



Confederated Tribes and Bands
of the Yakama Nation

Established by the
Treaty of June 9, 1855

August 2, 2010

Governor Christine Gregoire
State of Washington
P.O. Box 40002
Olympia, WA 98002

Secretary Eldon Vail
Department of Corrections
State of Washington
P.O. Box 411000
Olympia, WA 98504

Re: Yakama Tribal Member DOC Inmates' Religious Freedom Violations

Dear Governor Gregoire and Secretary Vail:

We write to express our serious concern about Washington State's treatment of our Yakama Tribal Members who are being rehabilitated from within the State Department of Corrections (DOC). Our Yakama Tribal member inmates' civil rights and religious freedoms are being violated by the DOC in multiple ways. The goal of this letter is to bring the specifics of that discrimination to your attention, so that the State, in consultation with the Confederated Tribes and Bands of the Yakama Nation, can immediately resolve that situation.

The Confederated Tribes and Bands of the Yakama Nation, as you know, is signatory to the Treaty with the Yakama of 1855. 12 Stat. 951. Pursuant to the terms of the Treaty, Yakama retains and self-regulates nearly 1.3 million acres of Reservation land, and exercises jurisdiction over another 10 million acres of land, which we call our "ceded areas." The Walla Walla State Penitentiary, which sits near where the Treaty of 1855 was negotiated with Isaac Stevens, sits on Yakama ceded lands. Nearly 10,200 enrolled Tribal members comprise the Yakama Nation, including many who are incarcerated in the State DOC. In our eyes, Yakama inmates are no less Yakama than our members who freely live on our Reservation or elsewhere. They still enjoy our Treaty rights and privileges, and they should still be afforded respect for their traditional Yakama customs and ways, including their religious and cultural practices. Our members, hailing from fourteen different tribes and bands, and various longhouses within those tribes and bands, practice traditional Yakama religions as well as Indian Shaker religion and other Christian religions. We honor and respect all of those religions, and insist that Washington State do so as well.

Before turning to the problems at hand, you will be interested to know that the Yakama Nation is at this very time, beginning construction of a new Yakama jail facility. While the incarceration of our Tribal members is unfortunate, it is our hope to incarcerate and rehabilitate Yakama members to the full extent allowed by federal law, instead of having them serve time and seek healing in the non-Indian prison system. In this way, we are doing our part to help reduce the State's burdens associated with the rehabilitation of our Yakama Tribal members.

Returning to the matters at hand, our Yakama inmates' civil rights and religious freedoms are being violated – under both federal and state law – as detailed below. These discriminations, which cut across both traditional Yakama religions and Western religions practiced by Yakama Indians, must stop – and stop immediately.

1. Tobacco: In April 2010, traditional tobacco, which is used by Indian people to make prayer offerings to the Creator (or other Tribal religious deities), was banned from religious use within the DOC. Prior to April, the DOC allowed our Yakama inmates to make tobacco offerings to a pipe-carrier and smoke tobacco through ceremonial pipes in relation to sweat lodge ceremonies, and to burn tobacco while inside the sweat lodge, under specific religious program regulation. The DOC cites I-901, the State Smoking Ban of 2005, as justification for the recent ban on spiritual tobacco use. However, according to a State Attorney General Opinion, “the use of ceremonial pipes is not the kind of ‘smoking’ envisioned by the Initiative and is, therefore, lawful.” Tobacco use is a vitally important part of Yakama Tribal religious exercise. As one example of how important is to our culture, at the Walla Walla Treaty Council in 1855, our Chief Kamiakan and other Yakamas, before first meeting Governor Stevens, smoked tobacco. Our Yakama inmates' right to use tobacco and tobacco-like substances during sweat lodge and other authorized religious ceremonies must be restored immediately.

2. Sweat Lodge: Our Yakama inmates' religious sweat lodge ceremonies have been curtailed. In October 2008, the DOC limited how much fire wood our Yakama inmates could use relative to their sweats, citing budget constraints. The wood is needed to burn a bonfire long enough to allow rocks to reach a high heat so that when they are taken into the sweat lodge and water is poured over them, the rocks emanate steam, for an adequate length of time to allow for prayer. Indian herbs and medicines, including tobacco, are also burned on the rocks, the smoke from which carries up our prayers to the Creator. The sacred hot rocks – called “elders,” in respect – are essential to sweat lodge ceremony. Without adequate fire wood, our Yakama inmates have been forced to forgo their opening sweat for Change of Seasons ceremonies, and alter or rush their other sweats given the shortage of wood. (Imagine Christian church services on Sunday being cancelled or rushed.)

