UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

OSAGE NATION, Appellant, vs. THOMAS E. KEMP, JR., Chairman of the Oklahoma Tax Commission; JERRY JOHNSON, Vice-Chairman of the Oklahoma Tax Commission; CONSTANCE IRBY, Secretary-Member of the Oklahoma Tax Commission, Appellee.	)	Case No.: 09-5050 District Docket:1-CV-0516-JHP-FHM

MOTION OF OSAGE NATION BAR ASSOCIATION FOR LEAVE TO FILE AN *AMICUS CURIE* BRIEF IN SUPPORT OF THE OSAGE NATION'S PETITIONS FOR PANEL REHEARING AND REHEARING EN BANC AND PROPOSED BRIEF IN SUPPORT

COMES NOW the proposed *Amicus Curiae,* Osage Nation Bar Association ("ONBA"), pursuant to Fed. R. App. P. 29 and 10th Cir.R. 29.1, and respectfully submits its Motion for Leave to File an *Amicus Curiae* Brief in support of Appellant Osage Nation. In support of its motion, ONBA advises the Court as follows:

1. The ONBA is an association of members of attorneys licensed to practice before the Courts of the Osage Nation. The ONBA was established by Order of the Supreme Court of the Osage Nation on June 25, 2008.
2. On March 5, 2010, the Court issued its decision (the "Decision") and entered judgment in the above-captioned case.
3. Appellant Osage Nation consents to the ONBA's motion to file an amicus brief.
4. Counsel for Appellees have indicated to the ONBA that they will not oppose this motion.
5. The ONBA hereby incorporates by reference its statement of interests in its proposed *amicus curiae* brief, attached hereto.
6. As detailed in the proposed *amicus curiae* brief, the Panel's Decision has a substantial effect of the scope of the ONBA's adjudicatory jurisdiction made a number of errors in its finding of facts regarding the jurisdictional history of the Osage Reservation.

CONCLUSION

In light of the foregoing, *Amicus Curiae* ONBA respectfully request the Court grant leave under Fed. R. App. P. 29 and 10th Cir. R. 29.1 to file an *amicus curiae* brief attached herein.

Dated this 9th day of April, 2010.

Respectfully submitted,

/s/ Brandy Inman

_____

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CERTIFICATE OF SERVICE

I hereby certify that on this 9nd day of April, 2010, a true and correct copy of the within and foregoing MOTION OF OSAGE NATION BAR ASSOCIATION FOR LEAVE TO FILE AN AMICUS CURIE BRIEF was electronically transmitted to the Clerk of Court using the ECF system for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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/s/ Brandy Inman
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Case No. 09-5050

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

_____

OSAGE NATION,

Appellant/Plaintiff,

vs.

THOMAS E. KEMP, JR., CHAIRMAN OF THE OKLAHOMA TAX COMMISSION; JERRY JOHNSON, VICE-CHAIRMAN OF THE OKLAHOMA TAX COMMISSION; AND CONSTANCE IRBY, SECRETARY-MEMBER OF THE OKLAHOMA TAX COMMISSION

Appellees/Defendants.

_____

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA
No. 4:01-CV-00516-JHP-FHM
HONORABLE JAMES H. PAYNE, DISTRICT JUDGE

_____

BRIEF OF *AMICUS CURIAE* OSAGE NATION BAR ASSOCIATION IN SUPPORT OF THE OSAGE NATION'S PETITIONS FOR PANEL REHEARING AND REHEARING EN BANC

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I. IDENTITY AND INTERESTS OF AMICUS CURIAE

The Osage Nation Bar Association (the "ONBA") is an association of the members of the bar of the Osage Nation (the "Nation"). Members of the ONBA take and subscribe an oath to uphold and defend the Osage Nation Constitution and to place the interest of all Osage people above any special or personal interests. The ONBA has authority to file pursuant to vote of its membership conducted at a meeting held on March 23, 2010.

Pursuant to Article II, § 2 of the Osage Nation Constitution, the Nation's jurisdiction extends to the Nation's territory, defined under Art. II, § 1 to include the Osage Reservation. Aplt. App. at 27. Because the scope of the Nation's adjudicatory jurisdiction is affected by the Tenth Circuit's decision, the Nation's tribal bar has been adversely affected by the Court's decision holding that the Nation's Reservation was disestablished.

