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Leadership bias: the case of the Cherokee Freedmen

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LEADERSHIP BIAS: THE CASE OF THE CHEROKEE FREEDMEN

A Thesis

Submitted to the Graduate Faculty of the
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requirements for the degree of
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by

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ABSTRACT

Journalists inform residents living on or near Native American reservations about key policy issues. Since most tribal councils own and operate their news outlets, retaliation towards journalists working for the tribe is a real concern if the leadership does not appreciate the message. In response to the threat of retaliation, some tribes, like the Cherokee Nation, have legal protections for journalists. The Cherokee Nation's newspaper, the *Cherokee Phoenix*, operates under the guidelines of the *Cherokee Independent Press Act (CIPA)* originally passed in 2000 and amended in 2009. CIPA was the first of its kind in Indian Country. This thesis analyzes the adoption of CIPA and its efficacy within the context of an issue dividing the Cherokee Nation membership.

1. INTRODUCTION

More than 1.1 million of an estimated 5.1 million Native Americans living in the United States reside inside the boundaries of 324 reservations (Bureau U. S., 2011). Even though the 5.1 million Native Americans are all citizens of the United States, each tribe has its own laws that govern its tribal members. More than a million live in or near Indian lands where they may not have access to tribal information published by a free and independent press. Many Native American tribes employ journalists to inform readers about the tribal activity. Many of these journalists do not enjoy the same protections or access that other journalists working outside of Native American media do. The tribes subsidize most native media newspapers. Most tribal councils can control the newspaper's content and can create a hostile relationship between themselves and their journalists. This thesis analyzes one tribe's response to these hostilities. The Cherokee Nation and its paper, *The Cherokee Phoenix*, collaborated to create the Cherokee Independent Press Act (CIPA) to address the friction between the journalist and the principal chief. CIPA was the first of its kind in Indian Country. The act passed in 2000 and was incorporated into the Cherokee Nation Constitution and amended in 2009. This thesis analyzes the adoption of CIPA's independence clause and its efficacy within the context of the case of the Cherokee Freedmen, an issue that is currently dividing the Cherokee Nation.

Today's Cherokee Indians are bilingual and educated. They are curious about their tribal history and its future. *The Cherokee Phoenix* addressed the news and information needs of the community it served. *The Cherokee Phoenix* prints in English and Cherokee, using the Cherokee syllabary created by Sequoyah, a Cherokee silversmith who was responsible for increasing the literacy rate to be greater than that of the white settlers in the Southeast (Wilford, 2009). The Cherokee are one of the "Five Civilized Tribes" along with the Chickasaw, Choctaw, Creek and

Seminole tribes. These tribes were called “civilized” because of their assimilation into white man’s culture. The Cherokee’s history of political instability within its membership and its newspaper make it a unique test of the press freedoms (See Appendix A).

According to an article in *The News Media & the Law*, “Reporters are often prohibited from writing critical stories about tribal leaders and access to tribal records on most reservations is nonexistent. Reporters who dare to question the tribal government will often find themselves out of a job, or their newsrooms shut down” (Connors, *Native to Them*, 2004). Native American media are hard-pressed to be the watchdogs of their communities given the expectation they will have no guarantee of access to information or any protections once they begin to write pieces critical of their tribal governance.

Native American newspapers and news services provide tribal news to members of 566 federally recognized tribes (Bureau U. S., 2011). In order to communicate to members, most tribal governments manage some type of news product; a television station, newspaper, radio station, blog, web site, or RSS feed. Tribal councils own the vast majority of Native American newspapers within this group, including until recently, the *Cherokee Phoenix*.

This paper researches the link between financial control of a newspaper and its coverage of a topic critical of the financial controllers. The paper compares the *Cherokee Phoenix*’s coverage of a divisive story within the Cherokee tribe to the same story’s coverage by the *Tulsa World*, a non-tribal paper that circulates in the same region. The Cherokee Independent Press Act (CIPA) is the first of its kind within Indian Country. Even though most tribes have constitutions that mirror the United States’ constitution, until recently none has anything similar to the U.S. Constitution’s press clause. Recently, several other tribes followed the Cherokee and adopted a press clause. This thesis also assesses the efficacy of CIPA brought forward by the *Cherokee*

Phoenix's staff. Because of CIPA, the newspaper's staff has the right to operate a fair and impartial media to inform membership of the political activities of its tribe, despite who funds the coverage (Tallent & Dingman, 2011).

Problem Statement

Distrust and suspicion of "outside" research and researchers is high among the Native American populations as a whole (Davis & Reid, *Practicing Participatory Research in American Indian Communities*, 1999). Native American journalists and/or newspapers should be the reporters of tribal cultures and their activities in order to bridge the trust gap. The *Cherokee Phoenix* has a tradition of informing its population to the best of the journalist endeavor. Along with the Navajo Nation, they have a history of being a champion of journalistic rights within Indian Country. While the *Cherokee Phoenix* is not the tribal community's only method of knowing what is happening, it is the Cherokees most honored and valued.

The Cherokee Tribal Council funds the *Cherokee Phoenix* from a budget presented by the Principal Chief of the tribe. With the Cherokee people strewn across the United States, their newspaper is an important tool for its membership to stay united and informed. During the 2010 Breaux Symposium at Louisiana State University, the Navajo Nation's Tom Arviso, publisher of *The Navajo Times* newspaper and the chief executive officer of *The Navajo Times, Inc.*, commented, "If the tribe owns the paper then it can dictate what can and can't be printed" (Nunnelley, 2010). Robert LaCourse, founder of the Native American Journalists Association (NAJA) wrote,

Paramount among free press problems encountered in the present time by some tribal newspapers and Indian news staffs are a wide variety of interfering actions: political firings before or after tribal elections; political cutoff or selective reduction of publication funds; prior censorship and removal of news story copy by political officials or administrative personnel; placing of

unqualified persons on news staffs by reason of blood kinships or political loyalties; firings for editorials printed, whether in written or cartoon form; exclusion of news personnel from selected governmental meetings; restrictions on press access and withholding of governmental documents from publication or broadcast, punitive political firings by incoming or outgoing tribal administrations; dismissals for publication of letters by both Indians and non-Indians in opposition to the public policies of tribal governments; and even occasional death threats for materials published or known to be scheduled for publication (LaCourse, 1998).

The Cherokee Nation Council passed the Cherokee Independent Press Act (CIPA) on July 17, 2000 with a vote of 14 to one. The principal chief, Chad Smith, signed the act into law the next day. CIPA immediately took effect after its passage (Council, 2000). This separated the governance of the paper from the governance of the tribe. CIPA had its first long-term test during the Cherokee Freedmen issue debate and the disputed 2011 principal chief elections. During the decade of debate and tumult, three diverse Cherokees, including Chief Smith who signed the CIPA, held fiscal power over the *Cherokee Phoenix*. Each principal chief held a different opinion on the Cherokee Freedmen citizenship and its resulting suffrage; Chief Chad Smith did not support citizenship, Interim Chief Joe Crittenden and Chief John Baker were proponents.

Cherokees in Georgia

The *Cherokee Phoenix* newspaper was the tribe's tool to educate its population. Elias Boudinot, its editor, was an educated Cherokee. He was a Christian missionary and a once-trusted member of the Cherokee Tribal Council while living in its native lands in Georgia. He was a revered member of its inner circle.

The Cherokee realized that assimilation into the white settlers' culture was a way they could keep ownership of their land and retain some of their culture. Boudinot, an English

teacher, led a fundraising effort to buy the Cherokee's first printing press. He traveled through white, northeastern society, telling tales of the Cherokee and raising money for the press. His ties with the religious community helped him raise the funds needed to purchase the press and to put it into operation.

Together Boudinot and his friend, Samuel Worcester, took Sequoyah's Cherokee syllabary and created a Cherokee syllabary press, and the first tribal newspaper in the New World. The *Cherokee Phoenix* printed its first edition in Cherokee and English on February 21, 1828. At first, the Cherokee called the printed materials, "the talking leaves." They viewed newspapers and printed documents as tools of the white men. Boudinot helped the Cherokee understand that in order to fight with the white man over territory disputes; they needed to be versed in the "weapons" of their adversary. Boudinot helped prioritize literacy and adopted a tribal policy of rapid acculturation. Boudinot's educated Cherokees of the southeastern United States used their newspaper to teach English to children and through them, their parents and grandparents.

Boudinot was the first editor of *The Cherokee Phoenix*. This was a period of intense distrust of the white man and of the newspaper. During this same period, white miners discovered a small vein of gold in Georgia on Cherokee land. Neighboring white farmers encroached on these ancestral lands. Boudinot used *The Cherokee Phoenix* opinion page to publish his editorials and letters to federal leaders in support of the successful acculturation happening within the Cherokee community. He used his paper to placate white critics, including United States President Andrew Jackson, who wanted the Indians removed from the southeastern United States to make way for the gold rush and the development of the white's farmlands.

Cherokees were farmers, too. Their agrarian communities pre-dated Christopher Columbus and the settlement of the New World. The Cherokee owned slaves. The Cherokee freed their slaves prior to the Civil War. Many "Freedmen" stayed with the Cherokee as many of the slaves inter-married with tribal members. Many of the Freedmen had children with the Cherokee they married. Then and now, other Freedmen did not intermarry and had children with others of African descent

Removal politics

In 1832, Boudinot advocated through The *Cherokee Phoenix* editorial page that the only viable hope for Cherokee survival was to relocate the tribe to Indian Country. He opined the idea to relocate the Cherokee people by walking the tribe over several thousand miles to what is now modern-day Oklahoma. Boudinot's editorial position was in stark contrast to the official Tribal Council position and that of the Principal Chief. The council split on how to handle the federal government's Indian Removal Act, passed in 1830, which required the Cherokee to relocate. The council majority, representing a majority of Cherokees, supported remaining in Georgia and fighting for the land. Boudinot and the newspaper aligned with the council minority and continued to publish his editorials in support of the removal. When John Ross, the principal chief, told Boudinot he could no longer print his letters. Boudinot resigned in protest as the editor of the newspaper. He retained his position on the Cherokee council. The council hired Elijah Hicks to run the newspaper for two years following Boudinot's resignation.

Boudinot, and two relatives, known as the "Treaty Party Leaders," signed the Treaty of New Echota in 1835. The treaty gave the federal government rights to Cherokee lands east of the Mississippi River. He signed the treaty without Chief Ross's knowledge and without the support

of the majority of the Cherokee people. Roughly, 4,000 Cherokee, mainly children, women and the elderly, died during the march to Indian Country now known as the "Trail of Tears."

Boudinot did not march. He used his charity's considerable resources to relocate himself and his family ahead of the marching Cherokee. Once the survivors from Georgia, North Carolina, Alabama and Tennessee arrived in Oklahoma, they sought revenge on Boudinot. Selling tribal land without the chief's authority, as the New Echota treaty did, was a capital crime. In 1839, Cherokee assassins murdered Boudinot and the rest of the Treaty Party Leaders. The Cherokees did not publish the *Cherokee Phoenix* for five years following the end of the march.

Just prior to the Trail of Tears event, the Georgia Guard destroyed The *Cherokee Phoenix's* printing presses and burnt down its offices. Five years after Boudinot's murder in Oklahoma, The Cherokee Advocate appeared in 1844. William Ross, a graduate of Princeton University, served as its editor. The Cherokee Advocate published off and on until 1906 when the federal government dissolved the Cherokee, and all other, tribal governments. During the first half of the twentieth century, the federal government controlled the appointments of Principal Chiefs. It was a very tumultuous time in Indian Country. The Indian Civil Rights movement was in full swing throughout the United States. As a result, Native Americans were learning the skills of self-determination. The tribes learned how to have greater control over their welfare. The Cherokees resurrected the Cherokee Advocate in 1975 to inform their members through their own unique tribal voices. In 2000, The *Cherokee Phoenix* and Indian Advocate newspaper resurrected following a constitutional crisis. In 2007, the name changed again to simply The *Cherokee Phoenix*. In 2013, the Cherokee people celebrated the 185th anniversary of its newspaper.

Cherokee Nation Judiciary

The current tribal government is a “tripartite democratic” structure consisting of legislative, executive, and judicial branches (**Tiller, 2005**). Before European colonization, the Cherokee tribe settled disputes within family clans. A court system was non-existent (**Carroll, 2007**). As Georgians increasingly interacted with Indians over time, the Cherokee adopted a Western legal system. By the time the federal government relocated the Cherokees, the “western-style” court system was readily used and accepted by the Cherokee Nation (**Carroll, 2007**). The creation of a tribal court system helped the Cherokee swap their land in Georgia and Tennessee for land in Oklahoma (**McGirk, 2013**). This swap creates an important distinction in the eyes of the federal courts. The Cherokee Nation was not relocated to a federal reservation, but to their own land in Indian Territory, thus limiting the federal government’s authority over them (**McGirk, 2013**).

