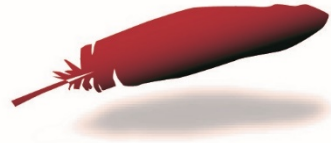


National Indian
Health Board



INDIAN HEALTH 101: FULFILLING A PROMISE

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Agenda

- I. Indian Law Basics
- II. Legal Basis of Indian Health System
- III. IHS Discussion
- IV. Health Disparities
- V. COVID-19



Tribal Nations – The Oldest Governments in North America

- When the first colonists arrived, they encountered a continent that was already settled by existing sovereign nations.
- This was recognized in Article I, Section 8, Clause 3 of the U.S. Constitution, which states that the United States Congress shall have power *"To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."*



Indian Title

- “The United States ... hold[s] and assert in themselves the title by which it was acquired. They maintain, as all others have maintained, that discovery gave an exclusive right to extinguish the Indian title of occupancy either by purchase or by conquest.” – Johnson v. M’Intosh (1823)
- Indians do not have the right to sell land to other individuals, only to the federal government.



Domestic Dependent Nations

“Their relations to the United States resemble that of a ward to his guardian. They look to our Government for protection, rely upon its kindness and its power, appeal to it for relief to their wants[.]” – Cherokee Nation v. Georgia, 30 U.S. 1 (1831)



States Have No Part

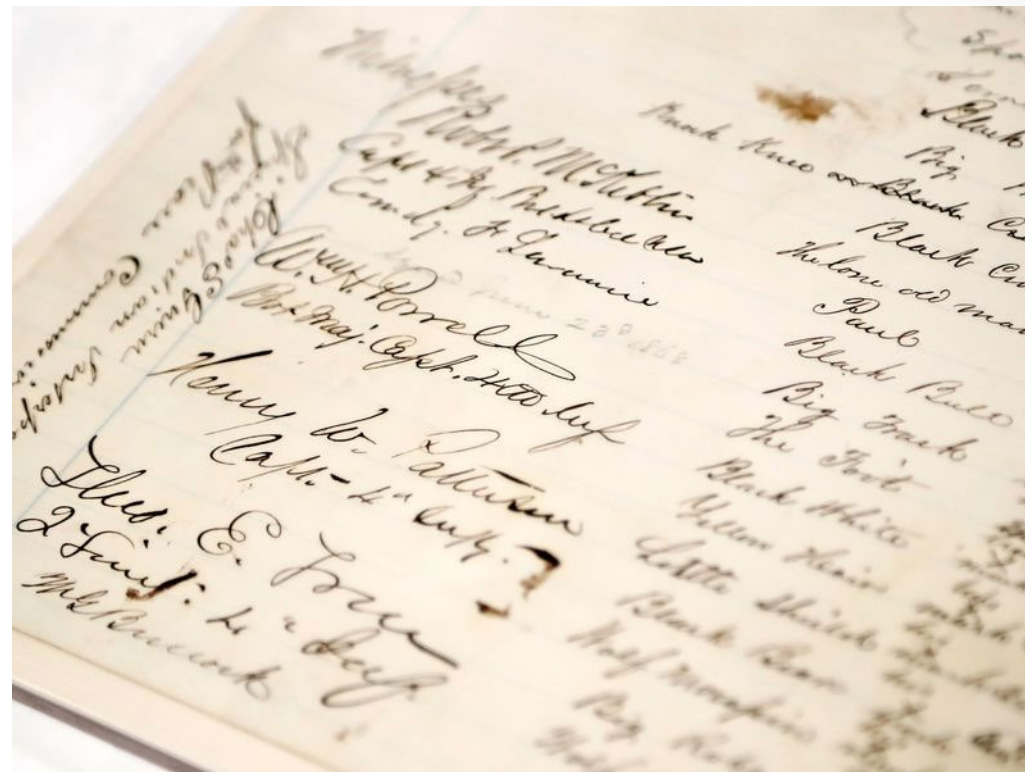
“The Cherokee nation, then, is a distinct community, occupying its own territory, with boundaries accurately described, in which the laws of Georgia can have no force ... [t]he whole intercourse between the United States and this nation is, by our Constitution and laws, vested in the Government of the United States.”