To make matters worse, in March 2010, the DOC reduced the number of sweats for our Yakama inmates. Prior to March, the DOC allowed them to sweat twice per month, as well as for each of the four Change of Seasons – meaning, every fourth month, they could conduct three sweat lodge ceremonies. However, the DOC now “incorporates” the Change of Seasons ceremonies “into one of the two sweats during the month in which Change of Seasons occurs.” (Imagine a Catholic's Ash Wednesday or Good Friday services being combined with Easter Sunday services.) Sweat lodge and Change of Seasons ceremonies are each also vital to the free exercise of Tribal religion. Both are religious purification ceremonies, during which

those who sweat are spiritually reborn. Our Yakama inmates' religious right to sweat twice each month, as well as for each Change of Seasons, must be restored immediately.

3. Traditional Foods: In April 2010, the DOC also banned the use of traditional foods, including salmon, buffalo and frybread, during sweat lodge ceremonies, pow wows and other authorized religious or cultural ceremonies. Prior to April, salmon and buffalo "enhancements" were made available to our Yakama inmates and their guests during pow wow ceremonies; frybread was authorized during pow wows and sweat lodge ceremonies. Salmon - Yakama's most sacred food - and buffalo have now been replaced by "light refreshments" consisting of fruit and pastries. And "flat bread" has been substituted for Indian frybread, although according to the policy "the name will remain the same." The substitution of Middle Eastern pita bread, for Indian frybread, is simply offensive. These traditional foods are vital to Yakama religious or cultural ceremonies. Frybread, for example, is used by our Yakama inmates to break their four-day fast from the beginning of a Change of Seasons ceremony, until the end of that ceremony. These foods must be returned to our Yakama inmates during pow wow, sweat lodge and other ceremonies, immediately.

4. Sacred Items: In April 2010, the DOC also reclassified many of our Yakama inmates' religious items as "non-sacred." Per DOC policy, "sacred" items can be kept by an Indian prisoner in his or her own "sacred items box"; the contents of that shoe box can only be visually inspected or searched by guards in order to maintain the integrity of the religious items in the prisoner's box. Non-sacred items must be stored elsewhere in the prisoner's dwelling and are subject to a general "hands-on" property search by guards, which can involve rifling through and dumping out a prisoner's belongings. Since April, the DOC has not allowed our Yakama inmates to store religious herbs and medicines like bitterroot, cedar, kinnikinnick, lavender, mint, osha root, red willow bark, sage and sweetgrass in their individual sacred items box because those herbs and medicines have been deemed "non-sacred" by the DOC. As "non-sacred," they are being subject to "hands-on" property searches and thus occasionally dumped out and desecrated. We do not generally take issue with DOC property search policies or practices, understanding that prison security is paramount; as a former Tribal Police Chief, I personally understand the need for jail security. But we are very concerned about the DOC's recent decisions about what is "sacred" and "non-sacred" to Indian People and thus to our Yakama inmates, especially with regard to how those sacred Indian religious herbs/medicines are then treated by DOC staff. Our Yakama inmates' religious right to keep religious herbs and medicines in a safe and sacred place must also be restored immediately.

In sum, there seems to have recently been a dramatic policy-based shift in temperament within the DOC concerning our Yakama inmates' exercise of religious freedoms. We are unaware that the DOC consulted with the Confederated Tribes and Bands of the Yakama Nation, or with anybody else with Yakama cultural,

spiritual or religious knowledge before changing its religious policies that impact our Yakama inmates, this past spring. That shift must be reversed, and our Yakama inmates' constitutionally protected religious rights must be restored, immediately. We hereby request a meeting with Secretary Vail and other State officials at our agency to discuss these matters of grave concern and other issues of mutual concern to our governments. We look forward to hearing from you soon.

Respectfully yours,



Chairman Harry Smiskin
Confederated Tribes and Bands of the Yakama Nation

cc: Craig Bill, GOIA Director
Scott Blonien, DOC Tribal Liaison
Gabe Galanda