Article VIII, § 1 of the Osage Nation Constitution vests the judicial powers of the Nation in one Supreme Court, and in a lower trial court and other courts as legislated by the Osage Congress. The Trial Court of the Osage Nation, which currently consists of one chief judge and one special judge, exercises original jurisdiction, not otherwise reserved to the Nation's Supreme Court, of all cases and controversies arising under the Constitution, laws, customs, and traditions of the Osage Nation. Osage Nation Const. Art. VIII, § 5. The Osage Nation Supreme

Court, which consists of one chief justice and two associate justices, exercises appellate jurisdiction to all cases of law and equity, and original jurisdiction over certain matters reserved to it under Osage law. *Id.* at §§ 2-3.

The Tenth Circuit's decision upsets current jurisdictional understandings of the scope of the Osage tribal courts' adjudicatory jurisdiction, particularly in civil matters. The Court's decision failed to consider – or even address – potential effects of its decision upon the Nation's adjudicatory jurisdiction, and its accompanying system of tribal courts. Thus, the Panel's precedent-shattering approach ultimately infringes upon the very essence of the Nation's legal rights and responsibilities to govern its internal affairs and adjudicate internal matters.

For example, the Court's decision, if permitted to stand, severely infringes upon the Nation's *parens patrie* rights, namely, jurisdiction over Osage children. The Indian Child Welfare Act (ICWA), recognizes that a tribe has "jurisdiction exclusive as to any State over any child custody proceeding involving an Indian child who resides or is domiciled ***within the reservation*** of such tribe…." 25 U.S.C. § 1911 (emphasis added). If permitted to stand, the Panel's Decision will have practical implications, infringing upon the scope of the Nation's sovereign authority over rights recognized under ICWA to exclusive adjudication of cases involving the Nation's children.

II. ARGUMENT AND AUTHORITIES

A. The Panel's Departure from Established Supreme Court Jurisprudence in Interpreting Statutes Relating to Indian Affairs Interferes with the Plenary Authority of Congress to Legislate in the Field of Indian Affairs.

The Panel's failure to begin its analysis by acknowledging the applicable principles of statutory construction leads the Panel to a deviant application of existing Supreme Court precedent. "The theory and practice of interpretation in federal Indian law differs from that of other fields of law." *Cohen's Handbook of Federal Indian Law*, 119 (Nell Jessup Newton et al. eds., 2005). All ambiguities in statutory construction are to be resolved in favor of tribes. *Id*. Yet, despite the strong textual support of the continued status of the Osage Reservation in the plain text of the Osage Allotment Act itself, the Panel declares the text of the Allotment Act "ambiguous" as a means to divest the Nation of its reservation, and in the process, departs from its own precedent established in *Equal Employment Opportunity Comm'n v. Cherokee Nation*, 871 F.2d 937, 939 (10th Cir. 1989) (citing "unequivocal Supreme Court precedent" requiring application of the Indian law canons where "ambiguity exists . . . and there is no *clear* indication of congressional intent to abrogate Indian sovereignty rights").

The crux of the Panel's departure from precedent is this: In *Solem v. Bartlett*, 465 U.S. 463 (1984), the Supreme Court established its three-part test for interpretation of the effect of a "surplus land act" on reservation boundaries.

Despite the *Solem* Court's clear prohibition against inferences of diminishment being "lightly inferred," the Panel nevertheless embarks on a misinterpretation of certain language in *Solem*, which sets forth conditions under which a court may infer diminishment when considering language of surplus land acts devoid of "explicit language of cession and unconditional compensation." *Solem*, 465 U.S. at 470-71. The Panel errs by expanding this language of *Solem* to allow a Court to "infer diminishment or disestablishment ***despite*** **statutory language that would otherwise suggest unchanged reservation boundaries**." (Op. at 8) (emphasis added.)