The Cherokee Nation adopted its first constitution in 1827 with nothing resembling the Bill of Rights adopted by the United States in 1789 that prescribes freedoms of the press outlined in its First Amendment. In 1868, the Fourteenth Amendment incorporated the Bill of Rights to apply to its states. The Cherokee Nation is a sovereign state, considered a ward of the federal government (**Carroll, 2007**); the Fourteenth Amendment does not incorporate the Bill of Rights, including its First Amendment, to the Cherokee’s constitution. At the time, Oklahoma was not yet a “state,” but considered a territory. Once the federal government granted statehood to Oklahoma in 1907, principal chiefs, who were actually federal appointees, led the Cherokee Nation (**McGirk, 2013**). They served long enough to ratify federal treaties and then the federal government dismissed them (**McGirk, 2013**).

The Cherokee people elected their principal chief in 1971. Principal Chief W.W. Keeler presented a new constitution to the federal government in 1975. Again, it mirrored the federal constitution, but without clarity of the division of power of the executive, legislative, and judicial branches (McGirk, 2013).

The 1997 Cherokee Constitutional Crisis

After the Trail of Tears ended, Cherokee assassins working on orders from Principal Chief John Ross killed The *Cherokee Phoenix's* first editor, Elias Boudinot (Peyer, 1997). The Cherokees assassinated Boudinot for voicing an opinion dissenting to that of the ruling majority. The tribe convicted no one and the tribe launched no investigation. The murder incensed Boudinot's relatives and they warred with the ruling parties. During the Trail of Tears timeframe was the first time, but not the only time that the tribe's political problems disrupted the normal operations of the press.

In 1997, the Cherokee Nation's Principal Chief, Joe Byrd, blocked the Cherokee Advocate's reporters and editors from covering alleged corruption by Byrd and his administration. Since Byrd had control of the paper's administration and budget, he dismantled the newspaper by firing its entire staff and rehiring a non-tribal public relations firm from Tulsa, Oklahoma to run the paper. In an article by the Reporters Committee for Freedom of the Press, the Cherokee Advocate editor complained that Byrd promptly "reorganized" Former Cherokee Phoenix and Indian Advocate Editor, Dan Agent, out of a job (A Reporter's Guide to American Indian Law, 2006). During this time, the controversy split the council, but Byrd supporters held enough seats on the council to dismantle the Cherokee's highest court, their Judicial Appeals Tribunal. An armed standoff occurred on June 7 in the tribal courthouse between new Cherokee marshals appointed by Byrd and citizens allied with Byrd's opponents. The Byrd marshals

prevailed there. Because of the division, the renamed *Cherokee Phoenix* and *Indian Advocate* ran under the direct control of Chief Byrd for two years. During that timeframe, the factions divided the Cherokee Nation's members. The *Tulsa World* reported both sides of the crisis, while the *Cherokee Phoenix and Indian Advocate's* coverage was distinctly one-sided, that of the Principal Chief Joe Byrd. The crisis ended when a tribal lawyer, Chad Smith, defeated Principal Chief Byrd at the polls. Chief Smith immediately reinstated Dan Agent and staff at the *Cherokee Phoenix* and *Indian Advocate*. Smith defeated Byrd at the polls and separated the newspaper from the tribe's public affairs office, even though the council still funded the paper; it was no longer under the direct control of the Principal Chief (Reporters Committee For Freedom of the Press, 2006).

Federal First Amendment Case Law

Tribal sovereignty was the primary issue in most of the federal Indian cases during the early nineteenth century. Several of the cases listed below contributed to the Cherokee's interpretation of the press clause; at least the interpretation that is preeminent today in Indian Country. The First Amendment cases are:

Worcester v. Georgia (1832). The United States Supreme Court heard this Worcester v. Georgia in 1832. Litigant Sam Worcester was a white minister married to a Cherokee woman. He routinely challenged the State of Georgia over the legislation that set up the 1829 Indian Removal Act. Worcester and several other ministers refused to get a required state license to live within tribal land as required by Georgia's "1830 Act." They believed this requirement was simply retaliation for challenging Georgia over Cherokee sovereignty issues with another United States Supreme Court case, Cherokee Nation v. Georgia (1831). Georgia sentenced them all to four years in prison. The

ministers appealed arguing that nations are sovereign and that the State of Georgia had no right of dominion. In a four-to-two vote, the United States Supreme Court overturned the lower court's ruling and in doing so detailed the relationship between white man's government entities and Indian tribes. The case's dicta established that the states had no ability to negotiate with tribes, and the only government with any authority to negotiate with tribes is the U.S. federal government. The ruling simply stated that Indians are wards of the federal government not the states. The Supreme Court also determined that the U.S. Constitution or its Bill of Rights does not apply to Indian tribes (Burke, 1969) .

President Andrew Jackson and the State of Georgia ignored the Supreme Court ruling. It was not enforced and Georgia's prison released the prisoners after they agreed to leave Georgia's Indian lands for good (Burke, 1969). The ministers agreed and never returned to New Echota, the Georgian Cherokee capital. Legal scholar, Joseph C. Burke, wrote in *The Stanford Law Review* that:

The Governor, legislators and judges of Georgia had public dared the Supreme Court to interfere; and the President of the United states, who had encouraged - or at least winked at - this outrage now seemed prepared to stand by and watch the State defy the Constitutional laws, and treaties of the United States. With a sense of duty...the Justices issued the fateful decree that reversed the conviction of the missionaries and exposed the Court to the wrath of Georgia and of Jackson (1969).

Sam Worcester's case preserved tribal sovereignty and the federal government's authority over the states' interpretations and treaties with Indian nations. The *Cherokee Phoenix* newspaper published this case law. The missionaries challenging President Andrew Jackson used the *Cherokee Phoenix* as proof of Indian assimilation into white culture.

Native American Church of North America v. Navajo Tribal Council (1959). In the United States Supreme Court case, Native American Church of North America v. Navajo Tribal Council, each tribe addressed its governance independent of other tribes and most designed its governance documents with an obvious nod towards the United States Constitution. Most tribes' constitutions and governance strongly resemble the U.S. Constitution. Some tribes have a Bill of Rights that enumerate freedoms protected under the tribal constitution.

One of the first challenges to Indian sovereignty happened in 1959 when the Native American Church of North America sued the Navajo Nation to use peyote in their religious ceremonies under the U.S. Constitution's guarantee of freedom of religion. The Navajo did not have laws supporting anything like First Amendment rights as outlined in the United States Constitution. The Navajo Indians sued the Navajo Council in U.S. federal court stating that as U.S. citizens the council's laws against peyote use were in violation of the First, Fourth and Fifth Amendments to the United States Constitution. The Tenth Circuit Court of Appeals agreed with a lower court's ruling that *Worcester v. Georgia* determined the federal government could not interfere with tribal laws and that only Congress could do so. The judges determined that the First Amendment applied only to Congress and only the Fourteenth Amendment made Congress's authority applicable to the states (*Gitlow v. People of New York*, 1925). Because tribes are sovereign nations, not states, the appellate court ruled that the First Amendment did not apply to the tribe (*Native American Church of North America v. Navajo Nation*, 1959). In the appeals court's opinion, the Tenth Circuit Court of Appeals Judge and former governor of

Kansas, Walter A. Huxman, wrote that the First Amendment's prohibition of writing laws that violate free expression or religion applies only to Congress. He stated:

... Indian tribes are not states. They are subordinate and dependent nations possessed of all powers as such only to the extent that they have expressly been required to surrender them by the superior sovereign, the United States. Under the philosophy of the decisions, it as any other law, is binding upon Indian nations only where it expressly binds them, or is made binding by treaty or some act of Congress. No provision in the Constitution makes the First Amendment applicable to Indian nations nor is there any law of Congress doing so (*Native American Church of North America v. Navajo Nation*, 1959).

The United States Congress answered the Tenth Circuit Court of Appeals ruling by passing the Indian Civil Rights Act (ICRA) in 1968. The act mirrored the United States Bill of Rights and combined with the Fourteenth Amendment language in order to enforce the ICRA. The similarities of the ICRA compared to the U.S. Constitution stopped when the Second Amendment, the Third Amendment, and the Seventh Amendment were not included (Indian Civil Rights Act, 1968). These amendments guaranteed the right to bear arms, the expectation to quarter soldiers and rights to a jury trial. Indians did not incorporate those amendments in the ICRA since most of the tribal courts operate without juries. ICRA's First Amendment does mirror the Bill of Rights' wording and states, "that no Indian tribe in exercising powers of self-government shall make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances" (Indian Civil Rights Act, 1968).

Santa Clara Pueblo v. Martinez (1978). Ten years after the ICRA passed, an Indian challenged a tribe's decision under the ICRA, in the case of *Santa Clara Pueblo v.*

Martinez. Julia Martinez sued her tribe for denying membership to her daughter whose father was white. The tribe had a law that allowed children of Indian fathers to receive membership if the Indian father had a child with a woman outside the tribe. Martinez sued the tribe in federal court asserting that she and her daughter are victims of discrimination and that they should be protected under the ICRA. The United States Supreme Court ruled that Martinez could not sue the tribe to get injunctive relief because the federal courts could not interfere with tribal autonomy and self-government. The Supreme Court declared the ICRA was ineffective because of laws guaranteeing sovereignty as outlined by *Worcester v. Georgia* (1832). To date, there are no federal provisions for Indians living on tribal lands that guarantee civil rights as the guarantees outlined in the Bill of Rights. In fact, when vacating the ICRA, the court left the decision to incorporate the First Amendment for the tribes to decide. If the tribe's government did incorporate these ideals into the tribe's constitution, the *Santa Clara Pueblo v. Martinez* outcome guaranteed that a tribal court would hear any challenge to the free press clause in tribal constitutions. Tribal sovereignty trumps all federal lawmaking regarding tribes.

Today's Native Americans have a unique relationship with the United States because they may be members of nations, tribes, or bands of Native Americans who have sovereignty or independence from the U.S. government. The blending of sovereign nations' laws and courts, including the U.S. courts, adds to the quagmire of jurisprudence for Indian legal scholars. Determining which sovereign nation's court system has precedence is an ongoing challenge. In summary, Felix S. Cohen's *Handbook of Federal Indian Law* (1942) states:

The whole course of judicial decision on the nature of Indian tribal powers is marked by adherence to three fundamental principles: (1) An Indian tribe possesses, in the first instance, all the powers of any sovereign state. (2) Conquest renders the tribe subject to legislative power of the United States and, in substance, terminates the external powers of sovereignty of the tribe, e.g., its power to enter into treaties with foreign nations but does not by itself affect the internal sovereignty of the tribe, i.e., its powers of local self-government. (3) These powers are subject to qualification by treaties and by express legislation of Congress, but save as thus expressly qualified, full powers of internal sovereignty are vested in the Indian tribes and in their duly constituted organs of government” (Cohen, 1942).

LaCourse wrote the seminal work on Native American free press applications, "Protecting the First Amendment in Indian Country." After an exhaustive review of press rights issues, LaCourse wrote, “The issue of a free press is thus legal in its origin, sometimes confrontational and litigious in its play-through, and always legal in its consequences” (LaCourse, 1998). “A principal concern of Indian journalists is the independence of these [tribal] courts from external political influences” (Michel, 1998).

A Free Press in Indian Country

The lack of First Amendment protections that other U.S. citizens and journalists enjoy by virtue of the Bill of Rights affects Native Americans and the journalists who cover them. Many of these journalists are members of the tribe they cover. Native American media experience message control even with the promises of press freedom. Many Native American media editors quietly discuss censorship demands made of them by their funders. A handful of media staffers are vocal about their government censors. Extra! Magazine, a magazine dedicated to fair and independent media, reported that Tom Arviso, Jr., publisher of The Navajo Times, said, “You’ll find that freedom of the press and censorship issue is still huge in Native American Country...So long as they sign the checks and pay the bills, they feel that they have a right to dictate what can

and can't be published" (Hodai, 2010). Arviso's paper, *The Navajo Times*, prior to his appointment, dismissed seven of its editors before free press advocates made arguments to the Navajo council for press freedoms and independence from the tribal governing structure (Stein, 1998). In 2004, the Navajo Tribal Council voted to allow *The Navajo Times* to change its business model to include revenue from advertisers rather than revenue gathered from the council's subsidy.