- Worcester v. Georgia, 31 U.S. 515 (1832)

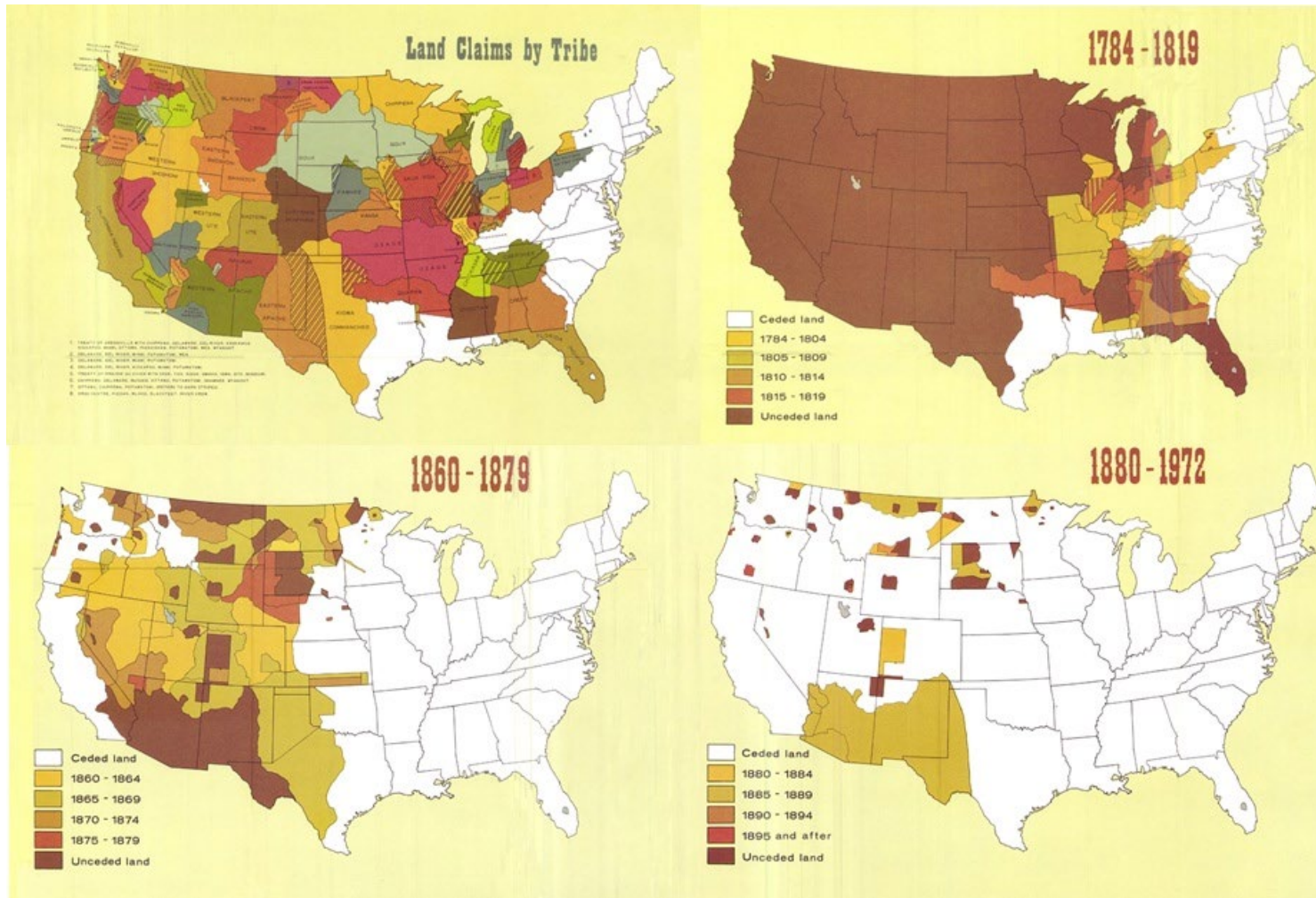


Treaty Obligations

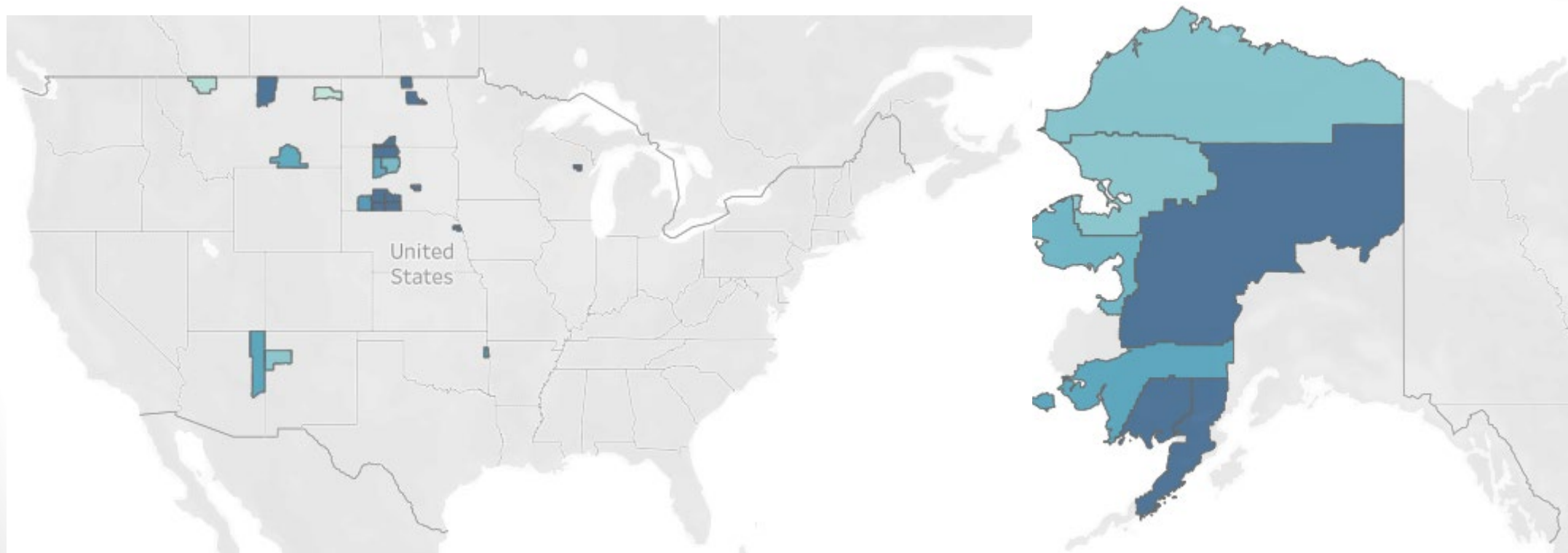
- The provisions of services such as health care was included in treaties that Tribes signed with the United States as a condition for giving up their lands.
- This formed a very basic relationship: In exchange for land and resources, the federal government agreed to provide for the needs of Tribes.



Ceded Land



Majority AI/AN Counties



Legal Basis for the Indian Health System



Snyder Act (1921)

- In 1921, Congress passed the Snyder Act, which provided:
- “The Bureau of Indian Affairs, under the supervision of the Secretary of the Interior, shall direct, supervise, and expend such moneys as Congress may from time to time appropriate, for the benefit, care, and assistance of the Indians throughout the United States.”



Transfer Act (1954)

- In 1954, Congress placed the responsibility for providing health care to AI/AN people under the Public Health Service.
- Transferred responsibility for Indian health out of the Department of the Interior and into what would later become the Department of Health and Human Services



Indian Self-Determination and Education Assistance Act (1975)

- Allowed Tribes to assume control over their health care systems
- Over half of IHS's budget is controlled by Tribes under this Act.



