



**THE GRANT SAWYER
CENTER FOR JUSTICE STUDIES**

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CENTER NEWS

Current Center News & Projects

Director Invited to Conference In Beijing

Center Director, Jim Richardson, was one of the few Americans invited to a first ever international conference on law and religion to be held in China. The conference, entitled, “Comparative Approaches to Regulating Religion and Belief: State Authority and the Rule of Law,” was held in Beijing from October 17-20, with some 35 scholars from 10 countries in attendance. The conference was sponsored by the Chinese Academy of Social Sciences, Institute of World Religions, and several other organizations from the U.S. and Germany. Richardson’s paper, entitled, “Religion in Public Space: A Historical and Comparative Analysis of the United States, Russia, and Japan,” was well received. He was invited on the basis of his most recent book, entitled, “Regulating Religion: Case Studies from Around the Globe,” which was published earlier this year (Kluwer/Plenum, 2004). The paper presented at the conference, and a presentation about the conference along with pictures from the conference, will be made available on the Center website.

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Congratulations to Mary Mentaberry & Center R.A.s

Congratulation to **Mary Mentaberry**, 30-plus year veteran of the NCJFCJ and graduate of UNR, who has been selected as the new Executive Director of the National Council of Juvenile and Family Court Judges. Ms. Mentaberry has worked in a number of positions over the past three decades, and since 1996 has been the Director of the organization’s Permanency Planning for Child Department. Among the many projects and initiatives of which she has had responsibility is the NCJFCJ’s Victim’s Act Model Court Project which oversees and assists 25 Model Courts and others nationwide that are implementing strategies designed to improve the courts’ handling of child abuse and neglect cases. During the past year, she also has served as the organization’s principal legislative liaison in Washington, D.C.

Congratulations also go out to center RA’s **Mara Merlino** and **Roni Dahir** both of whom received NSF grants for their dissertations. Mara received \$7,499 for her dissertation: *The Social Construction of the Admissibility of Expert Testimony after Daubert v. Merrell Dow Pharmaceuticals, Inc.*. Roni received \$11,027 from NSF, for her dissertation: *The Effect of Computer Displays on Comprehension, Memory and Decision-Making in Court.*

ENVIRONMENTAL JUSTICE IN INDIAN COUNTRY

This past spring, the Grant Sawyer Center for Justice Studies and the Center for Environmental Science and Engineering hosted a discussion regarding environmental justice issues in Indian country.

Contributing presenters were:

Charles Wilkerson, Professor of Law, University of Colorado

Brian Wallace, Chairman, Washoe Tribe of Nevada & California

Robert Abbey, State Director, Nevada, Bureau of Land Management

Gregory Phillips, Officer for U.S. Environmental Protection Agency

On April 22, Professor Charles Wilkerson of the University of Colorado Law School and noted expert on Native American land claims and related issues presented a keynote address entitled ‘Environmental Justice in Indian country’. This was followed by comments from Brian Wallace, Chairman, Washoe Tribe of Nevada and California, and Robert V. Abbey, State Director, Nevada, Bureau of Land Management. These panel members along with Gregory Phillips, Project Director for the U.S. Environmental Protection Agency, and member of the Omaha Tribe of Nebraska and Iowa then answered questions from the floor.

Following a tribute to UNR professor Glenn Miller, and background regarding Glenn’s belief that mining companies should pursue mining of the highest quality, as well as providing protection for the environment, Professor Charles Wilkerson gave us an outline of the origins of contemporary environmental justice issues in general. As recently as early 1980 there were newspaper reports that hazardous waste facilities were being sited near low-income neighborhoods. A study done by the Church of Christ reported that race is the single biggest predictor of where waste is dumped. In 1990, the sociologist, Robert Bullard published further material documenting how poorer black areas in the South were disproportionately at risk from hazardous waste and other high polluting facilities. In 1994 President Clinton’s Executive order 12898 gave direction to federal agencies to identify and address environmental impacts on low-income populations and environmental justice in general.

‘Tribes have become entrepreneurial, and they have also become committed to the revival of their culture – from dance to language.’