Consequently, overlooking the foundational canons of construction leads the Panel to deemphasize statutory language of the Osage Allotment Act, inviting an improper overemphasis on Indian versus non-Indian demographics. Should other federal courts follow the Panel's new precedent, it opens the door for inappropriate intrusion upon the exclusive, plenary authority of Congress to legislate matters of Indian affairs. *See United States v. Lara,* 541 U.S. 193, 200 (2004) ("…the Constitution grants Congress broad general powers to legislate in respect to Indian tribes, powers that we have consistently described as 'plenary and exclusive.'"); s*ee also* Charlene Koski, *The Legacy of* Solem v. Bartlett: *How Courts Have Used Demographics to Bypass Congress and Erode the Basic Principles of Indian Law*, 84 Wash. L. Rev. 723 (2009). In the case of the Osage Nation, diminishment of

tribal jurisdiction and tribal sovereignty threatens to undermine valuable intergovernmental economic partnerships in the process. *See* Aplt. App. at 411-15 (documenting millions of dollars the Nation contributes to the State's coffers from revenue-sharing agreements, including gaming conducted on Osage fee lands); *see also* Clifton Adcock, *Tribes give state $105 million*, Tulsa World, July 8, 2009.

B. The Tenth Circuit's Decision Warrants Rehearing Because the Panel Misapplied the *Solem* Analysis by Using Subsequent Treatment of the Reservation to Divine Legislative Intent.

Legislative history from Congressional acts affecting the Osage supports a widely held understanding by Congress that the Osage Allotment Act did not disestablish the Reservation. *See e.g.*, Act of June 21, 1906, 34 Stat. 325, 366 (amending a 1901 appropriations act to make it "unlawful hereafter for the traders upon the Osage Indian Reservation to give credit to any individual Indian, head of a family, to an amount greater than seventy-five per centum of the next quarterly annuity to which such Indian will be entitled."); S. Rep. No. 3057 (1906) ("This bill makes the Osage Indian Reservation, in Oklahoma, a recording district for purpose of recording deeds, mortgages, and other instruments in writing affecting property within the reservation."); S. Rep. No. 60-2216 (1909) ("There are 2,200 members of the tribe, and in addition to the homestead of 160 acres each member has about 500 acres more of surplus lands. The committee concurs with the Senate in the belief that it would be to the interest of these Indians to sell these surplus

lands ***in order that their reservation may be developed*** and the Indians surrounded by white neighbors to teach them by example the ways of civilized life.") (emphasis added). Rather than consider congressional references to the Osage Reservation contemporaneous with and subsequent to the passage of the Osage Allotment Act, the Panel ignores such contextual references, and instead opts to skip directly to the third tier of the *Solem* analysis to divine otherwise plain legislative intent from evidence of demographics within the Osage Reservation.

Notably absent from the Court's analysis of "contemporary understandings" of the effect of allotment on the Reservation is testimony from the Osage themselves. The Panel's consideration of evidence of post-allotment treatment of the Osage Reservation is strikingly skewed in favor of the State. On one hand, the Panel chides the Nation for presenting evidence of subsequent events recognizing continued Reservation existence, while on the other hand, the Panel relies heavily upon the Commissioners' portrayal of post-allotment events within the boundaries of the Reservation to admittedly achieve a result "in some general conformance with the modern day balance of the area demographics." (*Compare* Op. at 15 *with* Op. at 17-18.)

For example, the Panel notes "[f]rom 1910 to 1920, the county's population grew by 82%, but the Indian population in the county (not limited to Osage Indians) dropped to roughly 3 percent." (Op. at 19.) The emphasis the Panel

places on this specific demographic statistic is a particularly poignant error, given the Panel's failure to acknowledge the "Osage reign of terror" – a well-documented series of murders of Osage headright owners during that same period, committed by white farmers and ranchers seeking to acquire the valuable headrights and estates of Osage tribal members. *See United States v. Ramsey*, 271 U.S. 467 (1926); *See also e.g.*, Lawrence J. Hogan, *The Osage Indian Murders: The True Story of a 21-Murder Plot to Inherit the Headrights of Wealthy Osage Tribe Members* (1998); Dennis McAuliffe, *Bloodland: A Family Story of Oil, Greed and Murder on the Osage Reservation* (1999); Rennard Strickland, *The Indians in Oklahoma*, 72 (1980).