Indian Health Care Improvement Act (1976)

- **Permanently reauthorized** in the Affordable Care Act.
- Strengthened the position and regulatory structure of the Indian health system.
 - Established Urban Indian Health Programs
- Permitted reimbursement of IHS/Tribal facilities by Medicare/Medicaid.
 - Established the 100% Federal Medical Assistance Percentage (FMAP) for services billed to Medicaid through an IHS/Tribal facility.



- “[I]t is the policy of this Nation, in fulfillment of its special trust responsibilities and legal obligations to Indians --[] to ensure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy[.]” – 25 U.S.C 1602



IHS Regions



Funding for Indian Health Service

- Despite the trust and treaty responsibilities, IHS is funded as a discretionary program and is reliant on yearly appropriations for continued operations.
- It is also only funded at around 56 percent of need.
 - This is a **conservative** estimate.
- This makes it vulnerable to lapses in funding, such as government shutdowns.



Funding for Indian Health Service

- **IHS Budget Appropriation:**

- FY 2016: \$4.8 billion
- FY 2017: \$5.0 billion
- FY 2018: \$5.5 billion
- FY 2019: \$5.8 billion
- FY 2020: \$6.0 billion

- **IHS Third-Party Collections (*Federal facilities only*):**

- FY 2016: \$968 million
- FY 2017: \$1.02 billion
- FY 2018: \$1.09 billion
- FY 2019: \$1.14 billion