Arviso complains in the *Extra!* article that news media from outside of the reservations are able to get information easier and without repercussion from tribal leaders. Native American news media do not have the same access as news media outside of the reservation. He commented that larger national newspapers have better access to the national offices of the Bureau of Indian Affairs and the Department of the Interior. In the *Extra!* article Arviso states, "I think it's so strange when you get newspapers that come in like the *Arizona Republic*, *USA Today* or *The L.A. Times*—those guys go in there and they have a better chance of getting what they want—better than, say, *The Navajo Times* or *The Seminole Tribune*, or some of these other Indian newspapers" (Hodai, 2010). Local support staffers of federal and tribal agencies are generally not cooperative with tribal reporters. Arviso stated, "Everyone is afraid to take responsibility for releasing information. A lot of it has to do with that they don't want to lose their jobs—there's not a whole lot of jobs to begin with." *Extra!* magazine reported employment figures as high as 80 percent within some reservations. The writer continued, "Due to these monetary constraints, the vast majority of Indian Country newspapers are funded through tribal governments, which in turn may receive much of their funding through the DOI [Interior Department, Bureau of Indian Affairs]" (Hodai, 2010).

During the “New Media in Indian Country” symposium at Oklahoma University’s Gaylord College of Journalism and Mass Communication, Arviso and Brian Pollard, editor of the *Cherokee Phoenix*, presented their topic, “The Collision of Old and New Media.” Arviso commented about *The Navajo Times*’ stint as a daily paper, “Where 35 percent of the Navajos live without water or electricity, the newspaper serves a real purpose as a communication tool about their tribe.” He remarked that their printed paper is important to keep people informed. Arviso stated, “The Navajo Times used to be a daily paper. Because of political issues it was closed down. They [tribal leadership] blamed it on financial reasons...we were asked to box everything up and leave the building. Since then, we’ve been a weekly paper” (Arviso & Pollard, Session 1: The Collision of Old and New Media, 2011).

Pollard became the editor of the paper in 2006, six years after CIPA was created in 2000. Pollard refers to the post-CIPA history of the *Cherokee Phoenix* as the “Modern *Cherokee Phoenix*.” During his part of the presentation, Pollard admitted, “The modern version of the *Cherokee Phoenix* was born out of turmoil. In the late 90s, the editor was fired because of stories published about the political turmoil,” Pollard admitted, “...one of the first thing that Chief Chad Smith did when he was elected was to champion the Cherokee Independent Press Act so that we were free from undue influence from the other branches of government.” (Arviso & Pollard, Session 1: The Collision of Old and New Media, 2011). During this presentation, both journalists admitted that censorship in Indian Country was a major issue for them in the past.

The Cherokee Freedmen

When the Cherokee people moved to Oklahoma from the Southeast United States along the Trail of Tears in 1838, they brought 1,592 slaves with them to their new home (McLaughlin & Conser, 1977). The new grouping of Cherokee in Oklahoma was again divided upon support

of the Confederacy during the Civil War. However, in 1862, the Cherokee Nation formally stopped the practice of owning slaves (Confer, 2007). In 1866, through the treaty with the federal government, one division of the Cherokee people, the Confederate States of the Cherokee Nation, allowed the former slaves, now called the Cherokee Freedmen, to become members so that the U.S. government would grant the Cherokees sovereignty in their new lands (Smith, 2007). The Union Cherokee suffered greatly and had to let white settlers homestead on Indian land during Reconstruction (Confer, 2007).

Beginning in 1887, the Dawes Act tasked the Dawes Commission with creating lists of Indian citizens in federal reservations. The commission created many lists of Indians, but its most important one is known as the “Dawes Roll” was drafted 1902-1904. Members of this list have tribal membership status and land rights. The Dawes Commission listed Cherokee Freedmen on the roll separate from Cherokee Indians “by-blood.” In 1902, there were 41,798 citizens of the Cherokee Nation and 4,924 separately listed Freedmen on the Dawes Roll. The federal government did not grant Freedmen of any of the Five Civilized Tribes the same land allotment as they granted to by-blood Indians (Knickmeyer, 2007).

Treatment of the Freedmen was a historical problem that did not end in modern times. On March 7, 2006, following a challenge to the Freedmen’s membership status, the Cherokee’s Superior Court ruled that the 2,700 living descendants of the Cherokee Freedmen could remain in the Cherokee Nation because the language in the Cherokee Constitution was vague. Chad Smith, then-Principal Chief of the Cherokee Nation, called for an emergency election to amend the constitution in response to the ruling. Federal courts intervened in February 2007 at the behest of the Cherokee Freedmen. The federal court saw no reason why the election could not proceed with the 13 percent of tribal members registered to vote. The special election on March

3, 2007, had a 19 percent turnout of registered voters, 8,743 votes. (Russell, 2011). The Cherokee Freedmen lost membership in the tribe when 77 percent of those special election voters supported a requirement that membership be limited to descendants of the Dawes Roll described as “Indian” (Smith, 2007; Russell, 2011). The small number of registered Cherokee Freedmen contributed to the referendum’s passage proving that “lineage in Indian Country has political power” (Sturm, 1988).

After a tumultuous few years, the Cherokee Nation District Court vacated the 2007 constitutional amendment on January 14, 2011. On June 26, 2011, the Cherokee Nation scheduled a special election for principal chief where challenger Bill John Baker beat incumbent Principal Chief Chad Smith by 11 votes amongst allegations of voter fraud. This was not a surprise allegation, since all but one principal chief election have been contested in court since the “modern” constitution of 1975 was adopted (Carroll, 2007). The Cherokee Nation’s Judicial Appeals Tribunal overturned the Cherokee Nation District Court’s January 14, 2011 decision by a 4-1 ruling on August 22, 2011. This ruling resulted in excluding the Cherokee Freedmen descendants again from voting in the next principal chief special election on September 24, 2011, which the nation scheduled to right the wrongs of the earlier allegedly fraudulent principal chief race. An agreement in a United States Federal Court between the Cherokee Nation, the Freedmen descendants, and the U.S. government allowed the Freedmen to vote in the September 2011 special election. Negotiations delayed the special election again until October 13, 2011. Voters, including the Cherokee Freedmen, elected the challenger Bill John Baker to be their next principal chief.

The Cherokee Nation’s leadership was in disarray during this period in 2011. The topics of Freedmen’s suffrage and membership rights are historically divisive among tribe members.

Chief Chad Smith championed limiting citizenship to only those Indians with an ancestor on the Dawes Roll listed as by-blood Indian. Chief Smith did not honor the Treaty of 1866, which gave suffrage to the Dawes Roll of Freedmen. Interim Chief S. Joe Crittenden controlled the Cherokee Nation for two months while the federal courts intervened. Crittenden was a proponent for Freedmen citizenship and suffrage, although he did not seem to push any agenda forward during this period. The eventual winner, Principal Chief John Bill Baker believed that Freedmen were members and deserved a right to vote in elections. He kept his opinion on Freedmen rights quiet during the special election, preferring to champion sovereignty instead. The Freedmen turned out and supported Baker in his successful effort to unseat Principal Chief Smith. Smith lost the final election by 1,575 votes (The Carter Center, 2011).

The Modern Cherokee Phoenix

The Cherokee Nation funds its newspaper through the Tribal Council's annual budget, although the tribe refers to the newspaper as "independently operated" (The Cherokee Nation, 2012). The Cherokee Nation's fiscal year ends September 30 every year. Cherokee Nation law requires the principal chief submit a balanced budget proposal with expenditures that do not exceed projected revenues. The 2013 budget represented a 25 percent cut in funding for The *Cherokee Phoenix* newspaper. According to the [Cherokee Nation's website](#):

The Legislative Branch consists of a 17-member Tribal Council. The Tribal Council is elected by popular vote to four-year terms. There are 15-members elected to represent the districts within the Cherokee Nation jurisdictional boundaries and 2-members At-Large elected to represent those citizens who live outside the boundaries. The Tribal Council shall have the power to establish laws which it shall deem necessary and proper for the good of the Nation, and conducts other business which will further the interests of the Cherokee Nation and its citizenship. An elected Speaker presides over the Council as its president (The Cherokee Nation, 2012).

The paper is both the oldest tribal paper and one of the most modern of all tribal papers. Today's *Cherokee Phoenix* informs the tribe's members and supporters throughout the world through a radio broadcast and video link that streams from its web site; it distributes a monthly newspaper and weekly e-newsletters. Because the majority of the Cherokee people do not live on or even near the Cherokee reservation in Tahlequah, Oklahoma, the use of social media is an important tool to inform members of breaking news.

The staff at the *Cherokee Phoenix* assumes most of the responsibility of information dissemination; the tribe distributes the rest. It covers the activities of the tribe's principal chief and council. During the timeframe of this study, the tribe mailed the newspaper to its recognized members as part of their membership benefits. There is not a competitive paper sanctioned by the tribe. Since much of Indian Country is in a rural area, high-speed broadband access is not widely accessible (Report, 2012). In their latest annual report, the Federal Communications Commission's Office of Native Affairs and Policy states, "The best evidence indicates that the broadband deployment rate on tribal lands is less than 10 percent, and anecdotal evidence suggests that actual usage rates may be as low as 5 to 8 percent, compared to 65 percent nationwide." Therefore, the *Cherokee Phoenix's* website and its streaming attributes are unavailable to most Cherokees living within the reservation or in nearby rural communities. For the purpose of this paper, the researcher will use the only news media that is available to anyone with interests in the tribe's activities, both living on the reservation and those living in other parts of the world. The only news media source that is readily available to both groups is the printed monthly paper.

The *Tulsa World*, The *Cherokee Phoenix's* closest competitor, is located in Tulsa, Oklahoma, 75 miles from Tahlequah, home of the Cherokee Nation's capital. The *Tulsa World*

covers the Cherokee during tumultuous times within the tribe. It does not cover the routine and often mundane stories that frequent any community newspaper. Tribal newspapers have "an acknowledged, historical mission which they alone can fulfill. This mission is to correct or to put into perspective Indian news which is misinterpreted or ignored by the majority of Non-Indian press" (Murphy, p. 28).

When Chief Joe Byrd ran the Cherokee Advocate, he created a free subscription service for members of the nation, who could request the publication and the staff of the *Cherokee Phoenix* mailed it to them. Today's *Cherokee Phoenix* Editor Bryan Pollard said, "The shift to a policy of free mailing implied an acknowledgement by the administration that the printing and mailing of the newspaper was a service to Cherokee citizens, and as such, would be subsidized by the tribe" (Pollard, *A Path to Independence*, 2012). However, in a recent effort to be less reliant upon the Cherokee Nation funds, The *Cherokee Phoenix* eliminated free subscriptions to all members of the tribe, and began charging \$10 per year for a 12-month subscription for papers mailed to the subscriber's home. Cherokees no longer receive the paper as a free service from their tribe. The *Cherokee Phoenix* is seeking business sponsors to host news racks for distributing newspapers to their patrons. The racks will hold free newspapers. The November 2012 issue of The *Cherokee Phoenix* was the first under the new policy. "It will be better in the long run," Pollard said, "Down one path is ever increasing costs with the rise of our circulation numbers and for printing and mailing. We would have been in a position to ask council each year for *more* money. We've taken the path of self-sufficiency, which is us finding ways to pay for our own operations" (Cherokee Nation, 2012).

The Cherokee Independent Press Act (CIPA)

The Cherokee Independent Press Act, known as CIPA, is the result of the 1997-1999 constitutional crises where the Cherokee chief seized control of the daily operations of the *Cherokee Advocate*. Then editor, Dan Agent said,

For several years, the Cherokee tribal newspaper, despite efforts from its editor and reporters, served as a public relations tool for the tribal government...Until something else comes along, that legislation is the best model of establishing a free press for the citizens of those tribes who must rely on the funding of their respective tribal governments for their tribal newspapers (2001, p. 1).

The 2000 CIPA details that in addition to press rights, the act also grants the editorial board several operational efficiencies. Through the act, the editorial board has authority to recommend applicants for the Editor's position to the principal chief of the tribe for his or her final approval. The editorial board establishes editorial policy. They also review editorial practices and hold public meetings regarding the newspaper's activities. The 2000 CIPA states:

The Cherokee Nation's Publications Department shall be independent of any undue influence and free of any particular political interest. It is the duty of the Publications Department to use any necessary forms of electronic and print media to report without bias the activities of the government and the news of interest to have informed citizens.

With such a tumultuous history surrounding free speech, it is not surprising that today's *Cherokee Phoenix* was the first tribal newspaper with a legislative act establishing a free and independent press. A handful of other tribes have adopted the act as part of their own constitutions. The CIPA is a hot topic among native news media proponents and councils administrators. Although relatively new and untested, the CIPA takes an important first step towards a free and independent press in Indian Country.