During their investigation of the Osage murders, FBI files on the include repeated references to the Osage Reservation in the present tense. indicating that the federal government recognized the existence of the Reservation well after the passage of the Allotment Act. For example, letters and memoranda from the United States Department of Justice referencing the crime records of convicted murderer John Ramsey, specifically reference "John Ramsey, Crime on Indian Reservation (Murder)." One FBI report discussing the history of the area, states: "[t]he Osage Indian Reservation, which is identical with Osage County, Oklahoma, consists of a million and a half acres of Indian allotted land, is the largest county in the State, being larger in area than the entire State of Delaware." In a

Memorandum for the Director dated May 25, 1923, J. Edgar Hoover begins by stating "There is a serious situation on the Osage Indian Reservation in Oklahoma." [1]

In 1937, the Department of the Interior Public Land Office filed a plat of survey which declared "[t]his plat represents the survey of the boundary of the Osage Indian Reservation along the Arkansas River….In view thereof, and since no new areas have been returned, the plat does not represent any land to be opened to entry, by reason of the filing thereof…." United States Department of the Interior General Land Office, Notice of Filing of Plat of Survey, Oct. 14, 1937."

C. The Tenth Circuit's Decision Warrants Rehearing Because the Panel's Analysis Misunderstood and Misapplied the Facts on the Record Regarding the "Jurisdictional History" of the Osage Reservation.

The Panel notes that "a state's unquestioned exertion of jurisdiction over an area…supports a conclusion of reservation disestablishment." Op. at 17. Yet, a closer examination of several decades of jurisdictional history within the boundaries of the Osage Reservation reveals a number of important instances in which the State's exertion of jurisdiction *was questioned* and federal jurisdiction was affirmed. *See e.g., Bell v. Phillips Petroleum Co.*, 641 P.2d 1115, 1120 (Okla.

[1] The Federal Bureau of Investigation has made its files on the Osage Indian murders publicly available at http://foia.fbi.gov/foiaindex/osageind.htm (last accessed April 9, 2010), relevant portions of which are included in Attachment 1.

1982) (recognizing that all non-Indians who acquire surface lands in Osage County take title with knowledge that their property is impressed with a servitude in favor of the Osage Nation); Letter from United States Dept. of the Interior Office of the Solicitor to Robert S. Kerr, Jr., Feb. 15, 1994 ("…it is the view of the Department of the Interior that the Oklahoma Water Resources Board has no jurisdiction or authority to adjudicate the rights of the Osage Tribe to use the waters appurtenant to its reservation, or the derivative rights of restricted Osage Indian allottees and their heirs.") Aplt. App. at 184-85.

Yet, in spite of "contemporaneous understandings" to the contrary, the Panel selectively handpicks a few references from a four-year span of reports from the Osage Superintendent. (Op. at 18.) For example, the Panel supports its finding of disestablishment with a statement that a 1916 "annual report from the Superintendent to the Commissioner of Indian Affairs notes that his office 'has experienced no difficulty maintaining order….This duty, of course, falls to the County and State Officials.'" Yet, the copy of the report on the record reveals that the Superintendent stated "[t]he office has experienced no difficulty in maintaining order ***upon the reservation***. This duty, of course, falls to the County and State officials." (Emphasis added on text omitted in the Panel's decision. *See* Op. at 18.) In the 1919 report cited by the Panel, the Superintendent observes "Mr. D.F. Castle, Special Officer, has immediate supervision and direction of the liquor

traffic ***on the Osage reservation*** and has with his deputies apprehended several of the most notorious bootleggers in Kansas and Oklahoma." (emphasis added.)

Both the 1920 and 1921 Osage Agency Reports to the Commissioner of Indian Affairs include language claiming that "the duty of maintaining order and enforcing the law is primarily in the hands of County officials." Aplt. App. at 268, 272. Yet, the Panel made no attempt to examine whether or not these assertions were, in fact, accurate statements of law, or rather, evidence of the unlawful exercise of jurisdiction by County and State law enforcement. Nor does the Panel address a federal statute – passed prior to 18 U.S.C. § 1151 – which clarifies that all of Osage County "shall hereafter be deemed to be Indian country within the meaning of the Acts of Congress making it unlawful to introduce intoxicating liquors into the Indian country." Act of March 2, 1917 39 Stat. 969, 983 (1917).