<https://www.ihs.gov/newsroom/factsheets/ihsprofile/>



Third Party Revenue

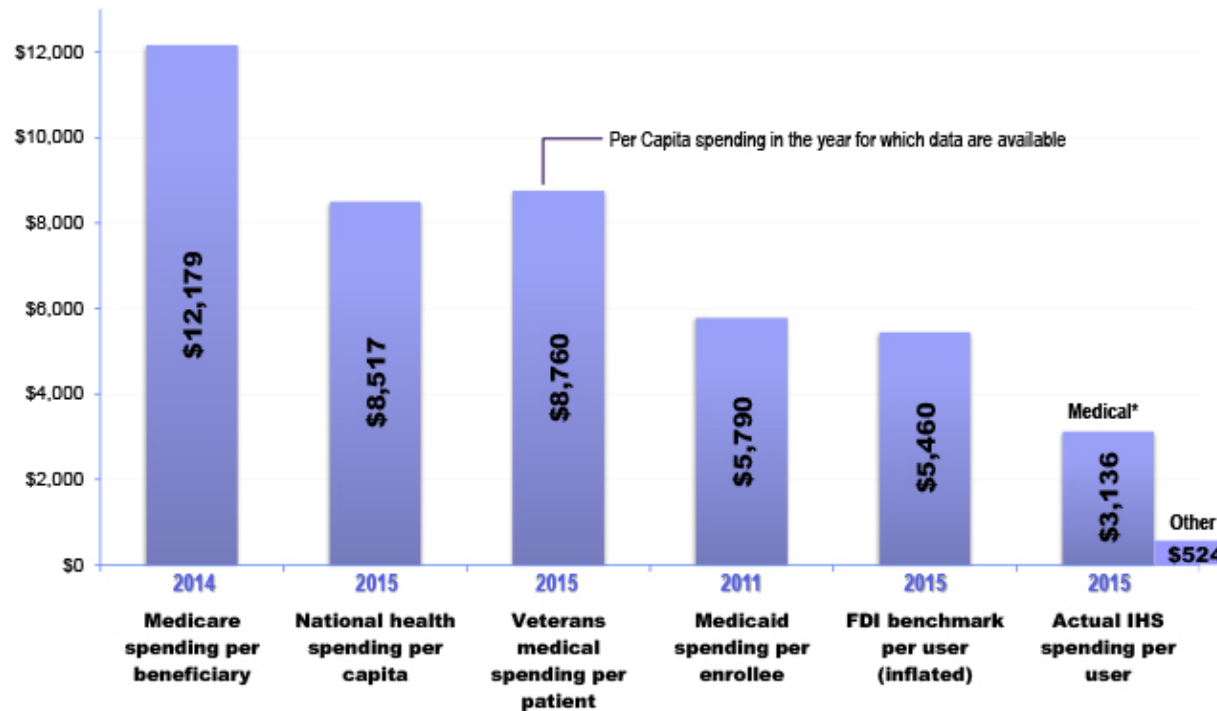
- According to a 2019 GAO Report, between Fiscal Year 2013 and Fiscal Year 2018, third party collections at IHS and Tribal facilities increased by \$360 million.
- Some IHS facilities report that third party revenue accounts for 60 percent or more of their budgets.



Per Capita Spending



2015 IHS Expenditures Per Capita and Other Federal Health Care Expenditures Per Capita



See page 2 notes on reverse for sources. *Payments by other sources for medical services provided to AIANs outside IHS is unknown.

12/29/2015



Lower Life Expectancies

- On average, AI/ANs born today have a life expectancy that is 5.5 years less than the national average, with some Tribal communities experiencing even lower life expectancy.
- For example, in South Dakota in 2014, median age at death for Whites was 81, compared to 58 for American Indians.



Health Disparities

- American Indians/ Alaska Natives experience some of the worst health disparities in the country. According to IHS data from 2005-2007, AI/AN people die at higher rates than other Americans from
 - Alcoholism (552% higher)
 - Diabetes (182% higher)
 - Unintentional injuries (138% higher)
 - Homicide (83% higher)
 - Suicide(74% higher).
 - Cervical cancer (1.2 times higher)
 - Pneumonia/influenza (1.4 times higher)
 - Maternal deaths (1.4 times higher).



Impact of COVID-19 on AI/ANs

- The COVID-19 pandemic has disproportionately impacted AI/ANs.
- 27 states that report ethnicity in their COVID data, AI/ANs deaths are disproportionate in many of them.
 - In New Mexico, AI/ANs are 51.7% of COVID deaths but only 10.7% of the population.
 - In Montana, AI/ANs are 41.5% of COVID deaths but only 8.2% of the population.
 - In Wyoming, AI/ANs are 28.3% of COVID deaths but only 3.7% of the population.
 - In Mississippi, AI/ANs are 2.7% of COVID deaths but only 0.8% of the population.



Disproportionate Impact

- In July, a data visualization of COVID-19 case rates per 100,000 by Tribal Nation created by the American Indian Studies Center at the University of California Los Angeles found that **if Tribes were states, the top five infection rates nationwide would all be Tribal Nations.**



COVID-19 Impacts on Third Party Revenue

In a hearing before House Interior Appropriations on June 11, 2020, IHS Director Rear Admiral (RADM) Weahkee stated that third party collections have plummeted 30-80% below last year's collections levels, and that it would likely take years to recoup these losses.



Conclusion

- The Indian Health System is a manifestation of the trust responsibility that is owed to AI/AN people by the federal government.
- It faces chronic underfunding and must provide care to excessively vulnerable population.
- The effects of this underfunding can be seen in the issues faced by AI/AN people.



Questions?

Contact Me!

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