There were two ways that environmental justice could play out:

1. It could provide a basis for civil rights actionists to

- block projects related to the environment; or,
2. It could provide political policy arguments to clean-up or block environmentally sensitive projects.

The first possibility has not produced much in the way of positive results. Civil rights lawsuits tend to have been brought under the Warren Court, since the proof of discrimination, or disproportionately negative impact, was all that was needed, rather than having to prove intent to discriminate. Procedural barriers also exist regarding civil rights actions. Nonetheless, environmental justice has proved to be a significant development overall, enabling government agencies to be pro-active regarding the environment, and require clean-ups where necessary.

Professor Wilkerson then switched topics to that of ‘environmental justice in Indian country’. He reminded us that after WWII, Indian tribes were ruled by the Bureau of Indian Affairs, and they received some of the lowest income levels in the U.S. and had some of the highest incidences of serious health problems.

‘Tribal governments often now include a court system, educational facilities, child services, medical facilities and a legislature.’

Somehow, tribes found a way to respond to these issues and to create a social movement that is as significant as the suffragettes. An important part of that progress is a cultural revival. Tribes have become entrepreneurial, and they have also become committed to the revival of their culture – from dance to language. Tribal governments often now include a court system, educational facilities, child services, medical facilities, and a legislature. Furthermore, tribal lands that dropped from 140 million acres in 1887 to 50 million acres in 1952, have now grown by some 7½ million acres. Professor Wilkerson chose to make particular mention of the Washoe tribe. He jested that they made a particular mistake in choosing the Lake Tahoe area to inhabit, and subsequently suffered by being squeezed between the Gold Rush

and the pressures of the Comstock silver enterprises. By 1960 the Washoe tribe was one of the most dispossessed of all Indian tribes in the U.S. Since then they have orchestrated a miraculous revival. They have a government, a court system, a police force, a strong health plan, an environmental council and considerable language revival through their emersion school, where the indigenous language is the only language spoken.

In recent years we have begun to understand the real meaning of environmental justice in poorer communities, in Hispanic communities, and in Indian country. Today, Indian tribes are well equipped to shape decisions, although meaning of environmental justice in poorer communities, in Hispanic communities, and in Indian country. Today, Indian tribes are well equipped to shape decisions, although Professor Wilkerson also cited many examples of abuse in these negotiations. Abuses include the uranium mine in the Navaho reservation, where miners were being studied by health care workers for the effects uranium poisoning without being informed of the risks they were facing in the mining of uranium.

Professor Wilkerson then talked about a more subtle area in which environmental justice operates. This is the area where tribes themselves are engaged in environmentally sensitive projects. These include timber foresting, the building of power stations, and mining. In the early 1990s the Southern Ute tribe bought out drilling rigs that were sited on their reservation and preceded to exploit the oil and gas reserves. They started building pipelines, which now supply 1% of the natural gas throughout the U.S. Also, in early 1980, Robert Redford was featured at a series of conferences, the first of which was at the Navajo Community College. These conferences were aimed at floating a whole new mode of cooperation between the Navajo and corporate America. The plan was that Peabody Coal, General Electric, Mexico Public Services, and the Navajo tribe would be in partnership to exploit the coal resources on Navajo land. Professor Wilkerson considered this to be a landmark in the area of environmental justice. *Environment*: Concern over environmental impact; and, *Justice*: tribes working to establish sovereignty.

Finally, Professor Wilkerson took the opportunity to mention that he had been impressed with the way that some environmentally concerned organizations, the Sierra Club, in particular, were using their influence with tribes and the government. He also expressed that we need to be aware of what excellent stewards tribes are regarding their lands, and that these skills should be respected and learned from.