Clearly, the jurisdictional history of Osage County and the Osage Reservation demonstrates that the State and County exercise of criminal jurisdiction within the area was challenged. In 1926, the United States Supreme Court had an opportunity to consider the legal question of whether the United States properly exercised jurisdiction over prosecution of the murder of Henry Roan, an Osage Indian, committed on a restricted fee allotment by two non-Indians. In *United States v. Ramsey*, the Court recognized that the exclusive federal jurisdiction over crimes involving Indians in Indian country extended to

restricted lands allotted in fee within the Osage Reservation. 271 U.S. 467 (1926). As *Ramsey* recognized, in 1926 the United States maintained exclusive federal jurisdiction over crimes committed with in the Osage Reservation, because "Indians are wards of the nation in respect of whom there is devolved upon the Federal Government 'the duty of protection, and with it the power.' ….The guardianship of the United States over the Osage Indians has not been abandoned; they are still wards of the nation …. and it rests with Congress alone to determine when that relationship shall cease." *Id.* at 469 (internal citations omitted).

As *Ramsey* demonstrates, the history of the State and County's exercise of jurisdiction within the Osage Reservation and Osage County is not *de facto* evidence of that these exercises were either lawful or "settled." Even in the face of *Ramsey*, State and County officers continued attempts to exercise jurisdiction, even if unlawful. George Wayman, Osage County Sheriff, revealed that in "earlier years," county law enforcement prosecuted serious crimes involving Indians on trust or restricted lands in spite of provisions to the contrary in the Indian Country Crimes Act at 18 U.S.C. § 1152 and the Major Crimes Act, 18 U.S.C. § 1153. Aplee. Supp. App. 340-42. Until the 1980s, when Osage County District Attorney Larry Stewart advised Sheriff Wayman not to prosecute crimes on Osage restricted allotments, Osage County law enforcement regularly policed all property in Osage County – even property titled in the Tribe or individual Osages – a clear violation

of federal law. Aplee. Supp. App. 340. Further, the Osage County Sheriff's office received federal grant money to hire deputies for law enforcement purposes, thereby recognizing that local law enforcement was on notice of the Bureau of Indian Affairs' duties to engage in law enforcement within the boundaries of the Osage Reservation. Aplee. Supp. App. at 341.

Consequently, when examined as a whole, the jurisdictional history of the Reservation reveals that, contrary to the Panel's Decision, purported "settled understandings" of the State's exercise of jurisdiction in Osage County have been repeatedly called into question since the Allotment Act's passage in 1906.

III. CONCLUSION

By misconstruing and misapplying the applicable analysis in disestablishment cases, the Panel's Decision creates a change in established precedent in cases involving adjudication of a reservation's boundaries. Effectively, the Panel undermines the basic integrity of the Supreme Court's analysis established in *Solem v. Bartlett*, thereby allowing courts to override plain statutory language to the contrary by inferring disestablishment from subsequent history and effects. Because this Panel's Decision effectively creates a split in otherwise uniform common law reservation disestablishment analysis in the federal courts, the amicus curiae respectfully supports Appellant Osage Nation's request for rehearing by the panel and/or rehearing en banc.

Dated this 9th day of April, 2010.

Respectfully submitted,

/s/ Brandy Inman

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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of April, 2010, a true and correct copy of the within and foregoing **BRIEF OF *AMICUS CURIAE* OSAGE NATION BAR ASSOCIATION IN SUPPORT OF THE OSAGE NATION'S PETITIONS FOR PANEL REHEARING AND REHEARING EN BANC** was electronically transmitted to the Clerk of Court using the ECF system for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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/s/ Brandy Inman

_____

Brandy Inman

Attachment 1

Department of the Interior – General Land Office

Notice of Plat of Survey

UNITED STATES

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON

Approved OCT 14 1937
(Sgd.) Fred W. Johnson
Commissioner

IN REPLY PLEASE REFER TO

1577275 "C" JGM

NOTICE OF FILING OF PLAT OF SURVEY

OKLAHOMA:

Notice is hereby given that the plat of survey of the Osage Indian Reservation boundary in Sec. 30, T. 21 N., R. 9 E., I. M., Oklahoma, will be officially filed in the General Land Office, Washington, D. C., on November 24, 1937, at 9:00 a.m.

This plat represents the survey of the boundary of the Osage Indian Reservation along the Arkansas River through said Sec. 30, the boundary being along the main channel of the river as defined in the act of June 5, 1872 (17 Stat. 228), such channel in 1872 being the right-hand channel, as fixed in 270 Fed. Rep. 110.

