INTRODUCTION

1 The Canary in the Coalmine—The Tragic History of the U.S. Government’s Policies Toward Native Peoples
By Robert O. Saunooke
We tend to forget the great debt we owe the Native peoples of this country and that Native American culture has suffered from our country’s broken promises. Articles in this issue of The Judges’ Journal consider how Tribal values, culture, and perspectives can be incorporated into current legal practices to include and honor this important segment of our population.

FEATURES

WAYMAKER

4 Honoring a Life of Serving Others: A Profile of Judge Leo Brisbois
By Robert O. Saunooke
Judge Leo Brisbois embodies the foundation of Native American life in his service as an attorney and federal magistrate judge. Humble and disciplined throughout his life and career, Brisbois has been a proponent of diversity in the judiciary and encourages others to invest their personal service to help achieve equality and inclusion.

6 Indigenizing Professional Responsibility: The Role of Ethics in Tribal Courts
By Lauren van Schilfgaarde
While Tribal Courts were historically compelled to take an adversarial shape, and while they defend against broad stroke attacks on their legitimacy, ethical rules can help reinforce their structures while indigenizing their roots.

12 Codifying the Rights of Nature: The Growing Indigenous Movement
By Geneva E. B. Thompson
Indigenous nations are beginning to legislate and codify the rights of nature to regulate and adjudicate protective measures for sacred cultural sites and landscapes. As more jurisdictions develop rights-of-nature laws and regulations, judges will have the opportunity to analyze what rights the legislative body has codified for nature and to grant remedies to ensure nature’s rights are protected.

16 Murphy v. NCAA and Legalization of Sports Betting in States and Indian Country
By Matthew A. King
For nearly three decades, federal law has prevented the majority of states and Tribes from legalizing wagering on collegiate and professional sports competitions. Tribes and states now have the opportunity to share in a market estimated to be worth tens of billions of dollars. If Tribal nations choose to participate in this new form of gaming, they must enter into compacts with states or have existing compacts in place that allow for sports wagering.
22 Running for Missing and Murdered Native Women: Expansion of Tribal Court Criminal Jurisdiction
By Robert O. Saunooke
In the United States and Canada, domestic violence against Native women and children is an enormous problem. Achieving justice for these crimes, many times committed by non-Native citizens, is hindered by federal restrictions on the application and enforcement of Tribal laws.

26 Yurok Tribe Fishing Court: A Judicial Profile
By Kori Cordero
Cordero describes the inaugural term of the Yurok Tribe’s Fishing Court, which was created to balance the impact of the commercial season on the Tribal community and Yurok fishery while responding to the community’s need for speedy adjudication. This includes an interview with Yurok Tribal member and Associate Judge William D. Bowers II, who presided over the Fishing Court.

30 Disability and Access: Perspectives from Judiciary Personnel on Issues of Accessibility
By Mamadi Corra
Dr. Corra reports results from interviews regarding courtroom accessibility for judicial personnel with disabilities. He also shares perspectives from scholars in the judicial and disability legal and research communities, judges, and disability rights attorneys on what “access to courts” means to them.

STANDING COLUMNS

TECHNOLOGY

36 If You Think Your DNA Is Anonymous, Think Again!
By Judge Herbert B. Dixon Jr. (Ret.)
Judge Dixon describes the reach of familial search technology that may result in your being pulled unexpectedly into a criminal investigation as a witness, person of interest, or suspect because a familial analysis of crime scene DNA suggests the genetic material came from someone in your family tree.

JUDICIAL ETHICS

40 Viewing Judicial Ethics Through a New Lens
By Marla N. Greenstein
There are benefits in considering new approaches to problem solving using Native American traditions and values as a complement to established Anglo-American structures, but there also may be potential challenges when considering the differing ethical values and strictures.

The Judges’ Journal (ISSN 0047-2972) is published quarterly by the Judicial Division of the American Bar Association, 321 North Clark Street, Chicago, Illinois 60654-7598, tel. 312/988-6121. Copyright © 2020, American Bar Association. All rights reserved. The material contained herein shall not be construed as the position of the ABA or the Judicial Division unless it has been adopted by the ABA House of Delegates or the Judicial Division Council. Articles represent the opinions of the authors alone. Subscription to Division members ($19.50) is included in their dues. Institutions and individuals not eligible for membership may obtain an annual subscription for $39.00. Discounts are available on bulk purchases. Single copies may be obtained for $10.00. Manuscript submissions are encouraged and should be sent via email attachment to melissa.hodek@americanbar.org. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior written permission of the publisher. To request permission, contact the ABA’s Department of Copyrights and Contracts at 312/988-8161 or via email at copyright@americanbar.org. Periodicals postage paid at Chicago, Illinois, and other additional mailing offices. Direct subscription orders, single-copy sales, and address changes to ABA Service Center, 321 North Clark Street, Chicago, Illinois 60654-7598, service@americanbar.org. tel. 800/285-2221 or 312/988-5522. Contact the Judicial Division at 321 North Clark Street, Chicago, Illinois 60654-7598, tel. 312/988-5687. POSTMASTER: Send address changes to The Judges’ Journal, ABA Service Center, Chicago, Illinois 60654-7598.