Next to the microphone was Brian Wallace, Tribal Chairman of Washoe Tribe. Brian Wallace began with a summary of the origins of early attempts by the Washoe tribe, starting in 1884, to negotiate for issues of water quality, forest health, and human rights in the Lake Tahoe area. These discussions culminated in many Washoe tribe members being imprisoned, and also a correspondence from President Cleveland underlining the fact that by the time the Federal Government would get around to addressing the issues that had been raised there would be little likelihood of any Washoe remaining. Then in 1903, the Supreme Court opined that Indian tribes, as a racial group, were to be categorized with minors and deranged adults as legally incompetent and perpetually wards of the court with the Federal Government designated their permanent trustee, and with no provision being allowed for their decisions to be challenged. Even to this day, Wallace pointed out, as evidence that this curious legal purgatory perpetuates, Indian people are required to carry an identification card, based on those standards.

‘The Indian people suffer the highest numbers of those suffering from malnutrition today. Death from exposure and infant mortality is 14 times the national average.’

It was during the Nuremberg trials of WWII that the American government was embarrassed into forming the Indian Claims Commission after it was pointed out that genocide was occurring on its own soil. Wallace suggested that the Indian Claims Commission’s discharge of its duty to expedite the settlement of land disputes was far from fair, however. Tribes had a very limited choice of representation in the negotiations, and no say in how lands were appraised. The Indian Claims Commission could find no basis in law regarding ownership claims by the Federal Government over approximately one third of the land under dispute. Land valuations did not reflect that the 2½% of the U.S. landmass that is occupied by Indian tribes is disproportionately high in mineral deposits, timber, natural gas and water. In fact, the Federal Government has managed to keep Indian assets from being valued at market prices, which is reflected in many lease negotiations for oil, coal, and minerals. Native Americans should be some of the wealthiest peoples of the world, Wallace contends, but in fact they are some of

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the poorest, in wealth and health.

We then heard some chilling statistics regarding Indian communities: The Indian people suffer the highest numbers of those suffering from malnutrition today. Death from exposure and infant mortality is 14 times the National average; tuberculosis is 400 times as rife in Indian communities; Life expectancy, Wallace explained, is a little over 48 years old for an Indian male, and just 36 months longer for a female. A recent study published by the Justice Department revealed that Native American women are 12 times more likely than other American women to be the victims of violent crimes, 90% of which are perpetrated by non-Indians. Wallace also told us that the established rate of unemployment among Indian tribes is over 30%, and has remained at this level for most of the 20th century. Among the general population of the U.S. this level was only reached during the heights of the Great Depression. Wallace holds the Federal Government responsible for these issues, which, he told us, is largely a function of the Federal Government's primacy over Indian assets.

The abuse of this power is evidenced by the number of Indian assets that have been leased to private industry for 10% or less of their true market value, and with little regard for provisions of public safety or, in the case of mining enterprises, any provisions for land restoration following the mining process. Although Native Americans have unquestionably contributed to the ascendancy of the U.S. as a major world power, they suffer human rights violations that are equivalent to those in many Third World countries. Wallace then quoted passages from the United Nations Charter, ratified in 1945 as evidence that the U.S. Federal Government is in violation of International Law regarding the abuses cited.

‘The abuse of this power is evidenced by the number of Indian assets that have been leased to private industry for 10% or less of their true market value.’

During the Cold War, the Soviet Union relied on its satellite countries for weapons production and other resources, such as mining, and Wallace sees a clear parallel between this and how Native American communities are similarly exploited by the U.S. Government. Wallace then talked about some of the environmental issues coming to a head in Fallon, or Yerington, and emphasized that Native people want to be a part of the solution to these issues. Also, other environmental issues, such as Yucca Mountain, should be addressed at the beginning of the process rather

than at the end, when the symptoms play out in our lives today. Several local issues were also discussed that impact the Washoe tribe, included the fact that the Interstate 395 bypass was designed to go through one of its cemeteries. Brian Wallace concluded by discussing his vision of the future, and the fact that he believes that times of positive change are approaching.

Robert Abbey, State Director of the BLM, spoke next and focused on areas where progress is being made in environmental issues effecting Indian tribes. He suggested that the reason for this change is that more tribes are exercising their rights of self-governance. Abbey then outlined some of the challenges raised by the 7,000 new people per month who move to Nevada. Although many of these families move to Nevada for employment, what keeps them here is the quality of life; a quality of life that we all have some responsibility to maintain.

