

1978

Perceptions of Indian tribal leaders regarding the Indian self-determination act (Public law 93-638)

Ramona O'Connor
Portland State University

Follow this and additional works at: https://pdxscholar.library.pdx.edu/open_access_etds



Part of the [Indigenous Studies Commons](#), [Public Law and Legal Theory Commons](#), and the [Social Work Commons](#)

Let us know how access to this document benefits you.

Recommended Citation

O'Connor, Ramona, "Perceptions of Indian tribal leaders regarding the Indian self-determination act (Public law 93-638)" (1978). *Dissertations and Theses*. Paper 2834.
<https://doi.org/10.15760/etd.2828>

This Thesis is brought to you for free and open access. It has been accepted for inclusion in Dissertations and Theses by an authorized administrator of PDXScholar. Please contact us if we can make this document more accessible: pdxscholar@pdx.edu.

PERCEPTIONS OF INDIAN TRIBAL LEADERS
REGARDING
THE INDIAN SELF-DETERMINATION ACT (PUBLIC LAW 93-638).

by
RAMONA O'CONNOR

A PRACTICUM SUBMITTED IN PARTIAL FULFILLMENT OF THE
REQUIREMENTS FOR THE DEGREE OF

MASTER OF
SOCIAL WORK

PORTLAND STATE UNIVERSITY

1978

APPROVED:



John Mackey

DATE: March 8, 1978



Joseph Gallegos

DATE: March 8, 1978

TABLE OF CONTENTS

	PAGE
ACKNOWLEDGMENTS.....	iii
LIST OF TABLES.....	vi
CHAPTER	
I INTRODUCTION.....	1
HISTORICAL PERSPECTIVE.....	1
PROBLEM STATEMENT.....	5
Self Determination	
Social Policy	
Purpose of the Study	
Provisions of the Policy	
Key Principles of the Policy	
OVERSIGHT HEARINGS.....	15
Summary	
II METHODOLOGY.....	17
INSTRUMENT.....	20
INTERVIEW PROCEDURE.....	21
III FINDINGS.....	23
Item Analysis	
IV CONCLUSIONS.....	32
IMPLICATIONS FOR THE POLICY.....	35
Summary	

CHAPTER	PAGE
IV. IMPLICATIONS FOR SOCIAL WORK EDUCATION.....	37
Summary	
BIBLIOGRAPHY.....	40
APPENDICES	
A QUESTIONNAIRE.....	41
B MAP OF TRIBES OF THE PACIFIC NORTHWEST.....	46
C STATEMENT OF ASSISTANT SECRETARY OF INTERIOR FOR INDIAN AFFAIRS REGARDING PUBLIC LAW 93-638 AT CONFIRMATION HEARINGS, SEPTEMBER 9, 1977.....	47
D EXCERPTS FROM REMARKS BY ASSISTANT SECRETARY FORREST J. GERARD TO NCAI, CONVENTION, DALLAS, TEXAS, SEPTEMBER 22, 1977.....	53
E TESTIMONY OF JOSEPH B. DE LA CRUZ, PRESIDENT, NATIONAL TRIBAL CHAIRMAN'S ASSOCIATION, SELECT COMMITTEE ON INDIAN AFFAIRS UNITED STATES SENATE, ALBUQUERQUE, NEW MEXICO, JUNE 24, 1977.....	56

Acknowledgments

My appreciation for the guidance and advice during the preparation of this study to my father, Chief Chasing Bear, ceremonial chief of the Yankton Sioux Tribe and to Roy Sampsel and Richard Balsiger who provided office facilities, information and travel to visit various tribes. Many thanks also to those tribal leaders who participated in this study and gave generously of their time.

"the utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them."

NORTHWEST ORDINANCE OF 1787

LIST OF TABLES

TABLE		PAGE
I	Tribal Governing Structure.....	18
II	Population Statistics and Trust Land.....	19
III	Questionnaire Responses.....	31

CHAPTER I

INTRODUCTION

This treatise concerns recent Indian Social Policy. The work begins with a treatment of the Historic Development of Indian Social Policy. This developmental explication highlights the recent enactment of the "Indian Self-Determination" act. This act is the main consideration of this work.

The Indian Self-Determination Act is previewed and the study proceeds to describe how this researcher surveyed Indian tribal leaders as to their perceptions of the act and of the Indian Social Policy process. Implications of the findings are drawn and conclusions presented concerning policy and social work education.

HISTORICAL PERSPECTIVE

"The Indians themselves are an anomaly upon the fact of the earth; and the relations, which have been established between them and the nations of Christendom, are equally anomalous. Their intercourse is regulated by practical principles, arising out of peculiar circumstances."¹

Lewis Cass, in *The North American Review*, 1830

American Indian policy was formulated by the 1830's as a set of

¹Francis Paul Prucha, American Indian Policy in the Formative Years, (University of Nebraska Press, Lincoln, 1970), p.1.

principles to be used as base lines. These principles are as follows:²

(1) Protection of Indian rights to their land by setting definite boundaries for the Indian country, restricting the whites from entering the area except under certain controls, and removing illegal intruders.

(2) Control of the disposition of Indian lands by denying the right of private individuals or local governments to acquire land from the Indians by purchase or by any other means.

(3) Regulation of the Indian trade by determining the conditions under which individuals might engage in the trade, prohibiting certain classes of traders, and actually entering into the trade itself.

(4) Control of the liquor traffic by regulating the flow of intoxicating liquor into the Indian country and then prohibiting it altogether.

(5) Provision for the punishment of crimes committed by members of one race against the other and compensation for damages suffered by one group at the hands of the other, in order to remove the occasions for private retaliation which led to frontier hostilities.

(6) Promotion of civilization and education among the Indians in the hope that they might be absorbed into the general stream of American society.

This early Indian policy was used as a basis for laws to regulate trade and intercourse with the Indians which took place between 1790 and 1834.

June 30, 1834 is a milestone in the history of Indian policy. Two statutes were passed which still form a basis for Indian Affairs. One statute is the final act to regulate trade and intercourse with the Indians. The other act provided for the organization of the Department of Indian Affairs away from the War Department.³

These statutes define Indian country, prescribe ways to make contracts with the Indians and gives the Commissioner of Indian Affairs the power to appoint traders and regulate trade with the Indians. They also

²Ibid., p. 2.

³S. Lyman Tyler, A History of Indian Policy, (United States Department of the Interior, Bureau of Indian Affairs, Washington D.C., 1973), p. 61.

provide that interests in Indian lands can only be acquired through treaty or duly authorized agreement.

American Indian policy for the next four decades was guided by two significant acts, The General Allotment Act (1887) and the Indian Reorganization Act (1934). Each of these acts was an attempt to work out the Indian problem or at least bring about an outcome envisioned for the Indians.

The General Allotment Act provided for the division of reservation lands into allotments for individual Indians. The allottee received a fee patent to his allotment which could also be taxed. The lands which were left over after each Indian received his allotment were sold by the United States. The idea was that the Indians were to become independent farmers. The act was disastrous to the Indians. Much of their land was sold and the individual Indian was not ready to handle his own property. As a result the Indian land base was drastically reduced.

The unsuccessful efforts of this Act, as well as the interest in the Indian at this time, led to a study of Indian Affairs. The Meriam Report came out in 1928 and was a comprehensive survey of the federal government's Indian programs. The Report was critical of the goals of the Allotment Act and recommended ways to promote economic development, improve the standard of health and education for Indian people, encouraged a decentralization of authority, and that the role of the Indian Service should be educational.

The era of Franklin Delano Roosevelt was called the Indian New Deal. John Collier was appointed Commissioner of Indian Affairs and was sympathetic to Indians. He wanted to preserve their culture and

improve their economic situation. He was instrumental in the passage of the Indian Reorganization Act (1934). This act did away with the allotment of land to individual Indians and gave the Indians an opportunity to organize themselves as tribal governments or corporations in order to develop their economic base. This act was not totally successful because the Indian tribes could not function without federal support. There was also some trend toward assimilation.

The termination era came into existence after 1944. The federal government pushed toward an eventual absorption of Indians into state programs and toward an end to federal responsibility. The Hoover Commission called for the assimilation of Indians into the dominant society and the eventual transfer of the Bureau of Indian Affairs to state offices. During the Eisenhower administration, House Concurrent Resolution 108 was passed. This Act called for the end of federal responsibility for Indians. It was during this time that such tribes as the Klamaths of Oregon and the Menominees of Wisconsin were terminated. Essentially this era was a time during which the federal government tried to solve the Indian problem by moving them into the mainstream or the rest of society.

The efforts at termination were unsuccessful and disastrous to those tribes who were terminated. The Indians were worse off than before. Their land base was gone and they were left to the mercy of states where they were usually a financial burden.

The Democratic administration of 1961 brought an end to the termination movement. The federal government moved toward a policy of tribal self government and that ultimately, the Indians would become self sufficient. Federal programs such as the Economic Opportunity Act of

1964 were intended to alleviate poverty, however the Indians remained as the nation's most deprived minority. Mechanisms through policies for the economic development and self government were not in existence.

The record of Indian policies of the past does not put the federal government in a good light in terms of its relationship and responsibility to Indian tribes. Indian policy is moving again toward a new era of self determination whereby the commitment of the federal government and its administration of policy will determine its success.

PROBLEM STATEMENT

This study is an analysis of a policy, The Indian Self-Determination Act (Public Law 93-638), and consists of a survey designed to examine the perceptions of selected Indian tribal leaders regarding the policy. The findings of the survey are reviewed and analyzed and the study is concluded with a consideration of the implications of the findings for social work. In general, the study is concerned with an aspect of the social policy process. A specific policy is addressed and a survey of perceptions of people effected by that policy was taken. The policy itself is an indication of a seemingly new attitude of the federal government toward Indian people. If this is so, this change is a significant departure from traditional attitudes and will effect the social service system as it relates to Indians as well as most other aspects of Indian life. Indian Self-Determination is a new term for Indian people.