CIPA set up a three-member editorial board, which reported to the Tribal Council. The members of the editorial board have to agree to follow ethical conduct outlined by the Society of Professional Journalists and the Native American Journalist Association has to “endorse” their appointments. The Cherokee Nation amended CIPA in 2009 to allow for protections of online news hosted by their web sites and social media platforms. The amended act allows for a monthly stipend for all editorial board members. The amendment also added two seats to the editorial board. The principal chief appoints two members of the Cherokee Nation and the Tribal Council appoints two more Cherokee Nation members to the editorial board. The four appointees can elect the fifth member who does not have to be a member of the Cherokee Nation but does have to be a member of a federally recognized tribe. As it was in 2000’s CIPA, the council and the chief have to approve all the editorial board members (Pollard, 2009).

CIPA helped the Cherokee people to have a free and independent press. However, the Cherokee Nation leadership, the nation’s voters, or the editorial board, had not yet addressed financial independence until the budget process began for the 2013 budget. The 2013 Cherokee Nation budget removes the roughly \$400,000 line item for *The Cherokee Phoenix* and gave the funds to the Head Start program. The *Cherokee Phoenix* will now operate like other papers in the marketplace of ideas; with its readers and advertisers top of mind, instead of its tribal leadership as its primary audience. The editorial board admitted in its November 17, 2012, meeting that it is modeling its business plan after the Navajo Nation’s newspaper, *The Navajo Times*. Like the Navajo, it decided to operate without tribal funds in order to insure press freedom. The *Cherokee Phoenix*’s Editorial Board Chairman, retired Associated Press Columbia, S.C., bureau chief John Shurr stated, “I think in a Democracy, things work better with a free press. The system of checks

and balances work better with a free press. It is critical” (2012). Pollard wrote of the new business plan:

...the Editorial Board has set The *Cherokee Phoenix* on a path that decreases its dependence on tribal government and increases its financial independence and ownership by you... We ask that you join with us on our continued journey to independence...but [a subscription] symbolizes the value that we Cherokees place in maintaining an independent and ethical voice that serves the Cherokee people (Pollard, *A Path to Independence*, 2012).

The *Cherokee Phoenix* has a storied past and opportune future. The tribe’s newspaper is adopting a new business model, new marketing plans, and new outreach endeavors to members outside of the Tahlequah area. Journalistic rights, like those found in the nation’s CIPA, seem ready for testing.

2. LITERATURE REVIEW

Several theories and published works informed this paper. Michael Schudson's news sociology theories explained the daily norms and routines of a newsroom as well as the power of a reporter. Indexing theory can be used to analyze the reader's interpretation of the value of the statements made to the paper, as well. First Amendment theory is pervasive throughout this thesis and in the Indian legislation that it tests, CIPA. However, the theory of framing, specifically the "selection" of news elements, led by Robert Entman's definitions, was the most important theory to inform the work.

Framing Theory

The major theory the researcher uses to analyze the Cherokee Freedmen case is framing theory. Frames are filters that people use to understand the world around them. Erving Goffman's book, "*Frame Analysis: An Essay on the Organization of Experience*" set up a loose theoretical explanation for how and why frames are useful (1974). Many fields of academic research can use Goffman's theory of framing as a starting point. Although some of his colleagues found his theoretical work to be difficult to apply universally, the theory is very popular in mass communication research such as this thesis. Goffman defines frames as something that is unconsciously adopted during the development of the communication process. Frames "build up" over time (Goffman, 1974).

News media can present frames as a "mental shortcut" for the receiver to use to perceive the content's information (Fiske, 1991). The shortcuts can be helpful, as it saves time to consume without questioning schema presentation; or it can be hurtful to the reader's reading comprehension. Frames are persistent patterns of cognition, interpretations, and presentation, of selection and emphasis that are largely unspoken and unacknowledged and organize the world

for both journalists and their audience. (Gitlin, 1980). Gitlin expanded the Goffman explanation by defining frames as , "...principles of selection, emphasis and presentation composed of little tacit theories about what exists, what happens, and what matters" (1980).

In the forty years since Goffman's suggestion that frames are unconsciously built tools useful for understanding the world around the receiver in the communication process, the communication research community parsed the definition. A leading researcher, Political Scientist Robert Entman, suggests, "frames define problems, diagnose causes, make moral judgments and suggest remedies" (Entman, 1993).

Researchers quickly determined that actively framing a story could be empirically studied (Tankard, 2001). The act of framing a story is different than reporting a story with bias. Michael Schudson wrote in his book, *The Sociology of the News*, "By discussing framing instead of bias, we accept the possibility that news might speak in more than one voice, even in the same news institution at the same time" (2003). Framing is applicable because the *Cherokee Phoenix* newsroom is a diverse place with differing views of the political situation within the Cherokee Nation. Schudson writes that the "...influence of the news is cultural. It can relay a certain body of information and a set of attitudes...but it cannot reward or punish the audience...It simply makes the news a subtle, cultural influence on human affairs, not an overt force controlling society" (2003).

Thus, the journalist's role in the process is important, and this process of selecting and promoting frames is neither bad nor good. Entman defined framing as, "...selecting some aspects of a perceived reality and making them more salient in a communicating text in such a way as to promote a particular problem definition, causal interpretation, moral evaluation and/or treatment recommendation for the item described (1993). The frame that the journalist chooses is a

selection to that indicates what the issue means (Gamson, 1989). Earlier research within the Cherokee Freedmen issue indicates that several frames are already produced around the controversy; tribal wealth, blood quantum, sovereignty, loss of federal funding, loss of rights and racism (Smith, 2007).

Ten years after Entman developed his original definition of “framing,” he updated his definition following a study of events surrounding the attack on the World Trade Center. In his book, *“Cascading Activation, Contesting the White House’s Frame after 9/11,”* Entman updated his theory conceptualization to imply that evaluations can be useful to produce a desirable end or a possibility (2003). Entman clarified his earlier definition of framing to mean, “selecting and highlighting some facets of events or issues, and *making connections among* them so as to promote a particular interpretation, evaluation, and/or solution” (2003). Entman states frames are considerable tools to influence outcomes desired by the communicator. The news media have the responsibility to provide the public with enough information so that the public can produce its own counter frame. Reporting the issues strictly from the executive branch’s point-of-view does not provide enough information to individuals to form alternative interpretations of issues and events (Entman, 2004).

News media can focus their interpretations of a story through the repeated use of the same frames over time. Repeated use of their chosen frames can dramatically increase the effects of the consumer’s interpretations of the story (Iyengar, 1991; Lecheler & Claes, 2013). During this study’s timeline of the Cherokee Freedman case, several major frames were identified in an analysis of the 2007 principal chief special election, the frames were “racism,” “sovereignty,” and “historical context” (Smith, 2007). Smith found that the racism frame generally was used in the opening paragraph of most national reports on the election. In his findings, Smith also stated

that some articles covered the loss of “Cherokee Perks” and “Blood Quantum.” Smith also found that few articles published in American newspapers addressed or defined the sovereignty frame. Only one newspaper in the sample, *Agence France Presse*, tried to explain the significance of this special election in the context of the “sovereignty” frame (p.3).

The framing literature shows that the news media’s use of competing frames can decrease the effects caused by repetition. Chong and Druckman (2007) state that politics are truly comparative, and frame presentations in that regard are presented in opposing terms. Research also shows that when the news media presents comparative frames, they can cancel each other’s efficacy. The consumer of the news media will revert to long-held beliefs and motivations about the subject. Thus, comparative frames do not influence public opinion and over time, the news media consumer will resist framing strategies (Sniderman & Theriault, 2004). However, when news media presents frames unequally in comparison frames are effective. Pan and Kosicki (2001, p. 45) wrote that when, “...resources are not distributed equally. Actors strategically cultivate their resources and translate them into framing power.” The frame’s efficacy is based on its implementation in a competitive environment (Chong & Druckman, 2007).

Indexing Theory

In his research of the special election to amend the Cherokee Constitution, Ronald D. Smith stated, “the one who defines the frame by telling the story first often sets the tone to which other voices are set in opposition” (p. 3). Opposing voices are key to creating a competitive environment in a framing strategy. Official sources tell the story of the Freedmen in the stories analyzed by Smith (2007). W. Lance Bennett’s indexing theory suggests that reporters typically narrow their focus on interviews with official sources, largely politicians or their appointees. Bennett wrote, that news media “indexes the range of voices and viewpoints in both news and

editorials according to the range of views expressed in mainstream government debate about a given topic” (1990, p. 106). Bennett suggests that journalists reach out to other voices during times when the political officers marginalize the majority perspectives. He warns that journalism will continue to marginalize majority perspectives until:

...the current mass information system is pressed from the outside; we will continue to live with news that subverts its own historic ideals. The over-riding norm of contemporary journalism seems to involve compressing public opinion (at least law-abiding, legitimate opinion) to fit into the range of debate between decisive institutional power blocs. In this ironic twist on the democratic ideal, modern public opinion can be thought of as an “index” constructed from the distribution of dominant institutional voices as recorded in the mass media. By adopting such an opinion index, the media have helped create a political world that is, culturally speaking, upside-down. It is a world in which governments are able to define their own publics and where “democracy” becomes whatever the government ends up doing (1990, p. 125).

Michael Schudson states this advice is impractical and suggests that citizens can only do that after the politician has acted on his or her policy (2003). Bennett (1990) further states that his indexing theory cannot be tested in the smaller papers because it is meant to be tested within the “prestige” papers of record (p. 106).

In Smith’s analysis of the special election, he found that opponents of the amendment were quoted before Cherokee officials in his sample of national and international election coverage. Smith also analyzed Native American Media newspapers and websites and found that they typically used reports by the Associated Press. *Indian Country Today* presented the Associated Press story and also included two editorials; one by Cherokee Principal Chief, Chad Smith advocating tribal sovereignty, and a counter argument by Sheryl Lightfoot, chair of the American Indian Policy Center. *Indian Country Today* followed up the coverage by publishing

an editorial applauding the federal government for their restraint and for honoring tribal sovereignty in this matter (Smith, 2007).

Other Relevant Theories

Independent and critical news media are vital to developing an informed society is at the start of most theories of political economy. American philosopher, Alexander Meiklejohn, believed in a self-governing society that is not fixed. In his book, “Free Speech and Its Relation to Self-Government,” Meiklejohn believed that manipulation of the people could destroy self-government (Meiklejohn, 1948). Meiklejohn believed in autonomous and independent governments, much like the sovereign nations of Indian Country in this research. He believed the society could get stronger by learning, by teaching and by exposure to a free flow of accurate information... by bringing people together in communication and mutual understanding. Meiklejohn argues that for such a system to work an informed electorate is necessary. In order to be appropriately knowledgeable, there must be no constraints on the free flow of information and ideas. According to Meiklejohn, democracy will not be true to its essential ideal if the powerful are able to manipulate the electorate by withholding information and stifling criticism (Perry, 2011).

In the same refrain, the marketplace of ideas concept is also expressed when Fredrick Siebert states in *Four Theories of the Press*, "Let all with something to say be free to express themselves. The true and sound will survive. The false and unsound will be vanquished. Government should keep out of the battle and not weigh the odds in favor of one side or the other" (Siebert, Peterson, & Schramm, 1963).

Interventions by powerful forces are a reality for all news media, not just the native news media outlets. Government intervention in the operations of a free press is the subject of Noam

Chomsky and Edward S. Herman's propaganda model in their book, *Manufacturing Consent*. Chomsky and Herman believe that since the mass media rely on government's cooperation to survive economic conditions, then the mass media distorts their reporting in order to stay in business. They stated, "The result is a powerful system of induced conformity to the needs of privilege and power...In sum, the mass media of the United States are effective and powerful ideological institutions that carry out a system-supportive propaganda function by reliance on market forces, internalized assumptions, and self-censorship, and without significant overt coercion" (Chomsky E. S., 1988).

Research Questions

This literature review led the researcher to develop the following research questions:

Research question #1: What frames did the *Cherokee Phoenix* and the *Tulsa World* present in their reporting of the case of the Cherokee Freedmen?

Research question #2: What type of information did the *Cherokee Phoenix* and the *Tulsa World* present to their readers?

Research question #3: Were the *Cherokee Phoenix* stories aligned with the three Principal Chiefs' views of the Freedmen situation?

3. METHODS

Social sciences use qualitative content analysis frequently to compare and contrast methods of decision-making like the one studied in this research, the decision to write reports with and without frames, and the decision for the news media consumer to interpret those frames one way or another. Berelson defined content analysis as, “a research technique for the objective, systematic, and quantitative description of the manifest content of the communication” (1952, p. 18). Any conclusions derived from qualitative analysis are not empirical, but are informed opinions.

