

# The Fight for Federal Recognition



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(Photo: Lex Talamo)

Stories from the Caddo Indians tell of the Twin Brothers, who avenge their murdered mother and go on many monster-slaying adventures.

Choctaw myth recounts an arduous trek to follow the sun by heroes Tashka and Walo. Lakota legend tells of White Buffalo Calf woman, who brought the peace pipe to the Sioux after supernaturally destroying a hunter who looked at her with lust. While the stories differ, elders from each of the nation's 566 federally-recognized tribes would pass on stories like these about heroes, warriors and leaders to teach the next generation values such as courage, honor, bravery and respect.

Today American Indian leaders are summoning up these ancestral values for a modern day fight — the fight for federal recognition. Without official recognition, tribes are denied federal funding meant to counter the crushing poverty that many American Indian people face. And without federal recognition, tribal people are constantly battling to prove they exist.

“Until you have federal recognition, you’re not an Indian to the federal government,” said Chief Rufus Davis of the Adai Caddo tribe. “That’s what grates on me and our people. We’re not recognized for who we are.”

The Adai Caddo are one of several Louisiana tribes that have been jumping over technical hurdles (<http://www.ncsl.org/research/state-tribal-institute/list-of-federal-and-state-recognized-tribes.aspx>) for years in an attempt to gain federal recognition (<http://www.crt.state.la.us/Assets/OCD/archaeology/nativeamericancontacts/NatAmContacts.pdf>).

Tribes that have successfully completed the process say it’s worth the hassle, but several other tribes — well aware of the federal government’s sordid treatment of Native people in the past — voiced concern over the potential repercussions of a relationship with the federal government.

## Seeking Recognition

Of the 16 tribes present in Louisiana, four tribes — the Chitimacha, Choctaw, Coushatta and Tunica-Biloxi tribes — are federally recognized. Louisiana also recognizes 10 tribes: the Adai Caddo, Biloxi Chitimacha Confederation/Bayou Lafourche Band, Choctaw-Apache Tribe of Ebarb, Clifton Choctaw Tribe of Louisiana, Four-Winds Cherokee Tribe, Grand Caillou/Dulac Band, Isle de Jean Charles Band, the Louisiana Choctaw Tribe, the Point au Chien Tribe and the United Houma Nation. A handful of other tribes are not acknowledged at either the state or federal level.

Albert Naquin, chief of the Isle de Jean Charles band of the Biloxi-Chitimacha-Choctaw ([http://www.nola.com/news/index.ssf/2008/09/tribal\\_chief\\_on\\_isle\\_de\\_jean\\_c.html](http://www.nola.com/news/index.ssf/2008/09/tribal_chief_on_isle_de_jean_c.html)) in southern Louisiana, said his "Indian-ness" was never questioned when he was growing up. As a dark-skinned Native child, Naquin said his teachers didn't show the same attention or belief in him as his peers. His appearance also made his classmates realize he was "different" from them.

His Indian ethnicity, however, is not currently recognized by the federal government because his tribe has not been granted federal recognition.

“When I was a child, I was an Indian,” Naquin said. “Now, as a man, I’m not an Indian unless I prove it.”

As of September 2015, three tribes (<http://www.bia.gov/WhoWeAre/AS-IA/OFA/index.htm>) had petitions for acknowledgment recognized by the BIA: the United Houma Nation, Inc; the Biloxi, Chitimacha Confederation of Muskogees, Inc; and the Point au Chien Indian Tribe. Several others — including the Choctaw-Apache Tribe of Ebarb, the Clifton Choctaw and the Adai Caddo — also are seeking recognition.

The Office of Federal Acknowledgment, within the United States Department of the Interior, evaluates a tribe's petition for acknowledgment against seven main criteria to prove the tribe exists— a process that can take decades before a tribe receives an answer. The agency has acknowledged tribes' frustration with the application but said a uniform process was needed to ensure fair treatment of all tribes.

"Positive decisions acknowledge that a perpetual government-to-government relationship exists between your tribe and the United States and have fundamental legal, social and economic impacts on your tribe, your neighbors, and Federal, state, and local governments," the Office of Federal Acknowledgment wrote in official guidelines sent to tribes. "Therefore, the petitioning process is necessarily very thorough."

To meet the seven criteria required for acknowledgment (<http://www.bia.gov/cs/groups/public/documents/text/idc-001214.pdf>), tribes must document their existence through a variety of means, including blood quantum requirements, Federal census records, maps or oral history. Documentation has proven a barrier for the Isle de Jean Charles Band. When Naquin sat down with the BIA four years ago, he was told he needed to trace the tribe's trail farther back — all the way to the origin of their existence.

"When the tribe moved, we didn't tack a note to a tree," Naquin said. "We know where we come from, but we have to prove we're a historical tribe, and census records are hard to find."