The idea or principle of Indian Self-Determination is becoming the policy of Congress, the courts, and recent federal administrations. There is a movement away from assimilation, termination, and encroachment policies of the past and a movement toward the strengthening of

Indian tribal governments.

On January 4, 1975, President Gerald Ford signed Public Law 93-638, The Indian Self-Determination Act. The Act provides,

for the maximum participation by Indian people in the government and education of the Indian people and it also provides for the participation of Indian tribes in programs and services conducted by the federal government for Indians and to encourage the development of human resources of the Indian people. Further to establish a program of assistance to upgrade Indian education; to support the right of Indian citizens to control their own educational activities; and for other purposes.⁴

The law provides Indian tribes with the option of planning and developing programs for their people, for their self-determination. However, the attitudes of the Indian people who are being affected are not known. The relevance to social work is whether the people who are being affected by the policy have been involved and participated in the policy process as well as how they perceive the policy. Acceptance of this Policy as well as participation in planning will encourage successful implementation of the policy and is consistent with the basic social work value of "self-determination".

Self Determination

It is important to discuss the concept of "self-determination" as it applies to social work principles. The high regard and respect for every individual is one of the values of social work. The profession and philosophy of social work has been one of a belief in the individual's dignity and worth and therefore on the client's right to select his own goals. This is referred to as 'the principle of self-determina-

⁴Public Law 93-638, Indian Self-Determination and Education Assistance Act, (93rd Congress, S. 1017, January 4, 1975).

tion'.⁵ It is based on the premise that social work helps people to help themselves, therefore social workers work toward helping people to be independent.

Perlman calls the 'right of self-determination' a 'democratic tenet', and says that 'within the limits of reality, each man has the right to be "master of his soul" and of his fate.' This 'right' is limited by the clients capacity for exercising responsibility, by the rights of other people, particularly those in need of protection, by the civil law, by standards of morality, and by the structure, policy, and function of the agency.⁶

Charlotte Towle has said:

We deal largely with individuals at a time of enforced dependency or at a time when adverse circumstances have strengthened the impulses toward dependency, thus at the same time provoking anxiety about, and resistance to the loss of self-dependence.

This is highly applicable to the Indian people. Historically, through treaties and Acts of Congress, the Indian people have been confined to reservations and to be taken care of "as long the grass is green and the waters flow." Now a new term, concept and ideology for Indian people has arrived. The right to select his own goals may not be an easy task for the individual Indian on the reservation. However, this appears to be the policy goal of the Indian Self-Determination Act.

⁵F.P. Biestek, The Casework Relationship, (Unwin University Books, 1967), pp. 100-19.

F.P. Biestek, "The Principle of Client Self-Determination," Social Casework, (Vol. XXXII, No. 9 November, 1951), pp. 369-75.

⁶H.H. Perlman, Social Casework - A Problem Solving Process, (Chicago University Press, 1957), p. 60.

⁷C. Towle, Common Human Needs, (American Association of Social Workers, New York, 1955), p. 39.

Social Policy

A consideration of the meaning of 'social policy' will help to establish the boundaries of this study. A definition of social policy and the key processes through which they operate are given by David G. Gil and are as follows:⁸ Social policies are principles or courses of action designed to influence

1. the overall quality of life in a society.
2. the circumstances of living of individuals and groups in that society; and
3. the nature of intra-societal relationships among individuals, groups, and society as a whole.

Social policies operate through the following key processes

1. the development of material and symbolic, life-sustaining and life-enhancing resources, goods, and services;
2. the allocation of individuals and groups to specific statuses within the total array of societal tasks and functions, involving corresponding roles, and prerogatives intrinsic to these roles; and
3. the distribution to individuals and groups of specific rights to material and symbolic, life-sustaining and life-enhancing resources, goods, and services through general and specific entitlements, task or status specific rewards, and general and specific constraints.

Another definition of social policy states that it may be regarded as,

the principles and procedures guiding any measure or course of action dealing with individual and aggregate relationships in society. It is conditional upon the level of development of a

⁸David G. Gil, Unravelling Social Policy, (Schenkman Publishing Company, Cambridge, Massachusetts, 1973), p. 24.

society, its tradition, cultural and ideological orientation, and technological capacity.

Contemporary social policy in the United States has been moving more to the trend of the respect for the individual's dignity and self-worth by focusing more on the individual's right to choose his own goals. For example, planning processes are moving in the direction of involvement and participation of Indian people rather than administrators planning for Indian people. This is backed by the premise that other actions and resources in the individual's environment must be supported especially in those areas in which the individual has no control. The individual and his achievement, his development, and his happiness is the objective if at all possible.¹⁰ In reality, the nature of the political process and the diversity of interest groups in the United States operate to shift some of these ideals so that responses to issues such as Indian self-determination may be somewhat less than expected.

Indian policy may be defined as follows:

A course of action pursued by any government and adopted as expedient by that government in its relations with any of the Indians of the Americas. By expedient, is meant action that is considered by government to be advantageous or advisable under the particular circumstances or during a specific span.¹¹

American Indian policy in the 1960's was still marked by negative philosophies such as the Removal, Allotment, and Termination periods in the history of Indian policy; however, there was some movement toward positive philosophies. Indian leaders began to see that their decisions

⁹Encyclopedia of Social Work (National Association of Social Workers, 2 Park Avenue, New York, New York, Vol. II, No. 16), p. 1361-1362.

¹⁰Ibid., p. 1367.

¹¹S. Lyman Tyler, A History of Indian Policy (United States Department of the Interior, Washington, D.C., 1973), p. 1-2.

and actions could lead the way to a new way of life for their people. The United States government was also beginning to see that Indian people should be provided an opportunity to take part in the determination of their future and a movement toward this end was made in policy decisions.

The American Indian policy of the early 1970's was marked by a trend termed Indian "self-determination". Indian Commissioner Bruce, in a news release of June 17, 1972, stated,

the will for self-determination has become a vital component of the thinking of Indian leadership and the grassroots Indian on every reservation and in every city. It is an irreversible trend, a tide in the destiny of American Indians that will eventually compel all of America... to recognize the dignity and human rights of Indian people.¹²

This philosophy and thinking of the early 1970's came together in 1975 with the passage of Public Law 93-638, the Indian Self-Determination and Education Assistance Act.

The Indian Self-Determination Act, Public Law 93-638, took almost ten years in the making to change directions for American Indian policy. The language in the law provides Indian tribes with the opportunity to participate in federal programs without losing the special trust relationship with the federal government. This would appear to be reassuring to Indian tribes; however, this is an area of concern to Indian tribes. The way the policy is administered will determine whether the intent of the policy is actually "self-determination" for Indian people or another way of changing directions for Indian leadership without their true involvement.¹³

Purpose of the Study

This study examines the perceptions of Indian tribal leaders regarding the Indian Self-Determination Act. The policy process is presented in terms of how Indian people were involved in the policy process,

¹²S. Lyman Tyler, op. cit., p. 255.

¹³D'Arcy McNickle, Mary E. Young, W. Roger Buffalohead, Captive Nations, A Political History of American Indians (American Indian Policy Review Commission, Library of Congress, November, 1976), p. 19-20.

if at all, and as a result of the process, how the Indian leaders perceive the policy. It may be possible that the policy process has little or nothing to do with how Indian leaders perceive the policy.

For the purpose of presenting this information, a descriptive account of Public Law 93-638, Indian Self-Determination Act is given, followed by the methodology. The findings of the study are presented as well as the conclusions of this work which deal with the implications and recommendations relative to social work and to social work education.

Provisions of the Policy

To be eligible for a contract under Public Law 93-638, an organization must be a tribal organization as defined in the Regulations S271.2 (a) and must be authorized to apply for that contract through a formal request or resolution by the governing body of the tribes to be served by the contract. 'Indian tribe' means any Indian tribe, band, Nation, Rancheria, Pueblo, Colony or Community, including any Alaska Native Village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is federally recognized as eligible by the United States Government through the Secretary of Interior for the special programs and services provided by the Secretary to Indians because of their status as Indians.¹⁴

The recommendations of the Indian people were sought in the drafting of the rules and regulations needed to implement the Act. Joint meetings were held with the Bureau of Indian Affairs and the Civil Service Commission regarding similar obligations under the Act, recognizing the need for a set of regulations that would be as similar and as applicable as possible to both Indian Health Service and the Bureau of Indian Affairs. Strategy meetings were held in early January and Febru-

¹⁴Public Law 93-638, Indian Self-Determination and Education Assistance Act, (Department of the Interior, Federal Register, Tuesday, November 4, 1975).

ary, 1975, resulting in a plan for conducting extensive field orientations and working consultations with the tribes. These were designed to solicit recommendations on a continuing basis at every stage of preparing the regulations for publication. An initial draft of implementation regulations was drawn up and sent to the tribes and field offices for review. During March and April, Indian Health Service and the Bureau of Indian Affairs sent teams to 15 strategic locations to discuss the draft regulations with Indian leaders and people and record their recommendations. Workshops and task forces were then set up to incorporate both the input from the tribes into a working set of draft regulations and to develop issue or position papers.¹⁵

A second set of draft regulations was then sent out to the field and in late May and June the Indian Health Service and the Bureau of Indian Affairs held meetings to gather input from Indian leaders.

The resulting input received from the tribe and field offices was again reviewed and incorporated into a final set of draft regulations which were submitted to the appropriate Congressional Committees on August 4, 1975. An advance Notice of Proposed Rulemaking was published in the Federal Register on August 14, 1975, to give the Indian people another opportunity to review the proposed regulations, and the Notice of Proposed Rulemaking was published on September 15. In the final notice, particular effort was made to respond to every recommendation made by the Indian people.