The prevalence and convenience of online databases make it easier for social science researchers to access the data contained in online periodicals. Powerful tools contained in databases like GoogleScholar, LexisNexis, and EBSCO virtually assure the research community that content analysis will be a part of content analysis for some time to come. The three databases listed contributed articles and citations to this report. The researcher also used the *Cherokee Phoenix's* online archive of stories to search for stories about the Cherokee Freedmen.

The researcher chose a qualitative content analysis of information contained in the articles of the two most popular newspapers with the Cherokee people living near Tahlequah, Oklahoma; the *Cherokee Phoenix* and the *Tulsa World* newspapers. The researcher uses a qualitative content analysis because it can help identify to “illuminate differences in the perception of similar events across different actors” as qualitative content analysis “typically involves the identification of assumptions, values and priorities” (Sofaer, p. 1111). Berelson wrote, “the content analyst assumes that the ‘meanings’ which he ascribes...corresponds with the ‘meanings’ intended by the communicator, and/or understood by the audience (1952, p. 19).

In order to organize and interpret the meanings, the researcher created a codebook. The codebook contains data segments used to analyze the date, writer, which argument is presented first, the article's focus (legal, political, both or neither), the type of article (news, opinion or letter to the editor), a presentation of historical context, a listing of the official sources used and/or quoted, the presence of criticism of the principal chief, and finally, the presence of frames. The researcher coded for the presence of these frames: gaming, blood quantum, sovereignty, federal funding loss, Freedmen's loss of rights and benefits, racism, and none of the above.

The *Tulsa World* is a local paper for many of the Cherokee people. It is newspaper closest to the Cherokee Nation tribal lands, and many Cherokee read it. It is the researcher's opinion that an analysis of the *Tulsa World* will determine if the frames of the coverage changed between principal chiefs during the events leading up to the 2011 special election. The research will also analyze what other type of information the two newspapers presented to their readers. An evaluation of the news and editorial coverage by the *Cherokee Phoenix* of the Cherokee Freedmen issue will show any preferential treatment of the subject relative to the principal chiefs' positions. In other words, should the coverage closely trend with the individual positions of the three principal chiefs on the Freedmen issue, then the *Cherokee Phoenix* could be failing to act independent of its principal chief. Finally, the research will distinguish if the *Cherokee Phoenix* presented articles that align with the views of the principal chiefs during the evaluation timeframe.

The Sample

The researcher coded all 2003 to 2012 articles printed in The *Cherokee Phoenix* or the *Tulsa World* containing the keywords "Cherokee" and "Freedmen." The timeframe is significant

because the Cherokee Freedmen were first encountering negative legal outcomes in their suits to join the Cherokee Nation during this period. Additionally, the *Cherokee Phoenix's* online archive only has articles from 2003 to present day. The *Cherokee Phoenix* is not part of the LexisNexis database, so the researcher used their online archives tool to find articles. The researcher eliminated meeting notices, online versions of the story and radio broadcasts from the lists of stories. The researcher used the LexisNexis to collect the articles from the *Tulsa World*.

Table 1

Articles in the Sample Described by Newspaper Selection and Principal Chiefs

		Articles		
		Tulsa World	Cherokee Phoenix	Total
Principal Chief	Dates of Service			
Chad Smith	1999 to 8/13/11	85	106	191
Joe Crittenden	8/14/11 to 10/18/11	30	25	55
Bill John Baker	10/19/11 to present	10	15	25
Total		125	146	N=271

The researcher's unit of analysis is the "article." Coding articles allowed the researcher to include many variables, including the presence of frames. The term "article" refers to "various types of texts produced and controlled by the editorial teams of the newspapers, such as news articles, and analysis, interviews, the editorial, columns and opinion pieces and purchased ... newswire material" (Strand, 2003). The researcher coded 1,086 assertions within 271 articles; 584 of those assertions (54 percent) are from the 146 *Cherokee Phoenix* articles, and 502

assertions (46 percent) are from the 125 *Tulsa World* articles. The researcher read each article numerous times. To demonstrate the presence and regularity of frames, the researcher also measured assertions, or statements of opinion or fact.

Table 2

Assertions in the Sample Describe by Newspaper Selection and Principal Chiefs

		Assertions		
		Tulsa World	Cherokee Phoenix	Total
Principal Chief	Dates of Service			
Chad Smith	1999 to 8/13/11	453	396	849
Joe Crittenden	8/14/11 to 10/18/11	85	83	168
Bill John Baker	10/19/11 to present	46	23	69
Total		584	502	1,086

The Article

The researcher coded content within 271 “articles” from either the *Cherokee Phoenix* or *The Tulsa World*. The researcher coded articles for source, word count, writer, publication date, published during which Principal Chief’s term, did the article contain criticism of a Principal Chief, which side of the argument was presented first, presence of frames, presentation of historical context, and the article focus.

The researcher coded each article by date. The researcher was able to determine which of three Principal Chiefs was in office during the writing of the article. To gauge the presence of criticism in these articles, the researcher noted the presence of explicit or implicit, faultfinding or

support for each Principal Chief in each article, regardless of who was serving as the Principal Chief when the newspaper published the article.

The researcher specifically looked for the representation of information about slavery, treaties involved the relocation of the Cherokee people, specifically a mention of the Treaty of 1866 (Smith, 2007), and/or mention of the Dawes Rolls membership lists, to determine if the writers in their articles presented a historical context. Knowledge of the tribe's history is limited within its membership. Because a significant portion of *The Tulsa World* readers are non-natives, it behooves that paper to report tribal histories in order to provide the historical context needed to explain the Freedmen case. Even though the *Cherokee Phoenix* distributes itself to members of the Cherokee Nation, many of its members do not live in Oklahoma and are not privy to Indian Country's rich history and story-telling culture. At the very least, a historical context serves to remind the reader of the vast amount of history involved in the case of the Cherokee Freedmen. The researcher coded articles as "political" if they solely focused on the elected officials' rhetorical statements advocating one position or another in the context of this debate.

In the review of the literature, the framing theory demonstrates that the position stated in an article has the ability to slant the reader's perceptions throughout the article; it has power (Chong & Druckman, 2007; Pan & Kosicki, 2001). The researcher used the "article" unit of analysis to determine if the writer presented the Cherokee Nation's argument or the Cherokee Freedmen's argument first.

Finally, the researcher determined whether the article had a legal or political focus, or both. An example of an article coded as having a legal focus would include interviews with any of the attorneys involved in the multiple court cases surround the Cherokee Freedmen controversy, and/or the article would report the case law that set the precedent for the decision.

The Source

The researcher coded the source choices that the writers made within their articles. The sources break out into four groups: Cherokee Nation sources, Cherokee Freedmen and their proponents, federal government and judiciary sources, and other elected officials. The Cherokee Nation grouping consists of the principal chief, the council members, and attorneys for the Cherokee Nation and the official spokesperson for the tribe. The Cherokee Freedmen grouping contains the individual Cherokee Freedmen and their attorneys. Federal judges, officials from the Department of the Interior, Bureau of Indian Affairs, and the White House comprise the third group. The final grouping of sources is comprised of elected officials from the Oklahoma statehouse and the United States Congress. There were not enough interviews with unofficial sources within the entire sample to merit measurement.

The Assertions

The researcher studied the assertions within the articles since the angle of the coverage could generally be stated or implied within the range of one word, one or several sentences, or a whole paragraph. Therefore, for the study's purposes, the researcher defined the assertion as a statement or declaration about the Cherokee Freedmen, the Cherokee people or the Cherokee's governance. The assertion can be a phrase, a sentence, or any combination of sentences or paragraphs that purports to be a statement of fact. Direct quotes from sources were used in this part of the analysis.

For example, in the following exchange, the full quote is, "Our tribal government claims that it does not indulge in the diseased behavior called racism-a behavior with as much anti – Indian history and black history. Never mind that the Cherokee Nations used to have laws against mixed marriages. Never mind that the Cherokee Nation practiced chattel slavery. That

was then and this is now, and no racism rubbed off on us” (Russell, 2005). The example was a statement made by a Freedmen supporter, illustrating the racism frame. In addition to racism, other frames analyzed were blood quantum, sovereignty, the tribe’s loss of federal funding, the Freedmen’s loss of membership rights and entitlements, and casino wealth.

The researcher selected the last frame, casino wealth, because many critics stated that the wealth of Indian nations increased dramatically following the nations’ recent development of gambling operations. Traditionally, membership in Indian tribes denotes sharing of resources and wealth. Critics contend, that since the Cherokee Nation is experiencing record-high rates of membership requests that some critics of the Cherokee leadership wanted to remove Freedmen from the rolls actually wanted to limit slices of “the pie” to a narrower group of people. Eli Grayson, a proponent of Cherokee citizenship for Freedmen, said:

“Casinos have accelerated the disenrollment, with tribes tightening blood-quantum requirements so that fewer people share more of the profits, even if hundreds of members, even elderly and long-standing families, are summarily wiped off the rolls. Not only are these people no longer eligible for federal protections, but [also] they are no longer legally ‘Native American.’ (Johnson, 2012, pp. 149-150).”

The researcher also coded for the presence of the casino wealth frame whenever the article mentioned an African-American economic boycott of casinos and other Cherokee Nation businesses due to the Cherokee Nation’s treatment of its Freedmen.

In the Cherokee Nation, the blood quantum, or percentage of tribal blood by lineage, determines tribal membership status. The researcher coded mentions of the terms “by-blood,” “blood rolls” or “blood quantum” to describe membership status. The researcher also included any reference to the U.S. Department of the Interior’s (DOI) Bureau of Indian Affairs’ (BIA) Certificate of Degree of Indian Blood (CDIB). The DOI awards the CDIB card to any Indian seeking membership into the Cherokee Nation. Without the CDIB card, membership in the

Cherokee Nation is impossible. “Blood” is a defining term in the Freedmen-Cherokee argument since the sovereign tribe decides its own membership standards. According to Cherokee Indian Teresa Rendon, the Cherokee blood quantum “runs the gamut from ‘full blood’ to 1/2,048th, a level on the magnitude of the contents of an eyedropper” (Johnson, p. 43).

The sovereignty frame is another frame that the researcher coded. Indian tribes are "distinct, independent political communities, retaining their original natural rights" in matters of local self-government (Cohen, 1942). Sovereignty gives the Cherokee Nation the right to determine its own membership criteria. Federal recognition of the tribe’s sovereign stature is important to the Cherokee Nation’s future within the United States. Additionally, the researcher coded the presence of the sovereignty frame whenever writers used the synonymous term “self-determination” or the phrase “right to decide one’s own fate” in the assertion and article.

The loss of federal funding could mean that tribal members may lose services due to Cherokee Nation budget cuts. Indian nations, as a whole, depend upon Congress to fund many of their tribal services. During the research period, a California Democratic Congresswoman, Diane Watson, introduced a bill that would sever all federal ties to the Cherokee Nation of Oklahoma, including their ability to operate gaming facilities. The bill was a reaction to the Cherokee Freedmen disenfranchisement (Giago, 2010).

The final frame in the coding scheme is loss of membership rights and entitlements. The Cherokee Nation granted its Freedmen membership rights, including the right to vote in tribal elections, in the Treaty of 1866. The researcher noted this frame when the writer used terms like “suffrage,” “membership,” “right to vote,” and other similar terminology. The researcher also noted the loss of tribal benefits of subsidized health care and housing in this frame.

4. RESULTS

Frames Reported

The first research question was, “What frames did the *Cherokee Phoenix* and the *Tulsa World* present in their reporting of the case of the Cherokee Freedmen?” The data shows that the *Cherokee Phoenix* and the *Tulsa World* presented all six frames in their reporting of the case of the Cherokee Freedmen. The newspapers reported, at least once, the tribal wealth, blood, sovereignty, loss of federal funding, loss of rights/benefits and racism frames 456 times in 127 coded articles. “Sovereignty” was the frame most used by writers of both newspapers to discuss the case of the Cherokee Freedmen. “Loss of Freedmen’s Rights and Benefits” of membership in the Cherokee Nation was the second most used frame in both newspapers.

Tribal sovereignty was the primary frame used in coverage of the Cherokee Freedmen removal from the membership rolls. The sovereignty frame appeared in 37 percent of the articles. The writers presented the sovereignty frame in 32 percent of all of the assertions coded almost equally between the two newspapers studied, 174 times by the *Cherokee Phoenix* and 172 times by The *Tulsa World*. The sovereignty frame was used more than twice as often as the two closest represented frames, racism and blood quantum, at 17 percent respectively.