BLM manages 262 million acres in the Western U.S.; most, if not all, is Indian country. These lands are frequently managed for multiple purposes, including mining. Almost anything in Nevada that involves public lands involves the BLM to some degree. Abbey quoted from the BLM's own policies, and from the law, regarding its trust responsibility. This included the requirement the protection of Indian lands and resources, as well as acting in a manner that is consistent with tribal concerns. This, Abbey explained, was achieved primarily through consultation processes with tribal leaders and was conducted not just because law requires it, but also because the Bureau takes its moral responsibility very seriously. Although, Abbey went on to say, this consultation procedure and the associated moral responsibilities are probably the least understood and appreciated of the BLM's many responsibilities by many proponents for action. Sometimes issues such as the time it takes to consult with Native American leaders are misunderstood. Issues such as the time taken to prepare impact statements lead to frequent criticism. BLM policy requires the processing of applications to drill within 30 days of the application being filed. It is pretty much a given, Abbey said, that consultation with Native American tribes will cause that time frame to be exceeded.

Abbey also discussed his experiences in other States, and talked about how he once had to explain to the entire Cabinet and the Governor of the State of Florida, the trust responsibility of BLM and the sovereign nature of Indian tribes. Abbey concluded the panel's presentations on the positive note that there is actually a lot of commonality between BLM and Native American tribes.

(The forum was also co-hosted by the National Judicial College and the departments of Sociology, Anthropology, and Political Science.)



Dissertation Updates

Dissertations tied to justice themes that are being supervised by Center faculty:

Veronica Dahir (expected May, 2005). The Effects of Mode of Presentation and Argument Quality on Comprehension, Memory, and Decision-making. (Advisor: James Richardson)

Mara Merlino (expected May, 2005). The Social Construction of the Admissibility of Expert Testimony After *Daubert v. Merrell Dow Pharmaceuticals, Inc.* (Advisor: Colleen Murray)

Yvonne Bermudez (expected 2004). Perceptions of Justice: Degree Persistence and Students of Color at the University of Nevada, Reno, 1994-2002. (Advisor: James Richardson)



Justice-related Funding/Fellowships

Call the Grant Sawyer Center if you want to prepare a grant proposal and we will be pleased to assist.

<u>Funding Organization</u>	<u>Submission Deadlines</u>
American Association for the Advancement of Sciences (AAAS) <i>AAAS Science and Technology Policy Fellowship.</i> www.fellowships.aaas.org	01/10/05
American Society of Trial Consultants <i>ASTC grant money and student paper competition</i> www.astcweb.org	11/12/04
American Statistical Association (ASA) <i>ASA Committee on Law and Justice Statistics Request for Proposals</i> www.amstat.org/	12/03/2004
Law School Admission Council www.lsac.org/LSAC.asp?url=lsac/lsac-legal-education-grant-program.asp	September 1 & February 1
National Science Foundation <i>Doctoral Dissertation Research Improvement Grants</i> www.nsf.gov/sbe/docdiss	January 15th & August 15th
National Institute of Justice <i>Criminal Justice Research and Development-Graduate Research Fellowships</i> <i>W.E.B. DuBois Fellowship Program</i> <i>National Institute of Justice Visiting Fellowships</i> <i>Data Resources Program: Funding for the Analysis of Existing Data</i> www.ojp.usdoj.ov/fij/funding.htm	1/15/05 2/03/05 no deadline, open for 2004 10/25/04
Public Welfare Foundation www.publicwelfare.org/grants/criminal_justice/2003_grants.asp	no deadline
Kongsgaard-Goldman Foundation www.kongsgaard-goldman.org/	Cycle 1: March 16/April 30, 2005 Cycle 2: Sept 16/Oct 31, 2004
State Justice Institute www.statejustice.org/	Various

More Center News

Legal Education for Children & Young Adults

The Grant Sawyer Center has been contracted by The National Judicial College to design a new law related educational program for children and young adults of Clark County. The program will be administered by a new non-profit organization: the Foundation for Relevant Education About the Law. Project R.E.A.L. comprises four parts: two web sites, one for children and the other for young adults; a drama program; and an elementary school program. The drama program uses theater to bring historically significant legal cases into the classroom, and the elementary school program uses a teddy bear that changes hands between group of first graders as a way to discuss issues of fairness and justice. Initially the programs are sponsored by Las Vegas developer, Irwin Molasky, and pilot programs are scheduled to be introduced in Fall, 2005. Center research assistant, and doctoral candidate, Andre Walton heads up this project for the center.