In view thereof, and since no new areas have been returned, the plat does not represent any land to be opened to entry, by reason of the filing thereof, under such public land laws as have been extended to Oklahoma, and only the filing of the plat will take place on the date set.

All inquiries relating to this plat should be addressed to the Commissioner, General Land Office, Washington, D. C.

Attachment 2

The Osage Indian Murders

Files of the United States Federal Bureau of Investigation

H. J. BURNS
DIRECTOR

Department of Justice

Bureau of Investigation

Washington, D. C.

WWG—
62-5033

May 25, 1923.

MEMORANDUM FOR THE DIRECTOR

62-5033

There is a serious situation on the Osage Indian Reservation in Oklahoma. These Indians you will remember as State wards of the Government and the wealthiest persons per capita for their class in the country. On account of their oil rights they for some time past have been made the victims of murders and other outrages and are now especially being worked upon by all sorts of elements endeavoring to procure appointment as guardians, only to either murder them or procure their income in other ways.

This matter was brought to our attention by the Indian Office a short time ago and referred to our Oklahoma office for investigation. Up to date the investigation has been handled by Agent Frank V. Wright, but the progress made has not been entirely satisfactory for a case of this magnitude. The Agent in Charge at Oklahoma City explains the necessity for a specially qualified agent; also states that Mr. Wright had to go on thirty days leave of absence without pay, which has delayed the investigation, and that Agent Weiss is in court.

MAY 31 1923

62-5033-166

BUREAU OF INVESTIGATION
MAY 29 19.. P. M.
DEPT. OF JUSTICE
FILED

49

In looking over the field it was thought that Agent Wilcox of Detroit would be the best man and telegraphic instructions have been issued for him to confer with the Attorney General of Oklahoma who will be in Chicago tomorrow, Saturday. This is in accordance with the personal instructions of Mr. Crim. Attorney General Short will wire the result of his conference, so that definite instructions may be issued.

Respectfully,

J. Edgar Hoover

UNITED STATES BUREAU OF INVESTIGATION

To File

WILLIAM KING HALE;
JOHN RAMSEY.

MURDER ON INDIAN RESERVATION

The Osage Indian country lies in the Osage Hills, situated in the northeastern part of Oklahoma, a beautiful rolling country covered with tall, green limestone grass, and considered the finest cattle grazing country in the world.

The Osage Indian Reservation, which is identical with Osage County, Oklahoma, consists of a million and a half acres of Indian allotted land, is the largest county in the State, being larger in area than the entire State of Delaware. It is bounded on the southeast by the Arkansas River, and reaches from Tulsa, Oklahoma, on the south to Ponca City on the north, a distance of approximately sixty miles. It is also sixty miles in width at its widest point. To give an additional idea of its immensity, it contains over sixteen hundred public schools.

This reservation was acquired by the Cherokee Treaty from the Cherokee Indians July 9, 1865. The county seat at the time of the events related was Pawhuska, having a population of eight thousand. Other towns and villages in the county are Fairfax, Grayhorse, Hominy, Ryanna, Foraker, Bristow and Kelsey.

The Osage Indian Agency, with headquarters at Pawhuska, superintends the affairs of the Osage Indians, and attends to the disbursing of amounts due them. The agency is in turn under the Commissioner of Indian Affairs, handling the affairs of all Indian tribes under the protection of the United States Government, this Commission being under the direct supervision of the Department of the Interior.

By an enactment in 1907, head rights for 2,229 duly enrolled members of the Osage tribe were created. This number of head rights remains stationary although the actual number of the tribe may increase or decrease, and varies as Osage Indians draw revenue from or are allotted tracts of land based upon their head rights. The original allotment to each Osage Indian consisted of 160 acres as homestead, which was supplemented subsequently by various other land grants, each head right allotment consisted of approximately 657 acres.