Another frame used in the coverage was the “loss of benefits and/ or rights” frame. Both newspapers used the frame almost equally, with The *Tulsa World* using the frame in four more articles than the *Cherokee Phoenix* did. However, the analysis of the coded assertions shows that the *Cherokee Phoenix* presented the frame 43 more times than The *Tulsa World*. The “loss of benefits and/or rights” frame was the second most presented frame behind the “sovereignty” frame. However, the “loss of benefits and/or rights” frame was the fourth most used in the article comparison behind “sovereignty,” “blood quantum” and “racism” frames. An analysis of these

articles show that the writers let one source state the racism claim and tended not to reiterate the claim in the article. In most *Tulsa World* articles, public authors of “letters to the editor” made the suggestions of racism, not the journalists.

Table 3

Frames Presented by Newspapers Crosstabulation

Frame	<i>Cherokee Phoenix</i> Articles	<i>Tulsa World</i> Articles	Total Articles	<i>Cherokee Phoenix</i> Assertions	<i>Tulsa World</i> Assertions	Total Assertions
Tribal Wealth	1%* (3)	3% (6)	2% (9)	1% (3)	2% (9)	1% (12)
Blood	18% (42)	16% (36)	17% (78)	10% (58)	13% (64)	11% (122)
Sovereignty	35% (83)	39% (86)	37% (169)	30% (174)	34% (172)	32% (346)
Loss of Federal Funding	13% (30)	14% (30)	13% (60)	13% (73)	9% (47)	11% (120)
Loss of Rights/Benefits	12% (29)	15% (33)	14% (62)	26% (152)	22% (109)	15% (161)
Racism	20% (48)	14% (30)	17% (78)	8% (45)	11% (53)	9% (98)
Total	(235)	(221)	(456)	(584)	(502)	(1,086)

* All percentages are rounded up.

Sixty-eight percent of all of the coded articles featured the Cherokee Nation’s representative as a source in the article. Of the 1,086 coded assertions made in those articles, Cherokee Nation representatives made 46 percent of the assertions and Cherokee Freedmen or their lawyers made only 13 percent, while the federal government and judiciary made only four percent. Next to the Cherokee Nation as the primary source, journalists sourced other elected officials from the Oklahoma Legislature to the United States Congress, 22 percent of the time. When combining the elected officials’ advocacy on behalf of the Cherokee Freedmen, the results

demonstrated the news media sourced Freedmen supporters in 35 percent of the assertions. However, the Cherokee Nation officials were by far the most sourced with 11 percent more sources reported in the assertion tally.

Table 4

Cross-tabulation of Official Sources' Assertions by Frames

Official Source	% of sourcing	Frames								Total
		Tribal wealth	Blood quantum	Sovereignty	Funding loss	Rights/benefits loss	Racism	None		
CN council member	7	1	9	35	5	6	2	17	75	
CN Principal Chief	23	3	30	113	44	17	25	15	247	
CN Spokesperson	5	0	10	20	11	4	6	4	55	
Cherokee Freedmen	12	1	17	11	6	70	13	13	131	
Outside experts	4	0	0	1	0	1	2	0	4	
Fed govt. official	3	0	0	14	3	12	1	5	35	
Cherokee Judges	3	1	2	11	1	12	0	4	31	
Fed Judges	1	0	0	8	0	3	0	0	11	
Cherokee Lawyer	9	0	6	43	5	23	2	16	95	
Freedmen Lawyer	7	2	3	18	4	34	12	6	79	
Other elected officials	22	1	25	56	37	62	27	34	242	
None	8	3	20	16	4	17	8	13	81	
Total	100*	12	122	346	120	261	98	127	1,086	

* All percentages are rounded up.

The Articles Content

The second research question is “What type of information did the *Cherokee Phoenix* and the *Tulsa World* present to their readers?” The *Cherokee Phoenix* printed 20 more criticisms than

The *Tulsa World* did of Principal Chief Chad Smith. Principal Chief Joe S. Crittenden was criticized by sources 19 times in The *Tulsa World* and only three times in the *Cherokee Phoenix*, there were no sources printed supporting Crittenden in either paper. The *Tulsa World* printed three sources supporting Principal Chief John Baker's handling of the Cherokee Freedmen situation and near equal criticism of his treatment of the issue. The *Cherokee Phoenix* did not publish any articles citing sources supporting the principal chief regarding the Cherokee Freedmen while the *Tulsa World* printed nine.

The *Cherokee Phoenix* presented the Cherokee Nation's side of the story first in 51 percent of their articles and presented the Cherokee Freedmen's position first 32 percent of the time. The *Cherokee Phoenix* presented other arguments first 17 percent of the time. By contrast, The *Tulsa World* presented the Cherokee Nation's arguments 50 percent of the time and The *Tulsa World* presented the Cherokee Freedmen's position first 33 percent of the time. The *Tulsa World* presented other arguments 17 percent of the time. Both newspapers principally presented the Cherokee Nation's argument first in their coverage of the Cherokee Freedmen.

Forty-four percent of the *Cherokee Phoenix's* stories were political stories, while 62 percent of The *Tulsa World's* stories were political. The majority of the *Cherokee Phoenix's* stories, 56 percent, concentrated on neither a political nor a legal focus. The *Tulsa World* only wrote two stories in the sample with a strict legal focus regarding all of the litigation surrounding the case of the Cherokee Freedmen.

Both papers did not feature historical context in majority of their articles. The *Cherokee Phoenix* featured historical context in 41 percent of the articles, 59 percent of the articles did not contain historical context in the writing. Sixty percent of The *Tulsa World* articles did not feature historical context, 40 percent of the articles did include context.

Eighty-six percent of the sampled writings from both papers were news articles. The *Tulsa World* published 15 letters to the editor while the *Cherokee Phoenix* published nine. The *Cherokee Phoenix* wrote 11 opinion pieces, four of them by Principal Chief Chad Smith; and The *Tulsa World* wrote two. The Associated Press wrote 11 of the *Cherokee Phoenix* articles and four of The *Tulsa World's* articles. There were 27 different writers involved in the Freedmen coverage by the two different publications within the period of three different Principal Chiefs. Will Chavez and Travis Snell wrote most of the articles on this issue for the *Cherokee Phoenix*. Lenzy Kreibehl-Burton, S.E. Ruckman and Jim Myers contributed the majority of the articles within The *Tulsa World's* coverage. Finally, most of the articles had a word count more than 200 words. Only 31 of the 271 articles in the sample contained less than 200 words.

Coverage Alignment With Leadership Bias

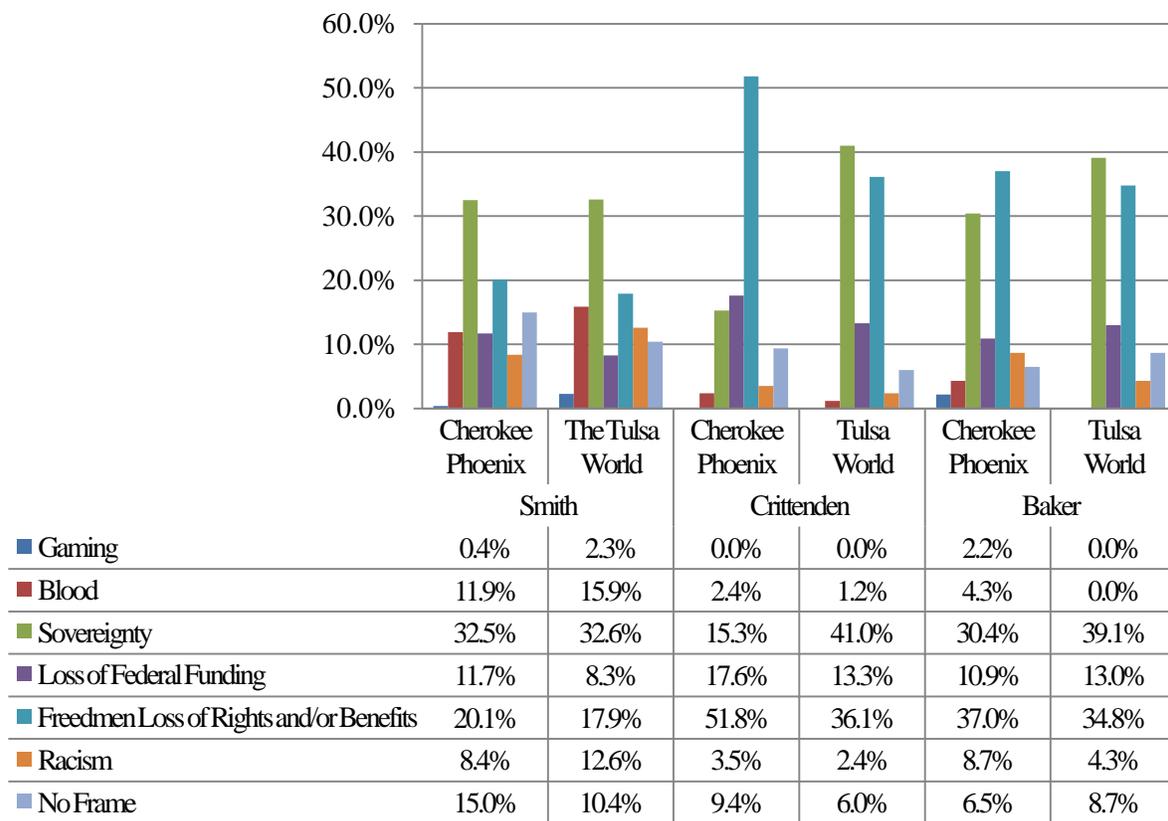
The researcher analyzes news media control in the third research question, “Were the stories from the *Cherokee Phoenix* aligned with the principal chiefs’ views of the Freedmen situation?” The researcher sorted the assertions sample by the three principal chiefs’ term in office and compared the coverage during the terms to the frames covered in the sample. Principal Chief Smith supported the Cherokee Nation’s sovereign rights to determine its own outcomes regarding the Freedmen. Interim Principal Chief Joe Crittenden supported Freedmen’s rights, but did so privately, and not during his interim term. Principal Chief John Baker, while making statements about the tribe’s sovereign rights and responsibilities, supported adding the Freedmen back into the membership rolls for the special election.

The analysis of the *Cherokee Phoenix's* coverage during Chief Smith’s terms in office showed that the newspaper wrote 106 articles during his terms. Of the frames present within those articles, 32.5 percent of the articles featured the sovereignty frame, his principal argument.

Smith was the source in 53 percent of the 57 sovereignty frames in the *Cherokee Phoenix* articles, and 43 percent of the 40 sovereignty frames printed in *The Tulsa World's* 95 articles published during Smith's terms in office. Both newspapers covered Smith's claims of tribal sovereignty almost twice as much as anything else for the 13 years Smith served as Principal Chief, 1999-2011.

Table 5

*Cross-tabulation of Frames Printed During Each Principal Chiefs' Term**



*All percentages were rounded up.

During the two months that Joe Crittenden served as the interim chief, the *Cherokee Phoenix* barely discussed Chief Chad Smith's key talking point, the "sovereignty" frame, even though it had been the most used frame printed by both newspapers prior to Crittenden's term. In contrast, *The Tulsa World* reported the sovereignty frame in 41 percent of its assertions during

this period. However, the *Cherokee Phoenix* did report the Cherokee Freedmen's main talking point, their loss of rights and entitlements. The *Cherokee Phoenix* reported the presence of the "loss of rights and/or entitlements" frame 52 percent of the assertions made during the three weeks. Comparatively, The *Tulsa World* reported the presence of the frame in 36 percent of their printed assertions.

Baker won the special election where a special arrangement with the federal government and the Cherokee Nation's highest courts allowed the Cherokee Freedmen to cast votes in the election. The frame analysis shows that both newspapers have largely leveled their use of the "sovereignty" and "loss of rights and/or benefits" frames. During Baker's term, the *Cherokee Phoenix* is sourcing an average of 34 percent of assertions in each frame, with a little higher numbers in the "loss of rights and/or entitlements" frame (37 percent). The *Tulsa World* is sourcing an average of 37 percent within each frame, with numbers a little higher in the "sovereignty" frame (39 percent) during this period.