Indian tribes are not required to use the provisions of the Indian

¹⁵Implementation of Public Law 93-638, The Indian Self-Determination and Education Assistance Act, Hearings before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs - (United States Senate, 94th Congress, October 20 & 28, 1975), p. 464-466.

Self-Determination Act. The Act and its regulations offer opportunities for self-development and self-determination. The regulations provide tribes with four new or improved tools which are (1) self-determination grants, (2) contracting of authorized Bureau of Indian Affairs programs, (3) planning for Bureau of Indian Affairs operated programs, and (4) access to federal personnel.

Key Principles of the Policy

Certain key principles are established in carrying out the Indian Self-Determination Act. These key principles are taken from the Handbook For Decision Makers on Title I of the Indian Self-Determination and Education Assistance Act, as follows:

Key Principle #1 - The tribal governing body is the sole authority for the tribe in regard to Title I of the Indian Self-Determination Act. No tribal organization may use the provisions of the Act unless specifically authorized to do so by the governing body of the tribe.

Key Principle #2 - The Act and regulations impose no compulsory requirements on tribes to use the tools provided by the regulations or to establish self-determination programs.

Key Principle #3 - The Act does not solve all the problems of Indian tribes and people. The tribe is provided tools to help them respond to their own needs and priorities. These four new or improved tools are described on page 4.

Key Principle #4 - The burden of proof for turning down a contract application is on the Bureau of Indian Affairs. When a tribal organization approved by resolution of the tribal governing body submits a contract application, the Bureau must approve the application unless the Bureau can demonstrate by substantial evidence that specific grounds exist for declining to do so.

Key Principle #5 - The Act and regulations mandate fundamental new or expanded responsibilities and missions for the Bureau of Indian Affairs. These responsibilities are defined as: the provision of technical assistance to tribes, to assist tribes to obtain assistance from Federal and State agencies upon tribal request, and to monitor Self-Determination contracts and grants.

Key Principle #6 - The Act and regulations reaffirm the federal governments unique relationship with and responsibility to the Indian people. A great deal of effort has been put forth in order to preserve and protect the special relationship that now exists between the federal government and Indian tribes.¹⁶

In the Preamble to the Act, Congress declares its commitment to the maintenance of the federal government's unique and continuing relationship with the Indian people. The Regulations for grants and contracts both begin by stating that "nothing in these Regulations shall be construed as authorizing or requiring the termination of any trust responsibility of the United States with respect to Indian people, or permitting significant reduction in services to Indian people as a result of this part."¹⁷

Section 104 (a), the Self-Determination Grants Program, is the only significant federal program providing grants to tribal governments for governmental purposes. Its procedural guidelines narrow the broad purposes of the program by defining a specific program for improving the tribe's governing capacity. "General" costs are not covered, but many tribes are unable to finance them. There are tribes in the position of not being able to develop their income capabilities or who have no income.

The Bureau of Indian Affairs may make grants for a variety of purposes some of which are: strengthening tribal government, preparing for contracting, planning and monitoring of federal programs and related

¹⁶Handbook For Decision Makers on Title I of the Indian Self-Determination and Education Assistance Act, (Bureau of Indian Affairs, Department of the Interior, Washington D.C., November 18, 1975, Revised February 10, 1976).

¹⁷Public Law 93-638, Indian Self-Determination and Education Assistance Act, "Declaration of Policy," (93rd Congress, S. 1017, January 4, 1975).

purposes. While tribes have been contracting Bureau of Indian Affairs programs for a number of years, the Act and regulations define the contracting process more clearly by establishing the authority, procedures, rights and responsibilities for both the tribes and the Bureau of Indian Affairs. Tribes may contract an entire program, a portion of a program, or a program the Bureau of Indian Affairs is authorized to provide but is not presently providing.

OVERSIGHT HEARINGS

The purpose of these hearings was based on the fact that the Select Committee on Indian Affairs was advised of tribal dissatisfaction with the implementation of the Indian Self-Determination Act. These hearings were conducted after approximately 18 months of experience in the administration of the Act. The hearings were planned in two stages, first from Bureau of Indian Affairs and the Indian Health Service on June 7, 1977, and from tribal witnesses on June 24, 1977.¹⁸

The administration testimony identified policy and factual issues and tribal witnesses were asked to speak to those identified issues and offer alternatives. These discussions were held with the intent that amendments to the Act, changes in the regulations or different procedures would be carried out by the administration.

Summary

The administration testified on the identification of budget items such as administration, advance payments, and allocations to contractors.

¹⁸Indian Self-Determination and Education Assistance Act Implementation, Hearings Before the United States Senate Select Committee on Indian Affairs (United States Senate, 95th Congress, June 7 and 24, 1977), p. 1 and 18.

It was revealed in the testimony that administrative procedures had not been developed to show this information. Testimony regarding technical assistance indicated that adequate training and technical expertise was not given due to lack of staff and technical expertise.

Tribal witnesses testified regarding their feelings on the administration and implementation of the Act. Since there is lengthy testimony from Indian tribes a statement made by Joseph B. De La Cruz, National Tribal Chairman's Association is included in the Appendices. It is a good example of the content of most of the testimony, and contains an overview of what other tribal leaders expressed.¹⁹

¹⁹Ibid., p. 260 and 261.

CHAPTER II

METHODOLOGY

The purpose of this chapter is to explain the methodology used to select the population for the study, to present information regarding the selected tribes, review the research instrument, and the interview procedure.

Essentially, the study was designed to elicit information regarding the perception of tribal leaders regarding their attitude toward the new "self-determination" policy. The research was not empirical in the sense of searching for causal relationship, but rather it was exploratory, seeking information from which to draw implications for further research recommendations. A simple survey technique was utilized to collect the data for this purpose.

The universe for the study consists of thirty-two tribes located in the states of Oregon, Washington, and Idaho. These tribes are federally recognized tribes. Public Law 93-638, The Indian Self-Determination Act defines "Indian tribe" to mean any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.¹

¹Public Law 93-638, Indian Self-Determination and Education Assistance Act, (93rd Congress, S. 1017, January 4, 1975).

Since the universe is quite large and the tribal leaders were to be personally interviewed by the writer, a selection was made of six tribes which are federally recognized and represent a coastal tribe, a treaty tribe, and a plains or plateau tribe. A further breakdown of each of the types of tribes was made by using the following criteria:

1. population: small, medium, large
2. tribe with resources
3. tribe with no resources
4. tribe with limited resources
5. tribe with experience in contracting under Public Law 93-638
6. tribe with limited experience or no experience in contract-
under Public Law 93-638.

The six tribes selected from the federally recognized tribes of the Northwest and the structure of the tribal governing body is as follows:²

<u>TRIBE</u>	<u>TERM OF OFFICE</u>	<u>MEMBERS</u>	<u>CONSTITUTION</u>
1. Yakima	4 years	14	Constitution under Rules of Procedure approved 11-26-56.
2. Colville	2 years	14	Not under Indian Reorganization Act, Constitution approved 4-19-38.
3. Burns Paiute	3 years	5	Constitution approved 6-13-38, amendments approved 1-24-77.
4. Shoshone Bannock	2 years	7	Under Indian Reorganization Act, 4-30-36.
5. Quinalt	3 years	11	Amended Constitution 3-25-75 adopted by the Tribe.
6. Makah	3 years	5	Under Indian Reorganization Act.

²Tribal Directory, Office of Tribal Operations, Bureau of Indian Affairs, Portland Area Office, July, 1977.

POPULATION STATISTICS³

<u>Tribe</u>	<u>Population Membership</u>	<u>Service</u>
1. Yakima	6,238	4,342
2. Colville	5,791	2,909
3. Burns Paiute	225	129
4. Shoshone Bannock	2,880	2,227
5. Quinalt	1,185	1,185
6. Makah	805	805

TRUST LAND (AS OF SEPTEMBER 30, 1976)

1. Yakima	1,118,638.35
2. Colville	1,024,487.55
3. Burns Paiute	11,785.93
4. Shoshone Bannock	523,204.31
5. Quinalt	129,726.60
6. Mahah	27,026.88

³Information taken from pamphlet printed by Office of Program Planning & Coordination, Bureau of Indian Affairs, Portland Area Office. no date on pamphlet.

INSTRUMENT

The instrument was a questionnaire of the survey/interview type (See Appendix A). It consisted of three parts with a total of twenty-nine questions. The questionnaire was administered in all cases with a personal contact with each tribal leader of the selected tribes.

Part I of the questionnaire consisted of eight questions and dealt with the personal data of the tribal leader such as employment, training, and role of the person on the tribal council. The questionnaire did not ask for the name of the tribal leader and their identity is anonymous for the purposes of the study.

Part II of the questionnaire dealt with four types of possible responses to statements regarding The Indian Self-Determination Act (Public Law 93-638). This consisted of eighteen statements. The statements were basically relating to the policy and how its interpretations may be perceived by individual tribal leaders. The tribal leader responded to each statement with the response which closely corresponded to his own feelings about the statement.

Part III of the questionnaire consisted of three questions dealing with opinions and comments regarding the Indian Self-Determination Act (Public Law 93-638). The three questions were answered by the respondent in their own words. This section was a method of getting subjective responses to issues and comments which may not have been covered in the questionnaire and were of concern to the tribal leaders. Candid and open comments were made in this section.

INTERVIEW PROCEDURE

This was a study of the perceptions of tribal leaders regarding the Indian Self-Determination Act (Public Law 93-638). There was no hypothesis as a part of the research purpose. A questionnaire was used for responses from the tribal leaders. A letter was sent to each of the tribal chairman of the selected tribe explaining the nature of the study, the purpose of the letter and requesting that the tribe respond to the researcher if their tribal council was willing to participate in the study. The letters were sent to the tribal chairman on July 19, 1977. During the time that the researcher waited for a response, the questionnaire was developed and pre-tested. A few revisions were made in the questionnaire as a result. These revisions were in the nature of clarifications on Part I of the questionnaire which dealt with the personal data of the tribal leaders. There was also one question taken out which was in relation to the level of education of the tribal leaders. The information was not pertinent to the study.