In an attempt to reduce the "burden of proof" on tribes, the BIA adopted a revised set of regulations in July of 2015 so that tribes now have to document their existence back to 1900, rather than pre-historic times. Chief Tom Rivers, of the Choctaw-Apache Tribe of Ebarb in Noble, said his tribe is still struggling with the documentation requirement.



**Chief Tom Rivers (right) presents local Choctaw-Apache veterans with Louisiana medals of service** *(Photo: Lex Talamo)*

"There have been some changes. It's not going to make it a lot easier, but it helps our cause," said Chief Tom Rivers of the Choctaw-Apache Tribe of Ebarb. "Now is the time to seize opportunity."





**Prisoners of war were also honored at the Choctaw-Apache Veterans pow wow** (Photo: Lex Talamo)

Rivers said the tribe is working with academics, an anthropologist and tribal attorneys to build their case. The tribe's goal is to their petition written and submitted in a year's time.

Davis said the Adai Caddo tribe also has been told they need more documentation. The tribe is struggling to find the resources to hire the people they would need to make that happen, Davis said.



**The Adai Caddo museum showcases artifacts from the tribe's culture.** (Photo: Lex Talamo)

"Our tribe is very lucky we have the documentation we do have. It's hard going back into the archives and finding all the information we were asked for," Davis said. "We don't have the expertise, so we would have to go and hire people. Doing that, it would take a lot of money."

The Office of Federal Acknowledgment is vague about how much the documentation process costs tribes. Their official statement is: "There is no one answer to this question because the petitioners vary greatly in the extent to which their history has previously been documented. Cost also depends to some extent on the size of your group. It is simply less expensive to document a petition covering 200 members than a petition covering 2,000 members."



While smaller tribes might spend less money documenting their members, larger tribes have more members to document to meet the "burden of proof." Sheer size, however, has not helped the Houma, which currently has more than 17,000 enrolled members who make the tribe Louisiana's largest group seeking recognition. The tribe's documentation hasn't helped either— though the tribe has one of the strongest cases for acknowledgment, according to Southern Utah University professor Mark Miller.



**A replica of a traditional roundhouse at the Adai Caddo museum** *(Photo: Lex Talamo)*

Miller said the Houma were documented by the Spanish as early as the 1700s. The tribe also has federal census records from the 1800s and a record of more than 50 members enrolled in a special Indian census.

“Those core records are not that common,” Miller said. “They have really good evidence of their existence in their past.”

But the Houma’s initial petition for recognition was rejected by the BIA in 1994 (<http://www.unitedhoumanation.org/about/federal-recognition>). Miller said the BIA argued the tribe had become extinct through intermarriage and disease and were not an "organized" people according to the regulations. The tribe responded with a rebuttal in 1996, but no further action has been taken.

Since 1978, 356 groups began the acknowledgment process. Of those, 269 petitions were declared not ready for evaluation. Only 55 of the remaining 87 petitions were resolved by the BIA as of 2013: 17 were accepted, 34 were denied and four were decided through other means.

“There were a lot of good intentions and high hopes when it started, but the devil was in the details,” Miller said about the acknowledgment process. “No one really knew what a quagmire this was going to become.”

## **Conflicting Emotions**

Some tribes fear more than the hassle of the process. Their leaders worry that oversight by the federal government may interfere with their way of life.

John Mayeux, chief of the Bear Clan of the Avogel Tribe (<http://www.desormeaux.info/avogel/>), said federal recognition is not something he plans on pursuing.

“Once you start taking money from the government, they want to tell you how to run the tribe, and we want to stay with our traditions, our language, our culture,” Mayeux said.

Independence and resilience have always been trademarks of the tribe, Mayeux said. The Avogel people were politically marginalized in the 1700s, then lost much of their land in the 1800s. Mayeux said the tribe also faced severe discrimination in earlier decades.

"I believe we were hunted almost to the point of extinction. People would actually get into more trouble if they bothered their neighbor's dog than if they killed an Indian," Mayeux said. "If your skin was light colored enough, you passed for white. If your skin was darker colored, like many of our people, you passed for black, because that way you had less chance of being hurt."

Mayeux said the tribe received no help from outside society or from the federal government.

"We would prefer to take care of our own, like we've done from the beginning," Mayeux said.



**Chief John Mayeux of the Bear Clan teaches cultural workshops at Vermillionville.** *(Photo: Picasa/Courtesy of Vermillionville)*

Faced with the poverty and societal problems afflicting his tribe's members, Rivers said he's not too worried about the government interfering with the tribe's customs.

"Our area is one of the poorest. There aren't many opportunities for our young, our elderly," Rivers said. "You can't take something from nothing."