5. ANALYSIS

The 2011 special elections caused much tumult within the Cherokee Nation. It is not the first time. In 1997, the Cherokee Nation was in similar disarray. Cherokee Nation Principal Chief Joe Byrd fired the editor of the *Cherokee Advocate* for reporting on stories that did not favor the chief (The Reporters Committee for Freedom of the Press, 2006). Earlier in the history of the tribe, the first editor of the *Cherokee Phoenix* was murdered on orders from the chief for signing the Treaty of New Echota that advocated for assimilation and eventual removal of the tribe from Georgia. The Cherokee Nation adopted many safeguards within the administration of the nation and its newspapers to prohibit a reoccurrence of the tumult of the late 90s. The Cherokee Independent Press Act (CIPA) is one of those safeguards.

Today, the *Cherokee Phoenix* is a leader among the Indian newspapers. A free and independent news media is the stated goal of the *Cherokee Phoenix*. Due to the *Cherokee Phoenix's* demonstrable dedication to providing an enroot for a free and independent news media, the 2011 special election and the coverage of the Cherokee Freedmen controversy is a perfect test of CIPA.

The presence of criticism

This research finds that the *Cherokee Phoenix's* coverage did align with the Chief's position while serving his term, particularly during the Principal Chief Smith's term. The alignment is subtle, because the *Cherokee Phoenix* did print opposing viewpoints, just not as often as they printed views that aligned with the Chief's position regarding the Cherokee Freedmen. The *Cherokee Phoenix* only printed few faultfinding criticisms of Chief Smith's position regarding the Freedmen in the first four years of the sample. Generally, when printed, the information was a criticism written by Marilyn Vann, the Descendants of Freedmen

Association President. An example of her criticism is available in the article, “Q&A from the Freedmen Perspective.” Vann wrote, “Opponents of Freedmen citizenship would have the Cherokee people believe that all Cherokee Freedmen have no Cherokee blood...Many Cherokee citizens listed as Freedmen have Dawes testimony or census cards showing they had Cherokee blood or an Indian parent” (Vann, 2006). If a source quote was critical of the chief, like Vann’s was, then the chief was given a chance for rebuttal. For example, the United States Department of the Interior’s Associate Deputy James Cason was quoted in 2006 saying that not everyone in the Nation was considered eligible to vote in the 2003 elections, which purported to adopt the constitutional amendments” to remove the Freedmen from Cherokee membership rolls. In response, Principal Chief Smith was quoted by the *Cherokee Phoenix*, said, “The Cherokee people have expressed their will, and the (Cherokee) Nation’s highest court has ruled that our constitution is valid and effective” (Snell, Cherokee Phoenix, 2006). Smith is given the last word in this article’s narrative, and a section entitled, “History of the 2003 Constitution” follows which supported his position. Another example of his rebuttal ability came in the February 5, 2007 article, “Freedmen File Injunction Against Special Election.” The paper wrote:

Vann alleges that Smith and some Tribal Councilors pushed the petition process soon after the March 2006 tribal court ruling that reversed a previous decision and ruled that the tribe’s constitution allowed citizenship for non-Indian descendants, specifically Freedmen, who are listed on the CN (Cherokee Nation) Dawes Rolls. ‘Tribal officials and former tribal officials such as former Deputy Chief John Ketcher went throughout the Cherokee Nation, stating that the ‘freedmen were forced on the tribe,’ ‘the freedmen do not have Indian blood’ and the freedmen have no treaty rights to citizenship – all statements which the tribal courts, federal courts and study of the Dawes Rolls and accompanying census cards and testimonies show to be utterly false,” Vann states. Smith has previously said that he doesn’t advocate for either side of the issue, but that citizenship should be decided by the voters and not the courts. “The issue at hand is what classes of people should be citizens of the Cherokee Nation, and who should make that decision, the courts of the Cherokee people themselves,” he (Smith) said. “The process to decide the issue of

Freedmen citizenship is a constitutional amendment at the polls” (Snell, 2007).

The only time in which a rival source was allowed the last word on an article, was when his future political rival, then council member, Bill John Baker, levied criticism at the chief. Councilman Baker was critical of Principal Chief Smith’s veto of redistricting legislation Smith found to be unconstitutional. Baker’s comments in the article were stronger than any other non-Freedmen Cherokee quoted in the paper. Of the veto and its effective political maneuvering, Baker said, “...it just keeps them from running where he wants them to run or against [whom] he wants them to run against” (Snell, 2006). Even though the researcher did not code who stated the last viewpoint presented in the articles, anecdotally, it became obvious that the *Cherokee Phoenix* articles featured a quote at the end of each article from Principal Chief Chad Smith supporting his arguments, or the articles featured a summation or additional facts that supported the chief’s position or views. In comparison with the *Tulsa World*, the data showed that the *Cherokee Phoenix* printed 20 more frames critical of Principal Chief Smith during the entire research period than the *Tulsa World* printed.

The findings regarding the treatment of Principal Chad Smith’s viewpoints were not that surprising considering the history of the principal chiefs’ control over the paper. The power of CIPA was new to the staff. Indeed, the reform-minded Principal Chief Smith pushed for the adoption of CIPA after taking office following the 2007 Cherokee constitutional crisis and armed standoff with the former Principal Chief Joe Byrd. The researcher believes that the content analysis data can demonstrate willingness by the *Cherokee Phoenix*’s staff to adapt to CIPA over time, and that at the beginning of CIPA’s adoption in their constitution, they were hesitant, due the history of the chiefs’ control of the journalists’ work product.

The writing style

Throughout the sample, the *Cherokee Phoenix*'s writing style was not emotive; indeed, it was similar to a court report stating only the facts. The journalists presented information in a dry, albeit unbiased, manner. The block quote above is indicative of the paper's reporting style. Additionally, the researcher found it difficult to follow the coverage's presentation of the facts. It was difficult to determine where paragraphs began and where they ended because of the way the *Cherokee Phoenix*'s archives are presented to online viewer. Typically, the online article is presented in one, long, un-indented block of text. The online material is difficult to understand. An example of this problem can be found in the *Cherokee Phoenix* online archive's article, "Tribal Court Reinstates Freedmen Citizenship" (Chavez, 2007) that explains the reinstatement of Cherokee Freedmen to the voter rolls. The *Tulsa World* articles retrieved through the Lexis/Nexis database were presented as they were probably published, with line breaks and indentations at the start of new paragraphs.

Lack of equal storytelling

The research findings illustrate that the *Cherokee Phoenix* did not equally present the Cherokee Freedmen and the Cherokee Nation elected officials' views on the Cherokee Freedmen controversy during the terms for Principal Chief Chad Smith and during Interim Principal Chief Joe Crittenden's short term. However, the *Cherokee Phoenix* has balanced between the poles of the controversy during Principal Chief Baker's term to December 31, 2012, period when this research ended.

The researcher believes that some interesting determinants occurred in the unequal reporting of the controversy. First, there was a lack of historical context available in the majority of the articles. The discussion of the Treaty of 1866 largely strengthened the Cherokee

Freedmen's argument for membership in the tribe. Any mention of the term, "Treaty of 1866," was one of the key indicators to determine whether a newspaper presented a historical context of The Cherokee Freedmen's history in its coverage of the controversy. As already established in the discussion of the second research question, neither the *Cherokee Phoenix* nor the *Tulsa World* presented historical context in a majority of the articles printed during Chief Smith's term.

Secondly, the *Cherokee Phoenix* reported the Cherokee Nation Principal Chief's views first in at least half of all of its articles. That type of reporting has an agenda setting effect that is beneficial to the Cherokee Nation's view of the Freedmen up until the Cherokees appointed Crittenden as Interim Chief and Principal Chief Smith left office. Again, it is the researcher's belief, based on the data that the *Cherokee Phoenix's* staff was not yet comfortable with the press protections listed in CIPA. Over the timeframe of this study, the journalists' confidence in CIPA obviously improved to where both the Cherokee Nation and the Cherokee Freedmen had equal representation in the *Cherokee Phoenix* at the end of the timeframe. However, it is difficult to know if this result was a function of CIPA or of Principal Chief John Baker's viewpoint of the Cherokee Freedmen, which was less-polarizing than his political adversary, Principal Chief Chad Smith. To this point, the third research question that addresses coverage alignment is difficult to answer given the methodology of the content analysis.

The *Cherokee Phoenix* also predominantly featured interviews with Principal Chief Chad Smith. It was the rare occasion when first person to speak for the Cherokee Nation was someone other than Smith. If the paper interviewed someone else from the tribe's governance, then it tended to be the Cherokee Nation's lawyer. Both speakers reverted to the sovereignty frame in their comments during their interviews with the *Cherokee Phoenix*.

Finally, the last determinant that led to unequal reporting by the *Cherokee Phoenix* was the lack of the “man on the street” interviews. The *Cherokee Phoenix* rarely sourced a non-freedman or non-elected or appointed Cherokee during this period. Official sourcing was the *Cherokee Phoenix*’s modus operandi, and in the researcher’s view, this led to its court-reporting writing style. Since the *Cherokee Phoenix* mainly interviewed official sources, they missed an opportunity to find out what the Cherokee Nation membership thought about the Cherokee Freedmen issue. They missed the opportunity to inform their readers what their neighbors thought about the controversy. Furthermore, the researcher believes the *Cherokee Phoenix* staff let the voter turnout figures demonstrate support for the 2007 constitutional amendment. The next four years were tumultuous for the Cherokee Nation, as the Cherokee Freedmen fought for their suffrage rights. The *Cherokee Phoenix* did not focus on the Freedmen, with the exception of their lawyers and their designated leaders. The last special election for Principal Chief, held in September 2011, saw 19,831 votes counted and that represented a turnout of 35 percent of the 56,000 registered Cherokee voters (The Carter Center, 2011).

In summary, the issue of news media control from the government’s bureaucracy is still a concern, in Indian Country, as it is in most places around the world. There are protections in place in some of the newspapers in Indian Country. To avoid the issue of news media control, *The Navajo Times*’ editor advised, “...you need to practice good journalism. If you don’t, you open the door for their criticism” (Arviso & Pollard, Session 1: The Collision of Old and New Media, 2011) Arviso admitted he has some friends who have taken his advice, and they’ve lost their jobs. “I also have friends who do what they’re told. Before they go to press, they have people who come from the public relations department to look at the paper to make sure there’s

nothing there they don't want printed. If there is, then they'll pull it," said Arviso (Arviso & Pollard, Session 1: The Collision of Old and New Media, 2011).

The staff of the *Cherokee Phoenix* must do a delicate dance. They do it well. They are leaders among their peers in Indian Country news media. *Cherokee Phoenix* journalists are working to balance their coverage between the demands of the membership's right to know and the demands of the tribe's political leaders. Through their support of CIPA, they show an awareness that they must write to inform their readers of all of the views within "the marketplace of ideas." The journalists at the *Cherokee Phoenix* know that they need to do this skillfully in order to continue to have the access to the politicians who set the rules and regulations for the nation. This situation is not unique to native news media. The *Cherokee Phoenix's* journalists know their paper could lose access to the tribe's leaders if they are too critical.

Until recently, the *Cherokee Phoenix's* financial support came from these same elected officials. In the 2011 symposium presentation with *The Navajo Times*, Pollard stated, "We took a different tack from *The Navajo Times*...they are an independent publisher. We still take our money from the tribe. We have the Independent Press Act that gives us some statutory protection" (Arviso & Pollard, Session 1: The Collision of Old and New Media, 2011). The researcher hopes that once the *Cherokee Phoenix* has some success with its new subscription-based funding model that the benefits of CIPA will be easier to analyze over a longer period.

As Pollard demonstrated all of the new web-based technologies during the "Collision of Old and New Media" symposium that the Cherokee Nation had invested in to inform its members, during the question-and-answer portion, news media control by the tribe was debated and Pollard pondered aloud, "Why invest in all of this technology? ... Why not just put out a newspaper?" He answered himself with:

Every time we launch a new platform, we reach a different segment of the total potential audience... The more people we attract to us... it protects us from media controls by the tribe. If we had just a newspaper and we had 25,000 subscribers, and the chief and the council wanted to do something to us, then only 25,000 people could potentially care. If you have a total audience of 100,000 or 150,000 people in your audience, then suddenly you have a huge amount of Cherokees that are going to be upset about it. So ultimately, by adopting a greater audience, that to me is what is going to provide us protection. The officials will be reluctant to do something to us if they know that the public outcry will be tremendous. Ultimately, it provides protection for us, editorially (Arviso & Pollard, Session 1: The Collision of Old and New Media, 2011).

Limitations of the research

The primary limitation of the research is that no journalists really want to talk on the record about how their bosses treat them at work, native or otherwise. Native American journalists are nervous about the topic of news media control, and for good reason. Tribal councils and Principal Chiefs fired many of their peers for writing and reporting the news of the day that leadership censored; this is one of many reasons why a qualitative content analysis was chosen for this research. However, as press freedoms gradually become more the rule than the exception in the daily operation of a Native American newspaper, a focus group of journalists working for native news media may be the best way to get at the questions of news media control within Native American communities, provided the participatory journalists receive anonymity within the research.