Responses to the letter sent to the tribal chairmen on July 19, 1977, was received either by letter or by telephone. One response was through the personal contact of the researcher. The cooperation and interest of the tribal groups was gratifying. The tribes which were visited were cordial and interested in the nature of the study. Many of the tribal leaders took time out to discuss their thoughts regarding the Indian Self-Determination Act (Public Law 93-638). There were some thoughts expressed in these conversations which were not written down in the questionnaire. This may be due to the relaxed, comfortable atmosphere of a conversation rather than a structured statement or even an open ended question.

The month of August, 1977, was spent in traveling to the selected tribes and their tribal offices to interview the tribal leaders. The time frame and limited traveling budget precluded any more travel in September. All of the selected tribes were not visited and this was because some of the tribal leaders were contacted at the July and August, 1977, meetings of the Northwest Affiliated Tribes in Spokane. Some questionnaires were taken back to their respective tribes by the tribal leader or leaders who were in attendance at the Northwest Affiliated tribes meetings. This was the group of questionnaires which had a poor return rate. This researcher found that the personal contact, which allowed the individual to complete the questionnaire immediately, was the most successful. The personal contact which allowed the individual to complete the questionnaire at their convenience was not successful.

The questionnaire was given to tribal leaders to respond to with as much objectivity as possible. The time involved in answering the questionnaire was usually twenty minutes particularly for those tribal leaders who work a great deal with the Indian Self-Determination Act. There was no discussion of the questions on the questionnaire between the tribal leaders unless it was after they had completed the questionnaire. There were some tribal leaders who wanted some clarification on some questions and these were answered by the researcher. Part II needed clarification even though the responses to be checked were clearly listed. It was explained that the numbers after each statement corresponded to the type of response in Part II. It was a little confusing to the tribal leaders not to have the type of response in front of each statement.

The primary purpose of this study was to examine the perceptions of tribal leaders regarding the Indian Self-Determination Act (Public Law

93-638). The policy has been a controversial one and many Indian tribal leaders have expressed various viewpoints of the policy. It was hoped that the data would show the way that a majority of the tribal leaders feel about the policy and how they perceive it would affect the Indian people. It was also hoped that the findings would indicate ways in which some changes could be made. Perhaps the findings could be interpreted by agencies in a manner to eventually develop changes or new methods by which to carry out the policy.

The total number of respondents was twenty. It was felt that the response might have been larger except that the summer of 1977 was not a good time for the tribal councils. There were many issues which were of priority concern to the Indian tribes at that time. There were for example, water and fishing rights of the tribes which were of priority concern to the tribes at the time.

CHAPTER III

FINDINGS

There were twenty tribal leaders who responded to the questionnaire. The questionnaire was administered in all cases by a personal visit. The Makah tribe did not respond although they agreed to participate in the study. This was due to other priority concerns of the tribe at this time. Questionnaires which were given to tribal leaders to respond to and return at their own convenience were not all returned. There is a total of fifty-six tribal leaders on the tribal councils of the six selected tribes. This is 36% of the selected tribal leaders who responded.

Part I of the questionnaire related to the personal data of the tribal leaders. The results showed that 85% of the tribal leaders were men and 15% were women. All of the tribal leaders were from a federally recognized tribe. There were 55% of the tribal leaders who are serving in the capacity of chairperson, vice chairperson, secretary or treasurer. There were 45% of the tribal leaders who are self employed, with 35% who had no other employment, with 10% who worked for a government agency, and 5% with a private agency.

There was a variance in the total length of time spent on the tribal council by the tribal leaders. There were 25% who spent a total of 6 to 10 years on the tribal council, 20% who spent a total of 3 to 6 years on

the tribal council, 20% who spent a total 1 to 3 years on the tribal council, 15% who spent a total of over twenty years on the tribal council, 10% who spent a total of 0 to one year on the tribal council and 5% who spent a total of 15 to 20 years on the tribal council and another 5% who spent a total of 10 to 15 years on the tribal council.

There were 30% of the tribal leaders who participated in training regarding the Indian Self-Determination Act (Public Law 93-638). There were 70% of the tribal leaders who did not participate in any training. There were 50% of the tribal leaders who participated in oversight hearings regarding the Indian Self-Determination Act (Public Law 93-638). This leaves 50% of the tribal leaders who did not participate. This indicates a large percentage who did not receive any training regarding the Indian Self Determination Act. This area is one of concern to the tribal leaders as indicated further in the questionnaire.

Part II of the questionnaire covers responses to statements regarding the policy and its implications. The respondent was to check the response which closely corresponds to his or her own feelings about the statement. In order to get a clear indication of how the tribal leaders responded to each statement, the statement will be shown along with the percentage of tribal leaders responding in each category. The questionnaire and the statements in Part II were entered into the Harris computer to compute the frequency, percentage, mean response and the standard deviation to each statement.

Item Analysis

Part II of the questionnaire and responses are as follows:

8. As a tribal leader I feel that my tribe is informed of the provisions of the Indian Self Determination Act (Public Law

93-638).

There were 60% of the tribal leaders who disagreed with this statement, 25% who agreed, 10% who agree strongly and 5% who disagree strongly.

The mean response is 1.8500 and the standard deviation is 1.1367.

9. As a tribal leader I feel that the Indian Self Determination Act (Public Law 93-638) will benefit my people in terms of improving their social and economic conditions for the future.

There were 55% of the tribal leaders who agreed with this statement, 35% who disagreed with this statement, and 10% who agreed strongly.

The mean response is 2.4000 and the standard deviation is 1.0954.

10. The Indian Self Determination Act (Public Law 93-638) provides Indian tribes with the opportunity to establish their own needs and goals without interference from the federal government.

There were 60% of the tribal leaders who disagreed with this statement, 35% who agreed with this statement and 5% who agree strongly.

The mean response is 1.8500 and the standard deviation is 1.0894.

11. The federal government, in this case the Bureau of Indian Affairs, is committed to accept and support tribal government judgments based on the needs and goals of their people.

There were 50% of the tribal leaders who agreed with the statement, 25% who disagreed with this statement, 15% who disagreed strongly and 10% who agreed strongly.

The mean response is 2.4500 and the standard deviation is .9987.

12. The Bureau of Indian Affairs does a better job than my tribe could in the provision and delivery of services to Indian people.

There were 50% of the tribal leaders who disagreed with this statement, 25% who disagreed strongly, and 25% who agreed with the statement.

The mean response is 1.7500 and the standard deviation is .8507.

13. The Indian Self Determination Act (Public Law 93-638)

provides for tribal development and in this way, tribes will eventually achieve the standards and lifestyle of the dominant society.

There were 50% of the tribal leaders who disagreed with this statement, 30% who agreed with this statement, 10% who disagreed strongly, 5% who agreed strongly and 5% with no response.

The mean response is 1.8000 and the standard deviation is 1.1050.

14. The Indian Self Determination Act (Public Law 93-638) may endanger tribal rights, particularly future tribal rights.

There were 55% of the tribal leaders who agreed with this statement, 20% who agree strongly, 15% who disagree, and 5% who disagree strongly, and 5% with no response.

The mean response is 2.7000 and the standard deviation is 1.1286.

15. The Indian Self Determination Act (Public Law 93-638) shifts the responsibility and blame to Indian tribes should they fail to successfully carry out programs they contract.

There were 60% of the tribal leaders who agreed to this statement, 30% who disagree, and 10% who agree strongly.

The mean response is 2.5000 and the standard deviation is 1.0513.

16. The Indian Self Determination Act (Public Law 93-638) is a constructive policy for carrying out the federal-tribal relationship.

There were 60% of the tribal leaders who agreed to this statement, 35% who disagree, and 5% who disagree strongly.

The mean response is 2.2500 and the standard deviation is .9665.

17. The Indian Self Determination Act (Public Law 93-638) provides a goal to Indian tribes to achieve Indian self sufficiency instead of economic dependency.

There were 75% of the tribal leaders who agreed to this statement, 20% who disagree, and 5% who disagree strongly.

The mean response is 2.5500 and the standard deviation is .8256.

18. The Indian Self Determination Act (Public Law 93-638) provides the Indian tribes the option of self determination but it may also be a way in which the federal government will relieve itself of the special trust responsibilities to Indian tribes.

There were 50% of the tribal leaders who agreed to this statement, 25% who agree strongly, 15% who disagree and 10% who disagree strongly.

The mean response is 2.8500 and the standard deviation is .9881.

19. The Bureau of Indian Affairs has provided adequate interpretation to my tribe regarding the regulations of the Indian Self Determination Act (Public Law 93-638).

There were 50% of the tribal leaders who disagreed with this statement, 25% who disagreed strongly, and 25% who agree.

The mean response is 1.7500 and the standard deviation is .8507.

20. The Bureau of Indian Affairs has provided adequate training to my tribe regarding the regulations of the Indian Self Determination Act (Public Law 93-638).

There were 65% of the tribal leaders who disagreed with this statement, 25% who disagree strongly and 10% who agree.

The mean response is 1.4500 and the standard deviation is .6863.

21. There is not enough professional technical assistance available to my tribe for putting together the tools of tribal self government.

There were 50% of the tribal leaders who agreed with this statement, 30% who disagree, 10% who disagree strongly, and 10% who agree strongly.

The mean response is 2.4000 and the standard deviation is 1.0463.

22. The regulations of the Indian Self Determination Act (Public Law 93-638) have been written to provide my tribe with sufficient money to strengthen tribal government.

