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Dean's Column

BY GUEST AUTHORS PROF. TERRILL POLLMAN & PROF. ADDIE ROLNICK

BOYD SCHOOL OF LAW EXPANDS INDIAN LAW OFFERINGS

A decade ago, a Nevada game warden entered the Fallon Paiute-Shoshone Reservation in order to execute a search warrant against a man suspected of poaching a California bighorn sheep. Believing that the search exceeded the bounds of the warrant, the suspect sued the warden in Fallon Tribal Court. When the state asked a federal court to declare that the tribal court had no jurisdiction over the warden, the claim touched off one of the most significant Indian law cases of the modern era.

In *Nevada v. Hicks*, 533 U.S. 353 (2001), the Supreme Court held that tribes lack civil adjudicatory jurisdiction over the activities of a nonmember state official carrying out state law process within reservation boundaries, even where the activities involve a tribal member and occur on tribal land. The court's holding in *Hicks* significantly expanded a rule announced several years earlier in *Montana v. United States*, 450 U.S. 544 (1981), that tribes generally lack regulatory jurisdiction over the activities of nonmembers *on nonmember-owned land* within a reservation.

As we approach the 10-year anniversary of the Nevada case that severely undercut tribal sovereign rights, it seems an appropriate time to reflect on the significance of Indian law in Nevada and the role of Boyd School of Law in teaching and developing the field. Boyd has always recognized federal Indian law and tribal law as areas important to Nevadans, but until this year we could offer related courses only occasionally. With Professor Addie Rolnick joining the faculty in fall 2011, we are poised to enhance our Indian

law curriculum. Professor Rolnick, who previously practiced at a top Indian law firm in Washington, D.C., will teach federal Indian law on a regular basis, providing courses in tribal law and in specialized areas to be added in the future.

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Nevada is home to two dozen Paiute, Western Shoshone and Washoe reservations, and the southwest and mountain west regions are home to many more tribes. The Navajo – the tribe with the largest reservation and one of the most organized and highly developed court systems – is right next door. California tribes have greatly expanded in the gaming arena in the last decade. Attorneys working on water law and natural resource law must take into account tribal rights to these resources. In short, we live in an area of the country where lawyers are likely to run into Indian law. Indeed, two western states, New Mexico and Washington, include Indian law as a subject tested on their state bar exams.

In Nevada, where the main industry is tourism based on gaming, the tribes have become important players in the gaming industry. The Indian Gaming Regulatory Act, 25 U.S.C. § 2701-2721, has ensured that those whose everyday practice includes gaming law issues will need to understand basic Indian law principles, as well as how the act operates. In August, Boyd will offer a CLE program highlighting differences between state and tribal regulation of gaming.

In addition to gaming issues, Indian law is important knowledge for anyone who represents tribes, those who do business with tribes and, indeed, those who enter tribal territory and may be subject to tribal jurisdiction. Inter-jurisdictional cooperative agreements between tribes and states are increasingly becoming the norm, a shift away from the kind of jurisdictional face-off that happened in *Hicks*. An understanding of both federal Indian law and tribal law is important to anyone negotiating an agreement with a tribe or appearing in tribal court.

And finally, the study of Indian law offers unique but important chances for students to learn how history plays a role in law; to examine the interaction of individual rights, group rights and the state and the federal governments; and to confront thorny issues that challenge conventional positions and automatic responses.

By offering regular instruction in federal Indian law and by integrating Indian law with other courses in the curriculum, such as gaming law, commercial law and environmental law, we can increase the quality of the education we are offering our students. Whether Boyd graduates are seeking a practice that includes Indian law or gaming issues, or simply preparing to be effective practicing lawyers in an era when Indian law issues permeate a variety of practice areas, the law school welcomes this chance to expand our emphasis on tribal and federal Indian law. This expansion also highlights the changing role of Nevada vis-à-vis local tribes as we move from an era marked by state/tribal disputes to an era marked by mutual understanding and respect. ■

TERRILL POLLMAN is the Ralph Denton Professor of Law and director of the Lawyering Process Program at the William S. Boyd School of Law, University of Nevada, Las Vegas. Pollman joined the Boyd School of Law at its founding in 1998. Pollman teaches lawyering process, Indian law and negotiation.

ADDIE ROLNICK joins the William S. Boyd School of Law faculty this fall from the UCLA School of Law where she was the inaugural Critical Race Studies Fellow. Prior to beginning her Fellowship at UCLA, Rolnick represented tribal governments as an attorney with a top Native rights law firm in Washington, D.C. Rolnick will teach courses in Indian law, criminal law and race and the law.