Nedra Darling, spokeswoman for the Office of the Assistant Secretary for Indian Affairs, said the amount of federal funding per tribe differs and is handled through the Office of Management and Budget at the White House. The amount of influence the federal government has over tribes also depends on which agency grants the funding.

"Every federally acknowledged tribe, and there are 567 now, have different funding from the different agencies. Who oversees the funding, that depends on the program that is providing the funding to that tribe," Darling said. "How much influence it's going to be with the regulations and the federal laws that come with working within the federal system of funding those tribes... if they're getting money from a different program, they're going to have to follow those guidelines."

**Federally recognized groups speak about the process**



**The Tunica-Biloxi Cultural and Educational Resources Center on the Tunica-Biloxi reservation near Marksville** *(Photo: Lex Talamo)*

The Tunica-Biloxi currently has 1,226 members interspersed throughout Louisiana, Texas, Illinois and other parts of the United states, with a plurality of members living near the tribe's reservation land near Marksville. John Barbry, the Tunica Biloxi (<http://www.tunicabiloxi.org/>) Language and Culture Revitalization Program director of development and programming, said the resources that came with federal recognition allows the tribe to maintain a police force, casino and cultural center.





**The Tunica-Biloxi Tribe, as a sovereign nation, has its own tribal police department, health services system, education department, housing authority and court system** (Photo: Lex Talamo)

Barbry said funding has not compromised the tribe's culture or way of life.

"When you're getting funding, you always have to answer to someone," Barbry said, "but I think it has overall been good for our tribe."



**Coushatta basket making workshop.** (Photo: Courtesy of Linda Langley)

Linda Langley, a Coushatta tribal historical preservation officer, said federal funding helped the economic and social situation of the tribe.

But the tribe's history with the federal government has been up and down. . The tribe started receiving assistance from the government in 1935 (<http://www.koasatiheritage.org/pages/tribal-history/>), but the Bureau of Indian Affairs terminated all services in 1953. The Coushatta made efforts to regain federal recognition in 1965, and it took seven years to be recognized again officially in 1972.





The AC Woodland group from the Alabama-Coushatta Tribe in Livingston, Texas drummed during the Choctaw-Apache Veterans Pow wow From left: Bryan Torres, Herb Johnson, Delbert Johnson, Dave Johnson, Jackson Langley (Photo: Lex Talamo)

Langley said the tribe's fluctuating status has caused concern that the government could change its mind again.

"We had recognition once. It was taken away by the stroke of a pen," Langley said. "They went for a very long time without services, and it made them kind of closed off. But it taught them to rely on themselves and helped them preserve their culture."

Public Law 103-454 from 1994 details the withdrawal of acknowledgment or recognition of tribes, stating: "A tribe which has been recognized in one of these manners may not be terminated except by an act of Congress; Congress has expressly repudiated the policy of terminating recognized Indian tribes, and has actively sought to restore recognition to tribes that previously have been terminated."

Despite the frustrations and waiting, Langley encouraged tribes to keep going through the process.

"There's a saying in the tribe: the struggle has made us stronger," Langley said. "If this is what you have decided to do as a people, what's right for you, you have to keep going. Don't give up."







Coushatta beading workshop. (Photo: Courtesy of Linda Langley)

## THE SEVEN CRITERIA: 25 CFR Part 83

- The petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900
- The petitioner comprises a distinct community and demonstrates that it existed as a community from 1900 until the present
- The petitioner has maintained political influence or authority over its members as an autonomous entity from 1900 until the present
- The petitioner must provide a copy of the entity's present governing document, including its membership criteria; or in the absence of a governing document, a written statement describing in full its membership criteria and current governing procedures
- The petitioner's membership consists of individuals who descend from a historical Indian tribe (or from historical Indian tribes that combined and functioned as a single autonomous political entity)
- The petitioner's membership is composed principally of persons who are not members of any federally recognized Indian tribe
- Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship

## THE PROCESS

- Tribes send a letter of intent to the Assistant Secretary of Indian Affairs, signed by their leaders
- Tribes receive a packet of information, including the seven criteria, gathers and submits documentation.
- The BIA's Branch of Acknowledgment and Research reviews the documentation and decides if the tribe is ready to proceed.
- If deemed unready by the BAR, tribes have an unlimited amount of time to assemble additional documentation. If deemed ready, the tribe's petition moves into "active consideration."
- Following official consideration, the tribe hears an initial conclusion, called a "proposed finding." This step can take up to a year.
- The tribe and the public respond to the initial finding during a commentary period.
- BIA researchers then prepare a recommendation, taking into account the petitioners' response to the finding as well as public comments.
- Finally, the Assistant Secretary will determine whether to accept the petition.
- Tribes who don't like the outcome can appeal their case through the Interior Board of Indian Appeals or sue in federal court.

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