There were 45% of the tribal leaders who disagree with this statement, 25% who disagree strongly, 25% who agree, and 5% who agree strongly.

The mean response is 1.9000 and the standard deviation is .9679.

23. The population formula of the Indian Self Determination Act (Public Law 93-638) adequately reflects the needs of my tribe.

There were 50% of the tribal leaders who disagree with this statement, 25% who disagree strongly, 15% who agree, and 10% who agree strongly.

The mean response is 1.8500 and the standard deviation is 1.0400.

24. The costs of strengthening tribal government and preparing for contracting and/or training may have little to do with the size of the tribe.

There were 55% of the tribal leaders who agree with this statement, 20% who disagree, 15% who disagree strongly, and 10% who agree strongly.

The mean response is 2.5500 and the standard deviation is .9445.

25. Indian tribes who cannot develop their income capabilities or who have no potential income will have difficulty in using the Indian Self Determination Act (Public Law 93-638).

There were 50% of the tribal leaders who agree with this statement, 35% who disagree, 10% who agree strongly and 5% who disagree strongly.

The mean response is 2.3500 and the standard deviation is 1.0894.

26. The Indian Self Determination Act (Public Law 93-638) allows my tribe to have input into the policy if it is not satisfactorily meeting the needs of the tribe.

There were 40% of the tribal leaders who disagreed with this statement, 40% who agree, 10% who disagree strongly, and 10% with no response.

The mean response is 1.8000 and the standard deviation is 1.1050.

Part III of the questionnaire related to the opinion and comments from tribal leaders regarding the Indian Self Determination Act (Public Law 93-638). This section is open ended questions and the respondent was to answer in their own words. The questions are shown as follows and a

sample of the responses are shown to indicate the type of responses.

PART III. PLEASE ANSWER THE FOLLOWING QUESTIONS IN YOUR OWN WORDS.

27. What, in your opinion as a tribal leader, should be of utmost concern to Indian tribal leaders in regard to the Indian Self Determination Act (Public Law 93-638)?

28. What, in your opinion as a tribal leader, will be the most valuable outcome from the Indian Self Determination Act (Public Law 93-638)?

29. Please comment on anything regarding the Indian Self Determination Act (Public Law 93-638) which is important to you and has not been covered in this questionnaire.

The sample responses to question 27 are as follows:

Don't let this Act lead to "termination" of U.S. Government trust responsibility.

That this Act does do away with U.S. Government's trust responsibility - Self-Determination without termination.

Communication and assurance in writing that trust responsibility is retained by the Federal Government.

The loss of trust responsibility to our natural resources.

A tribe needs a good organizational structure and management system with a high caliber of employees before 638 will work.

Having the training and the understanding of the tribal powers.

To proceed very carefully in using this Act as could lead to tribe terminating itself.

Termination of reservations.

Establish sound planning, organization, goals, etc.

Protecting of Indian rights, sovereignty, jurisdiction, water rights. A large budget to really practice what the bill tells.

Its a cover up for termination and is window dressing to continue the assimilative process.

The sample responses to question 28 are as follows:

That Indian people will have complete knowledge in dealing with contracting needed services for their people.

Make aware of some unnoticed legal trust responsibilities the BIA

and other U.S. Government's have with tribes.

The development of tribal administration to be able to assist tribal governments to better utilize every resource.

Keep your eyes and ears open.

638 is based on determination, such as 1953 wike, I feel if 638 is picked up totally by all tribes the feds will drop the ball and the Indian will be holding the ball. As you can see on my answers, I'm against 638.

It will allow tribes to make their own mistakes and grow from them.

Build self dependency.

None that I can see.

Teach us to do our own thing.

Determining and using tribal authority which is the experience needed to make decisions.

The sample responses to question 29 are as follows:

That the Congress have oversight hearings periodically to better know if the intent of Congress is being implimented and that the tribal leadership is fully aware of the BIA decisions prior and not after the fact. That all decisions made for Indian people be made in public or communication be made as soon as possible to tribal leaders. The regulation changes be made available and the desire of changes be discussed with tribal leaders.

We will be exchanging a treaty for a contract.

The BIA don't have properly trained personnel to execute 638.

More training to staff and to the people.

Before, I believe we can carry out our own business minus BIA, our small tribes need more of our people educated. As it stands, one student every 3 years graduates. Many dropouts. I feel that at this time we are not quite ready only until very recently (P.L. 93-638) the tribal leaders have talked of this with the people. So really it is something they and myself is unsure of.

Legal aid or counsel-public relations staff to deal with everyone that will be involved.

Can the Indian Self-Determination Act strengthen traditional tribal government and assist tribes to acknowledge cultural values.

Table of Questionnaire Responses*

Item	1 Disagree	2 Disagree Strongly	3 Agree	4 Agree Strongly	no response
8	60%	5%	25%	10%	
9	35%		55%	10%	
10	60%		35%	5%	
11	25%	15%	50%	10%	
12	50%	25%	25%		
13	50%	10%	30%	5%	5%
14	15%	5%	55%	20%	5%
15	30%		60%	10%	
16	35%	5%	60%		
17	20%	5%	75%		
18	15%	10%	50%	25%	
19	50%	25%	25%		
20	65%	25%	10%		
21	30%	10%	50%	10%	
22	45%	25%	25%	5%	
23	50%	25%	15%	10%	
24	20%	15%	55%	10%	
25	35%	5%	50%	10%	
26	40%	10%	40%		10%

*Items 1 through 7 relate to demographic information.

Items 27 through 29 relate to open ended comments.

N=20

CHAPTER IV

CONCLUSIONS

The purpose of this chapter is to conclude the study based on a review of the findings and then to draw implications for the policy and social work education. There is also a discussion of further implications for research.

The methodology could have been improved in the area of interview procedure. The personal interview and personal interaction with the tribal leaders created rapport and interest on their part. The questionnaire was not returned in those instances where the interviewer allowed the tribal leaders to take the questionnaire and return at their convenience. This occurred after discussion and enthusiastic interaction by the tribal leaders regarding the policy. Therefore, it is assumed that it was not a lack of interest but other priority issues when it came to paper work. A further and perhaps most limiting aspect of this study was the small number of final responses (N=20). The number is too small to make broad or general conclusions from the findings. However, considering the exploratory nature of this work, the responses serve well as a preliminary indication of tribal leaders' perceptions. In light of this limitation one research recommendation coming from this study would be to enlarge the sample population, to possibly include a national survey.

The findings from Part I of the questionnaire regarding the personal data of the tribal leaders indicates that 85% were men of which

55% are serving in a decision making capacity in an officially elected tribal governing body. There were 45% of these men who were self-employed and 35% who had no other employment. There were 25% who spent a total of six to ten years on the tribal council. This information would seem to indicate that tribal leaders were not heavily influenced in their decision making by the fact that they were employed in an agency. They also spent a number of years working in the interests of the tribe.

The findings regarding training and participation in hearings on Public Law 93-638 indicates only 30% of the tribal leaders took part in training and 50% who attended hearings. Training is an area of concern to the tribal leaders as indicated again in Part II of the questionnaire. The training was either offered and was not used by the tribal leaders or the method of offering training was not convenient for them.

Part II of the questionnaire covers responses to statements regarding Public Law 93-638. A large percentage, 60%, of the tribal leaders felt that their tribe is not informed of what the policy is.

There is 50% of the tribal leaders who did not feel that their tribe had received adequate interpretation regarding the regulations of the policy as well as adequate professional technical assistance. A large percentage, 65% of the tribal leaders, did not think the Bureau of Indian Affairs has provided adequate training to Indian tribes.

There is 60% of the tribal leaders who do not feel that Public Law 93-638 gives Indian tribes an opportunity to establish their own goals and needs. Further, half of the tribal leaders do not feel the Bureau of Indian Affairs does a better job in the delivery of services rather than the tribe and that the Bureau of Indian Affairs is not committed to accept and support tribal government judgments.

The findings indicate that there is a fear by the tribal leaders that the policy may endanger future tribal rights. This fear is the possibility that the federal government will relieve itself of the special trust responsibilities to Indian tribes.

The positive findings from the data indicate that 60% of the tribal leaders feel the policy is a constructive one to carry out the federal-tribal relationship. There is 75% of the tribal leaders who felt that it is a way for Indian tribes to achieve Indian self-sufficiency.

In the area covering statements regarding provisions of the policy, there are 50% of the tribal leaders who do not think the population formula of the policy reflects needs of a tribe and that the costs have little to do with the size of a tribe. There is 50% of the tribal leaders who also feel that resources and income of a tribe determine which tribes will have difficulty using the provisions of the policy.

Part III of the questionnaire covered responses to open ended questions. The utmost concern to the tribal leaders regarding Public Law 93-638 is that the policy may lead to "termination" of the federal government's trust responsibility to Indian tribes.

Tribal leaders felt that the most valuable outcome of Public Law 93-638 is that the Indian tribes will gain experience, knowledge, and self-dependency in the development of their own programs.

The open comments made by tribal leaders indicate that oversight hearings should be held periodically to involve tribal leadership in the implementation and review process of the policy. This should include more open communication with the tribal leadership so that there will be total involvement in the policy process and true "self-determination" for Indian tribes may occur.

IMPLICATIONS FOR THE POLICY

The positive findings from the data indicate that tribal leaders feel the policy is a constructive one for Indian tribes and that it is a mechanism through which Indian tribes may achieve self-sufficiency. Since the policy itself has a positive acceptance the findings indicate that much of the concern or dissatisfaction of the policy is related to methods of involving Indian people and the possibility of the directions the policy may take depending on the way it is administered.