The Admissibility of Expert Testimony

Center research assistant, and doctoral candidate, Mara Merlino is currently investigating the process in which expert testimony moves from the status of "science" to "legal science," particularly when the participants differ in knowledge, skill and motivation. This research will apply key concepts of Jasanoff's theory (e.g. boundary work and experimenters' regress) to a sample of Federal district court cases published on the Lexis online database following the 1993 U.S. Supreme Court decision *Daubert v. Merrell Dow Pharmaceuticals, Inc.* A content analysis of the case will be used to investigate the impact of Daubert and it's progeny on the social construction of the admissibility of psychological and psychiatric expert testimony.

Evaluation of Different Court Models in Permanency Planning for Children

Julie Singer, center research assistant. has been working on an evaluation project with the Permanency Planning for Children Department of the National Council of Juvenile and Family Court Judges. PPCD is conducting research in the state of Utah to evaluate the different problem-solving models that have been implemented in child abuse and neglect cases to front-load services and improve outcomes for children and families. The project, which will last from April of 2004 through June of 2005, has now moved into its data collection phase and will soon involve site visits to different court districts in Utah.

The Effect of Computer Displays on Comprehension, Memory, and Decision-Making in Court

Center research assistant, and doctoral candidate, Roni Dahir conducted an experiment using a slip-and-fall scenario to study the effect of argument quality and mode of presentation on comprehension, memory, and decision-making. Building on the Elaboration Likelihood Model (Petty & Cacioppo, 1986) and mode of presentation literature, this project systematically examined the potential theoretical and applied factors that should be considered when using courtroom technology (i.e., computer animations or PowerPoint still slides) versus traditional forms of presentation (i.e., oral testimony only) to present scientific or technical evidence. Participants' individual attitudes toward Side A (i.e., the plaintiff), recall of key pieces of information, comprehension of the argument and presentation, liability ratings and damage awards assigned to Side A were measured. Results of this project reveal a significant main effect of argument quality on "favorableness" toward Side A's argument, percentage of blame assigned, and comprehension, but not on recall or damage awards. In addition, there was a significant main effect of mode of presentation on comprehension. These results have implications for courtroom practice and policy. This project was funded by the Law & Social Science Program at the National Science Foundation and DOAR Communications, Inc. in Lynbrook, NY.

Upcoming Conferences

<u>Association/Website</u>	<u>Conference Location</u>	<u>Conference Date</u>
American Psychology-Law Society <i>www.unl.edu/ap-ls/events.htm</i>	La Jolla, CA	March 3-6, 2005
American Academy of Forensic Psychology <i>www.aafs.org</i>	New Orleans, LA	Feb. 21-26, 2005
Academy of Criminal Justice Sciences <i>www.acjs.org</i>	Chicago, IL	March 15-19, 2005
Pacific Sociological Association <i>http://www.csus.edu/psa/index.html</i>	Portland, OR	April 7-10, 2005
Midwest Political Science Association <i>www.mpsa.org</i>	Chicago, IL	April 7-10, 2005
Rocky Mountain Psychological Association <i>www.rockymountainpsych.org</i>	Phoenix, AZ	April 14-16, 2005
International Assoc. of Forensic Mental Health Services <i>www.iafmhs.org/</i>	Melbourne, Australia	April 18-21, 2005
American Association for Public Opinion Research <i>www.aapor.org/conference</i>	Miami Beach, FL	May 12-15, 2005
American Psychological Society <i>www.psychologicalscience.org/convention</i>	Los Angeles, CA	May 26-29, 2005
Law and Society Association <i>www.lawandsociety.org</i>	Las Vegas, NV	June 2-5, 2005
European Conference on Psych and Law <i>http://www.ltu.lt/~ecpl/index.html</i>	Vilnius, Lithuania	June 29-July 2, 2005
International Society of Political Psychology <i>http://ispp.org</i>	Toronto, Canada	July 3-6, 2005
American Psychological Association <i>www.apa.org/</i>	Washington, D.C.	August 18-21, 2005