RECORDED & INDEXED

NOV 8 - 1932

62-5033-787

BUREAU OF INVESTIGATION

NOV 7 1932

DEPARTMENT OF JUSTICE

CLERK

3108

To give an idea of the wealth of the Osage Indians in former times as compared with the large amounts of money received by them after oil was struck on the reservation, the following net per capita payments to each Osage Indian entitled to receive income from the common fund [illegible] outs

Net Per Capita Distribution

1880	$ 10.50	
1900	200.00	per year
1910	250.00	per year
1915	221.31	per year
1920	3,090.00	per year
1921 (the year of the first murder)	8,600.00	per year
1923 (the year of four murders)	12,400.00	per year

To give an additional idea of the enormous wealth of the Osage tribe at this period of time, this tribe, consisting of approximately 2,000 Indians who enjoyed head rights since the discovery of oil on the reservation until June 30, 1931, were paid a total net revenue of $[illegible],569,269.82, in addition to various other expenditures made in their behalf.

The tribal officers of the Osage Indians are elected every two years, and consist of a Chief and Assistant Chief, and of a Tribal Council of eight.

Certificates of competency were issued to Indians deemed to be able to handle their own financial affairs, the recipients being permitted to dispose of their head rights and allotted land holdings as they saw fit.

The number of actual producing oil wells on the reservation as of June 30, 1920, was 5,899, and had increased to 8,579 as of June 30, 1922. Practically all of the land contained in the reservation is leased for oil and natural gas production purposes.

Distribution of the funds to the Osage Indians differed [illegible] from that of other tribes in that a common pool was made of all [illegible] derived from the territory which was divided among all the Indians of the tribe entitled to allotment rights, which at no time during the last decade [illegible] exceeded more than two thousand.

3109

P. O. Box 306
Butte, Montana
March 5, 1949

Director, FBI

ATTENTION CRIME RECORDS

Re: JOHN RAMSEY
CRIME ON INDIAN RESERVATION
(MURDER)

Dear Sir:

On March 2, 1949, HARLAN L. HILL, United States Probation Officer, Boise, Idaho, advised SA DAVID W. MURRAY at Boise, that he had that date directed a letter to WALTER K. URICH, Parole Executive, United States Board of Parole, Washington, D. C., relating to the above captioned individual who is presently paroled under HILL's supervision. HILL stated this letter requested URICH to confer with the Director concerning information appearing in the comic book entitled "STEVE SAUNDERS, Special Agent, FBI" for March, 1949. In connection with the information appearing in this comic book, HILL related the following:

RAMSEY served 21 years of a life sentence for his participation in the Osage Indian Murders in Oklahoma. He was paroled from the United States Penitentiary, Leavenworth, Kansas, some time ago and is presently living with a son at McCall, Idaho. ~~His FBI number is 34165.~~ Some time ago RAMSEY appeared at HILL's office in Boise with the March issue of the above mentioned comic book. He told HILL that a person living in McCall had called his attention to the fact that the name, JOHN RAMSEY, appeared in the picture story concerning the Osage Indian Murders. Since that time gossip in the small McCall community has plagued RAMSEY, ~~who is~~ 69 years old. His protest to HILL related to the use of his name in the story. HILL stated that the article reports the details of RAMSEY's participation in the Osage Indian Murders and infers that the story is based on an actual FBI case and indicates the characters in the story are authentic with the exception of STEVE SAUNDERS, Special Agent. HILL assumed the article had been prepared with the cooperation of the FBI.

HILL feels the net result of the article, especially since it name RAMSEY, has interfered with RAMSEY's parole adjustment. At present

DWM:FCL
AMSD

3222

Federal Bureau of Investigation

United States Department of Justice

P. O. Box 306
Butte, Montana
March 5, 1949

Director, FBI

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DWM:FCL
AMSD

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Director, FBI

March 5, 1949

Re: JOHN RAMSEY - CIR (MURDER)

RAMSEY wishes to leave McCall and locate elsewhere but does not have the funds to do so. RAMSEY told HILL he felt his debt to society had been partially paid and sees no reason why fictitious names were not used in the preparation of the article. HILL expressed the same sentiment and in his letter to his superior asked that attempts be made to consider the advisability of permitting articles for public consumption to use the real names of subject parties.

Attempts were made at Boise to secure the March issue of the aforementioned comic book with negative results. News stands are now featuring the May, 1949, issue of this publication.

The above is being furnished for information purposes inasmuch as it would appear there is a possibility the matter may be brought to the attention of Bureau officials by the Parole Executive of the United States Board of Parole.

Very truly yours,

W. G. Banister

W. G. BANISTER
S A C

3295