An implication for the policy is that the training and interpretation of the policy as well as technical assistance in using the regulations of the policy must become a priority issue so that a thorough understanding and involvement of the Indian people can take place. The effectiveness of this policy or any policy affecting the lives of people demands this. The establishment of Indian tribal goals by Indian people depends on how adequately the self-determination intent of the policy is administered. If the first step in the implementation process does not include a heavy emphasis on training and interpretation of the policy a gap will continue to exist in the understanding and perceptions of the policy by Indian people. A finding from the data indicates that tribal leaders felt that their tribe was not fully informed of what the policy is.

The lack of adequate training, adequate interpretation of the policy, and the total involvement of Indian people in the policy implementation carries other implications from the findings. There is a fear that the policy may lead to termination or in a direction which may endanger tribal rights. The fear includes the possibility that it

is a method of manipulating tribes. As history has shown, Indian tribes have a legitimate right to fear policies affecting their people. Interpretation about the federal-tribal relationship must be clarified or strongly emphasized in terms of the provisions of the policy. Even then, a certain amount of fear may exist as further implementation and changes occur.

The findings further indicate that the tribal leaders do not feel the policy gives Indian tribes an opportunity to establish their own goals. Again, the implication is that without adequate involvement of Indian people in the implementation process along with adequate interpretation of the policy provisions, Indian tribes cannot move positively into the establishment of tribal goals and objectives using the provisions of the policy. This includes how administrators handle the intent of the policy. There must be a commitment from the federal agencies involved to support tribal government needs and goals.

Summary

The overall implication for the policy is that it has not been administered as the intent and provisions spelled out. There is not a satisfactory indication to the tribal leaders that a significant change has occurred in the functions and administration of the federal agencies involved.

The legislation has not been able, at this point, to show the Indian tribes that its intent is truly Indian "self-determination". True self-determination is any group of people using resources for programs and goals which they have determined they need and will carry out.

The language of the policy states that it is the intent of Congress

that a substantial change in the structure and functions of the Bureau of the Indian Affairs would occur. However this has not yet occurred and the decision making is controlled or tied to a federal agency and not the tribes.

This is a young policy in that its regulations became effective on December 4, 1975. As the policy moves forth in its implementation process, one would hope to see and be able to identify the changing role of the administration from that of administrator to trustee and to that of providing technical assistance to Indian tribes.

IMPLICATIONS FOR SOCIAL WORK EDUCATION

As previously stated, social policy may be defined as "the principles and procedures guiding any measure or course of action dealing with individual and aggregate relationships in society." This is dependent on other factors such as the tradition, culture, and ideology of the society and inevitably concerns change. A society functions to maintain itself and to assure its survival and stability while over time it also undergoes changes in structure, dynamics, membership, values and culture.¹

A society's dominant values and ideologies place a limitation on the processes of change and the policy which comes from it. The tendency of social policies has been to emphasize technical matters and means rather than goals and values. Therefore, it is unlikely that significant change will occur unless changes occur in the dominant values

¹David G. Gil, Unravelling Social Policy, (Schenkman Publishing Company, Cambridge, Massachusetts, 1973), p. 13.

and ideology.² In terms of the Indian Self-Determination Act, if the policy continues to be administered by dominant values and ideologies, it will end up as a strategy to mold Indian culture into that system.

The values of social work and hopefully social policies include the respect for the individual's dignity and self worth. Helen Harris Perlman calls this the 'right of self-determination' a 'democratic tenet', and says that 'within the limits of reality, each man has the right to be the "master of his soul" and of his fate'. It seems appropriate, therefore, that social policies afford equal rights and opportunities for all members of a society. The value that every individual should have the right to freely develop his potential and to lead a fulfilling life in his environment leads to the principle of social equality. This should take into consideration that this right does not interfere with the rights of others. Social equality in our society is based on competition with other individuals and groups for available goods and services, therefore policies must be rationally planned and used to benefit the lives and rights of individuals for which policies are developed.

Summary

The implication of this study serves to reaffirm the need for social workers to be knowledgeable of the basic and guiding assumption upon which policy is based and to understand the process of policy development and implementation. The role of social policy is not only the regulation and conservation of what is good but also the encouragement of growth and progress. The social worker is the person whose knowledge

²David G. Gil, Op., cit., p. 27 and 28.

and understanding thereby brings this information to the delivery of quality services and to the planning of programs and services for people. The American Indian and other minority groups have been an oppressed group of people because of the values and ideologies of a dominant society. The recognition by social workers of the interpretation of values and decisions which are made regarding policy and planning is vital to the effectiveness of their role. Ultimately in the case of the American Indian, the role of the social worker is one of the advocate. An aggressive position of the advocate would be to acquire the knowledge and understanding of the policy in question and proceed toward an action level to the issues raised in this study.

BIBLIOGRAPHY

- Anderson, A.T. Nations Within A Nation, The American Indian and the Government of the United States. (Union Carbide Corporation, December, 1976).
- Cohen, Felix S. "Scope of Tribal Self-Government". Federal Indian Law, (University of New Mexico Press, Albuquerque, 1958).
- Encyclopedia of Social Work. (National Association of Social Workers, 2 Park Avenue, New York, New York, Vol. II, No. 16).
- Gil, David G. Unravelling Social Policy. (Schenkman Publishing Company, Cambridge, Massachusetts, 1973).
- Handbook for Decision Makers on Title I of the Indian Self-Determination and Education Assistance Act, (Bureau of Indian Affairs, Department of the Interior, Washington, D.C., November 18, 1975, Revised February 10, 1976).
- Implementation of Public Law 93-638, The Indian Self-Determination and Education Assistance Act, Hearings before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs--United States Senate, 94th Congress, October 20 & 28, 1975).
- Indian Self-Determination and Education Assistance Act Implementation, Hearings Before the United States Senate Select Committee on Indian Affairs (United States Senate, 95th Congress, June 7 and 24, 1977).
- McNickle D'Arcy, Young, Mary E., Buffalohead, Roger W. Captive Nations, A Political History of American Indians. (American Indian Policy Review Commission, Library of Congress, November, 1976).
- O'Sullivan, Maeve. Let The Client Choose. (Bedford Square Press, 26 Bedfore Square London, 1972).
- Prucha, Francis Paul. American Indian Policy in the Formative Years. (University of Nebraska Press, Lincoln, Nebraska, 1970).
- Public Law 93-638, Indian Self-Determination and Education Assistance Act, (93rd Congress, S. 1017, January 4, 1975).
- Public Law 93-638, Indian Self-Determination and Education Assistance Act, (Department of the Interior, Federal Register, Tuesday, November 4, 1975).
- Tribal Directory, Office of Tribal Operations, Bureau of Indian Affairs, Portland Area Office, July, 1977.
- Tyler, Lyman S. A History of Indian Policy. (United States Department of the Interior, Washington, D.C., 1973).

APPENDICES

APPENDIX A

QUESTIONNAIRE

This is a study conducted by Ramona O'Connor, graduate student in the School of Social Work, Portland State University, to meet partial requirements for the Master of Social Work degree.

This study is to examine selected tribal leaders' perceptions of the implications of the Indian Self-Determination Act (Public Law 93-638). The names of the selected tribal leaders will not be requested and they will remain anonymous. The completed study will be made available to those tribal leaders who wish to have a copy.

DIRECTIONS: Please check the correct blank for the following questions. For those questions requiring an answer, please respond according to the information requested.

PART I.

1. What is your sex?

1. _____ Male

2. _____ Female

2. Are you a member of a federally recognized tribe?

1. _____ Yes

2. _____ No

2a. Tribal affiliation?

1. _____

3. Are you presently a member of the tribal council?

1. _____ Yes

2. _____ No

3a. If yes, in what capacity do you serve on the tribal council?

Tribal official (chairperson, vice chairperson, secretary, treasurer)

1. _____

Member of the tribal council

2. _____

4. Other than your position on the tribal council, what is your employment?

1. _____

5. How much time, all together, have you served on the tribal council?

1. _____ months _____ years.

6. Have you participated in any training regarding the Indian Self-Determination Act (Public Law 93-638)?

1. _____ Yes

2. _____ No

7. Have you participated in any oversight hearings regarding the Indian Self-Determination Act (Public Law 93-638)?

1. _____ Yes

2. _____ No

PART II. PLEASE CHECK THE RESPONSE WHICH CLOSELY CORRESPONDS TO YOUR OWN FEELINGS ABOUT THE STATEMENT. THERE ARE NO RIGHT OR WRONG ANSWERS. THE ANSWER NEEDED IS THE ONE WHICH YOU FEEL IS THE CORRECT ONE. THE RESPONSES ARE AS FOLLOWS:

1. Disagree 2. Disagree Strongly 3. Agree 4. Agree Strongly

8. As a tribal leader I feel that my tribe is informed of the provisions of the Indian Self-Determination Act (Public Law 93-638).

1. _____ 2. _____ 3. _____ 4. _____

9. As a tribal leader I feel that the Indian Self-Determination Act (Public Law 93-638) will benefit my people in terms of improving their social and economic conditions for the future.

1. _____ 2. _____ 3. _____ 4. _____

10. The Indian Self-Determination Act (Public Law 93-638) provides Indian tribes with the opportunity to establish their own needs and goals without interference from the federal government.

1. _____ 2. _____ 3. _____ 4. _____

11. The federal government, in this case the Bureau of Indian Affairs, is committed to accept and support tribal government judgments based on the needs and goals of their people.

1. _____ 2. _____ 3. _____ 4. _____

THE RESPONSES ARE AS FOLLOWS: 1. Disagree 2. Disagree Strongly
3. Agree 4. Agree Strongly

20. The Bureau of Indian Affairs has provided adequate training to my tribe regarding the regulations of the Indian Self-Determination Act (Public Law 93-638).

1. _____ 2. _____ 3. _____ 4. _____

21. There is not enough professional technical assistance available to my tribe for putting together the tools of tribal self government.