JUSTICE...around Nevada

Upcoming CLE courses for attorneys: For more information, see the Nevada Bar Association website at: <http://www.nvbar.org>

NOVEMBER, 2004

Introduction to Nevada Practice & Procedure - Las Vegas, November 10, Bally's; Reno, Nov. 10, Northern Nevada Bar Center, 9:00 a.m. to 4:45 p.m.

Electronic Data Discovery - Las Vegas, Nov. 9, location TBD, 9:00 a.m. to 4:45 p.m.

Immigrant Law - Las Vegas, Nov. 13, Golden Nugget, 8:30 a.m. to 12:30 p.m.

Intellectual Property - Las Vegas, Nov. 17, location TBD, 9:00 a.m. to 4:45 p.m.

Basics of Family Law - Las Vegas, Nov. 17, Bally's Skyview Ballroom, time TBD.

Trial Skills - Las Vegas, Nov. 17, time and location TBA; Reno, Nov. 19, location TBA, 1:30 to 4:45 p.m.

DECEMBER, 2004

View from the Bench - Reno, Dec. 3, location TBD, 1:30 to 4:45 p.m.

Ethics - Las Vegas, Dec. 7, location TBD, 1:30 to 4:45 p.m.; Reno, Dec. 9, location TBD, 1:30 to 4:45 p.m.

USA Patriot Act - Las Vegas, Dec. 10, Bally's, 9:00 a.m. to 12:15 p.m.

View from the bench - Las Vegas, Dec. 10, Bally's, 1:30 to 4:45 p.m.

JANUARY, 2005

Construction Defect - Reno, Jan. 6, location TBD, 9:00 a.m. to 4:45 p.m.; Las Vegas, Jan. 7, location TBD, 9:00 a.m. to 4:45 p.m.

State Bar Mid-year Meeting - Reno, Jan. 21 & 22, location and time TBD.

Bankruptcy - Reno, Jan. 27, location TBD, 9:00 a.m. to 4:45 p.m.; Las Vegas, Jan. 28, location TBD, 9:00 a.m. to 4:45 p.m.



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Website Directory

The following sites offer information on grant funding and job opportunities or other justice-related resources.

Amer. Political Science Assn.	www.apsanet.org	Reference Service	
Community Court Resources	www.communityjustice.org	Office of Juvenile Justice and Delinquency Program (OJJDP)	ojjdp.ncjrs.org/grants/grants.html
Global Legal Info. Network	lcweb2.loc.gov/glin	State Justice Institue Grant Info	www.statejustice.org
Inter-University Consortium for Political and Social Research	www.icpsr.umich.edu/index-medium.html	Substance Abuse Policy Research Program	www.saprp.org
International Law Assn.	www.ila-hq.org	United Nations Justice Info.	www.uncjin.org/
Legal Info. Institute	www.law.cornell.edu	Villanova Center for Info Law and Policy	www.law.villanova.edu
National Council of Juvenile and Family Court Judges & Juvenile Justice News	www.ncjfcj.org	Law School Admissions Council	www.lsac.org
Bureau of Justice Statistics	www.ojp.usdoj.gov/bjs	Government Statistics	www.fedstats.gov
National Judicial College	www.judges.org	National Center for State Courts	www.ncsconline.org
Judicial Studies Program	www.judicialstudies.unr.edu	Federal Judicial Center	www.fjc.gov
National Criminal Justice	www.ncjrs.org/fedgrant.html	Bureau of Justice Assistance	www.ojp.usdoj.gov/BJA/
		National Science Foundation	www.nsf.gov