The Native American Journalists Association (NAJA) could be a great ally in the quest for more information about the efficacy of CIPA and other press protections. However, at the time of this research, the group was experiencing leadership transitions that made it difficult to access its membership. The original research design for this paper included a mixed methodological approach utilizing a self-censorship survey of NAJA's members alongside the

content analysis provided within this document. NAJA provided its most current membership list and agreed to allow the researcher access to its members to conduct an online survey.

Participation in the online survey was low and therefore it did not provide for validity, and the survey was abandoned. NAJA's membership list was not up-to-date and included a significant number of erroneous email addresses resulting in a high number of undeliverable surveys.

Another limitation of the research was the publication styles of the two newspapers. The period that Crittenden was Interim Principal Chief, August 14, 2011 to October 18, 2011, is difficult to compare because the *Cherokee Phoenix* only printed two issues during this timeframe, and The *Tulsa World* contributed daily to the coverage. However, the fact that the *Tulsa World* is a daily paper does not mean that it contributes daily coverage of the Cherokee Nation. Similarly, even though the *Cherokee Phoenix* prints once a month, the entire newspaper covers the Cherokee Nation primarily. It is the researchers hope that greater broadband access will provide an even distribution field for the *Cherokee Phoenix* to enough members so that it can stop printing altogether and focus its efforts in the digital space.

Finally, Principal Chief Chad Smith's main talk point is that the Cherokee Nation is a sovereign nation, complete with its own laws and structure. With those laws, the nation has its own expectations of the Cherokee people. For the researcher to imply that incorporation of the United States of America's free press clause into the Cherokee Nation's Constitution is a worthy goal, is to ignore the issue of the Cherokee Nation's sovereignty. American Indian communities are comparable to each other, but they are not comparable to the United States, nor should any researcher imply they should be. Sovereignty is a way of life for Indian Country. An ideal that should be respected in the research.

Suggested Future Research

If a newspaper owner makes suggestions on what items his or her staff should report, then that is not necessarily a First Amendment or free speech violation. In an effort to make the owner happy, journalists will follow directions given. Subtle ownership suggestions make a case for more study of self-censoring within Native American journalists. Do they censor coverage so they can keep their jobs? How often do they do this? What is the result of this self-censorship? Any future research in this subject area should include mixed methods, particularly the ability to interview staff and other political actors in this issue.

Journalists inform residents living on or near American Indian reservations about key policy issues. Since most tribal councils own and operate the news outlets, retaliation towards journalists working for the tribe is a real concern if the leadership does not appreciate the message, and fear of retaliation still exists. Again, NAJA would be a terrific research partner to research this issue. Specifically, the researcher would like to further explore the relationship between the willingness to self-censor (WTSC), using the WTSC scale, and the willingness to censor others (WTC), using the WTC scale by surveying or conducting focus groups or privately interviewing NAJA members (Glynn C. J., 1997). Future research should concentrate on observations of the actual willingness to speak out as opposed to hypothetical willingness.

The Cherokee Nation is one of the larger tribes in the United States. It is the researcher's hope that the new business model at the *Cherokee Phoenix*, and the Cherokee's continuing changes to their tribal constitution to protect a free press will inspire other tribes. Until tribal courts uphold press freedoms guaranteed in the tribal constitutions and thereby create case precedent, then they are tentative rights and tentative freedoms in Native American country. A

study of case law around CIPA would also be of great interest to the research community interested in Native American issues.

Finally, since the *Cherokee Phoenix* just adopted a subscription model service, future research could incorporate the results from this study and compare it to results following a similar study of articles produced during the subscription-model period. It is the researcher's belief that when the funding model is more in line with mainstream newspapers, like the *Tulsa World*, the data will more clearly indicate whether or not the principal chief has control over the tribe's news media.

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APPENDIX A

Timeline of Events

Source: *Tulsa World* articles

Date	Event
1700s	Reports began that Cherokee Indians owned slaves.
1809	The Census of Cherokees counted 582 slaves.
1830	Trail of Tears began for the “five civilized tribes.”
1835	The Census of Cherokees counted 1,592 slaves.
1838	The Cherokee moved onto Trail of Tears under protest.
1861	The American Civil War started.
1863	The Cherokee National Council stopped the practice of owning slaves.
1865	The Civil War ended.
1866	The Treaty of 1866 is signed between the Cherokee Nation and the U.S. giving all rights of native Cherokees to Cherokee freedmen, the slaves of tribal citizens.
1886	The Dawes Act passed allowing for surveying of Indian lands in order to speed up assimilation. The federal government started conducting a census of all Indians in Indian Country
1906	Dawes Act allowed the Dawes Commission to allocate tribal reservation lands and resource rights to individual Indians on the “Dawes Roll.” The federal government listed “Blood” Indians and Freedmen separately.
1924	The Citizenship Act passes setting up rules in which Indians can become U.S. citizens and vote in state and federal elections.
1971	The Cherokee Nation is allowed to elect principal chiefs, and Cherokees-including freedmen- are allowed to vote in the elections.
1975	Cherokee Council and Chief interprets the Cherokee Constitution to

	read that Freedmen are not members because they are separately listed on the Dawes Roll
1983	Cherokees voted to amend citizenship rules to require blood lineage or Dawes Roll ancestry requirement. Freedmen lost voting rights. The Bureau of Indian Affairs does not approve the vote which federal approval is requirement of the Cherokee constitution.
1997	Cherokee constitutional crisis begins and the <i>Cherokee Advocate</i> staff was fired and replaced by Chief Byrd's PR team.
1999	The voting, "blood" Cherokees elected Chad "Corntassel" Smith Principal Chief. Chief Smith rehired fired editor of the Cherokee Advocate.
2000	The Cherokee Independent Press Act passed that mirrors the free press clause in the vacated Indian Civil Rights Act.
2001	A Freedom of Information Act passed.
2003	The National Congress of American Indians endorses a resolution favoring a "Free and Independent Native Press."
2003	A federal case is filed alongside the tribal court filings between freedmen descendants and the Cherokee Nation.
March 7, 2006	The Cherokee Judicial Appeals Tribunal (their Supreme Court) overturned their own early decision and allowed Freedmen to be citizens of the nation again, but the Cherokee Nation could vote on the issue. Chief Smith called a special election to amend constitution again to remove citizen status from the Freedmen and Intermarried Whites, as listed on the Dawes Commission.
February 2007	Freedmen proponents appealed to the United States Federal Court for an immediate stay. The federal judge ruled the vote could continue.
March 3, 2007	The Cherokee Nation's constitutional amendment to deny membership to Freedmen passed with 77 percent of the vote.
January 14, 2011	The Cherokee Nation District Court overturned 2007 amendment. Enrolled freedmen can vote. Council attorneys immediately challenged it to their Cherokee Judicial Appeals Tribunal.

June 25, 2011	The election between Bill John Baker and Chad Smith is held.
June 26, 2011	Unofficial results name Baker as the winner by 11 votes.
June 27, 2011	Official results name Smith as the winner by seven votes. Baker calls for a recount.
June 30, 2011	Certified recount figures name Baker the winner by 266 votes
July 5, 2011	The Election Commissioner resigns amid controversy around 265 “undetermined” ballots.
July 17, 2011	A hand recount of ballots concludes that Smith finished five votes ahead of Baker.
July 21, 2011	The Cherokee Supreme Court invalidates results of the June 25, 2011 election.
July 23, 2011	S. Joe Crittenden is elected deputy chief.
Aug. 14, 2011	Principal Chief Chad Smith steps aside and newly elected Deputy Principal Chief, Joe Crittenden, takes charge of the Cherokee Nation until a winner is determined.
Aug. 22, 2011	The Cherokee Judicial Tribunal (Supreme Court) overturned the District Court’s injunction on the 2007 amendment. Again, the 2,800 freedmen lost citizenship and voting rights. Federal courts intervened and delayed the 9/24/11 special election.
Sept.14, 2011	The Cherokee Election Commission votes to allow freedmen descendants to cast challenge ballots in chief’s election, pending the outcome of litigation in tribal and federal courts.
Sept. 17, 2011	Early voting starts.
Sept. 20, 2011	Federal courts intervened and extended the September 24 special election voting through October 8.
Sept. 24, 2011	Election Day, absentee ballots from freedmen need to be received by noon.
Oct. 8, 2011	Additional voting days end for freedmen voters. Election
Oct. 10, 2011	The Cherokee Supreme Court rules that it will not recognize the federal agreement allowing freedmen descendants to vote.

Oct. 11, 2011	Certified results show that Bill John Baker defeated Chad Smith in the special election (Baker's 10,703 votes to Smith's 9,128 votes).
Oct. 17, 2011	Former Principal Chief Chad Smith contests the election results.
Oct. 19, 2011	Bill John Baker is sworn in as the Principal Chief.
May 1, 2012	The Cherokee Nation amended its freedmen lawsuit to seek declaratory judgment against the U.S. Department of the Interior.
July 2, 2012	The U.S. Department of the Interior filed a counterclaim seeking declaratory judgment and relief, including an injunction to prevent the Cherokee Nation from denying eligible freedmen descendants citizenship and other rights of native Cherokees.
Dec. 15, 2012	The freedmen sued Principal Chief Bill John Baker in federal court since it can't sue the Cherokee Nation due to its sovereignty. The federal appeals court reversed a lower court ruling dismissing the case.

APPENDIX B

Code Sheet

ARTICLE #:

Newspaper:

1=the *Cherokee Phoenix*

2=the *Tulsa World*

Year: 1=2003, 2=2004, 3=2005, 4=2006, 5=2007, 6=2008, 7=2009, 8=2010, 9=2011, 10=2012

Month: 1=Jan., 2=Feb., 3=Mar., 4=Apr., 5=May, 6=June, 7=July, 8=Aug., 9=Sept., 10=Oct., 11=Nov., 12=Dec.

Chief in office (code article by date shown):

1= Smith's term (1999-8/13/11),

2=Crittenden's term (8/14/11-10/18/11)

3=Baker's term (10/19/11-12/31/12)

Word count of story:

1=100 words or less

2=101-199 words

3=200+ words

Name of writer:

1=No writer/Staff Report

2=Chavez 11=Harper 20=Jackson

3=Pollard 12=Kreibehl-Burton 21=Custer

4=Goodvoice 13=Off 22=Martindale

5=Simmons 14=AP 23=Walton

6=Smith 15=OTHER 24=Hoerock

7=Snell 16=Sparks 25=Greene

8=Ruckman 17=Agent 26=Wade

9=Myers 18=Russell 27=Watts

10=Adcock 19=Vann

Position presented first:

1=Cherokee Nation

2=Cherokee Freedmen

3=neither

Focus of the piece:

1 = legal

2 = political

3 = both

4 = neither

Historical Context presented: no=1, yes=2 **Type of article:** 1=News, 2=Opinion, 3=Letter

Official Sources Used:

1=CN Council Members

2=Principal Chief

3=CN's Spokesperson

4=Cherokee Freedmen

5=Non-Cherokee/Non-Freedmen Experts

6= Fed. Govt. Official (BIA,DIA or DOI)

7=Cherokee Judges

8=Federal Judges

9=Cherokee Lawyer

10=Freedmen Lawyer

11=Other

12=None

Criticism of PC Smith: 1=Neutral,

2=Critical, 3=Supportive, 4=Both

Criticism of PC Crittenden: 1=Neutral,

2=Critical, 3=Supportive, 4=Both

Criticism of PC Baker: 1=Neutral,

2=Critical, 3=Supportive, 4=Both

Frames Presented (tally types):

1=casino wealth

2=blood quantum

3=sovereignty

4=loss of fed. funding

5=CF's loss of rights and/or entitlements

6=Cherokees are/are not racist

7=None

KEYWORDS: NATIVE AMERICAN, AMERICAN INDIAN, INDIAN, INDIAN COUNTRY, ETHNIC MEDIA, FREEDOM OF THE PRESS, FIRST AMENDMENT, FIRST AMENDMENT RIGHTS, INDEPENDENT PRESS ACT, FUNDING MODEL, SOVEREIGNTY, CHEROKEE, FREEDMEN, DAWES COMMISSION, DAWES ROLLS, FRAMING, ROBERT ENTMAN, INDIGENOUS JOURNALISM, MEDIA LAW, NEWSPAPERS, RACE, NATIVE AMERICA, CHEROKEE NATION, CHEROKEE, CHEROKEE INDPENDENT PRESS ACT, MEDIA CONTROL