1. _____ 2. _____ 3. _____ 4. _____

22. The regulations of the Indian Self-Determination Act (Public Law 93-638) have been written to provide my tribe with sufficient money to strengthen tribal government.

1. _____ 2. _____ 3. _____ 4. _____

23. The population formula of the Indian Self-Determination Act (Public Law 93-638) adequately reflects the needs of my tribe.

1. _____ 2. _____ 3. _____ 4. _____

24. The costs of strengthening tribal government and preparing for contracting and/or training may have little to do with the size of the tribe.

1. _____ 2. _____ 3. _____ 4. _____

25. Indian tribes who cannot develop their income capabilities or who have no potential income will have difficulty in using the Indian Self-Determination Act (Public Law 93-638).

1. _____ 2. _____ 3. _____ 4. _____

26. The Indian Self-Determination Act (Public Law 93-638) allows my tribe to have input into the policy if it is not satisfactorily meeting the needs of the tribe.

1. _____ 2. _____ 3. _____ 4. _____

PART III. PLEASE ANSWER THE FOLLOWING QUESTIONS IN YOUR OWN WORDS.

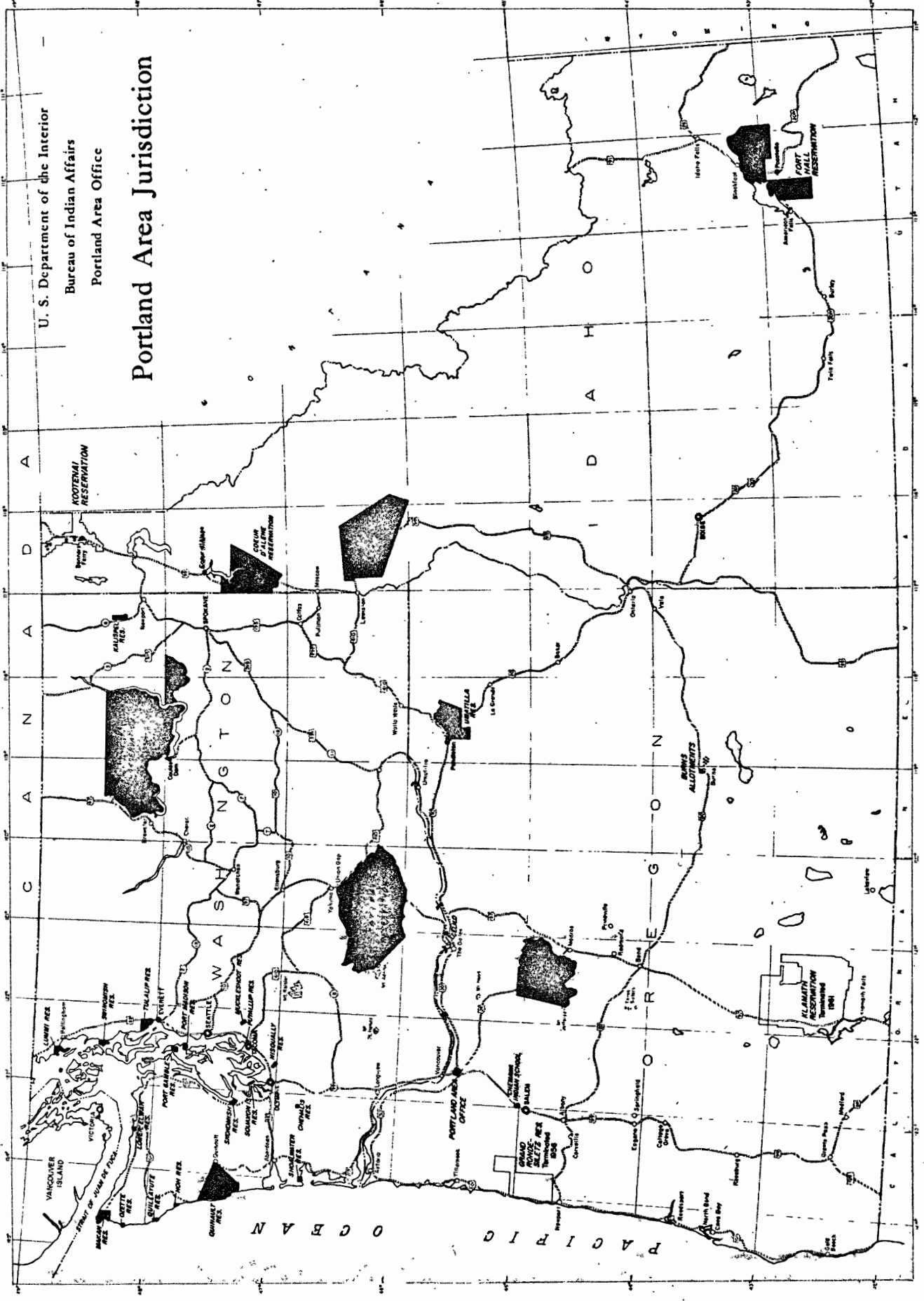
27. What, in your opinion as a tribal leader, should be of utmost concern to Indian tribal leaders in regard to the Indian Self-Determination Act (Public Law 93-638)?

28. What, in your opinion as a tribal leader, will be the most valuable outcome from the Indian Self-Determination Act (Public Law 93-638)?

29. Please comment on anything regarding the Indian Self-Determination Act (Public Law 93-638) which is important to you and has not been covered in this questionnaire.

U. S. Department of the Interior
Bureau of Indian Affairs
Portland Area Office

Portland Area Jurisdiction



APPENDIX C

STATEMENT OF FORREST J. GERARD, ASSISTANT SECRETARY OF INTERIOR FOR INDIAN AFFAIRS, DESIGNATE, BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS, FRIDAY, SEPTEMBER 9, 1977.

Mr. Chairman and Members of the Committee:

I am honored that President Carter and Secretary Andrus have placed their confidence in me and have nominated me to serve as Assistant Secretary of the Interior for Indian Affairs.

I accepted the nomination fully aware of the important responsibilities that the Assistant Secretary will be required to fulfill on behalf of Indian people and the Administration.

As you are probably aware I was born and raised on the Blackfeet Reservation in northwestern Montana, and I am an enrolled member of that tribe.

I believe my experience in both the legislative and executive branches of government as well as my broad contact with Indian tribes through the years will serve me well if confirmed. It also has made me acutely aware of the unique trust relationship between the United States Government and Indian tribes.

This trust relationship places a solemn, legal and moral obligation on the United States to protect valuable Indian lands and natural resources. It also places a responsibility on the federal government to assure that tribal governments are allowed to participate fully in the decisions that affect their reservations.

These responsibilities cannot be taken lightly. Therefore, if confirmed, I would be committed to:

1. strengthening the Bureau's capacity to carry out the responsibility of the trust;
2. strengthen tribal governments; and
3. improve service delivery to the tribes either through direct programs by the Bureau or through self-determination mechanisms initiated by the tribes.

In order to carry out these commitments I will act as advocate for the Indian people, keeping in mind always the trust relationship.

For the past 150 years the Bureau of Indian Affairs has been the agency in the federal government charged with carrying out the major portion of the trust responsibility to Indian tribes. Because of this long standing role the Bureau has often been criticized for its seeming inability to carry out the trust and program responsibilities to the tribes. Although some criticism is surely warranted, the Bureau has not always been able to respond fully to all demands because of inadequate staffing, structure and resources.

Recently there has been an increasing awareness on the part of Congress and the Administration that changes must be made not only in the Bureau but in Indian Affairs generally so that the needs of Indian people will be better served.

This awareness is evidenced by the enactment of Public Law 93-638, the Indian Self-Determination and Education Assistance Act, and the completion of the study of Indian Affairs by the Policy Review Commission.

Both have underscored the need for a major overhaul of the Bureau.

In the first instance, P.L. 93-638 added a new dimension to Indian affairs by institutionalizing the concept of tribes being able to determine for themselves the priorities on their reservations. In doing this it also created new roles not only for the Bureau, but for the tribal governments as well.

The Act made it possible for tribes to exercise, at their option, direct control and management of a great number of Bureau programs previously dominated totally by federal officials.

For the Bureau, the Act placed high-level managers in the position of having to give up control of programs (manpower, money and materials), to the tribes. It also added the responsibility to provide training and technical assistance to tribes to allow them to assume their new roles.

Unfortunately, experience has shown that P.L. 93-638 has not been implemented as smoothly and as effectively as it might have been if the Bureau's organizational structure had been geared to a rapid relinquishment of programs. Also it should have been impressed upon Bureau employees that the new law represents a process and not just another program to be added to the organization's long list of activities.

Secondly, the American Indian Policy Review Commission's mandated report represents the most exhaustive study of American Indian Affairs since the Merriam Report was published in 1928. The Commission Chairman and its members, the staff and the task forces are to be commended for their

dedicated efforts that resulted in the final report to Congress. This report of 602 pages and more than 200 separate recommendations will have a profound impact on all of Indian affairs. Taken together the recommendations stand as a guide for undertaking constructive policy initiatives in this field.

The need and format for a reorganization of the Bureau was brought into sharp focus in the Bureau of Indian Affairs Management Study done for the Commission. That report calls for a radical restructuring of the Bureau and redelegation of authorities to the tribal level.

When this Committee held hearings on that study July 29, 1977, Under Secretary James Joseph underscored the Administration's commitment to improve the role of the Bureau through reorganization. He also said the Department of the Interior would use the Management Study as a guide for such reorganization.

I want to reinforce the Under Secretary's commitment to use the Management Study as a guide because the study suggests that such a reorganization be accomplished through a rational process rather than in a piecemeal fashion.

I want to further state that throughout this process the Indian community will be given every opportunity to fully participate.

The Administration, in statements by both the Secretary and Under Secretary of the Interior, has clearly demonstrated the importance it places on a fundamental reform of the Bureau.

