. 902.

3 Fort McDowell Yavapai R. Evid. 39.

4 1 N.N.C. § 201.

5 831 F.3d 1115, 1123 (9th Cir. 2016).

6 *Id.*

7 *See* Certificate of Indian or Alaska Native Blood, Certificate of Indian or Alaska Native Blood, 65 Fed. Reg. 20775, 20776 (April 18, 2000) ("[The Bureau of Indian Affairs] issue[s] CDIBs so that individuals may establish their eligibility for those programs and services based upon their status as American Indians[.]")

8 Advisory Committee on Evidence Rules, Tab 4, May 3, 2013, Coral Gables, Fla., available at https://bit.ly/3N0KbVs.

9 *Id.*

10 *Id.*

11 *Id.*

12 Advisory Committee on Evidence Rules, Minutes of the Meeting of May 3, 2013, Coral Gables, Fla., available at https://bit.ly/3tIBus0.

13 773 Fed. Appx. 447, 448 (9th Cir. 2019).

14 *McGirt v. Oklahoma*, 591 U.S. __, 140 S. Ct. 2452, 2459 (2020).

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