We also have heard the House and Senate Appropriations Committees say there must be meaningful reform of the Bureau. The Indian people, both individually and collectively, have called for fundamental changes in the Bureau to make the trust relationship a vibrant and working force. Therefore, let us accept the proposition that many voices are calling for a major reorganization of the Bureau of Indian Affairs but let us also ask ourselves the question, "Reorganization to what end?"

I believe that if the Bureau is going to assume a long range role in Indian affairs which will have meaning and substance for those affected by it, it must stop taking an ad hoc, short-sighted approach to planning problems facing Indian tribes.

It seems that the Bureau often has operated on a never-ending crisis syndrome of reacting as the emergency arises. This approach does nothing to solve the complex problems facing Indian tribes.

Consequently, I want to see the Bureau moving toward an organization that would develop more comprehensive planning processes in order to achieve both short and long-range goals and objectives.

Mr. Chairman, as a first step in strengthening the administration of Indian affairs within the Department of the Interior, Secretary Andrus announced the creation of a new position--Assistant Secretary for Indian Affairs. This change of status provides an unparalleled opportunity for Indians to influence policy at the highest levels of the Department. The Assistant Secretary will participate more in policy formulation in the Office of the Secretary and will be more directly involved with the

Office of Management and Budget, and the Congress. Never before in the long history of Federal-Indian relations has the head of the Bureau been so strategically placed within the Executive Branch. The extent to which this new position serves the best interests of Indian people will depend in part on my personal and professional abilities to interrelate with other decision-makers throughout Government. I believe that my varied experience in the Executive and Legislative Branches of Government will serve to help me fulfill that role.

In conclusion, my long-range view of the Bureau of Indian Affairs is one of an organization that will be seen by the Indian tribes as an advocate rather than an adversary; that will serve as a dynamic force in carrying out the unique trust relationship between Indian tribes and the United States Government; and that will fulfill its trustee and programmatic responsibilities to Indians.

APPENDIX D

EXCERPTS FROM REMARKS BY ASSISTANT SECRETARY FORREST J. GERARD TO
NCAI, CONVENTION, DALLAS, TEXAS, SEPTEMBER 22, 1977

I am committed to three basic principles as assistant secretary.

First...To strengthen the Bureau's capacity to fulfill its role as trustee.

Second...To continue to aid tribal governments as they assume more responsibilities in the era of self-determination.

And Third...To improve service delivery...whether it be direct delivery through federal programs or through self-determination mechanisms at the tribal level.

Let's take the first point...trust responsibility.

We are going to stand firm on treaty and other legal rights that Indian tribes have with the United States Government.

I am going to take an active rather than a reactive position as to the trust obligation.

And in order to accomplish this we are going to strengthen the capabilities of the Bureau to deal with trust responsibilities. This will mean increasing staffing patterns in the area of natural resource specialists within the office of trust responsibilities.

And I also will work to get additional staffing in the division of Indian Affairs in the office of the solicitor.

Now to strengthen the Bureau's capability to administer the trust is going to take money. I have not had much input in the 1979 budget process...but I am willing to make some tough trade-offs in other program areas to accomplish this goal.

One of the things I have been looking at since coming to the Bureau has been the travel of the headquarters personnel. And I must say I am not impressed with what I have seen.

As a matter of fact, I think that when I get back to Washington next week I am going to cancel all travel authorizations and anyone that wants to take a trip will have to justify it to me personally.

Along these lines...I am going to cut back on my own travel drastically. I know that there are occasions...special events and crisis situations...where I will have to travel. But there is much work to be done in Washington...and if I am going to act as your advocate in government... I can only do it in Washington...not in an airplane 30-thousand feet over Iowa. And that goes for the entire headquarters staff in Washington. If they are going to represent your interests...they have to be there to do it...not travelling. And they are going to be there to represent your interests...as a headquarters...and not as just another field office that happens to be in the nation's Capitol.

As to self-determination by tribal governments...and the delivery of services...because of the lack of a full time...permanent head of the Bureau for the past eleven months our decision making has been fragmented. But we are going to get a hold on this and begin some long range planning and goal setting.

And one of the things we will be studying is how 638 has been working.

I know there has been a lot of criticism about the implementation of 638. One of the things I am going to impress on the employees of the Bureau is that 638 is a process which permeates all of the activities of the Bureau...and it is not just another program to be added to the already

long list of Bureau activities. The Congressional Mandate of 638 is the responsibility of every employee of the Department of Interior.

I realize there are problems with 638 and I will make positive recommendations to make 638 the Act Congress intended it to be.

We also are going to be looking very closely at the Indian Financing Act. It comes up for reauthorization in the next session of Congress. I want to see how it has been implemented...what the successes were... and what the problems are that seem to be inherent in the Act. We hope to have a comprehensive report ready for the next session.

APPENDIX E

TESTIMONY OF JOSEPH B. DE LA CRUZ
PRESIDENT, NATIONAL TRIBAL CHAIRMAN'S ASSOCIATION
& PRESIDENT, QUINAULT INDIAN NATION
BEFORE THE SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE, ALBUQUERQUE, NEW MEXICO
JUNE 24, 1977

Mr. Chairman,

On behalf of the National Tribal Chairman's Association, I want to express my appreciation at your invitation to participate in these important hearings. I was elected President at NICA's annual convention in Atlanta just over a month ago. In my remarks to that convention, I pledged to speak forcefully on the major issues affecting Indian people. This hearing focuses on one such issue--the implementation of the Indian Self Determination & Education Assistance Act. Let me say at the outset that I, along with other tribal chairmen, greeted the passage of that Act in 1975 with hope that Indian tribes finally would be able to administer their new programs without confusion and conflict. I cannot report to you today that we still have such hope. The regulatory scheme the Bureau of Indian Affairs has created is unclear and in many instances, unwisely administered. We have a number of recommendations: the first is that the functions and present authority relating to contracts or grants under this Act should be placed either in the Area or Agency office--this would eliminate the duplication of effort and delay now inherent in the present review process.

In my view, the Superintendent at the Agency level has very limited responsibility under the Act. I recommend that the Agency office either be excluded entirely from the contracting phase of the operation, or that all reviewing and approving authority rest at the Agency level to the exclusion of the Area office. We must eliminate one or the other level or review.

In this connection, I am also recommending the elimination of the position of Contracting Officer's Representative (COR) so that tribes have a direct relationship with a Contracting Officer who has both authority and the responsibility to perform contracting functions.

These inefficiencies have been my main source of frustration--the inordinate number of people involved in every type of transaction at all levels. We must reduce the number to an absolute minimum. The tribes should deal directly with the Contracting Officer with all related responsibilities and authorities.

A major factor in the inefficiency and frustration is the lack of familiarity and competence of Bureau employees in dealing with their own contracting guidelines. I am submitting, for the record, an example of the misinformation conveyed by the Bureau in one recontracting negotiation--wrong times, wrong places, wrong restrictions. I am recommending a comprehensive training program for contracting personnel with a follow-up evaluation program to ensure that all procedures are fundamentally understood and operating.

My fourth point concerns the frustration of the purposes of the legislation itself. The Act directs the Bureau to transfer to the tribes, through contract, program operation, decision-making authority, and priority setting. This is implementation of self-determination. The

BIA regulations and procedures, however, tie the entire contracting process into pre-existing Bureau functions, operations and its line item budget. It is Bureau structure and thought which continue to dictate the shape and content of tribal programs.

The Bureau rewards-through contracts- those tribes most willing:

- 1) To operate programs identical to Bureau programs
- 2) Not to displace Bureau personnel
- 3) To contract with the Bureau to run programs for them; and
- 4) Not to operate outside the explicit line item categories of the agency bureau budget at the previously Bureau-determined funding level.

It is this last point especially which frustrates tribal efforts to take new directions and set new objectives as contemplated in the 638 regulations. This is the inevitable squeeze play with the tribes trapped between inflexible budget lines and amounts.

We recommend a thorough going review and revision of BIA budgeting and fund allocation to reflect congressional intent, the revised functions of the Bureau, and the needs and priorities of the tribes.

Small tribes, especially in California, experience special problems arising from Band Analysis. In multi-tribal agencies, such as Central California, tribes cannot practically contract for BIA programs because such contracts jeopardize the services available to other tribes. In such situations, Band Analysis is a waste of time. Zero-based budgeting is needed for fiscal 1978 if tribal needs are to be met. Grant funds from 638 should not be included in the Band Analysis because this means allocations are based on formula rather than on individual tribal needs.

Budgeting should be accomplished through careful BIA analysis and docu-

mentation of agency objectives-objectives approved by an advisory committee of tribal chairmen from the Agency tribes. Likewise, tribal needs and objectives should be identified and documented to the Advisory Committee. The BIA budget would be developed upon the basis of reasoned objectives and established needs.

Finally, training and technical assistance monies and costs of contracting should be appropriated at all levels. BIA and IHS should be required to provide real technical assistance to tribes. P.L. 638 funds should not be used simply to pay the salaries of Bureau personnel.

The historic legislation to introduce vast and sweeping changes to the BIA, has impacted Indian tribes. There are new forms and procedures, new training sessions and representatives to the tribes and a contracting language that addresses self-determination. But in reality, the BIA maintains the same functions, operations, programs and personnel with little perceptible change. The only real change is the increasing frustration of tribes as they attempt self-determination and find themselves once again jammed into the total BIA system.

The entire 638 program has certainly become an extraordinary example of the institutional power and capacity of some Federal Bureaucracies to preserve and protect themselves against the will of the people they serve and directions of Congress. It also appears to be a system of planned failure.

The Bureau should be performing its responsibilities as a responsible, efficient conduit for Federal funds allocated to implementing governments to meet Federally-recognized goals and locally-determined priorities.

Thank you for giving me this time this morning to discuss our views on this Act.